

H.R. 2361, a bill making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1052

At the request of Mrs. MURRAY, the names of the Senator from Vermont (Mr. LEAHY), the Senator from Florida (Mr. NELSON), the Senator from Minnesota (Mr. DAYTON), the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of amendment No. 1052 proposed to H.R. 2361, a bill making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

At the request of Mr. DORGAN, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of amendment No. 1052 proposed to H.R. 2361, *supra*.

At the request of Mr. BYRD, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of amendment No. 1052 proposed to H.R. 2361, *supra*.

At the request of Mr. BINGAMAN, his name was added as a cosponsor of amendment No. 1052 proposed to H.R. 2361, *supra*.

At the request of Mr. REED, his name was added as a cosponsor of amendment No. 1052 proposed to H.R. 2361, *supra*.

At the request of Ms. CANTWELL, her name was added as a cosponsor of amendment No. 1052 proposed to H.R. 2361, *supra*.

At the request of Mrs. CLINTON, her name was added as a cosponsor of amendment No. 1052 proposed to H.R. 2361, *supra*.

AMENDMENT NO. 1053

At the request of Mr. BYRD, the names of the Senator from Virginia (Mr. WARNER), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maryland (Ms. MIKULSKI), the Senator from Louisiana (Ms. LANDRIEU), the Senator from South Dakota (Mr. JOHNSON), the Senator from Michigan (Ms. STABENOW), the Senator from Washington (Mrs. MURRAY), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Vermont (Mr. JEFFORDS), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Illinois (Mr. OBAMA), the Senator from California (Mrs. FEINSTEIN), the Senator from New York (Mr. SCHUMER), the Senator from California (Mrs. BOXER), the Senator from Iowa (Mr. HARKIN), the Senator from New Jersey (Mr. CORZINE), the Senator from Kansas (Mr. BROWNBACK), the Senator from Ohio (Mr. DEWINE), the Senator from Michigan (Mr. LEVIN), the Senator from Kentucky (Mr. McCONNELL), the Senator from Arizona (Mr. MCCAIN), the Senator from Delaware (Mr. BIDEN), the Senator from Florida (Mr. NELSON), the Senator from New York (Mrs. CLINTON), the Senator from Indi-

ana (Mr. BAYH), the Senator from Massachusetts (Mr. KERRY), the Senator from Kansas (Mr. ROBERTS), the Senator from Vermont (Mr. LEAHY) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of amendment No. 1053 proposed to H.R. 2361, a bill making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

At the request of Mr. SARBANES, his name was added as a cosponsor of amendment No. 1053 proposed to H.R. 2361, *supra*.

At the request of Mr. ALLEN, his name was added as a cosponsor of amendment No. 1053 proposed to H.R. 2361, *supra*.

At the request of Mr. DORGAN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 1053 proposed to H.R. 2361, *supra*.

At the request of Mr. MARTINEZ, his name was added as a cosponsor of amendment No. 1053 proposed to H.R. 2361, *supra*.

At the request of Mr. DURBIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of amendment No. 1053 proposed to H.R. 2361, *supra*.

At the request of Mr. FEINGOLD, his name was added as a cosponsor of amendment No. 1053 proposed to H.R. 2361, *supra*.

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of amendment No. 1053 proposed to H.R. 2361, *supra*.

AMENDMENT NO. 1060

At the request of Mr. ALLEN, his name was added as a cosponsor of amendment No. 1060 proposed to H.R. 2361, a bill making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

At the request of Mr. VITTER, his name was added as a cosponsor of amendment No. 1060 proposed to H.R. 2361, *supra*.

At the request of Ms. LANDRIEU, the names of the Senator from Maryland (Mr. SARBANES), the Senator from North Carolina (Mr. BURR), the Senator from Missouri (Mr. TALENT), the Senator from Texas (Mrs. HUTCHISON) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of amendment No. 1060 proposed to H.R. 2361, *supra*.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORNYN:

S. 1318. A bill to protect States and Federal judges by clarifying that Federal judicial immunity covers all acts undertaken by judges pursuant to legal authority; to the Committee on the Judiciary.

Mr. CORNYN. Mr. President, I rise today to introduce important legisla-

tion to protect State and Federal judges against civil lawsuits, by clarifying that Federal judicial immunity covers all acts undertaken by judges pursuant to legal authority.

To put it mildly, these are not easy days for members of the State and Federal judiciary. I am unaware of any member of this body who has not, at one time or another, criticized a member of the State or Federal judiciary for issuing one ruling or another—including the numerous controversial rulings that have captured the Nation's attention in recent years. Indeed, in each of the two previous Congresses, the Senate unanimously approved strongly worded resolutions “strongly disapprov[ing]” the infamous decision of the U.S. Court of Appeals for the Ninth Circuit striking down the voluntary recitation of the Pledge of Allegiance in public schools. See S. Res. 71 (108th Cong.) and S. Res. 292 (107th Cong.).

To be sure, judges are supposed to follow and apply the law—not legislate from the bench. On numerous occasions, I have spoken out against instances of judicial activism. But there are appropriate and inappropriate ways to register one's disapproval and disagreement.

The First Amendment guarantees every American the right to express disagreement with government officials—including State and Federal judges. There is certainly nothing inappropriate about criticizing judicial rulings with which one sharply disagrees. But it is entirely inappropriate to threaten the impeachment and removal of judges simply for issuing rulings with which one disagrees. It is inappropriate to file lawsuits against judges in the hope of pestering or bankrupting them in retaliation for judicial actions one does not like. And it is absolutely deplorable for any person to undertake violence, threats of violence, or other illegal acts against judges.

As a former State trial judge and State supreme court justice of 13 years, who has a number of close personal friends who still serve on the bench today, I am outraged by recent acts of courthouse violence. I personally know judges and their families who have been victims of violence. I have grieved with those families. And during the Easter recess earlier this year, I met with an old friend, a Federal judge in Texas, to make sure that we are doing everything that we can to protect our judges and courthouse personnel against further acts of violence. So I look forward to legislation that will soon be introduced to strengthen courthouse security and to otherwise bolster protections against violence for judges, their staff, and their families.

Today I would like to introduce legislation to protect State and Federal judges against a different kind of threat—a lesser threat than violence to be sure, but an important one nonetheless: the threat of civil litigation in retaliation for unpopular judicial actions. For centuries, our common law

has protected judges against civil litigation by conferring upon them courtroom immunity. It has long been understood that judicial immunity is an essential element of protecting judicial independence and ensuring that judges have the ability and freedom to do their jobs. As the Senate Judiciary Committee noted less than a decade ago: "Even when cases are routinely dismissed, the very process of defending against those actions is vexatious and subjects judges to undue expense. More importantly, the risk to judges of burdensome litigation creates a chilling effect that threatens judicial independence and may impair the day-to-day decisions of the judiciary in close or controversial cases." Federal Courts Improvement Act of 1996—S. 1887, S. Rep. No. 104-366 at 37 (1996).

Throughout its legal existence, judicial immunity has been for the most part a creature of the common law. But there have been times when Congress has seen fit to step in and to strengthen judicial immunity—particularly when the courts have undertaken an unduly narrow view. In 1996, for example, Congress enacted the Federal Courts Improvement Act—important legislation that included a provision reversing a U.S. Supreme Court decision in order to expand the protections of judicial immunity.

It is appropriate for Congress once again to consider legislation to strengthen judicial immunity. This time, I hope Congress will respond to a recent decision by a Federal district court in Fort Worth, TX. That decision applied recent Supreme Court precedents in good faith, but in a manner that leaves judges potentially exposed to vexatious civil litigation. In *Alexander v. Tarrant County*, the Federal district court held that traditional judicial immunity does not protect State judges acting in their administrative capacities. Specifically, the court held that State judges authorized under State law to supervise local correctional facilities could not claim judicial immunity against suit. As a recent news report and editorial by the San Antonio Express-News make clear, that decision has left judges throughout the State of Texas in a state of uncertainty and anxiety about their exposure to lawsuits and liability. As the editorial rightly argues, the Alexander ruling, and I quote, "has sent shock waves through the judiciary. . . . Judges have a tough job. They should not be burdened with defending themselves for the administrative duties they perform." I ask unanimous consent that a copy of those articles be printed in the RECORD at the close of my remarks.

The legislation I introduce today is simple and straightforward. It protects State and Federal judges against civil lawsuits, by clarifying that Federal judicial immunity covers all acts undertaken by judges pursuant to legal authority. Specifically, it provides that State and Federal judges shall be immune against any Federal civil cause

of action respecting the discharge of any legislatively or constitutionally authorized duty, except for actions involving malice. The legislation would not preempt any judicial immunity that already exists under current law.

This legislation was drafted with the support of two Texas State judges—the Honorable Dean Rucker, who presides over the 318th District Court in Midland, and who chairs the Judicial Section of the State Bar of Texas, and the former chairman, the Honorable Mark Atkinson of the Harris County Criminal Court. I want to thank them both for their service to Texas and for their help with this legislation, and I ask unanimous consent that their letter of support be printed in the RECORD at the close of my remarks. I am also grateful for the technical assistance provided by the Administrative Office of the U.S. Courts, as well as by the office of Texas Attorney General Greg Abbott, which has been intimately involved in the defense State judges against vexatious litigation. Finally, I am especially grateful for the support of the Chief Justice of the Texas Supreme Court, Wallace Jefferson, and I ask unanimous consent that his letter of support likewise be printed in the RECORD at the close of my remarks.

I hope that legislation to protect judges against deplorable acts and threats of violence will soon be introduced and quickly be enacted, and I hope that the legislation I introduce today to protect judges against vexatious litigation will likewise be considered favorably by my colleagues.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUDGES SKITTISH WITHOUT IMMUNITY
(By Zeke MacCormack)

KERRVILLE.—Becky Harris didn't get far with her most recent status report to the Kerr County Juvenile Board on the detention center she manages.

After just two words, she was stopped by state District Judge Steve Ables, who said such a briefing could leave him and other board members "buck naked" and personally liable in the event of a lawsuit.

The concern stemmed from a recent federal judge's ruling that "judicial immunity" enjoyed by judges for courtroom duties doesn't necessarily extend to administrative duties they perform.

Judges still have qualified immunity as elected officials, but a ruling last fall by U.S. District Judge Terry Means in a lawsuit against 19 criminal court judges in Tarrant County has sent a chill across the Texas bench.

"It's got judges spooked all over the state," Kerr County Judge Pat Tinley, one of three judges on the juvenile board, said last week. "Until the Legislature reduces their (judges') exposure, they're all going to be as jumpy as the dickens."

Legislation now pending in Austin offers only a partial fix. It would bolster protections for judges acting in regard to adult probation departments, but not on juvenile matters, such as the aborted April 13 briefing in Kerr County.

"If we know what Becky's doing, and it turns out that something goes south, and there's a huge incident, the fact that we

knew about it puts us maybe in a role of getting sued," Ables said, according to a transcript of the meeting.

Until legislation can solidify immunity for judges, he said, "we're telling everybody who's dealing with any type of administrative duty, 'Stay as far away from it as you can. Don't make any decisions.'"

State District Judge Karl Prohl, another member of the juvenile board, suggested Harris instead brief county commissioners, who assumed oversight of the center Feb. 14 when the county closed on the \$1.9 million purchase of it.

But, he told her, "we can visit on an individual basis as friends."

Dean Rucker, a district judge in Midland who is chairman of the State Bar of Texas judicial section board, said he's "always had some concern about how far our judicial immunity went," adding the federal ruling "seems to indicate it has some limits."

The Tarrant County case stems from the 2001 pneumonia death of Bryan Alexander, 18, of Arlington, a detainee at a 350-bed detention center in Mansfield run by Correctional Services Corp.

Serving a six-month sentence on a misdemeanor, Alexander died after days of coughing up blood and seeking medical help. A nurse at the center was convicted in 2002 of negligent homicide for failing to give adequate care, got four years of probation and was ordered to pay \$11,000 in restitution.

In 2003, Alexander's family won \$38 million in a negligence lawsuit in state court against the nurse and Correctional Services. That's on appeal.

The family then filed a federal civil rights lawsuit against all Tarrant County judges with criminal court jurisdiction, in their individual capacity.

Last fall, Means let the lawsuit continue after denying a motion to dismiss that was based on a claim of judicial immunity. Means said the lawsuit's allegations are that judges performed administrative acts that fell outside their statutorily required duties regarding the center.

The local government code in Texas law says district judges trying criminal cases shall create community supervision and corrections departments and are entitled to help manage them. "What Judge Means is saying is, 'If you're going to assume those administrative duties, act responsibly,'" said Mark Haney, attorney for Alexander's family.

He said the Tarrant County judges approved an inadequate budget for the center, hired an operator for it who had problems elsewhere, and approved a policy that said ill detainees could not seek outside medical help until they'd taken over-the-counter drugs for three days. "You can't just give out a budget and then turn a blind eye to consequences," Haney said.

Assistant Attorney General David Harris, who is helping defend the judges, said "most judges were under the impression, I believe, that as long as they were performing tasks assigned to them by the Legislature and making their best efforts, they would be protected by judicial immunity."

The judges had no direct management role in the center, he said, and relied on the operator and staff to act responsibly.

Harris has spoken to judges at conferences on how the case might affect them. "They need to be aware of the fact that they are not always acting in a judicial capacity, even if they think they are," he said.

He wouldn't comment on the deliberations of the Kerr County Juvenile Board. "I'm not advocating that any of them shirk their responsibility as a judge. I want them to approach their duties informatively, and to act discreetly and with an eye toward liability," he said.

Harris is slated to testify Tuesday before the Senate criminal justice committee on a bill sponsored by Sen. John Whitmire, D-Houston.

A Whitmire aide said the bill, which passed the House last month, clarifies that judges have judicial immunity when forming an adult probation department, passing its budget, naming its director and approving a community justice plan.

But it doesn't address juvenile boards that judges also serve on, because those duties are covered by a different statute, the aide said.

Haney said insulating judges from liability could backfire. "If there is no accountability, then I think it invites irresponsible behavior," said Haney, who expressed amazement at the Kerr Juvenile Board discussion. "That is just as irresponsible as acting with deliberate indifference," he said.

Some Kerr County commissioners also expressed concern about it, with Commissioner Jonathan Letz describing the juvenile board's posture as "head in the sand."

Commissioner Buster Baldwin said limited oversight by the judges might have fostered the financial woes that left the county with the choice of buying the insolvent juvenile center or losing it.

