fairer outcomes for class members and defendants, and for other purposes.

At the request of Mr. SESSIONS, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 1751, supra.

S. CON. RES. 21

At the request of Mr. BUNNING, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. Con. Res. 21, a concurrent resolution expressing the sense of the Congress that community inclusion and enhanced lives for individuals with mental retardation or other developmental disabilities is at serious risk because of the crisis in recruiting and retaining direct support professionals, which impedes the availability of a stable, quality direct support workforce.

S. CON. RES. 58

At the request of Mr. DEWINE, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. Con. Res. 58, a concurrent resolution expressing the sense of Congress with respect to raising awareness and encouraging prevention of stalking in the United States and supporting the goals and ideals of National Stalking Awareness Month.

S. CON. RES. 72

At the request of Mr. DASCHLE, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. Con. Res. 72, a concurrent resolution commemorating the 60th anniversary of the establishment of the United States Cadet Nurse Corps and voicing the appreciation of Congress regarding the service of the members of the United States Cadet Nurse Corps during World War II.

S. CON. RES. 73

At the request of Mrs. FEINSTEIN, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. Con. Res. 73, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself, Ms. SNOWE, Mr. BURNS, Mr. JEFFORDS, Mr. LAUTENBERG, and Mr. DODD):

S. 1766. A bill to amend the Food Security Act of 1985 to prohibit the use of certain conservation funding to provide technical assistance under the conservation reserve program; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. LEAHY. Mr. President, today I am pleased to introduce bipartisan legislation with Senators SNOWE, BURNS, JEFFORDS, LAUTENBERG and DODD to restore the conservation funding commitment Congress and the administration made to farmers and ranchers in the 2002 farm bill.

Despite the historic conservation funding levels in the 2002 farm bill, family farmers and ranchers offering to restore wetlands, or offering to change the way they farm to improve air and water quality, continue to be rejected when they seek U.S. Department of Agriculture (USDA) conservation assistance. Producers are being turned away due to USDA's decision earlier this year to divert $158.7 million from working lands conservation programs to pay for the cost of administering the Conservation Reserve Program (CRP) and the Wetlands Reserve Program (WRP) despite a clear directive in the 2002 farm bill that the USDA use mandatory funds from the Commodity Credit Corporation (CCC) to pay for CRP and WRP technical assistance. In particular, USDA diverted $107.9 million from the Environmental Quality Incentives Program (EQIP), $27.6 from the Farmland and Ranchland Protection Program (FRPP), $14.6 million from the Grasslands Reserve Program, and $8.6 million from the Wildlife Habitat Incentives Program (WHIP) to pay for CRP and WRP technical assistance.

Although the 2002 farm bill clearly intended USDA to use CCC funds to pay for CRP and WRP technical assistance, USDA continues to ignore Congress's intent. The plain language of the statute and the legislative history, including a relevant colloquy, support this interpretation of the farm bill, and the General Accounting Office (GAO) concurred in a recent memo. I ask unanimous consent the GAO's memo be printed in the RECORD following my remarks.

Our legislation would override USDA's decision and prevent funds from working lands incentive programs like EQIP and WHIP from being diverted to pay for the technical assistance costs of CRP. The House Agriculture Subcommittee on Conservation has already approved similar legislation, H.R. 1907, requiring each program to pay for its own technical assistance needs. Our legislation parallels that effort, by requiring CRP to pay for its own technical assistance needs. Simply put, our amendment would require the Administration to honor the 2002 Farm Bill and mandate that technical assistance for each program is derived from funds provided for that program.

By providing more than $6.5 billion for working lands programs like EQIP and WHIP in the 2002 farm bill, Congress dramatically increased funds to help farmers manage working lands to produce food and fiber and simultaneously enhance water quality and wildlife habitat. For example, EQIP helps share the cost of a broad range of land management practices that help the environment, include more efficient use of fertilizers and pesticides, and innovative technologies to store and reuse animal waste. In combination, these working lands programs will provide farmers the tools and incentives they need to help meet our major environmental challenges.