Reacting later, Ables, the district judge, said the juvenile board was more closely involved in supervising the facility before it was sold.

"Everybody (on the board) felt we could be involved because we had judicial immunity," until word of the Tarrant County ruling circulated early this year, he said.

[From The San Antonio Express-News]

EXTEND IMMUNITY FOR JUDGES

State lawmakers should protect judges from litigation spawned by the administrative duties they perform off the bench.

A federal court recently ruled that the immunity judges have for the duties they perform in the courtroom does not extend to their administrative actions, a decision that could have a big impact across the state.

In many counties, district court judges who try criminal cases are charged by state law with establishing community supervision and corrections departments.

However, the law does not provide the judges with protection from litigation for the decisions they make in that capacity.

As Express-News staff writer Zeke McCormack reported, a federal court judge's ruling in a Tarrant County case has sent shock waves through the judiciary.

In that case, U.S. District Judge Terry Means denied a motion to dismiss a lawsuit filed against the 19 Tarrant County criminal court judges by the family of a man who died in custody.

The judges claimed judicial immunity. Means ruled they did not possess it for administrative acts.

Legislation pending in Austin would give judges judicial immunity when administering an adult probation department and providing a community justice plan.

However, it doesn't address their actions as members of the juvenile boards that oversee juvenile detention centers and juvenile probation departments across the state.

Judges have a tough job. They should not be burdened with defending themselves for the administrative duties they perform.

JUDICIAL SECTION,
STATE BAR OF TEXAS,

San Antonio, Texas, June 27, 2005.

Senator JOHN CORNYN,
U.S. Senate, Hart Office Building, Washington,
DC.

DEAR SENATOR CORNYN: On behalf of the judges of the State of Texas, we would like

to thank you for your proposed legislation addressing the important issue of immunity for judges in the performance of their duties.

The issue of judicial immunity for the performance of certain administrative duties was one of the Texas judiciary's highest legislative priorities during the recent regular session of the legislature. Governor Perry has now signed legislation that provides judicial immunity to Texas judges in the oversight of their local community supervision and corrections departments.

Your efforts to address the issue of judicial immunity at the federal level are of the utmost importance to Texas judges. If adopted, the legislation you have crafted will provide comprehensive immunity for judges in the performance of their statutorily and constitutionally authorized duties.

We extend our heartfelt appreciation for your efforts and for your steadfast support of the judiciary.

Yours very truly,

DEAN RUCKER,
Chair, Judicial Section,
State Bar of Texas.

MARK ATKINSON,
Chair, Criminal Justice
Legislative Committee
Judicial Section,
State Bar of Texas.

THE SUPREME COURT OF TEXAS,
Austin, TX, June 27, 2005.

Senator JOHN CORNYN,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR CORNYN: The Supreme Court of Texas is aware that Texas judges are concerned about a recent federal judge's ruling that the immunity judges have traditionally been accorded, does not necessarily extend to administrative duties they perform. So worried are Texas judges, in fact, that the Judicial Section of the State Bar of Texas made judicial immunity for administrative duties one of the its highest legislative priorities during the recent regular session of the Texas Legislature.

As Chief Justice of The Supreme Court of Texas, constitutionally charged with the responsibility of overseeing the administration of justice in the State, I share these concerns. The practical impact of limiting a doctrine that has offered protection for well over a century in this country—and centuries before in England—may be a reluctance by Texas judges to discharge their administrative duties, many of which are critical to a healthy, functioning judicial branch.

Texas citizens will be the unwilling victims of this reluctance. Contrary to suggestions in the media, judicial immunity was not fashioned for the protection or benefit of judges. Rather, the doctrine was intended to benefit the public, who has a keen interest in a judiciary that functions with independence and without fear of the personal consequences of discharging their duties.

I commend the leaders within the Texas judiciary who worked hard this session to press for legislation that protects the independence of the judiciary, through these reform efforts and others. I likewise applaud the Governor and our distinguished legislators who, through the stroke of a pen and the casting of a vote, tell Texas judges that they support judicial independence, not only with impressive rhetoric, but through recordable actions.

Despite these successes on the state level, more comprehensive reform may be in order. I support your efforts to do so at the federal

level and extend my sincere appreciation for your continued support of the judiciary.

Sincerely,

WALLACE B. JEFFERSON,
Chief Justice.

By Mr. DEWINE (for himself, Mr. BIDEN, Mr. SANTORUM, Mr. FEINGOLD, Mr. LUGAR, and Mr. OBAMA):

S. 1320. A bill to provide multilateral debt cancellation for Heavily Indebted Poor Countries, and for other purposes; to the Committee on Foreign Relations.

Mr. BIDEN. Mr. President, in our search for ways to eliminate the crushing poverty that afflicts billions of people around the world, experience has taught us to be humble. There is no single policy or program that can deal with the underlying causes and symptoms of poverty.

But as the Hippocratic Oath reminds us, in the search for cures, "First, do no harm."

Right now, the burden of debt owed by the poorest nations of the world to the richest does harm not only to them, but to us.

In our new global environment, countries whose peoples live in abject poverty are not just a moral challenge to those of us who are blessed with affluence.

They can threaten the entire edifice of political and economic stability.

New technologies that have brought so much good to the world have shrunk the gaps in time and distance that once allowed us the luxury of inattention.

Now the very symbols of the technological superiority of our age, from the cell phone to the internet to jet airliners, have been transformed into weapons in the hands of those who are the declared enemies of our way of life.

They allow stateless actors to reach out from the shadows, from weak and failed states, to attack us here at home.

Poverty-stricken states are fertile ground for drug production and trafficking, feeding our own drug problems here.

With the scourge of AIDS and other diseases loose in the world, we cannot afford the existence of more states that cannot feed, house, educate, or inculcate their citizens.

For all of these reasons, we ignore the poverty that plagues other nations at our own peril.

That is why we need the legislation I am introducing today, with Senators DEWINE, FEINGOLD, LUGAR, and OBAMA, the Multilateral Debt Relief Act of 2005.

This legislation takes a first step in addressing that poverty it relieves the poorest nations of the world, specifically those who qualify for the Heavily Indebted Poor Country initiative of over a billion dollars a year in debt service payments that they are obliged to send the World Bank, the IMF, and the African Development Bank.

Since I worked with the President Clinton on the Enhanced HIPC initiative in 1999, we have searched for a

workable definition of “sustainable debt” an amount that would not cripple a country’s ability to take care of its own citizens and achieve economic growth.

In the end, it became clear that definition would continue to elude us. Whatever the best use of the limited resources of the poorest nation may be, sending checks to the multilateral banks established by the richest nations of the world is nowhere near the top of the list.

With the strong leadership of Prime Minister Blair, who will preside over the upcoming G8 Summit in July, we have cut the Gordian Knot of debt owed by the poorest nations of the world.

The announcement of the G8 Finance Ministers earlier this month on 100 percent debt relief cuts through years of debate and opens the way for a fresh start.

One hundred percent debt relief for those countries who meet the HIPC qualifications gets that debt out of the way of the many tasks before those countries in their search for economic growth.

None of our own foreign assistance programs will work to their best advantage if we send that assistance into nations who will turn around and send some of their money right back here to Washington, to the World Bank, to the IMF.

We must remember that this is indeed only the first step on a long path. With the funds this legislation will authorize, a burden of debt will be lifted, but we will still need to promote health, education, and other pillars of economic development.

We will need a more creative approach to trade with the poorest nations, who represent no economic threat, except for the threat that comes from their poverty itself. We have nothing to fear from a world in which fewer people wake up hungry, sick, and uneducated.

But with as much as \$40 billion in outstanding debt stock owed by 18 countries to be removed from the books right away, our efforts in those areas have a greater chance to succeed. Up to \$56 billion will be forgiven under this plan, once all 38 eligible countries are fully qualified.

I am pleased to note that this is a bipartisan initiative, one I share with Senators DEWINE, FEINGOLD, LUGAR, and OBAMA, an effort that began with the Clinton Administration and has progressed to this historic agreement under President Bush.

This legislation authorizes the funds needed for our share of the debt relief. It provides for further relief for other countries as they become eligible.

It lifts not only a debt burden from poor countries, but a moral obligation from our shoulders.

The poverty reduction it will promote will help millions around the globe and contribute materially to a more stable and secure world.

I urge my colleagues to join us in supporting it.

By Mr. SANTORUM (for himself, Mr. CRAPO, Mr. SMITH, and Mr. HAGEL):

S. 1321. A bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communications; to the Committee on Finance.

Mr. SANTORUM. Mr. President, I rise to introduce the Telephone Excise Tax Repeal Act of 2005, a bill that would abolish a tax that is severely outdated.

The telephone excise tax originated on long distance service under the Spanish American War Act of 1898. At that time, only the wealthy had telephones, the U.S. had no income tax, and the country relied on excise taxes to fund the war. However, you would not know the intent of this tax by looking at your phone bill. The charge on your phone bill doesn’t say “luxury tax” or “war tax.” So why does this tax still exist?

Although created to cover war expenses in 1898, the revenue from the telephone excise tax goes into the general receipts of the U.S. Treasury and is not earmarked for any particular government function or service. From its inception, the federal telephone excise tax was repeatedly imposed on a temporary basis. However since 1932, the tax has continuously been imposed. This tax has been scheduled to expire—partially or completely—at least 17 different times. In 1990, and just before the tax was set to expire, Congress made the tax permanent at 3 percent of local and long distance services.

The Joint Committee on Taxation stated in its January 2005 report “there is no compelling policy argument for imposing taxes on communications services.” The Congressional Budget Office took this a step further by stating in February 2005 that the tax “has harmful effects on economic policy.”

Repeal of this tax provides consumers with two main benefits—removal of a regressive tax and elimination of an “invisible tax.” First, the tax is considered a regressive tax because lower-income individuals spend a higher percentage of their income on the taxed item than those with higher incomes. A 1987 study by the CBO concluded that excise taxes on telephone service had a greater impact on low-income families than did excise taxes on alcoholic beverages and tobacco products. Studies have shown that individuals and families with income less than \$10,000 spend almost 10 percent of their income on telephone bills. Individuals and families earning \$50,000 spend two percent of their income for telephone service.

Second, repeal eliminates this “invisible” tax that consumers pay through their telephone companies. Because phone companies collect the tax from their customers, the government is spared the expense. However, this con-

venience for the government makes the tax “invisible” to consumers by tying it to the payment of their phone bills. Additionally, any administrative costs associated with the collection of this tax are most likely passed forward to the consumers, artificially raising the cost of telecommunications with no benefit from the additional taxes.

Telephone service providers lose as well under the current tax, and its repeal would further reduce the cost of telecommunications for consumers. Providers carry the administrative costs of being the government’s tax collector. Additionally, while providers do not bear this tax directly, the tax raises the cost of services for consumers and in turn reduces both the number of subscribers and the amount of services requested.

Common sense dictates that repeal of the telephone excise tax is long overdue. Communication is not a luxury. Rather, communications have become part of the basic fabric of our social and economic life. The growth of the technologies on which communications rides and the widespread use of communications in general should be encouraged and not taxed. The telephone tax is a regressive, inequitable, inefficient and unnecessary tax that Congressional policy makers have found to serve no rational policy purpose. I strongly urge my Senate colleagues to join me in supporting the repeal of the telephone excise tax.

By Mr. DURBIN (for himself, Mr. LEAHY, Mr. KENNEDY, and Mr. FEINGOLD):

S. 1322. A bill to allow for the prosecution of members of criminal street gangs, and for other purposes; to the Committee on the Judiciary.

Mr. DURBIN. Mr. President, today, I am joined by Senators LEAHY, KENNEDY, and FEINGOLD in introducing the American Neighborhoods Taking the Initiative Guarding Against Neighborhood Gangs (ANTI-GANG) Act, which is a comprehensive bill that will help State and local prosecutors prevent, investigate, and prosecute gang crimes.

Gang violence is a serious, nationwide program. The National Youth Gang Survey estimated that in 2002 there were 21,500 gangs comprised of 731,500 members in the United States. The FBI has noted that “[s]treet gangs and other loosely knit groups are responsible for a substantial portion of the increase in violent crime in the United States.” The problem is clearly felt in Chicago, IL, where over 40 percent of the homicides last year were gang-related. The Chicago Police Department is currently tracking 68 identified gangs, with an estimated 68,000 members.

I would like to commend the State and local prosecutors and law enforcement agencies for their work in fighting this problem. The ANTI-GANG Act would authorize \$862.5 million in grants over the next five years to provide them with the tools they need and have

specifically requested of Congress to combat violent gangs.

For example, the National District Attorneys Association (NDAA) wrote the following: "We must find new methods of protecting those individuals brave enough to come forward as witnesses. Our biggest problem is getting the financial help to establish, and run, meaningful witness protection programs." The National Alliance of Gang Investigators (NAGI) also has identified a trend in witness intimidation that is "dramatically affecting the prosecution of violent gang offenders." The ANTI-GANG Act responds by authorizing \$300 million over five years for the protection of witnesses and victims of gang crimes. This bill also would allow the Attorney General to provide for the relocation and protection of witnesses in state gang, drug, and homicide cases, and it would allow States to obtain the temporary protection of witnesses in State gang cases through the Federal witness relocation and protection program, without any requirement of reimbursement for those temporary services.

The ANTI-GANG Act also authorizes \$250 million over five years for grants to develop gang prevention, research, and intervention services. However, these grants should not be limited to those areas already identified as "high intensity" interstate gang activity areas. The NAGI also has identified a trend of gangs migrating from larger cities to smaller communities, which is fueled in large part by an increase in gang involvement in drug trafficking. This may be related to the spread of methamphetamine, which is the fastest-growing drug in the United States and, according to Illinois Attorney General Lisa Madigan, the "single-greatest threat to rural America today." In response to these trends, the ANTI-GANG Act would allow rural communities and other jurisdictions to apply for these grants, to prevent gang violence from occurring in the first place. The ANTI-GANG Act also authorizes \$262.5 million over five years for the cooperative prevention, investigation, and prosecution of gang crimes. Most of this funding would be for criminal street gang enforcement teams made up of local, State, and Federal law enforcement authorities that would investigate and prosecute criminal street gangs in high intensity interstate gang activity areas (HIIGAs). Importantly, this bill would allow HIIGAs to be integrated with High Intensity Interstate Drug Trafficking Areas (HIIDTAs), to avoid conflicts in those areas where the two entities would coexist.