Full funding for working lands incentive programs like EQIP and WHIP is vital to helping farmers and ranchers improve their farm management and meeting America's most pressing environmental challenges. Because 70 percent of the American landscape is private land, farming dramatically affects the health of America's rivers, lakes and bays and the fate of America's rare species. Most rare species depend upon private lands for their survival, and many will become extinct without help from private landowners. When farmers and ranchers take steps to help improve air and water quality or assist rare species, they can face new costs, new risks, or loss of income. Conservation programs help share these costs, underwrite these risks, or offset these losses of income. Unless Congress provides adequate resources for these programs, there is little reason to hope that our farmers and ranchers will be able to help to meet these environmental challenges.

In addition, USDA conservation programs promote regional equity in farm spending. More than 90 percent of USDA spending flows to a handful of large farmers in 15 midwestern and southern States. As a result, many farmers and ranchers who are not eligible for traditional subsidies—including dairy farmers, ranchers, and fruit and vegetable farmers—rely upon conservation programs to boost farm and ranch income and to ease the cost of environmental compliance. Unlike commodity subsidies, conservation payments flow to all farmers and all regions. But the farmers and ranchers who depend upon these programs—farmers and ranchers who already receive a disproportionately small share of USDA funds—have faced a disproportionately large cut in spending this year.

It is time for Congress and the administration to honor the intent of the 2002 farm bill, by fully funding working lands conservation programs. The failure to adequately fund these working lands conservation programs is having a dramatic impact on both farmers and the farm economy and could become worse in future years if Congress does not address this matter. I urge my colleagues to support this important legislation.

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

FUNDING FOR TECHNICAL ASSISTANCE FOR CONSERVATION PROGRAMS ENUMERATED IN SECTION 2701 OF THE 2002 FARM BILL, B–291241

OCTOBER 8, 2002.

Hon. HERB KOHL,
Chairman.
Hon. THAD COCHRAN,
Ranking Minority Member, Subcommittee on Agriculture, Rural Development, & Related Agencies, Committee on Appropriations, U.S. Senate.
Hon. HENRY BONILLA,
Chairman, Subcommittee on Agriculture, Rural Development, FDA & Related Agencies, Committee on Appropriations, House of Representatives.

Subject: Funding for Technical Assistance for Conservation Programs Enumerated in Section 2701 of the 2002 Farm Bill

This responds to your letters of August 30, 2002 (form Chairman Bonilla) and September 16, 2002 (from Chairman Kohl and Ranking Minority Member Cochran) requesting our opinion on several issues relating to funding technical assistance for the wetlands reserve program (WRP) and the farmland protection program (FPP). You asked for our views on the following issues:

(1) Does the annual limit on fund transfers imposed by 15 U.S.C. §714i (known as the section 11 cap) apply to Commodity Credit Corporation (CCC) funds used for technical assistance provided the WRP and FPP as authorized by the Farm Security and Rural Investment Act of 2002 (2002 Farm Bill)?

(2) Is the Department of Agriculture's Conservation Operations appropriation available for technical assistance for the WRP and the FPP? and

(3) Did the Office of Management and Budget's (OMB) July 18, 2002, decision not to apportion funds for technical assistance for the WRP and the FPP violate the Impoundment Control Act. [1]

For the reasons given below, we conclude that:

(1) the section 11 cap does not apply to funds for technical assistance provided for the conservation programs enumerated in section 3841, title 16, U.S.C., as amended by section 2701 of the 2002 Farm Bill;

(2) the Conservation Operations appropriations is not an available funding source for the WRP and the FPP operations and associated technical assistance; and

(3) OMB's failure to initially apportion WRP and FPP funds was a programmatic delay and did not constitute an impoundment under the Impoundment Control Act. Further, since OMB has approved recently submitted apportionments for these two programs, and since budget authority for both the WRP and the FPP was made available for obligation, there was no impoundment of funds in fiscal year 2002.

BACKGROUND

Section 2701 of the 2002 Farm Bill, Pub. L. No. 107–171, 116 Stat. 278, 279 (enacted on May 13, 2002) (codified at 16 U.S.C. §§3841 and 3842) amended section 1241 of the Food Security Act of 1985, 16 U.S.C. §3841, to provide that the Secretary of Agriculture (Secretary) shall use the funds of the CCC to carry out seven conservation programs, including the provision of technical assistance to, or on behalf of, producers. The WRP and the FPP are among the conservation programs named in the 2002 Farm Bill that are to be funded with CCC funds.