The ANTI-GANG Act also authorizes \$50 million over five years for technology, equipment, and training to identify gang members and violent offenders and to maintain databases to facilitate coordination among law enforcement and prosecutors;

In addition to these new resources, the ANTI-GANG Act will effectively

strengthen the ability of prosecutors to prosecute violent street gangs, by creating a stronger Federal criminal gang prosecution offense. This new offense criminalizes participation in criminal street gangs, recruitment and retention of gang members, and witness intimidation. At the same time, it responds to concerns raised by the NDAA regarding potential conflicts with local investigation and prosecution efforts, by requiring certification by the Department of Justice before any prosecution under this bill could be undertaken in Federal court.

The ANTI-GANG Act also promotes the recruitment and retention of highly-qualified prosecutors and public defenders by establishing a student loan forgiveness program modeled after the current program for Federal employees. Almost a third of prosecutors' offices across the country have problems with recruiting or retaining staff attorneys, and low salaries were cited as the primary reason for recruitment and retention problems. This proposed loan forgiveness program is supported by the American Bar Association, the NDAA, the National Association of Prosecutor Coordinators, the National Legal Aid and Defender Association, and the American Council of Chief Defenders.

The ANTI-GANG Act will effectively strengthen the ability of prosecutors at the local, State, and Federal level to prosecute violent street gangs, and it will give State and local governments the resources they need to protect witnesses and prevent youth from joining gangs in the first place. This bill achieves these important goals without increasing any mandatory minimum sentences, which conservative jurists such as Justice Anthony Kennedy have criticized as "unfair, unjust, unwise." It also does not unnecessarily expand the Federal death penalty—a measure which has been included in other Federal gang legislation but is opposed by the Leadership Conference on Civil Rights, NAACP, ACLU, and National Association of Criminal Defense Lawyers.

Finally, the Juvenile Justice and Delinquency Prevention Coalition has raised the following concerns regarding Federal gang legislation that would allow more juveniles to be prosecuted as adults in the Federal system: "[T]he fact remains that transfer of youth to the adult system, simply put, is a failed public policy. Comprehensive national research on the practice of prosecuting youth in the adult system has shown conclusively that transferring youth to the adult criminal justice system does nothing to reduce crime and actually has the opposite effect. In fact, study after study has shown that youth transferred to the adult criminal justice system are more likely to re-offend and to commit more serious crimes upon release than youth who were charged with similar offenses and had similar offense histories but remained in the juvenile justice system.

Moreover, national data show that young people incarcerated with adults are five times as likely to report being a victim of rape, twice as likely to be beaten by staff and 50 percent more likely to be assaulted with a weapon than youth held in juvenile facilities. A Justice Department report also found that youth confined in adult facilities are nearly eight times more likely to commit suicide than youth in juvenile facilities."

In light of these concerns, the ANTI-GANG Act provides Congress with the necessary data to decide whether to expand the Federal role in prosecuting juvenile offenders, by requiring a comprehensive report on the current treatment of juveniles by the States and the capability of the Federal criminal justice system to take on these additional cases and house additional prisoners. The American Bar Association has written that this study is "the more prudent course of action at this time."

The ANTI-GANG Act is a comprehensive, common-sense approach to fight gang violence. I urge my colleagues to join me in support of this important legislation.

I ask unanimous consent that a summary of the bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

THE AMERICAN NEIGHBORHOODS TAKING THE INITIATIVE—GUARDING AGAINST NEIGHBORHOOD GANGS (ANTI-GANG) ACT

OVERVIEW

The American Neighborhoods Taking the Initiative—Guarding Against Neighborhood Gangs (ANTI-GANG) Act of 2005 is a comprehensive, tailored bill that will help State and local prosecutors prevent, investigate, and prosecute gang crimes in their neighborhoods. This bill contains four major provisions:

(1) It gives State and local prosecutors the tools they need and have specifically requested of Congress to combat violent gangs by authorizing \$52.5 million for the cooperative prevention, investigation, and prosecution of gang crimes; \$10 million for technology, equipment, and training to identify gang members and violent offenders and to maintain databases to facilitate coordination among law enforcement and prosecutors; \$60 million for the protection of witnesses and victims of gang crimes; and \$50 million for grants to develop gang prevention, research, and intervention services.

2. It replaces the current provision on criminal street gangs in Federal law, a seldom-used penalty enhancement, with a stronger measure that criminalizes participation in criminal street gangs, recruitment and retention of gang members, and witness intimidation. The ANTI-GANG Act targets gang violence and gang crimes in a logical, straightforward manner.

3. It will provide Congress with the necessary data to decide whether to expand the federal role in prosecuting juvenile offenders by requiring a comprehensive report on the current treatment of juveniles by the States and the capability of the Federal criminal justice system to take on these additional cases and house additional prisoners.

4. It promotes the recruitment and retention of highly-qualified prosecutors and public defenders by establishing a student loan

forgiveness program modeled after the current program for Federal employees.

The ANTI-GANG Act will effectively strengthen the ability of prosecutors at the local, State, and Federal level to prosecute violent street gangs, and it will give State and local governments the resources they need to protect witnesses and prevent kids from joining gangs in the first place. This bill achieves these important goals without increasing any mandatory minimum sentences, which conservative jurists such as Justice Anthony Kennedy have criticized as “unfair, unjust, unwise”. It also respects the traditional principles of federalism, by requiring certification by the Department of Justice before any prosecution under this bill may be undertaken in Federal court and by not unnecessarily expanding the Federal death penalty.

SECTION-BY-SECTION SUMMARY OF THE ANTI-GANG ACT

Title I—Criminal Street Gangs

Sec. 101. Criminal Street Gangs—Definitions. Defines a criminal gang as a pre-existing and ongoing entity, e.g. having already committed crimes; targets violent criminal street gangs by requiring that at least one predicate gang crime be a violent gang crime; establishes evidentiary relevance of gang symbolism in prosecutions; and allows Federal prosecution of neighborhood gang activity when those activities substantially affect interstate commerce.

Sec. 102. Criminal Street Gangs—Prohibited Acts, Penalties, and Forfeiture. Creates three new Federal crimes to prosecute cases involving violent criminal street gangs. 1. It prohibits the recruitment and forced retention of gang members, including harsher penalties if an adult recruits a minor or prevents a minor from leaving a criminal street gang. 2. It prohibits participation in a criminal street gang if done with the intent to further criminal activities of the gang or through the commission of a single predicate gang crime. 3. It prohibits witness intimidation and tampering in cases and investigations related to gang activity. Before the Federal government may undertake a prosecution of these offenses, the Department of Justice must certify that it has consulted with State and local prosecutors before seeking an indictment and that federal prosecution is “in the public interest and necessary to secure substantial justice.”

Sec. 103. Clerical Amendments.

Sec. 104. Conforming Amendments.

Sec. 105. Designation of and Assistance for “High Intensity” Interstate Gang Activity Areas. Requires the Attorney General, after consultation with the governors of appropriate States, to designate certain locations as “high intensity” interstate gang activity areas (HIIGAs) and provide assistance in the form of criminal street gang enforcement teams made up of local, State, and Federal law enforcement authorities to investigate and prosecute criminal street gangs in each designated area. The ANTI-GANG bill also allows for HIIGAs to be integrated with High Intensity Interstate Drug Trafficking Areas (HIIDTAs), to avoid conflicts and bureaucratic morasses in those areas where the two entities would coexist. Subsection (c) authorizes funding of \$40 million for each fiscal year 2006 through 2010.

Sec. 106. Gang Prevention Grants. Requires the Office of Justice Programs of the Department of Justice to make grants to States, units of local government, tribal governments, and qualified private entities to develop community-based programs that provide crime prevention, research, and intervention services designed for gang members and at-risk youth. Subsection (f) authorizes \$50 million for each fiscal year 2006 through

2010. No grant may exceed \$1 million nor last for any period longer than 2 years.

Sec. 107. Gang Prevention Information Grants. Requires the Office of Justice Programs of the Department of Justice to make grants to States, units of local government, tribal governments to fund technology, equipment, and training for state and local sheriffs, police agencies, and prosecutor offices to increase accurate identification of gang members and violent offenders and to maintain databases with such information to facilitate coordination among law enforcement and prosecutors. Subsection (f) authorizes \$10 million for each fiscal year 2006 through 2010. No grant may exceed \$1 million nor last for any period longer than 2 years.

Sec. 108. Enhancement of Project Safe Neighborhoods Initiative to Improve Enforcement of Criminal Laws Against Violent Gangs. Expands the Project Safe Neighborhood program to require United States Attorneys to identify and prosecute significant gangs within their district; to coordinate such prosecutions among all local, State, and Federal law enforcement agencies; and to coordinate criminal street gang enforcement teams in designated “high intensity” interstate gang activity areas. Subsection (b) authorizes the hiring of 94 additional Assistant United States Attorneys and funding of \$7.5 million for each fiscal year 2006 through 2010 to carry out the provisions of this section.

Sec. 109. Additional Resources Needed by the Federal Bureau of Investigation to Investigate and Prosecute Violent Criminal Street Gangs. Requires the Federal Bureau of Investigation to increase funding for the Safe Streets Program and to support the criminal street gang enforcement teams in designated high intensity interstate gang activity areas. Subsection (b) authorizes \$5 million for each fiscal year 2006 through 2010 to expand the FBI’s Safe Streets Program.

Sec. 110. Expansion of Federal Witness Relocation and Protection Program. Amends 18 U.S.C. 3521(a)(1), which governs the Federal witness relocation and protection program, to make clear that the Attorney General can provide for the relocation and protection of witnesses in State gang, drug, and homicide cases. Current law authorizes Federal relocation and protection for witnesses in State cases involving “an organized criminal activity or other serious offense.”

Sec. 111. Grants to States and Local Prosecutors to Protect Witnesses and Victims of Crime. Authorizes the Attorney General to make grants available to State and local prosecutors and the U.S. Attorney for the District of Columbia for the purpose of providing short-term protection to witnesses in cases involving an organized criminal activity, criminal street gang, serious drug offense, homicide, or other serious offense. State and local prosecutors will have the option of either providing the witness protection themselves or contracting with the United States Marshals Service for use of the Federal witness protection and relocation program. Subsection (d) authorizes \$60 million for each fiscal year 2006 through 2010 to fund the program. By providing significantly increased resources and flexibility for State and local prosecutors, this provision responds in a meaningful way to the need for effective witness protection emphasized by prosecutors during the September 17, 2003, hearing in the Judiciary Committee.

Sec. 112. Witness Protection Services. Amends 18 U.S.C. 3526 to allow States to obtain the temporary protection of witnesses in State gang cases through the Federal witness relocation and protection program, without any requirement of reimbursement for those temporary services. Currently, complex reimbursement procedures deter

State and local prosecutors from obtaining witness protection services from the Federal government in emergency circumstances.

Title II—Related Matters Involving Violent Crime Prosecution

Sec. 201. Study on Expanding Federal Authority for Juvenile Offenders. This section requires the General Accounting Office to do a comprehensive report on the advantages and disadvantages of increasing Federal authority for the prosecution of 16- and 17-year-old offenders. Some have proposed indicting and prosecuting more juveniles in Federal courts as a step in combating gang violence. Although there is insufficient data to support this proposition, it is appropriate for the GAO to review the current treatment of such offenders by the States and the capability of the Federal criminal justice system to take on these additional cases and house additional prisoners. With this review, Congress can knowledgeably consider whether to expand the Federal role in prosecuting juveniles.

Sec. 202. Prosecutors and Defenders Incentive Act. This section establishes a student loan repayment program for prosecutors and public defenders that is modeled after the program currently available to federal employees. This would increase the ability of Federal, State, and local prosecutors and public defenders to recruit and retain highly-qualified attorneys. Attorneys in this program must agree to serve for a minimum of three years. Participants can receive up to \$10,000 per year and a total of up to \$60,000; these amounts are identical to the limitations in the program for federal employees. Subsection (h) authorizes \$25 million for fiscal year 2006 and such sums as may be necessary for each succeeding fiscal year.

Mr. LEAHY. Mr. President, I am pleased to co-sponsor the introduction of the ANTI-Gang Act with my good friends on the Judiciary Committee, Senators DURBIN, KENNEDY and FEINGOLD.

The American Neighborhoods Taking the Initiative—Guarding Against Neighborhood Gangs Act of 2005 is a bill carefully crafted to target violent criminal street gangs whose activities extend beyond the neighborhood and have a substantial impact on Federal interests.

As a former county prosecutor, I have long expressed concern about making Federal crimes out of every offense that comes to the attention of Congress. I know that States have competent and able police departments, county sheriffs’ offices, prosecutors and judges. Gangs are, more often than not, locally-based, geographically-oriented criminal associations, and our local communities are on the front lines of the fight against gang violence. We should be supplementing the work of our State and local law enforcement officers, not usurping them. This is why this bill specifically targets only those gangs where there is a provable Federal interest. This is why this bill requires consultation with our State and local counterparts before embarking on a Federal prosecution of historically State crimes. And this is why major provisions of the bill are directed toward helping State and local law enforcement officers prevent, investigate, and prosecute gang crimes in their own neighborhoods.

There are four major sections of the bill: first, the bill gives State and local prosecutors financial resources to guard against neighborhood gangs by authorizing \$62.5 million for the cooperative prevention, investigation, and prosecution of gang crimes; \$50 million for grants to develop gang prevention, research, and intervention services; and \$60 million for the protection of witnesses and victims of gang crimes. Federal funds are provided for hiring new Assistant U.S. Attorneys and to fund technology, equipment and training grants to increase accurate identification of gang members and violent offenders and to maintain databases with such information to facilitate state and federal coordination.

The first defense in protecting our youth against gang influence is a good offense. I have long thought that programs aimed at combating gang activity must incorporate gang prevention and education—programs that would examine why our youth choose to associate in gangs and prey on others—to be effective. When Senator HATCH appropriately targeted gang violence as a subject for a full Judiciary Committee hearing in 2003, all agreed that we should be doing more to deter our youth from joining gangs in the first place. This bill heeds that call.

Another unifying theme of the expert witnesses at the Committee's hearing was the serious need for Federal assistance in protecting witnesses who will provide information about and testify against gangs from intimidation. Our bill not only provides funding to help protect witnesses, it also makes it a Federal crime to intimidate witnesses in certain State prosecutions involving gang activity.

Second, the bill defines a Federal criminal street gang by using well-established legal principles and providing recognizable limits. Rather than create yet another cumbersome and broad-reaching Federal crime that overlaps with numerous existing Federal statutes, this bill actually targets the problem that needs to be addressed: violent criminal street gangs. It recognizes that gangs are ongoing entities whose members commit crimes more easily simply because of their association with one another. Gangs prove the old adage: there is safety in numbers. Gang members can be sheep-like in their loyalty and allegiance to the gang. In this regard, the bill also explicitly and evenhandedly addresses the evidentiary significance of gang symbolism in gang prosecutions.

In addition to witness intimidation, other important crimes established by this bill include: 1. participation in criminal street gangs by any act that is intended to effect the criminal activities of the gang; 2. participation by committing a crime in furtherance of or for the benefit of the gang, and 3. recruitment and retention of gang members. There are increased penalties for those who target minors for recruitment in a criminal street gang.

Third, the bill requires a comprehensive report on the current treatment of juveniles by the States, and the capability of the Federal criminal justice system to take on these additional cases and house additional prisoners, so that Congress can make an informed decision about whether or not to expand the Federal role in prosecuting juvenile offenders.

Some have suggested that the Federal Government has been unable to proceed effectively against gang crime because of Federal law's protections for juvenile offenders. I have not seen sufficient evidence to support this claim, but I think that Congressional consideration of this issue would benefit greatly from a comprehensive General Accounting Office study on this topic. We need to know both whether justice would be served by increasing the Federal role, and whether the Federal system—including both our prosecutors and the Bureau of Prisons—is prepared for such a step.

Fourth, the bill promotes the recruitment and retention of highly-qualified State and local prosecutors and public defenders by establishing a student loan forgiveness program modeled after the current program for Federal employees.

We have worked very hard in crafting this legislation not to further blur the lines between Federal and State law enforcement responsibilities or to add more burdens to the FBI as the primary Federal investigative agency. Federal law enforcement has been faced with a unique challenge since the September 11 attacks. The FBI is no longer just an enforcement agency, but also has a critical terrorism prevention mission. This mission is a daunting one, and our Federal law enforcement resources are not limitless. I, for one, do not want the FBI or U.S. Attorneys to focus these limited resources on cases that are best handled at the local level.

Combating gang violence should not be a partisan battle. The tragedy of gang violence affects too many. No community can afford to lose a single youth to the arms of a waiting gang. No gang should be allowed to flourish without consequence in our communities. I urge the Senate's support for this important bill.

Mr. KENNEDY. Mr. President, it's a privilege to join my colleagues Senator DURBIN, Senator LEAHY, and Senator FEINGOLD in introducing this important legislation, the ANTI-GANG Act.

Gang violence is a serious problem in many communities across the Nation, and it deserves a serious response by Congress. The keys to success include aggressive steps to take guns out of the hands of criminal gang members and other violent juvenile offenders, and effective prevention programs that discourage gang membership and provide realistic alternatives for at-risk youth.

As one example of what works, I urge my colleagues to consider the innovative, cooperative crime-fighting strat-

egy developed in Boston. It engaged the entire community, including police and probation officers, clergy and community leaders, and even gang members in a united effort to reduce gang violence, strengthen after-school prevention programs, and take guns out of the hands of juvenile offenders.

The project also established new and effective channels of communication between the police and neighborhood leaders. This strategy was very successful—juvenile homicides dropped 80 percent from 1990 to 1995. It succeeded without prosecuting more juveniles as adults, without housing nonviolent juvenile offenders in adult facilities, and without spending large sums of money on new juvenile facilities.

The Massachusetts Legislature's Joint Committee on Public Safety issued a report last January which concluded unequivocally that successful anti-gang programs depend on a "wide variety of solutions." Relying on recommendations by the Office of Juvenile Justice and Delinquency Prevention, the report noted that "preventing youth from joining gangs is the most cost-effective long-term strategy." Reflecting the input from an investigative hearing and a working group of ten mayors in metropolitan Boston, the report recognized that there is "no silver bullet for combating gang violence."

It would be a mistake for Congress to ignore these successful efforts to stop gang violence. Since different communities may find different ways to combat these difficult issues, the bill does not adopt a one-size-fits-all approach that will only make the current problem of gang violence worse. Instead of ignoring the primary role of State and local governments in fighting violent gang crimes in their communities, our ANTI-GANG Act strengthens that role, by giving local law enforcement and prosecutors the resources they need by authorizing \$862 million in grants over the next 5 years.

The provisions in the bill for witness relocation and protection are particularly important. Our bill meets this need by authorizing \$60 million in assistance. The urgency of preventing witness intimidation in gang-related cases can not be overstated. Effective prosecution of such violence depends upon it.

In addition, our bill amends the current law on Federal witness relocation and protection to make clear that the Attorney General can use these provisions to protect witnesses in State gang, drug, and homicide cases. We also permit States to obtain the temporary protection of witnesses in gang cases, without any requirement of reimbursement. The current complex reimbursement procedures deter State and local prosecutors from obtaining assistance for witness protection from the Federal government, even in emergencies.

The ANTI-GANG Act respects the primary role of State and local governments in fighting street crime, but it

also recognizes that violent gangs can have a substantial impact on Federal interests. According to the most recent National Drug Threat Assessment, criminal street gangs are responsible for the distribution of much of the cocaine, methamphetamine, heroin, and other illegal drugs being distributed in communities throughout the United States. Such gang activity interferes with lawful commerce and undermines the freedom and security of entire communities.

The Act strengthens the ability of prosecutors at all levels—Federal, State and local—to prosecute violent street gangs, and it does so without increasing mandatory minimum sentences or unnecessarily expanding the Federal death penalty to include State murder offenses.

Finally, the Act encourages the recruitment and retention of highly-qualified prosecutors and public defenders by establishing a student loan forgiveness program modeled on the current program for Federal employees. According to the National District Attorneys Association, this provision “would allow prosecutors to relieve the crushing burden of student loans that now cause so many young attorneys to abandon public service.” The provision is also strongly supported by the National Legal Aid and Defender Association and the American Council of Chief Defenders.

I commend my colleagues for their leadership in developing this important legislation to protect American communities from gang violence without undermining fundamental principles of fairness and Federal-State relations. I urge the Senate to adopt this approach, and resist any suggestion that we need to federalize the State and local juvenile justice systems in our country.

Mr. FEINGOLD. Mr. President, I am pleased to support the ANTI-GANG Act, introduced today by the Senator from Illinois, Senator DURBIN. This critical legislation will provide State and Federal law enforcement with the tools and resources needed to successfully fight the expanding presence of violent gangs that bring drugs like methamphetamine into our communities.

Time and time again, we in Congress have heard the call of prosecutors and law enforcement for more resources to combat the problem of gang violence. The ANTI-GANG Act gives local prosecutors and law enforcement what they have asked Congress for most—targeted financial assistance. The bill will help combat the growth and proliferation of violent gangs by authorizing funds for the cooperative prevention, investigation, and prosecution of gang crimes. In addition, grant money will be made available for the protection of witnesses and victims of gang violence. These funds will not be tied to restrictive formulas that would keep the majority of the assistance from reaching suburban and rural communities. This money will be able to go to the commu-

nities in Wisconsin and the rest of the country where rural and smaller law enforcement agencies are financially limited in their ability to deal with the exploding increase in gang violence associated with methamphetamines and other narcotics.

The ANTI-GANG Act also promotes hiring and long-term service of highly qualified prosecutors and public defenders by establishing a student loan forgiveness program. Prosecuting gangs is some of the most demanding and challenging work a prosecutor will tackle. Loan forgiveness will allow the recruitment of the very best Assistant District Attorneys and Assistant Attorneys General and allow them to remain in public service longer so they can use their wealth of experience to combat gang violence.

The ANTI-GANG Act also replaces the current Federal RICO statute, which was never intended to be used against violent street gangs, with a tough statute that not only criminalizes participation in criminal street gangs, but also addresses the serious problem of the recruitment and retention of gang members. The ANTI-GANG Act targets gang violence and gang crimes in a logical, straightforward manner. The bill also recognizes that the vast majority of gang investigations and prosecutions have been and will continue to be done at the State and local level. The bill requires that Federal prosecutors consult with State and local law enforcement and certify that a Federal prosecution is in the public interest.

Finally, the ANTI-GANG Act will provide Congress with the data necessary to decide whether to expand the Federal role in prosecuting juvenile offenders by requiring a comprehensive report on the current treatment of juveniles by the States and the capability of the Federal criminal justice system to take on more juvenile cases and to house additional young prisoners. Some have proposed indicting and prosecuting more juveniles in Federal courts as a way of combating gang violence. It is very hard to know whether this will work, and what effect it might have on the criminal justice system. With the review required by the ANTI-GANG Act, Congress can intelligently consider whether to expand to Federal role in prosecuting juveniles.

We all know that the gang problem is a serious one, and that it is only getting worse. Other members of Congress have proposed different approaches to combating the gang problem, and the House of Representatives has passed its own gang bill. But the ANTI-GANG Act is the approach most responsive to the needs of State and local prosecutors who are on the ground fighting this problem, day in and day. Other approaches go down the wrong path.

State and Federal prosecutors have not demanded unchecked and increased Federal jurisdiction over State crimes that diminishes the States’ historic

and primary role in fighting violent street gangs. They did not come to us seeking new and expanded Federal death penalty crimes, but rather effective laws that focus on the recruitment and retention of gang members. They never mentioned needing a massive and unwarranted reworking of the Federal rules used to prosecute juveniles as adults, regardless of whether the juvenile is in a gang or not. And, to my knowledge, no prosecutors have put increased mandatory minimums targeted at first offenders on their wish list. All of these approaches sound tough, but they aren’t what prosecutors and law enforcement have asked for and they won’t solve the gang problem.

Our citizens should be able to send their children to school, use their parks, and walk their streets without fearing that gang violence will grow unfettered in their community. The ANTI-GANG Act is an important step towards making all of our neighborhoods safe. I am proud to cosponsor it and I urge my colleagues to support it.

By Mr. STEVENS (for himself and Ms. MURKOWSKI):

S. 1323. A bill to designate the facility of the United States Postal Service located on Lindbald Avenue, Girdwood, Alaska, as the “Dorothy and Connie Hibbs Post Office Building”; to the Committee on Banking, Housing, and Urban Affairs.

Mr. STEVENS. Mr. President, Dorothy Hibbs came to Girdwood in 1952 and was its Postmaster from 1954–1976. During this time, the Post Office was housed in a two-story hotel called The Little Dipper. Mail came into Girdwood via train. The train would slow down and throw the sack of mail to Dorothy who would be waiting by the tracks. Unfortunately, this building burned down during the 1964 earthquake. After the Post Office burned, the operation moved to Dorothy’s home until another building could be acquired.

Connie Hibbs began her love for the post office at a young age when her mother, Dorothy, was Postmaster of Girdwood. Because of her hard work and efforts, Connie became the Girdwood Postmaster in 1979 and held that position until 2005.

Connie came with her mother to Girdwood in 1952 and remained for 52 years. While her mother was Postmaster, Connie helped in the Post Office and at the age of thirteen began making money orders and sorting mail. Girdwood and the Post Office have always been a part of Connie’s life. Connie says she loves Girdwood. It is her town. She spent the most wonderful years of her life there as the Postmaster and a “Post Office Kid.”

Connie and Dorothy believe in the importance of the Postal Service and the need to enhance the service in Girdwood. It is only appropriate that we honor them by dedicating the Girdwood Post Office after them.

By Mr. FRIST (for himself and Mr. WYDEN):

S. 1324. A bill to reduce and prevent childhood obesity by encouraging schools and school districts to develop and implement local, school-based programs designed to reduce and prevent childhood obesity, promote increased physical activity, and improve nutritional choices; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FRIST (for himself, Mr. BINGAMAN, Mr. DODD, Mrs. CLINTON, Ms. COLLINS, Mr. ALEXANDER, Mr. LUGAR, Ms. MURKOWSKI, and Mr. STEVENS):

S. 1325. A bill to establish grants to provide health services for improved nutrition, increased physical activity, obesity and eating disorder prevention, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FRIST. Mr. President, obesity ranks among the most serious health problems facing America today.

Since 1970, the percentage of overweight children between 6 and 19 has quadrupled. Today, nearly one out of three children is overweight and about one in six is obese.

Obese children develop type II diabetes at an alarming rate and they can begin puberty as early as age seven. Over 70 percent of obese children become overweight or obese adults. And, obesity in adults can have catastrophic effects—including heart disease, cancer, and stroke at very high rates. The medical profession knows this.

In the last several weeks, the American Medical Association has issued new guidelines for fighting obesity. And earlier this week, a group of economists reported that nearly 12 percent of all health care spending stems from obesity.

Obesity threatens our health, it threatens our future. And successfully addressing it requires action.

Dealing with it requires national leadership and community level commitment.

Through continued public education campaigns, we have reduced youth smoking. And I'm convinced we can do the same with obesity. That's why I'm reintroducing two bills to confront the challenge.

The first is called the Childhood Obesity Reduction Act: it will give the obesity crisis the attention it deserves. I am grateful to my colleague Senator WYDEN for his work in cosponsoring it.

The bill has two major components: first, it will establish a bi-partisan Congressional Council on Childhood Obesity which will evaluate plans to fight this health problem and give awards to "Congressional Challenge Winners."

Second, it will establish a private, non-profit foundation to fight obesity around the country.

The second bill, the Improved Nutrition and Physical Activity Act of 2005, or IMPACT, will provide the resources we need to fight obesity everywhere in the country.

This bill, which Senators BINGAMAN, DODD, and CLINTON have joined me in sponsoring, commits us to three policies: first, we'll train more health professionals in the problems associated with being overweight and ways that they can help Americans fight obesity.

Second, we will mobilize America's community organizations to fight this problem. Through education, outreach, and intervention, schools, non-profits, and churches will get the resource they need to fight obesity. We will also give States more flexibility to use existing grant programs to fight obesity.

Finally, we will redouble our efforts to collect information about obesity's extent, consequences, costs, and the ways we can deal with them.

Obesity stems from a combination of behavior, environment, and genetics. We cannot and should not expect any single Federal effort to end it. Much of the work in fighting obesity will depend on families and communities.

And both the Childhood Obesity Reduction Act and IMPACT 2005 bill will give this crisis the attention . . . and the resources . . . it deserves.

I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1324

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Childhood Obesity Reduction Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) According to the Centers for Disease Control and Prevention, obesity may soon overtake tobacco as the leading preventable cause of death.