In its June 19, 2002, apportionment request, the Department of Agriculture (Agriculture) asked OMB to apportion a total of $587,905,000 in CCC funds to the Natural Resources Conservation Service (NRCS) for both financial and technical assistance related to section 3841 conservation programs. SF 132, Apportionment and Reapportionment Schedule for Farms Security and Rural Investment Programs, Account No. 1221004, July 18, 2002. Of the amount requested, Agriculture designated $68.7 million for technical assistance to be provided under the conservation programs. In its July 18, 2002, apportionment, OMB apportioned all of the funds for financial and technical assistance requested for the conservation programs, except $22.7 million designated for WRP and FPP technical assistance. *Id.* OMB reports that it did not apportion funds for WRP and FPP technical assistance at that time, because OMB believed that the section 11 cap, 15 U.S.C. §714i, limited the amount of funds that could be transferred from CCC to other government agencies for technical assistance associated with the section 3841 conservation programs, and that CCC funding of WRP and FPP technical assistance would exceed the section 11 cap. Letter from Philip J. Perry, General Counsel, OMB, to Susan A. Poling, Managing Associate General Counsel, GAO, September 16, 2002. In discussions with Agriculture regarding the use of CCC funds in excess of the section 11 cap for section 3841 technical assistance, OMB indicated to Agriculture that either CCC funds subject to the section 11 cap or Agriculture's Conservation Operations appropriation could be used to fund this technical assistance. *Id.*[2]

OMB reports that Agriculture recently submitted a new apportionment request for $5.95 million for WRP technical assistance (as well as the Conservation Reserve Program) which OMB approved on September 3, 2002. Id. OMB also reports that Agriculture submitted a new apportionment request for an additional $2 million in FPP financial assistance, which OMB approved on September 11, 2002, bringing the total apportionment for the FPP to the $50 million authorized by section 381. *Id.*

DISCUSSION

1. Section 11 Cap

The question whether the section 11 cap (15 U.S.C. §714i) applies to technical assistance provided through the conservation programs authorized by 16 U.S.C. §§3481, 3482, is one of statutory construction. It is a well-established rule of statutory construction that statutes should be construed harmoniously so as to give maximum effect to both whenever possible. B–259975, Sept. 18, 1995, 96–1 CPD ¶124; B–258163, Sept. 29, 1994. Based upon the language of the relevant statutes, we can read the statutes in a harmonious manner, and, in doing so, we conclude that the section 11 cap does not apply to technical assistance provided under the section 3841 conservation programs.

The section 11 cap is set forth in 15 U.S.C. §714i, which states, in pertinent part:

''The Corporation may, with the consent of the agency concerned, accept and utilize, on a compensated or uncompensated basis, the officers, employees, services, facilities, and information of any agency of the Federal Government, including any bureau, office, administration, or other agency of the Department of Agriculture . . . . The Corporation may allot to any bureau, office, administration, or other agency of the Department of Agriculture or transfer to such other agencies as it may request to assist it in the conduct of its business any of the funds available to it for administrative expenses. . . . After September 30, 1996, *the total amount of all allotments and fund transfers from the Corporation under this section* (including allotments and transfers for automated data processing or information resource management activities) for a fiscal year may not exceed the total amount of the allotments and transfers made under this section in fiscal year 1995.''

(Emphasis added.) We note that the section 11 funding limitation applies only to funds transferred by the CCC to other agencies under the authority of section 11.

The 2002 Farm Bill, which amended subsection (a) of section 3841, directs the Secretary to use CCC funds to carry out the WRP and the FPP and five other conservation programs, including the provision of technical assistance as part of these programs. As amended, 16 U.S.C. §3841 provides, in pertinent part, as follows:

''For each of fiscal years 2002 through 2007, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out the following programs under subtitle D (*including the provision of technical assistance*):

* * * * *

(2) The wetlands reserve program under subchapter C of chapter 1.