(2) In 1999, 13 percent of children aged 6 to 11 years and 14 percent of adolescents aged 12 to 19 years in the United States were overweight. This prevalence has nearly tripled for adolescents in the past 2 decades.

(3) Risk factors for heart disease, such as high cholesterol and high blood pressure, occur with increased frequency in overweight children and adolescents compared to children with a healthy weight.

(4) Type 2 diabetes, previously considered an adult disease, has increased dramatically in children and adolescents. Overweight and obesity are closely linked to type 2 diabetes.

(5) Obesity in children and adolescents is generally caused by a lack of physical activity, unhealthy eating patterns, or a combination of the 2, with genetics and lifestyle both playing important roles in determining a child's weight.

(6) Overweight adolescents have a 70 percent chance of becoming overweight or obese adults.

(7) The 2001 report "The Surgeon General's Call to Action to Prevent and Decrease Overweight and Obesity" suggested that obesity and its complications were already costing the United States \$117,000,000,000 annually.

(8) Substantial evidence shows that public health risks can be reduced through increased public awareness and community involvement.

(9) Congress needs to challenge students, teachers, school administrators, and local

communities to voluntarily participate in the development and implementation of activities to successfully reduce and prevent childhood obesity.

TITLE I—CONGRESSIONAL COUNCIL ON CHILDHOOD OBESITY

SEC. 101. CONGRESSIONAL COUNCIL ON CHILDHOOD OBESITY.

(a) ESTABLISHMENT OF COUNCIL.—There is established a "Congressional Council on Childhood Obesity" (referred to in this title as the "Council").

(b) PURPOSES.—The purposes of the Council shall be—

(1) to encourage every elementary school and middle school in the United States, whether public or private, to develop and implement a plan to reduce and prevent obesity, promote improved nutritional choices, and promote increased physical activity among students; and

(2) to provide information as necessary to secondary schools.

SEC. 102. MEMBERSHIP OF THE COUNCIL.

(a) COMPOSITION OF THE COUNCIL.—The Council shall be composed of 8 members as follows:

(1) The majority leader of the Senate or the designee of the majority leader of the Senate.

(2) The minority leader of the Senate or the designee of the minority leader of the Senate.

(3) The Speaker of the House of Representatives or the designee of the Speaker of the House of Representatives.

(4) The minority leader of the House of Representatives or the designee of the minority leader of the House of Representatives.

(5) 4 citizen members to be appointed in accordance with subsection (b).

(b) APPOINTMENT OF CITIZEN COUNCIL MEMBERS.—

(1) METHOD OF APPOINTMENT.—For the purpose of subsection (a)(5), each of the 4 members described in paragraphs (1) through (4) of subsection (a) shall appoint to the Council a citizen who is an expert on children's health, nutrition, or physical activity.

(2) DATE OF APPOINTMENT.—The appointments made under paragraph (1) shall be made not later than 120 days after the date of enactment of this Act.

(c) VACANCIES.—Any vacancy in the Council shall not affect its powers, but shall be filled in the manner in which the original appointment was made under subsection (a).

(d) CHAIRPERSON.—The members of the Council shall elect, from among the members of the Council, a Chairperson.

(e) INITIAL MEETING.—The Council shall hold its first meeting not later than 120 days after the date of enactment of this Act.

SEC. 103. RESPONSIBILITIES OF THE COUNCIL.

(a) IN GENERAL.—The Council shall engage in the following activities:

(1) Work with outside experts to develop the Congressional Challenge to Reduce and prevent Childhood Obesity, which shall include the development of model plans to reduce and prevent childhood obesity that can be adopted or adapted by elementary schools or middle schools that participate.

(2) Develop and maintain a website that is updated not less than once a month on best practices in the United States for reducing and preventing childhood obesity.

(3) Assist in helping elementary schools and middle schools in establishing goals for the healthy reduction and prevention of childhood obesity.

(4) Consult and coordinate with the President's Council on Physical Fitness and other Federal Government initiatives conducting activities to reduce and prevent childhood obesity.

(5) Reward elementary schools, middle schools, and local educational agencies promoting innovative, successful strategies in reducing and preventing childhood obesity.

(6) Provide information to secondary schools.

(b) CONGRESSIONAL CHALLENGE WINNERS.—

(1) IN GENERAL.—The Council shall—

(A) evaluate plans submitted by elementary schools, middle schools, and local educational agencies under paragraph (2);

(B) designate the plans submitted under paragraph (2) that meet the criteria under paragraph (3) as Congressional Challenge winners; and

(C) post the plans of the Congressional Challenge winners designated under subparagraph (B) on the website of the Council as model plans for reducing and preventing childhood obesity.

(2) SUBMISSION OF PLANS.—Each elementary school, middle school, or local educational agency that desires to have the plan to reduce and prevent childhood obesity of such entity designated as a Congressional Challenge winner shall submit to the Council such plan at such time, in such manner, and accompanied by such information as the Council may reasonably require.

(3) SELECTION CRITERIA.—

(A) IN GENERAL.—The Council shall evaluate plans submitted by elementary schools, middle schools, and local educational agencies under paragraph (2) and shall designate as Congressional Challenge winners the plans that—

(i) show promise in successfully increasing physical activity, improving nutrition, and reducing and preventing obesity; or

(ii) have maintained efforts in assisting children in increasing physical activity, improving nutrition, and reducing and preventing obesity.

(B) CRITERIA.—The Council shall make the determination under subparagraph (A) based on the following criteria:

(i) Strategies based on evaluated interventions.

(ii) The number of children in the community in need of assistance in addressing obesity and the potential impact of the proposed plan.

(iii) The involvement in the plan of the community served by the school or local educational agency.

(iv) Other criteria as determined by the Council.

(c) MEETINGS.—The Council shall hold not less than 1 meeting each year, and all meetings of the Council shall be public meetings, preceded by a publication of notice in the Federal Register.

SEC. 104. ADMINISTRATIVE MATTERS.

(a) PAY AND TRAVEL EXPENSES.—

(1) PROHIBITION OF PAY.—Members of the Council shall receive no pay, allowances, or benefits by reason of their service on the Council.

(2) TRAVEL EXPENSES.—

(A) COMPENSATION FOR TRAVEL.—Each member of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council, to the extent funds are available under subparagraph (B) for such expenses.

(B) LIMIT ON TRAVEL EXPENSES.—Travel expenses under subparagraph (A) shall be appropriated from the amounts appropriated to the legislative branch and shall not exceed \$1,000,000.

(b) STAFF.—The Chairperson of the Council may appoint and terminate, as may be necessary to enable the Council to perform its

duties, not more than 5 staff personnel, all of whom shall be considered employees of the Senate.

SEC. 105. TERMINATION OF COUNCIL.

The Council shall terminate on September 30 of the second full fiscal year following the date of enactment of this Act.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title \$2,200,000 for each of fiscal years 2006 and 2007.

TITLE II—NATIONAL FOUNDATION FOR THE PREVENTION AND REDUCTION OF CHILDHOOD OBESITY

SEC. 201. ESTABLISHMENT AND DUTIES OF FOUNDATION.

(a) IN GENERAL.—There shall be established in accordance with this section a nonprofit private corporation to be known as the National Foundation for the Prevention and Reduction of Childhood Obesity (referred to in this title as the “Foundation”). The Foundation shall not be an agency or instrumentality of the Federal Government, and officers, employees, and members of the board of the Foundation shall not be officers or employees of the Federal Government.

(b) PURPOSE OF FOUNDATION.—The purpose of the Foundation shall be to support and carry out activities for the prevention and reduction of childhood obesity through school-based activities.

(c) ENDOWMENT FUND.—

(1) IN GENERAL.—In carrying out subsection (b), the Foundation shall establish a fund for providing endowments for positions that are associated with the Congressional Council on Childhood Obesity and the Department of Health and Human Services (referred to in this title as the “Department”) and dedicated to the purpose described in such subsection. Subject to subsection (g)(1)(B), the fund shall consist of such donations as may be provided by non-Federal entities and such non-Federal assets of the Foundation (including earnings of the Foundation and the fund) as the Foundation may elect to transfer to the fund.

(2) AUTHORIZED EXPENDITURES OF FUND.—The provision of endowments under paragraph (1) shall be the exclusive function of the fund established under such paragraph. Such endowments may be expended only for the compensation of individuals holding the positions, for staff, equipment, quarters, travel, and other expenditures that are appropriate in supporting the positions, and for recruiting individuals to hold the positions endowed by the fund.

(d) CERTAIN ACTIVITIES OF FOUNDATION.—In carrying out subsection (b), the Foundation may provide for the following with respect to the purpose described in such subsection:

(1) Evaluate and make known the effectiveness of model plans used by schools to reduce and prevent childhood obesity.

(2) Create a website to assist in the distribution of successful plans, best practices, and other information to assist elementary schools, middle schools, and the public to develop and implement efforts to reduce and prevent childhood obesity.

(3) Participate in meetings, conferences, courses, and training workshops.

(4) Assist in the distribution of data concerning childhood obesity.

(5) Make Challenge awards, pursuant to subsection (e), to elementary schools, middle schools, and local educational agencies for the successful development and implementation of school-based plans.

(6) Other activities to carry out the purpose described in subsection (b).

(e) CHALLENGE AWARDS.—

(1) PROGRAM AUTHORIZED.—The Foundation may provide Challenge awards to elementary schools, middle schools, and local edu-

cational agencies that submit applications under paragraph (2).

(2) APPLICATION.—Each elementary school, middle school, or local educational agency that desires to receive a Challenge award under this subsection shall submit an application that includes a plan to reduce and prevent childhood obesity to the Foundation at such time, in such manner, and accompanied by such additional information as the Foundation may reasonably require.

(3) SELECTION CRITERIA.—In the program authorized under paragraph (1), the Foundation shall provide Challenge awards based on—

(A) the success of the plans of the elementary schools, middle schools, and local educational agencies in meeting the plans' stated goals;

(B) the number of children in the community served by the elementary school, middle school, or local educational agency who are in need of assistance in addressing obesity; and

(C) other criteria as determined by the Foundation.

(f) GENERAL STRUCTURE OF FOUNDATION; NONPROFIT STATUS.—

(1) BOARD OF DIRECTORS.—The Foundation shall have a board of directors (referred to in this title as the “Board”), which shall be established and conducted in accordance with subsection (g). The Board shall establish the general policies of the Foundation for carrying out subsection (b), including the establishment of the bylaws of the Foundation.

(2) EXECUTIVE DIRECTOR.—The Foundation shall have an executive director (referred to in this title as the “Director”), who shall be appointed by the Board, who shall serve at the pleasure of the Board, and for whom the Board shall establish the rate of compensation. Subject to compliance with the policies and bylaws established by the Board pursuant to paragraph (1), the Director shall be responsible for the daily operations of the Foundation in carrying out subsection (b).

(3) NONPROFIT STATUS.—In carrying out subsection (b), the Board shall establish such policies and bylaws under paragraph (1), and the Director shall carry out such activities under paragraph (2), as may be necessary to ensure that the Foundation maintains status as an organization that—

(A) is described in subsection (c)(3) of section 501 of the Internal Revenue Code of 1986; and

(B) is, under subsection (a) of such section, exempt from taxation.

(g) BOARD OF DIRECTORS.—

(1) CERTAIN BYLAWS.—

(A) INCLUSIONS.—In establishing bylaws under subsection (f)(1), the Board shall ensure that the bylaws of the Foundation include bylaws for the following:

(i) Policies for the selection of the officers, employees, agents, and contractors of the Foundation.

(ii) Policies, including ethical standards, for the acceptance and disposition of donations to the Foundation and for the disposition of the assets of the Foundation.

(iii) Policies for the conduct of the general operations of the Foundation.

(iv) Policies for writing, editing, printing, and publishing of books and other materials, and the acquisition of patents and licenses for devices and procedures developed by the Foundation.

(B) EXCLUSIONS.—In establishing bylaws under subsection (f)(1), the Board shall ensure that the bylaws of the Foundation (and activities carried out under the bylaws) do not—

(i) reflect unfavorably upon the ability of the Foundation, or the Department, to carry out its responsibilities or official duties in a fair and objective manner; or

(ii) compromise, or appear to compromise, the integrity of any governmental program or any officer or employee involved in such program.

(2) COMPOSITION.—

(A) IN GENERAL.—Subject to subparagraph (B), the Board shall be composed of 7 individuals, appointed in accordance with paragraph (4), who collectively possess education or experience appropriate for representing the fields of children's health, nutrition, and physical fitness or organizations active in reducing and preventing childhood obesity. Each such individual shall be a voting member of the Board.

(B) GREATER NUMBER.—The Board may, through amendments to the bylaws of the Foundation, provide that the number of members of the Board shall be a greater number than the number specified in subparagraph (A).

(3) CHAIRPERSON.—The Board shall, from among the members of the Board, designate an individual to serve as the Chairperson of the Board (referred to in this subsection as the "Chairperson").

(4) APPOINTMENTS, VACANCIES, AND TERMS.—Subject to subsection (k) (regarding the initial membership of the Board), the following shall apply to the Board:

(A) Any vacancy in the membership of the Board shall be filled by appointment by the Board, after consideration of suggestions made by the Chairperson and the Director regarding the appointments. Any such vacancy shall be filled not later than the expiration of the 180-day period beginning on the date on which the vacancy occurs.

(B) The term of office of each member of the Board appointed under subparagraph (A) shall be 5 years. A member of the Board may continue to serve after the expiration of the term of the member until the expiration of the 180-day period beginning on the date on which the term of the member expires.

(C) A vacancy in the membership of the Board shall not affect the power of the Board to carry out the duties of the Board. If a member of the Board does not serve the full term applicable under subparagraph (B), the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(5) COMPENSATION.—Members of the Board may not receive compensation for service on the Board. The members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Board.

(h) CERTAIN RESPONSIBILITIES OF EXECUTIVE DIRECTOR.—In carrying out subsection (f)(2), the Director shall carry out the following functions:

(1) Hire, promote, compensate, and discharge officers and employees of the Foundation, and define the duties of the officers and employees.

(2) Accept and administer donations to the Foundation, and administer the assets of the Foundation.

(3) Establish a process for the selection of candidates for holding endowed positions under subsection (c).

(4) Enter into such financial agreements as are appropriate in carrying out the activities of the Foundation.

(5) Take such action as may be necessary to acquire patents and licenses for devices and procedures developed by the Foundation and the employees of the Foundation.