* * * * *

(4) The farmland protection program under subchapter B of chapter 2, using, to the maximum extent practicable—(A) $50,000,000 in fiscal year 2002 * * * ''

16 U.S.C. §3841(a) (emphasis added). Section 3841 provides independent authority for the provision of technical services to these programs.

The 2002 Farm Bill also added a new subsection (b) to section 3841. It is this provision that has generated the current dilemma: ''Nothing in this section affects the limit on expenditures for technical assistance imposed by section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i).'' 16 U.S.C. §3841(b). When read in the context of section 11, section 3841(b) makes clear that the section 11 cap applies only to funds transferred under section 11. Section 11 specifically imposes the cap on ''fund transfers . . . . under this section.'' Section 11 by its terms clearly does not apply to amounts transferred under other authority, such as section 3841(a). And we read section 3841(b) to make plain that, while the section 11 cap continues to apply to amounts transferred under section 11, it does not apply to amounts transferred by section 3841(a).

Accordingly, reading the above provisions harmoniously, we conclude that: (1) the section 11 cap by its own terms applies only to CCC funds transferred to other agencies under section 11; (2) 16 U.S.C. §3841(a) provides independent authority for the Secretary to fund the seven conservation programs named in that section out of CCC funds; and (3) 16 U.S.C. §3841(b) makes it clear that, while the section 11 cap still applies to funds transferred by the CCC to other government agencies for work performed pursuant to the authority of section 11, the section 11 cap does not apply to the seven conservation programs that are funded with CCC funds under the authority of 16 U.S.C. §3841(a).

Our conclusion that the section 11 cap does not apply to the seven conservation programs of section 384(a) is confirmed by a review of the legislative history of the 2002 Farm Bill, which shows that the Congress was attempting to make clear that section 3841 technical assistance was not affected by the section 11 cap. The legislative history to the 2002 Farm Bill unambiguously supports the view that the Congress did not intend the section 11 cap to limit the funding for technical assistance provided under the section 3841 conservation programs. In discussing the cap the Conference Committee stated: ''The Managers understand the critical nature of providing adequate funding for technical assistance. For that reason, technical assistance should come from individual program funds.'' H.R. Conf. Rep. No. 107–424 at 497 (May 1, 2002) (emphasis added). In discussing administration and funding of these conservation programs, the Conference Committee further explained that:

The Managers provide that funds for technical assistance shall come directly from the mandatory money provide for conservation programs under Subtitle D. (Section 2701).

In order to ensure implementation, the Managers believe that technical assistance must be an integral part of all conservation programs authorized for mandatory funding. Accordingly, the Managers have provided for the payment of technical assistance from program accounts, The Managers expect technical assistance for all conservation programs to follow the model currently used for the EQIP whereby the Secretary determines, on an annual basis, the amount of funding for technical assistance. Furthermore, the Managers intend that the funding will cover costs associated with technical assistance, such as administrative and overhead costs.''

H.R. Conf. Rep. No. 107–424 at 48–499 (2002) (Emphasis added).

The ''EQIP model'' that the conferees referred to was established in the Federal Agriculture Improvement and Reform Act of 1996, Pub. L. No. 104–127, Subtitle E, §341, 110 Stat. 888, 1007 (1996) (1996 Farm Bill). For fiscal years 1996 through 2002, the Secretary was to use CCC funds to carry out the CRP, WRP and the Environmental Quality Incentives programs (EQIP). [3] Id. (Former 16 U.S.C. §3841(a)). More specifically, the 1996 Farm Bill authorized the Secretary to use CCC funds for technical assistance (as well as cost-share payments, incentive payments, and education) under the EQIP program. 16 U.S.C. §3841(b). Id. [4] While the 1996 Farm Bill authorized the use of CCC funds to carry out the CRP and WRP programs, it did not specifically authorize the funding of technical assistance out of program funds as it did for EQIP.

Importantly, five days before enactment of the 2002 Farm Bill when the Senate was considering the Conference Report on the Farm Bill, a colloquy among Senators Harkin, Chairman, Senate Agriculture, Nutrition and Forestry Committee, Lugar, its Ranking Republican Member, and Cochran, an Agriculture Committee member, [5] makes it unmistakably clear that the section 11 cap was not meant to apply to the provision of technical assistance with respect to any of the conservation programs named in 16 U.S.C. §3841(a):

''Mr. LUGAR. Mr. President, I wish to engage in a colloquy with the distinguished Senators from Iowa and Mississippi. Mr. President, the 1996 farm bill contained a provision which led to serious disruption in the delivery of conservation programs. Specifically, the 1996 act placed a cap on the transfers of Commodity Credit Corporation funds to other government entities. Is the distinguished Senator from Iowa aware of the so-called ''section 11 cap?''

Mr. HARKIN. I thank the Senator from Indiana for raising this issue, because it is an important one. The Section 11 cap prohibited expenditures by the Commodity Credit Corporation beyond the Fiscal Year 1995 level to reimburse other government entities for services. Unfortunately, in the 1996 farm bill, many conservation programs were unintentionally caught under the section 11 cap. As a result, during the past 8 years, conservation programs have had serious shortfalls in technical assistance. There was at least one stoppage of work on the Conservation Reserve Program. The Appropriations Committees have had to respond to the problem ad hoc by redirecting resources and providing emergency spending to deal with the problem. This has been a problem not just in my state of Iowa or in your states of Indiana and Mississippi; it has been a nationwide constraint on conservation.

Mr. COCHRAN. I thank the Chairman for the clarification, and I would inquire whether the legislation under consideration here today will fix the problem of the section 11 cap for conservation programs.

Mr. HARKIN. I thank the Senator from Mississippi for his attention to this important issue. Section 2701 [16 U.S.C. §3841] of the Farm Security and Rural Investment Act of 2002 recognizes that technical assistance is an integral part of each conservation program. Therefore, technical assistance will be funded through the mandatory funding for each program provided by the bill. As a result, for directly funded programs, such as the Conservation Security Program (CSP) and the Environmental Quality Incentives Program (EQIP), funding for technical assistance will come from the borrowing authority of the Commodity Credit Corporation, and will no longer be affected by section 11 of the CCC Charter Act.

For those programs such as the CRP, WRP, and the Grasslands Reserve Program (GRP), which involve enrollment based on acreage, the technical assistance funding will come from the annual program outlays apportioned by OMB again, from the borrowing authority of the CCC. These programs, too, will no longer be affected by section 11 of the CCC Charter Act. This legislation will provide the level of funding necessary to cover all technical assistance costs, including training; equipment; travel; education, evaluation and assessment, and whatever else is necessary to get the programs implemented.

Mr. LUGAR. I thank the Chairman for that clarification. With the level of new resources and new workload that we are requiring from the Department, and specifically the Natural Resources Conservation Service, I hear concerns back in my state that program delivery should not be disrupted, and the gentleman has reassured me that it will not.''

148 Cong. Rec. S3979, 4020 (daily ed. May 8, 2002) (emphasis added). In our view, the Congress intended all funding for the seven conservation programs authorized in section 3841 (§2701 of the 2002 Farm Bill), including funding for technical assistance, to be mandatory funding drawn from individual program funds, rather than from CCC's administrative funds that are subject to the section 11 cap. Accordingly, based on the language of 3841, we conclude that the section 11 cap does not apply to funds for technical assistance provided under the conservation programs enumerated in section 3841.

2. Availability of the Conservation Operations Appropriation. The next issue is whether the Department of Agriculture's Conservation Operations appropriation is available for technical assistance for the WRP and the FPP. As noted above, this issue arose when OMB advised Agriculture that its Conservation Operations appropriation could be used to fund this technical assistance. For the reasons that follow, we conclude that Agriculture may not use its Conservation Operations appropriation to fund the WRP and FPP.

The fiscal year 2002 Appropriation for the Conservation Operations account provides in pertinent part:

NATURAL RESOURCES CONSERVATION SERVICE
CONSERVATION OPERATIONS

''For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands, water, and interests therein for use in the plant materials program by donation, exchange, or purchase. . . .''