(6) Adopt, alter, and use a corporate seal, which shall be judicially noticed.

(7) Commence and respond to judicial proceedings in the name of the Foundation.

(8) Other functions that are appropriate in the determination of the Director.

(i) GENERAL PROVISIONS.—

(1) AUTHORITY FOR ACCEPTING FUNDS.—The Secretary of Health and Human Services (referred to in this title as the "Secretary") may accept and utilize, on behalf of the Federal Government, any gift, donation, bequest, or devise of real or personal property from the Foundation for the purpose of aiding or facilitating the work of the Department. Funds may be accepted and utilized by the Secretary under the preceding sentence without regard to whether the funds are designated as general-purpose funds or special-purpose funds.

(2) AUTHORITY FOR ACCEPTANCE OF VOLUNTARY SERVICES.—

(A) IN GENERAL.—The Secretary may accept, on behalf of the Federal Government, any voluntary services provided to the Department by the Foundation for the purpose of aiding or facilitating the work of the Department. In the case of an individual, the Secretary may accept the services provided under the preceding sentence by the individual for not more than 2 years.

(B) NON-FEDERAL GOVERNMENT EMPLOYEES.—The limitation established in subparagraph (A) regarding the period of time in which services may be accepted applies to each individual who is not an employee of the Federal Government and who serves in association with the Department pursuant to financial support from the Foundation.

(3) ADMINISTRATIVE CONTROL.—No officer, employee, or member of the Board may exercise any administrative or managerial control over any Federal employee.

(4) APPLICABILITY OF CERTAIN STANDARDS TO NON-FEDERAL EMPLOYEES.—In the case of any individual who is not an employee of the Federal Government and who serves in association with the Department pursuant to financial support from the Foundation, the Foundation shall negotiate a memorandum of understanding with the individual and the Secretary specifying that the individual—

(A) shall be subject to the ethical and procedural standards regulating Federal employment, scientific investigation, and research findings (including publications and patents) that are required of individuals employed by the Department, including standards under this Act, the Ethics in Government Act of 1978 (5 U.S.C. App.), and the Federal Technology Transfer Act of 1986 (Public Law 99-0502; 100 Stat. 1785); and

(B) shall be subject to such ethical and procedural standards under chapter 11 of title 18, United States Code (relating to conflicts of interest), as the Secretary determines is appropriate, except such memorandum may not provide that the individual shall be subject to the standards of section 209 of such chapter.

(5) FINANCIAL CONFLICTS OF INTEREST.—Any individual who is an officer, employee, or member of the Board may not directly or indirectly participate in the consideration or determination by the Foundation of any question affecting—

(A) any direct or indirect financial interest of the individual; or

(B) any direct or indirect financial interest of any business organization or other entity of which the individual is an officer or employee or in which the individual has a direct or indirect financial interest.

(6) AUDITS; AVAILABILITY OF RECORDS.—The Foundation shall—

(A) provide for biennial audits of the financial condition of the Foundation; and

(B) make such audits, and all other records, documents, and other papers of the Foundation, available to the Secretary and the Comptroller General of the United States for examination or audit.

(7) REPORTS.—

(A) IN GENERAL.—Not later than February 1 of each fiscal year, the Foundation shall pub-

lish a report describing the activities of the Foundation during the preceding fiscal year. Each such report shall include for the fiscal year involved a comprehensive statement of the operations, activities, financial condition, and accomplishments of the Foundation.

(B) INCLUSIONS.—With respect to the financial condition of the Foundation, each report under subparagraph (A) shall include the source, and a description, of all gifts to the Foundation of real or personal property, and the source and amount of all gifts to the Foundation of money. Each such report shall include a specification of any restrictions on the purposes for which gifts to the Foundation may be used.

(C) PUBLIC INSPECTION.—The Foundation shall make copies of each report submitted under subparagraph (A) available for public inspection, and shall upon request provide a copy of the report to any individual for a charge not exceeding the cost of providing the copy.

(8) LIAISONS.—The Secretary shall appoint liaisons to the Foundation from relevant Federal agencies, including the Office of the Surgeon General and the Centers for Disease Control and Prevention. The Secretary of Agriculture shall designate liaisons to the Foundation as appropriate.

(9) INCLUSION OF THE PRESIDENT'S COUNCIL.—The Foundation shall ensure that the President's Council on Physical Fitness is included in the activities of the Foundation.

(j) FEDERAL FUNDING.—

(1) AUTHORITY FOR ANNUAL GRANTS.—

(A) IN GENERAL.—The Secretary shall—

(i) for fiscal year 2006, make a grant to an entity described in subsection (k)(9) (relating to the establishment of a committee to establish the Foundation);

(ii) for fiscal years 2007 and 2008, make a grant to the committee established under such subsection, or if the Foundation has been established, to the Foundation; and

(iii) for fiscal year 2009 and each subsequent fiscal year, make a grant to the Foundation.

(B) RULES ON EXPENDITURES.—A grant under subparagraph (A) may be expended—

(i) in the case of an entity receiving the grant under subparagraph (A)(i), only for the purpose of carrying out the duties established in subsection (k)(9) for the entity;

(ii) in the case of the committee established under subsection (k)(9), only for the purpose of carrying out the duties established in subsection (k) for the committee; and

(iii) in the case of the Foundation, only for the purpose of the administrative expenses of the Foundation.

(C) RESTRICTION.—A grant under subparagraph (A) may not be expended to provide amounts for the fund established under subsection (c).

(D) UNOBLIGATED GRANT FUNDS.—For the purposes described in subparagraph (B)—

(i) any portion of the grant made under subparagraph (A)(i) for fiscal year 2006 that remains unobligated after the entity receiving the grant completes the duties established in subsection (k)(9) for the entity shall be available to the committee established under such subsection; and

(ii) any portion of a grant under subparagraph (A) made for fiscal year 2006 or 2007 that remains unobligated after such committee completes the duties established in such subsection for the committee shall be available to the Foundation.

(2) FUNDING FOR GRANTS.—

(A) IN GENERAL.—For the purpose of grants under paragraph (1), there is authorized to be appropriated \$2,200,000 for each fiscal year.

(B) PROGRAMS OF THE DEPARTMENT.—For the purpose of grants under paragraph (1),

the Secretary may for each fiscal year make available not more than \$2,200,000 from the amounts appropriated for the fiscal year for the programs of the Department. Such amounts may be made available without regard to whether amounts have been appropriated under subparagraph (A).

(3) **CERTAIN RESTRICTION.**—If the Foundation receives Federal funds for the purpose of serving as a fiscal intermediary between Federal agencies, the Foundation may not receive such funds for the indirect costs of carrying out such purpose in an amount exceeding 10 percent of the direct costs of carrying out such purpose. The preceding sentence may not be construed as authorizing the expenditure of any grant under paragraph (1) for such purpose.

(k) **COMMITTEE FOR ESTABLISHMENT OF FOUNDATION.**—

(1) **IN GENERAL.**—There shall be established, in accordance with this subsection and subsection (j)(1), a committee to carry out the functions described in paragraph (2) (referred to in this subsection as the “Committee”).

(2) **FUNCTIONS.**—The functions referred to in paragraph (1) for the Committee are as follows:

(A) To carry out such activities as may be necessary to incorporate the Foundation under the laws of the State involved, including serving as incorporators for the Foundation. Such activities shall include ensuring that the articles of incorporation for the Foundation require that the Foundation be established and operated in accordance with the applicable provisions of this title (or any successor to this title), including such provisions as may be in effect pursuant to amendments enacted after the date of enactment of this Act.

(B) To ensure that the Foundation qualifies for and maintains the status described in subsection (f)(3) (regarding taxation).

(C) To establish the general policies and initial bylaws of the Foundation, which bylaws shall include the bylaws described in subsections (f)(3) and (g)(1).

(D) To provide for the initial operation of the Foundation, including providing for quarters, equipment, and staff.

(E) To appoint the initial members of the Board in accordance with the requirements established in subsection (g)(2)(A) for the composition of the Board, and in accordance with such other qualifications as the Committee may determine to be appropriate regarding such composition. Of the members so appointed—

(i) 2 shall be appointed to serve for a term of 3 years;

(ii) 2 shall be appointed to serve for a term of 4 years; and

(iii) 3 shall be appointed to serve for a term of 5 years.

(3) **COMPLETION OF FUNCTIONS OF COMMITTEE; INITIAL MEETING OF BOARD.**—

(A) **COMPLETION OF FUNCTIONS.**—The Committee shall complete the functions required in paragraph (1) not later than September 30, 2008. The Committee shall terminate upon the expiration of the 30-day period beginning on the date on which the Secretary determines that the functions have been completed.

(B) **INITIAL MEETING.**—The initial meeting of the Board shall be held not later than November 1, 2008.

(4) **COMPOSITION.**—The Committee shall be composed of 5 members, each of whom shall be a voting member. Of the members of the Committee—

(A) no fewer than 2 of the members shall have expertise in children’s health, nutrition, and physical activity; and

(B) no fewer than 2 of the members shall have broad, general experience in nonprofit private organizations (without regard to

whether the individuals have experience in children’s health, nutrition, and physical activity).

(5) **CHAIRPERSON.**—The Committee shall, from among the members of the Committee, designate an individual to serve as the Chairperson of the Committee.

(6) **TERMS; VACANCIES.**—The term of members of the Committee shall be for the duration of the Committee. A vacancy in the membership of the Committee shall not affect the power of the Committee to carry out the duties of the Committee. If a member of the Committee does not serve the full term, the individual appointed by the Secretary to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(7) **COMPENSATION.**—Members of the Committee may not receive compensation for service on the Committee. Members of the Committee may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Committee.

(8) **COMMITTEE SUPPORT.**—The Secretary may, from amounts available to the Secretary for the general administration of the Department, provide staff and financial support to assist the Committee with carrying out the functions described in paragraph (2). In providing such staff and support, the Director may both detail employees and contract for assistance.

(9) **GRANT FOR ESTABLISHMENT OF COMMITTEE.**—

(A) **IN GENERAL.**—With respect to a grant under paragraph (1)(A)(i) of subsection (j) for fiscal year 2006, an entity described in this paragraph is a private nonprofit entity with significant experience in children’s health, nutrition, and physical activity. Not later than 180 days after the date of enactment of this Act, the Secretary shall make the grant to such an entity (subject to the availability of funds under paragraph (2) of such subsection).

(B) **CONDITIONS.**—The grant referred to in subparagraph (A) may be made to an entity only if the entity agrees that—

(i) the entity will establish a committee that is composed in accordance with paragraph (4); and

(ii) the entity will not select an individual for membership on the Committee unless the individual agrees that the Committee will operate in accordance with each of the provisions of this subsection that relate to the operation of the Committee.

(C) **AGREEMENT.**—The Secretary may make a grant referred to in subparagraph (A) only if the applicant for the grant makes an agreement that the grant will not be expended for any purpose other than carrying out subparagraph (B). Such a grant may be made only if an application for the grant is submitted to the Secretary containing such agreement, and the application is in such form, is made in such manner, and contains such other agreements and such assurances and information as the Secretary determines to be necessary to carry out this paragraph.

S. 1325

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Improved Nutrition and Physical Activity Act” or the “IMPACT Act”.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) In July 2004, the Secretary of Health and Human Service recognized “obesity is a critical public health problem in our country” and under the medicare program lan-

guage was removed from the coverage manual stating that obesity is not an illness.

(2) The National Health and Nutrition Examination Survey for 2002 found that an estimated 65 percent of adults are overweight and 31 percent of adults are obese and 16 percent of children and adolescents in the United States are overweight or obese.

(3) The Institute of Medicine reported in “Preventing Childhood Obesity” (2004) that approximately 60 percent of obese children between 5 and 10 years of age have at least one cardiovascular disease risk factor and 25 percent have two or more such risk factors.

(4) The Institute of Medicine reports that the prevalence of overweight and obesity is increasing among all age groups. There is twice the number of overweight children between 2 and 5 years of age and adolescents between 12 and 19 years of age, and 3 times the number of children between 6 and 11 years of age as there were 30 years ago.

(5) According to the 2004 Institute of Medicine report, obesity-associated annual hospital costs for children and youth more than tripled over 2 decades, rising from \$35,000,000 in the period 1979 through 1981 to \$127,000,000 in the period 1997 through 1999.

(6) The Centers for Disease Control and Prevention reports have estimated that as many as 365,000 deaths a year are associated with being overweight or obese. Overweight and obesity are associated with an increased risk for heart disease (the leading cause of death), cancer (the second leading cause of death), diabetes (the 6th leading cause of death), and musculoskeletal disorders.

(7) According to the National Institute of Diabetes and Digestive and Kidney Diseases, individuals who are obese have a 50 to 100 percent increased risk of premature death.

(8) The Healthy People 2010 goals identify overweight and obesity as one of the Nation’s leading health problems and include objectives for increasing the proportion of adults who are at a healthy weight, reducing the proportion of adults who are obese, and reducing the proportion of children and adolescents who are overweight or obese.

(9) Another goal of Healthy People 2010 is to eliminate health disparities among different segments of the population. Obesity is a health problem that disproportionately impacts medically underserved populations.

(10) The 2005 Surgeon General’s report “The Year of the Healthy Child” lists the treatment and prevention of obesity as a national priority.

(11) The Institute of Medicine report “Preventing Childhood Obesity” (2004) finds that “childhood obesity is a serious nationwide health problem requiring urgent attention and a population-based prevention approach . . .”.

(12) The Centers for Disease Control and Prevention estimates the annual expenditures related to overweight and obesity in adults in the United States to be \$264,000,000,000 (exceeding the cost of tobacco-related illnesses) and appears to be rising dramatically. This cost can potentially escalate markedly as obesity rates continue to rise and the medical complications of obesity are emerging at even younger ages. Therefore, the total disease burden will most likely increase, as well as the attendant health-related costs.

(13) Weight control programs should promote a healthy lifestyle including regular physical activity and healthy eating, as consistently discussed and identified in a variety of public and private consensus documents, including the 2001 U.S. Surgeon General’s report “A Call To Action” and other documents prepared by the Department of Health and Human Services and other agencies.

(14) The Institute of Medicine reports that poor eating habits are a risk factor for the development of eating disorders and obesity. In 2002, more than 35,000,000 Americans experienced limited access to nutritious food on a regular basis. The availability of high-calorie, low nutrient foods have increased in low-income neighborhoods due to many factors.