Pub. L. No. 107–76, 115 Stat. 704 at 717, 718 (2001). In addition to its availability to carry out the provisions of the Act of April 27, 1935 (16 U.S.C. §590a–f), the fiscal year 2002 Conservation Operations appropriation is also available to carry out a variety of other specified programs such as those authorized by 7 U.S.C. §428a, 7 U.S.C. §2209b, 7 U.S.C. §2250a, §202(c) of title II of the Colorado River Basin Salinity Control Act of 1974 (43 U.S.C. §1592(c)): section 706(a) of the Organic Act of 1944 (7 U.S.C. §2225), for employment under 5 U.S.C. §3109 and 16 U.S.C. §590e–2.

OMB asserts that the language of the Conservation Operations appropriation and the Act of April 27, 1935 cited therein are broad enough to encompass the technical assistance that Agriculture will provide under the WRP, the FPP and the other section 3841 conservation programs. Since the technical services provided by Agriculture under the WRP and the FPP (and other section 3841 conservation programs) fall within the general purposes articulated in the fiscal year 2002 Conservation Operations appropriation, OMB considers the Conservation Operations appropriation as an additional available source of funding for technical assistance provided as part of the section 3841 conservation programs. In other words, the Conservation Operations appropriation is available to continue financing for the FPP and the WRP, when, in OMB's view, the section 11 cap limits the availability of CCC funds for those programs. We do not agree.

First, the Conservation Operations appropriation identifies specific programs that it is available to fund, including the authority to carry out the provisions of the Act of April 27, 1935 (16 U.S.C. §590a–f) cited by OMB above. However, none of the specific statutory programs identified in the Conservation Operations appropriation include the FPP or the WRP found in 16 U.S.C. §§3838h–3838i and 3837–3737f, respectively. The FPP and the WRP were authorized by Title XII of the Food Security Act of 1985, as amended, and the provisions of the Food Security Act of 1985 are not among the statutes listed in the Conservation Operations appropriation as an object of that appropriation. Thus, the Conservation Operations appropriation by its own terms does not finance Agriculture programs and activities under the Food Security Act. [6] [7]

Second, even if the language of the Conservation Operations appropriation could reasonably be read to include the WRP and the FPP, section 3841, as amended by the 2002 Farm Bill, very specifically requires that funding for technical assistance will come from the ''funds, facilities, and authorities'' of the CCC. Indeed, the statute is unequivocal—the Secretary ''shall use the funds'' of the CCC to carry out the seven conservation programs, including associated technical assistance. It is well settled that even an expenditure that may be reasonably related to a general appropriation may not be paid out of that appropriation where the expenditure falls specifically within the scope of another appropriation. 63 Comp. Gen. 422, 427–28, 432 (1984); B–290005, July 1, 2002.[8]

Third, this view is supported by the Senate colloquy on the 2002 Farm Bill Conference report:

''Mr. COCHRAN. It is then my understanding that, under the provisions of this bill, the technical assistance necessary to implement the conservation programs will not come at the expense of the good work already going on in the countryside in conservation planning, assistance to grazing lands, and other activities supported within the NRCS conservation operations account. And, further, this action will relieve the appropriators of an often reoccurring problem.

Mr. HARKIN. Both gentlemen are correct. The programs directly funded by the CCC–EQIP, FPP, WHIP, and the CSP—as well as the acreage programs—CRP, WRP, and the GRP—*include funding for technical assistance that comes out of the program funds. And this mandatory funding in no way affects the ongoing work of the NRCS Conservations Operations Program.''*

148 Cong. Rec. S3979, 4020 (daily ed. May 8, 2002) (emphasis added). This colloquy underscores the understanding that the 2002 Farm Bill specifically requires that funding for technical assistance will come from the borrowing authority of the CCC and will not interfere with other activities supported by the Conservation Operations appropriation.

Furthermore, before passage of the 1996 Farm Bill, which made a number of conservation programs, including the WRP, mandatory spending programs, the WRP received a separate appropriation for that purpose. In other words, before the 1996 farm bill provided CCC funding to run the program, the WRP was not funded out of the Conservation Operations appropriation. Pub. L. No. 103–330, 108 Stat. 2453 (1994); Pub. L. No. 102–142, 105 Stat. 897 (1991). Moreover, Agriculture has previously concluded that the Conservation Operations appropriation is not available to fund technical assistance with respect to programs authorized under provisions of the Food Security Act. Their reasoning tracks ours—the provisions of the Food Security Act are not among the statutes cited in the Conservation Operations appropriation. Memorandum from Stuart Shelton, Natural Resources Division to Larry E. Clark, Deputy Chief for Programs, Natural Resources Conservation Service and P. Dwight Holman, Deputy Chief for Management, Natural Resources Conservation Service, October 7, 1998 (Conservation Operations appropriation is not available to fund technical assistance for the Conservation Reserve Program); GAO/RCED–99–247R, Conservation Reserve Program Technical Assistance, at 9 (Aug. 5, 1999).

Thus, the Conservation Operations appropriation is not an available funding source for WRP and FPP operations and associated technical assistance. To the extent that Agriculture might have used the Conservation Operations appropriation for WRP, Agriculture would need to adjust its accounts accordingly, deobligating amounts it had charged to the Conservation Operations appropriation and charging those amounts to the CCC funds. We note that in this event OMB would need to apportion additional amounts from CCC funds to cover such obligations.

3. Impoundment Control Act

The last question is whether OMB's July 18, 2002, decision not to apportion funds for technical assistance for the WRP and the FPP constitutes an impoundment under the Impoundment Control Act of 1974. Based upon the most recent information provided by OMB, to the extent OMB did not initially apportion funds for the FPP or the WRP, the delay was programmatic and did not constitute an impoundment of funds. Also, based on information recently provided by OMB, no impoundment of funds is occurring with respect to the FPP or the WRP.

We generally define an impoundment as any action or inaction by the President, the Director of OMB or any federal agency that delays the obligation or expenditure of budget authority provided in law. Glossary or Terms Used in the Federal Budget Process, Exposure Draft, GAO/AFMD–2.1.1, Page 52 (1993).[9] However, our decisions distinguish between programmatic withholdings outside the reach of the Impoundment Control Act and withholdings of budget authority that qualify as impoundments subject to the Act's requirements. B–290659, July 24, 2002. Sometimes delays are due to legitimate program reasons. Programmatic delays typically occur when an agency is taking necessary steps to implement a program even if funds temporarily go unobligated. Id. Such delays do not constitute impoundments and do not require the sending of a special message to the House of Representatives and the Senate under 2 U.S.C. §684(a). *Id.*

Here, OMB initially did not apportion funds for WRP and FPP technical assistance because it believed the section 11 cap was applicable and would be exceeded. OMB's General Counsel states that OMB reserved apportioning budget authority to discuss its funding concerns with Agriculture. These funding concerns generated a ''vigorous and healthy internal legal discussion'' between the Department of Agriculture and OMB. Letter from Nancy Bryson, General Counsel, Department of Agriculture to the Honorable Tom Harkin, Chairman, Senate Committee on Agriculture, Nutrition and Forestry, September 24, 2002. Since OMB delayed apportionment of technical assistance funds because of uncertainty concerning the applicability of statutory restrictions and since OMB approved Agriculture's subsequent apportionment requests, we conclude that OMB did not impound funds under the Impoundment Control Act. *See* B–290659, July 24, 2002 (delay in obligating funds because of uncertainty whether statutory conditions were met did not constitute an impoundment).

As noted above, according to OMB, Agriculture recently submitted revised apportionment requests for technical assistance for both the FPP and the WRP, and OMB has approved the revised apportionments. For the FPP, Agriculture requested an additional apportionment for financial assistance of $2 million, bringing the total amount available for obligation to $50 million. Thus, the entire $50 million in FPP funds authorized by section 3841 have been apportioned. Since OMB advises that it has apportioned the full funding amount and that is available for obligation, these funds were not impounded for the FPP.