(15) Effective interventions for promoting healthy eating behaviors should promote healthy lifestyle and not inadvertently promote unhealthy weight management techniques.

(16) The National Institutes of Health reports that eating disorders are commonly associated with substantial psychological problems, including depression, substance abuse, and suicide.

(17) The National Association of Anorexia Nervosa and Associated Disorders estimates there are 8,000,000 Americans experience eating disorders. Eating disorders of all types are more common in women than men.

(18) The health risks of Binge Eating Disorder are those associated with obesity and include heart disease, gall bladder disease, and diabetes.

(19) According to the National Institute of Mental Health, Binge Eating Disorder is characterized by frequent episodes of uncontrolled overeating, with an estimated 2 to 5 percent of Americans experiencing this disorder in a 6-month period.

(20) Additionally, the National Institute of Mental Health reports that Anorexia Nervosa, an eating disorder from which 0.5 to 3.7 percent of American women will suffer in their lifetime, is associated with serious health consequences including heart failure, kidney failure, osteoporosis, and death. According to the National Institute of Mental Health, Anorexia Nervosa has one of the highest mortality rates of all psychiatric disorders, placing a young woman with Anorexia Nervosa at 12 times the risk of death of other women her age.

(21) In 2001, the National Institute of Mental Health reported that 1.1 to 4.2 percent of American women will suffer from Bulimia Nervosa in their lifetime. Bulimia Nervosa is an eating disorder that is associated with cardiac, gastrointestinal, and dental problems, including irregular heartbeats, gastric ruptures, peptic ulcers, and tooth decay.

(22) On the 2003 Youth Risk Behavior Survey, 6 percent of high school students reported recent use of laxatives or vomiting to control their weight.

TITLE I—TRAINING GRANTS

SEC. 101. GRANTS TO PROVIDE TRAINING FOR HEALTH PROFESSION STUDENTS.

Section 747(c)(3) of the Public Health Service Act (42 U.S.C. 293k(c)(3)) is amended by striking “and victims of domestic violence” and inserting “victims of domestic violence, individuals (including children) who are overweight or obese (as such terms are defined in section 399W(j)) and at risk for related serious and chronic medical conditions, and individuals who suffer from eating disorders”.

SEC. 102. GRANTS TO PROVIDE TRAINING FOR HEALTH PROFESSIONALS.

Section 399Z of the Public Health Service Act (42 U.S.C. 280h-93) is amended—

(1) in subsection (b), by striking “2005” and inserting “2007”;

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following:

“(b) GRANTS.—

“(1) IN GENERAL.—The Secretary may award grants to eligible entities to train primary care physicians and other licensed or certified health professionals on how to iden-

tify, treat, and prevent obesity or eating disorders and aid individuals who are overweight, obese, or who suffer from eating disorders.

“(2) APPLICATION.—An entity that desires a grant under this subsection shall submit an application at such time, in such manner, and containing such information as the Secretary may require, including a plan for the use of funds that may be awarded and an evaluation of the training that will be provided.

“(3) USE OF FUNDS.—An entity that receives a grant under this subsection shall use the funds made available through such grant to—

“(A) use evidence-based findings or recommendations that pertain to the prevention and treatment of obesity, being overweight, and eating disorders to conduct educational conferences, including Internet-based courses and teleconferences, on—

“(i) how to treat or prevent obesity, being overweight, and eating disorders;

“(ii) the link between obesity, being overweight, eating disorders and related serious and chronic medical conditions;

“(iii) how to discuss varied strategies with patients from at-risk and diverse populations to promote positive behavior change and healthy lifestyles to avoid obesity, being overweight, and eating disorders;

“(iv) how to identify overweight, obese, individuals with eating disorders, and those who are at risk for obesity and being overweight or suffer from eating disorders and, therefore, at risk for related serious and chronic medical conditions;

“(v) how to conduct a comprehensive assessment of individual and familial health risk factors; and

“(B) evaluate the effectiveness of the training provided by such entity in increasing knowledge and changing attitudes and behaviors of trainees.

“(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, \$10,000,000 for fiscal year 2006, and such sums as may be necessary for each of fiscal years 2007 through 2010.”.

TITLE II—COMMUNITY-BASED SOLUTIONS TO INCREASE PHYSICAL ACTIVITY, IMPROVE NUTRITION, AND PROMOTE HEALTHY EATING BEHAVIORS

SEC. 201. GRANTS TO INCREASE PHYSICAL ACTIVITY, IMPROVE NUTRITION, AND PROMOTE HEALTHY EATING BEHAVIORS.

Part Q of title III of the Public Health Service Act (42 U.S.C. 280h et seq.) is amended by striking section 399W and inserting the following:

“SEC. 399W. GRANTS TO INCREASE PHYSICAL ACTIVITY, IMPROVE NUTRITION, AND PROMOTE HEALTHY EATING BEHAVIORS.

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and in coordination with the Administrator of the Health Resources and Services Administration, the Director of the Indian Health Service, the Secretary of Education, the Secretary of Agriculture, the Secretary of the Interior, the Director of the National Institutes of Health, the Director of the Office of Women’s Health, and the heads of other appropriate agencies, shall award competitive grants to eligible entities to plan and implement programs that promote healthy eating behaviors and physical activity to prevent eating disorders, obesity, being overweight, and related serious and chronic medical conditions. Such grants may be awarded to target at-risk populations including youth, adolescent girls,

health disparity populations (as defined in section 485E(d)), and the underserved.

“(2) TERM.—The Secretary shall award grants under this subsection for a period not to exceed 4 years.

“(b) AWARD OF GRANTS.—An eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

“(1) a plan describing a comprehensive program of approaches to encourage healthy eating behaviors and healthy levels of physical activity;

“(2) the manner in which the eligible entity will coordinate with appropriate State and local authorities, including—

“(A) State and local educational agencies;

“(B) departments of health;

“(C) chronic disease directors;

“(D) State directors of programs under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

“(E) governors’ councils for physical activity and good nutrition;

“(F) State and local parks and recreation departments; and

“(G) State and local departments of transportation and city planning; and

“(3) the manner in which the applicant will evaluate the effectiveness of the program carried out under this section.

“(c) COORDINATION.—In awarding grants under this section, the Secretary shall ensure that the proposed programs are coordinated in substance and format with programs currently funded through other Federal agencies and operating within the community including the Physical Education Program (PEP) of the Department of Education.

“(d) ELIGIBLE ENTITY.—In this section, the term ‘eligible entity’ means—

“(1) a city, county, tribe, territory, or State;

“(2) a State educational agency;

“(3) a tribal educational agency;

“(4) a local educational agency;

“(5) a federally qualified health center (as defined in section 1861(aa)(4) of the Social Security Act (42 U.S.C. 1395x(aa)(4));

“(6) a rural health clinic;

“(7) a health department;

“(8) an Indian Health Service hospital or clinic;

“(9) an Indian tribal health facility;

“(10) an urban Indian facility;

“(11) any health provider;

“(12) an accredited university or college;

“(13) a community-based organization;

“(14) a local city planning agency; or

“(15) any other entity determined appropriate by the Secretary.

“(e) USE OF FUNDS.—An eligible entity that receives a grant under this section shall use the funds made available through the grant to—

“(1) carry out community-based activities including—

“(A) city planning, transportation initiatives, and environmental changes that help promote physical activity, such as increasing the use of walking or bicycling as a mode of transportation;

“(B) forming partnerships and activities with businesses and other entities to increase physical activity levels and promote healthy eating behaviors at the workplace and while traveling to and from the workplace;

“(C) forming partnerships with entities, including schools, faith-based entities, and other facilities providing recreational services, to establish programs that use their facilities for after school and weekend community activities;

“(D) establishing incentives for retail food stores, farmer’s markets, food co-ops, grocery stores, and other retail food outlets that offer nutritious foods to encourage such stores and outlets to locate in economically depressed areas;

“(E) forming partnerships with senior centers, nursing facilities, retirement communities, and assisted living facilities to establish programs for older people to foster physical activity and healthy eating behaviors;

“(F) forming partnerships with daycare facilities to establish programs that promote healthy eating behaviors and physical activity; and

“(G) developing and evaluating community educational activities targeting good nutrition and promoting healthy eating behaviors;

“(2) carry out age-appropriate school-based activities including—

“(A) developing and testing educational curricula and intervention programs designed to promote healthy eating behaviors and habits in youth, which may include—

“(i) after hours physical activity programs;

“(ii) increasing opportunities for students to make informed choices regarding healthy eating behaviors; and

“(iii) science-based interventions with multiple components to prevent eating disorders including nutritional content, understanding and responding to hunger and satiety, positive body image development, positive self-esteem development, and learning life skills (such as stress management, communication skills, problem-solving and decisionmaking skills), as well as consideration of cultural and developmental issues, and the role of family, school, and community;

“(B) providing education and training to educational professionals regarding a healthy lifestyle and a healthy school environment;

“(C) planning and implementing a healthy lifestyle curriculum or program with an emphasis on healthy eating behaviors and physical activity; and

“(D) planning and implementing healthy lifestyle classes or programs for parents or guardians, with an emphasis on healthy eating behaviors and physical activity;

“(3) carry out activities through the local health care delivery systems including—

“(A) promoting healthy eating behaviors and physical activity services to treat or prevent eating disorders, being overweight, and obesity;

“(B) providing patient education and counseling to increase physical activity and promote healthy eating behaviors; and

“(C) providing community education on good nutrition and physical activity to develop a better understanding of the relationship between diet, physical activity, and eating disorders, obesity, or being overweight; or

“(4) other activities determined appropriate by the Secretary (including evaluation or identification and dissemination of outcomes and best practices).

“(f) MATCHING FUNDS.—In awarding grants under subsection (a), the Secretary may give priority to eligible entities who provide matching contributions. Such non-Federal contributions may be cash or in kind, fairly evaluated, including plant, equipment, or services.

“(g) TECHNICAL ASSISTANCE.—The Secretary may set aside an amount not to exceed 10 percent of the total amount appropriated for a fiscal year under subsection (k) to permit the Director of the Centers for Disease Control and Prevention to provide grantees with technical support in the development, implementation, and evaluation of programs under this section and to disseminate information about effective strategies

and interventions in preventing and treating obesity and eating disorders through the promotion of healthy eating behaviors and physical activity.

“(h) LIMITATION ON ADMINISTRATIVE COSTS.—An eligible entity awarded a grant under this section may not use more than 10 percent of funds awarded under such grant for administrative expenses.

“(i) REPORT.—Not later than 6 years after the date of enactment of the Improved Nutrition and Physical Activity Act, the Director of the Centers for Disease Control and Prevention shall review the results of the grants awarded under this section and other related research and identify programs that have demonstrated effectiveness in promoting healthy eating behaviors and physical activity in youth. Such review shall include an identification of model curricula, best practices, and lessons learned, as well as recommendations for next steps to reduce overweight, obesity, and eating disorders. Information derived from such review, including model program curricula, shall be disseminated to the public.

“(j) DEFINITIONS.—In this section:

“(1) ANOREXIA NERVOSA.—The term ‘Anorexia Nervosa’ means an eating disorder characterized by self-starvation and excessive weight loss.

“(2) BINGE EATING DISORDER.—The term ‘binge eating disorder’ means a disorder characterized by frequent episodes of uncontrolled eating.

“(3) BULIMIA NERVOSA.—The term ‘Bulimia Nervosa’ means an eating disorder characterized by excessive food consumption, followed by inappropriate compensatory behaviors, such as self-induced vomiting, misuse of laxatives, fasting, or excessive exercise.

“(4) EATING DISORDERS.—The term ‘eating disorders’ means disorders of eating, including Anorexia Nervosa, Bulimia Nervosa, and binge eating disorder.

“(5) HEALTHY EATING BEHAVIORS.—The term ‘healthy eating behaviors’ means—

“(A) eating in quantities adequate to meet, but not in excess of, daily energy needs;

“(B) choosing foods to promote health and prevent disease;

“(C) eating comfortably in social environments that promote healthy relationships with family, peers, and community; and

“(D) eating in a manner to acknowledge internal signals of hunger and satiety.

“(6) OBESITY.—The term ‘obesity’ means an adult with a Body Mass Index (BMI) of 30 kg/m² or greater.

“(7) OVERWEIGHT.—The term ‘overweight’ means an adult with a Body Mass Index (BMI) of 25 to 29.9 kg/m² and a child or adolescent with a BMI at or above the 95th percentile on the revised Centers for Disease Control and Prevention growth charts or another appropriate childhood definition, as defined by the Secretary.

“(8) YOUTH.—The term ‘youth’ means individuals not more than 18 years old.

“(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, \$60,000,000 for fiscal year 2006 and such sums as may be necessary for each of fiscal years 2007 through 2010. Of the funds appropriated pursuant to this subsection, the following amounts shall be set aside for activities related to eating disorders:

“(1) \$5,000,000 for fiscal year 2006.

“(2) \$5,500,000 for fiscal year 2007.

“(3) \$6,000,000 for fiscal year 2008.

“(4) \$6,500,000 for fiscal year 2009.

“(5) \$1,000,000 for fiscal year 2010.”.

SEC. 202. NATIONAL CENTER FOR HEALTH STATISTICS.

Section 306 of the Public Health Service Act (42 U.S.C. 242k) is amended—

(1) in subsection (m)(4)(B), by striking “subsection (n)” each place it appears and inserting “subsection (o)”;

(2) by redesignating subsection (n) as subsection (o); and

(3) by inserting after subsection (m) the following:

“(n)(1) The Secretary, acting through the Center, may provide for the—

“(A) collection of data for determining the fitness levels and energy expenditure of children and youth; and

“(B) analysis of data collected as part of the National Health and Nutrition Examination Survey and other data sources.

“(2) In carrying out paragraph (1), the Secretary, acting through the Center, may make grants to States, public entities, and nonprofit entities.

“(3) The Secretary, acting through the Center, may provide technical assistance, standards, and methodologies to grantees supported by this subsection in order to maximize the data quality and comparability with other studies.”.

SEC. 203. HEALTH DISPARITIES REPORT.

Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Director of the Agency for Healthcare Research and Quality shall review all research that results from the activities carried out under this Act (and the amendments made by this Act) and determine if particular information may be important to the report on health disparities required by section 903(c)(3) of the Public Health Service Act (42 U.S.C. 299a-91(c)(3)).

SEC. 204. PREVENTIVE HEALTH SERVICES BLOCK GRANT.

Section 1904(a)(1) of the Public Health Service Act (42 U.S.C. 300w-93(a)(1)) is amended by adding at the end the following:

“(H) Activities and community education programs designed to address and prevent overweight, obesity, and eating disorders through effective programs to promote healthy eating, and exercise habits and behaviors.”.

SEC. 205. REPORT ON OBESITY AND EATING DISORDERS RESEARCH.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on research conducted on causes and health implications (including mental health implications) of being overweight, obesity, and eating disorders.

(b) CONTENT.—The report described in subsection (a) shall contain—

(1) descriptions on the status of relevant, current, ongoing research being conducted in the Department of Health and Human Services including research at the National Institutes of Health, the Centers for Disease Control and Prevention, the Agency for Healthcare Research and Quality, the Health Resources and Services Administration, and other offices and agencies;

(2) information about what these studies have shown regarding the causes, prevention, and treatment of, being overweight, obesity, and eating disorders; and

(3) recommendations on further research that is needed, including research among diverse populations, the plan of the Department of Health and Human Services for conducting such research, and how current knowledge can be disseminated.

SEC. 206. REPORT ON A NATIONAL CAMPAIGN TO CHANGE CHILDREN'S HEALTH BEHAVIORS AND REDUCE OBESITY.

Section 399Y of the Public Health Service Act (42 U.S.C. 280h-92) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

“(b) **REPORT.**—The Secretary shall evaluate the effectiveness of the campaign described in subsection (a) in changing children’s behaviors and reducing obesity and shall report such results to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives.”

Mr. WYDEN. Mr. President, across this country, on couches in front of televisions and video game consoles, a silent killer called obesity is stalking America’s youngsters—in epidemic numbers. Today, Senator FRIST and I are introducing a bipartisan bill, “The Childhood Obesity Reduction Act”, to jump-start a nationwide, community-based campaign against this menace and help our children grow up healthy.

In my home State of Oregon, obesity may well become the number-two killer of our citizens—after tobacco, also the number-one killer nationally. According to the Oregon Department of Human Services, fully 22 percent of the adults in Oregon are obese and 60 percent are overweight. Even more tragic, and why we are here today, is that U.S. Centers for Disease Control and Prevention (CDC) says at least 31 percent of low income children between two and five years of age in Oregon are overweight or at risk of becoming overweight. A lot of those overweight kids are going to become overweight and obese adults if we just sit on our hands today. Our children are beginning to show signs of devastating diseases that will only lead to a life-long illnesses and increased health care costs. And no statistic can measure the emotional toll that illness takes on a child, their families and others who love them.

The Frist-Wyden legislation, “The Childhood Obesity Reduction Act”, will work to turn the tide against childhood obesity in two ways. First, it will give teachers, parents and other community leaders a one-stop shop to fight obesity. The Congressional council created by this bill will launch a comprehensive website to help everyone from Physical Education teachers to scout leaders learn what’s working in schools and public-private programs. It will also offer information about how to connect with those successful programs and how to adapt them in their own schools.

For example, when a teacher wants to see what can be done to help kids get 30 minutes of activity, something that studies have shown helps to combat childhood obesity, that teacher could go to the website and see what others in a similar situation have done. They would be able to see there are partners like Nike who are willing to step up to the plate and help with programs. But that teacher might also see that physical activity is only one part of the solution and they might find ways to bring in the nutritional aspect as well through other programs that have already proven successful.

The website will also offer help in establishing goals for cutting childhood obesity at that school or in that community—and all these plans will have been evaluated by outside experts for their effectiveness.

Second, after two years, the Congressional council turns the work over to a brand-new foundation. The foundation will keep the one-stop website up and running. But at the same time, they’ll be able to raise money, and use it to reward programs that work and fund programs that are sorely needed where childhood obesity threatens most.

Here’s an example of how the second component of our bill would work: say an urban school wants to work on getting kids to choose vegetables instead of French fries. When they visit the Web site, they may find a successful program about actually growing fresh vegetables—so they don’t think vegetables just come from a freezer or a can. The Foundation will have the wherewithal to do more than just share that information—they may be able to provide the seed money, literally, for a school garden that will grow fresh produce, and change the way those children look at food.

It is not realistic to think that children won’t be in a situation where unhealthy choices for foods and snacks are available. The goal ought to be to help them know what the healthy choices are, how to balance what they eat and drink and to know that they need exercise. And the Foundation can keep pursuing those goals for the long term.

I believe that our bipartisan bill is significant for two reasons. First, it emphasizes both sides of the equation—the need for proper nutrition and the need for physical activity. Second, it and because it will create an immediate, one-stop resource, in the form of a Web site, about what we know is working now so that individuals can begin to mobilize their communities and help their children. These are also important steps in assisting our children to become healthy adults.

All of us have the same, simple goal here: getting America’s children healthy. There are a lot of folks competing for our kids’ attention in this arena. A lot of the competition is pretty attractive: food that’s not so nutritious but sure tastes good, and video games that don’t burn any calories but can occupy you for an entire afternoon. It’s tough for kids to make good choices on their own. That’s why it’s time to mobilize this nation—and particularly this Congress, by way of legislation—to beat the epidemic of obesity plaguing our children.

Mrs. CLINTON. Mr. President, I am proud to reintroduce the Improved Nutrition and Physical Activity Act or the IMPACT Act today with my colleagues Senators FRIST, BINGAMAN, and DODD. This legislation would take several important steps toward promoting healthy eating and physical activity and combating obesity and eating dis-

orders. Eating disorders and obesity have become serious and 2 growing public health concerns in our country. Childhood obesity has emerged as an important issue in the public, as we have seen a significant increase in the number of Americans who are overweight or obese. Today, more than 15 percent of children and adolescents are considered seriously overweight. We know that obesity and the lack of exercise are directly linked with a broad array of health problems, including heart disease, high blood pressure, diabetes, arthritis-related disabilities, depression and some cancers.

In New York State alone, almost 60 percent of adults are overweight or obese, while 43 percent of the children in New York City’s public elementary schools are overweight and a quarter qualify as obese. Obese adults incur significantly higher annual medical expenditures than those of normal weight adults. The cost now rivals that attributable to smoking. I believe that while nutrition education is one part of the solution to the obesity problem facing our youth, it is not enough to simply say that childhood obesity is caused by eating too much junk food. Instead, we must be aware of the complex environmental, genetic, and behavioral factors that have influenced the epidemic.

Included among the factors that affect children’s eating habits and activity levels are increased hours in front of the TV or computer, working parents spending more hours at the office trying to make ends meet, deteriorating healthfulness or foods available in schools, reduced access to recess and physical education in schools, changes in the physical design of neighborhoods and communities, and low self esteem. And sadly, as the number of people battling obesity has increased, eating disorders have also reached epidemic proportions in the United States. It is estimated that between 8 and 10 million people experience an eating disorder, with millions of new cases being diagnosed each year. Eating disorders do not discriminate—they affect men and women or all ages, racial and ethnic backgrounds, socioeconomic classes, and religions.

Eating disorders are linked to a variety of health problems including heart failure, kidney failure, osteoporosis, gastric ruptures, and death. Eating disorders are also often associated with a variety of mental health problems including depression, substance abuse, and suicide. The age of onset for these disorders is getting younger and younger. According to the Center for Mental Health Services, 90 percent of those who have an eating disorder are women between the ages of 12 and 25.

Research indicates that 50 percent of females between the ages of 11 and 13 see themselves as overweight, and by the age of 13, eighty percent have attempted to lose weight. We know that the most common behavior that will lead to an eating disorder is dieting. In fact, 51 percent of 9 and 10 year old

girls report feeling better about themselves when they are on a diet. It is estimated that currently as many as 17 percent of high school students have been diagnosed with an eating disorder. Our youth today are striving to reach an unrealistic body ideal. Fears of falling short of this ideal are leading to dire consequences. That is why I am proud to co-sponsor of the IMPACT Act.

This legislation would take several important steps toward promoting healthy eating and physical activity to combat obesity and eating disorders. This legislation addresses the growing public health problems of increasing rates of obesity and eating disorders by: training students and health professionals to diagnose, treat and prevent obesity, overweight, and eating disorders; funding demonstration programs that promote healthy eating behaviors and physical activity to prevent eating disorders, obesity and being overweight, and related serious and chronic medical conditions; directing the Center for Disease Control to collect information regarding fitness levels and energy expenditure among children; authorizing the Director of the Agency for Healthcare Research and Quality to review all research carried out under this act and include such information, where it is relevant, in its health disparities report; allowing states to use their Preventive Services Block Grant money to address and prevent overweight, obesity, and eating disorders; mandating a report on obesity and eating disorders research; authorizing a report on the effectiveness of a National Public Education Campaign on changing children's behaviors and reducing obesity.

Each of these steps is needed to address our country's growing problems of obesity and eating disorders. Any comprehensive approach to promote healthy lifestyles and prevent disordered eating in our youth must be multifaceted. It must include education about nutrition and physical activity, and most importantly, it must encourage open communication about body image and self esteem. Such an effort will require the leadership and resources of healthcare providers, local communities, advocacy organizations, parents and families, and schools.

It is time that we promote and celebrate healthy bodies and healthy lifestyles regardless of size, weight indexes, or arbitrary numbers on a scale. This is a delicate task and we must make sure not to let an unhealthy emphasis on thinness jeopardize the health of our children. I look forward to working with all of my Senate colleagues to promote healthy lifestyles across the lifespan.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 182—SUPPORTING EFFORTS TO INCREASE CHILDHOOD CANCER AWARENESS, TREATMENT, AND RESEARCH

Mr. COLEMAN (for himself, Mr. LIEBERMAN, Mr. BROWNBACK, Mr. ALLEN, Mrs. LINCOLN, Ms. LANDRIEU, Mr. REED, Mr. SALAZAR, and Ms. MIKULSKI) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 182

Whereas an estimated 12,400 children will be diagnosed with cancer in the year 2005;

Whereas cancer is the leading cause of death by disease in children under age 15;

Whereas an estimated 2,300 children will die from cancer in the year 2005;

Whereas the incidence of cancer among children in the United States is rising by about one percent each year;

Whereas 1 in every 330 Americans develops cancer before age 20;

Whereas approximately 8 percent of deaths of those between 1 and 19 years of age are caused by cancer;

Whereas while some progress has been made, a number of opportunities for childhood cancer research still remain unfunded or underfunded;

Whereas limited resources for childhood cancer research can hinder the recruitment of investigators and physicians to pediatric oncology;

Whereas peer-reviewed clinical trials are the standard of care for pediatrics and have improved cancer survival rates among children;

Whereas the number of survivors of childhood cancer continues to grow, with about 1 in 640 adults between the ages of 20 and 39 having a history of cancer;

Whereas up to ⅓ of childhood cancer survivors are likely to experience at least one late effect from treatment, many of which may be life-threatening;

Whereas some late effects of cancer treatment are identified early in follow-up and are easily resolved, while others may become chronic problems in adulthood and may have serious consequences; and

Whereas 89 percent of children with cancer experience substantial suffering in the last month of life: Now, therefore, be it

Resolved, That it is the sense of the Senate that Congress should support—

(1) public and private sector efforts to promote awareness about the incidence of cancer among children, the signs and symptoms of cancer in children, treatment options, and long-term follow-up;

(2) increased public and private investment in childhood cancer research to improve prevention, diagnosis, treatment, rehabilitation, post-treatment monitoring, and long-term survival;

(3) policies that provide incentives to encourage medical trainees and investigators to enter the field of pediatric oncology;

(4) policies that provide incentives to encourage the development of drugs and biologics designed to treat pediatric cancers;

(5) policies that encourage participation in clinical trials;

(6) medical education curricula designed to improve pain management for cancer patients; and

(7) policies that enhance education, services, and other resources related to late effects from treatment.

Mr. COLEMAN. Mr. President, over 12,000 children are diagnosed with cancer each year and sadly, cancer will claim the lives of over 2,000 of these children each year. Today, I am proud to be submitting the Childhood Cancer Awareness Resolution with my friends Senators LIEBERMAN, BROWNBACK, ALLEN, LINCOLN, LANDRIEU, SALAZAR, REED, and MIKULSKI to help raise awareness about childhood cancer and support children and their families who are suffering from this terrible disease. Cancer is the number one disease killer of children. Every day 43 children will be diagnosed and approximately 10 of those children will not survive.

Until we meet the day when every child can live a life free of cancer, we must continue to promote awareness and strengthen our investment in childhood cancer research, diagnosis and treatment.

I urge my fellow colleagues to join me in raising awareness of childhood cancer by supporting The Childhood Cancer Awareness Resolution.

SENATE RESOLUTION 183—RECOGNIZING THE ACHIEVEMENTS AND CONTRIBUTIONS OF THE MIGRATORY BIRD COMMISSION ON THE OCCASION OF ITS 72ND ANNIVERSARY AND THE FIRST DAY OF SALE OF THE 2005-2006 MIGRATORY BIRD HUNTING AND CONSERVATION STAMP

Mr. COCHRAN (for himself, Mrs. LINCOLN, and Ms. SNOWE) submitted the following resolution; which was considered and agreed to:

S. RES. 183

Whereas the 2005-2006 Migratory Bird Hunting and Conservation Stamp, popularly known as the "Duck Stamp", marks the Migratory Bird Conservation Commission's 72nd anniversary;

Whereas June 30, 2005, will be the first day of sale for the 2005-2006 Duck Stamp;

Whereas the Migratory Bird Conservation Commission was created by Congress in 1929 to consider and approve any areas of land or water recommended by the Secretary of the Interior for purchase or rental by the United States Fish and Wildlife Service under the Migratory Bird Hunting and Conservation Stamp Act, and to consider the establishment of new waterfowl refuges;

Whereas the Waterfowl Population Survey, operated by the United States Fish and Wildlife Service, is celebrating its 50th anniversary in 2005 and is featured on the 2005-2006 Duck Stamp; and

Whereas since its inception in 1934, the Federal Duck Stamp Program has raised over \$700,000,000 through the sale of Duck Stamps to hunters, stamp collectors, and conservationists to help purchase 5,200,000 acres of wetlands habitat for the National Wildlife Refuge System: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the achievements and contributions of the Migratory Bird Conservation Commission on the occasion of its 72nd anniversary and the first day of sale of the 2005-2006 Migratory Bird Hunting and Conservation Stamp;

(2) expresses strong support for the continued success of the Migratory Bird Hunting and Conservation Stamp;