As for the WRP funding, as noted above, on June 19, 2002, Agriculture asked OMB to apportion a total of $20,655,000 for WRP technical assistance. OMB did not apportion this amount. SF 132, Apportionment and Reapportionment Schedule for Farms Security and Rural Investment Programs, Account No. 1221004, July 18, 2002. On August 30, 2002, Agriculture requested an apportionment of WRP (and CRP) technical assistance for totaling $5,950,000. SF 132, Apportionment and Reapportionment Schedule for Commodity Credit Corporation Reimbursable Agreements and Transfers to State and Federal Agencies, Account No. 12X4336. On September 3, 2002, OMB approved this request and apportioned $5,950,000. Id. Since OMB apportioned the budget authority for the WRP and it was made available for obligation, there was no impoundment of funds in fiscal year 2002.

While the present record does not establish an impoundment of the fiscal year 2002 funds appropriated for the WRP and the FPP, we will continue to monitor this situation to ensure that any impoundment that might occur in fiscal year 2003 for conservation programs is timely reported.

We hope you find this information useful. If you have any questions, please contact Susan Poling, Managing Associate General Counsel, or Thomas Armstrong, Assistant General Counsel, at 202–512–5644. We are sending copies of this letter to the Secretary of Agriculture, Director of the Office of Management and Budget, the Chairman and Ranking Minority Members of the House and Senate Agriculture Committees and other interested Congressional Committees. This letter will also be available on GAO's home page at http://www.gao.gov.

ANTHONY H. GAMBOA,
General Counsel.

B–291241 Digests

1. 15 U.S.C. §724i authorizes the Commercial Credit Corporation (CCC) to use employees from other agencies, and, subject to a maximum limitation set at the fiscal year 1995 level (the ''section 11 cap''), CCC may make transfers from its funds available for administrative purposes to those agencies to reimburse them for their assistance to CCC in the conduct of its business. 16 U.S.C. §3841 (as amended by section 2701 of the 2002 Farm Bill, enacted May 13, 2002) specifically provides that the Secretary of Agriculture ''shall use the funds'' of the CCC to carry out seven conservation programs (including the wetlands reserve program and the farm protection program) named therein, including technical assistance. Based upon the language of the statutes, we conclude that the section 11 cap does not apply to technical assistance provided under the section 3841 conservation programs.

2. 16 U.S.C. §3841 specifically provides that the Secretary of Agriculture ''shall use the funds'' of the Commercial Credit Corporation (CCC) to carry out seven conservation programs (including the wetlands reserve program and the farm protection program) named therein, including technical assistance. Therefore, the Secretary is required to see CCC funds for the conservation programs named in section 3841, including for technical assistance, rather than funds from the Department of Agriculture's more general Conservation Operations appropriation.

3. Where the Office of Management and Budget (OMB) initially did not apportion funds for technical assistance for the wetlands reserve program (WRP) and the farm protection program (FPP) because of OMB's uncertainty concerning applicability of statutory funding restrictions, and where OMB subsequently approved the Department of Agriculture's revised apportionment requests for the WRP and the FPP, the delay in apportioning funds was programmatic and did not constitute an impoundment of funds.

NOTES

[1] In addition to the WRP and the FPP, Chairman Kohl and Senator Cochran asked about the Conservation Reserve Program (CRP) as one of the programs for which OMB had failed to apportion funds. The letter arrived after we had already received a response to a detailed set of inquiries sent to OMB and Agriculture regarding the WRP and the FPP. In the interest of time, we did not send a second letter asking OMB to address the CRP program. However, the CRP is covered by the same general authorities applicable to the WRP and the FPP. The CRP is also a program authorized by the Food Security Act of 1985, as amended. Therefore, to the extent funds were not apportioned for the CRP under the same circumstances as the FPP and the WRP, the same legal principles outlined herein should apply.

[2] The Department of Agriculture concurred with OMB's responses to our substantive questions regarding these issues. Letter from Nancy Bryson, General Counsel, Department of Agriculture to Susan A. Poling, Managing Associate General Counsel, GAO, September 16, 2002.

[3] EQIP is a voluntary conservation program for farmers and ranchers that promotes agricultural production and environmental quality as compatible national goals. EQIP

offers financial and technical help to assist eligible participants install or implement structural and management practices on eligible agricultural land. http://www.nrcs.usda.gov/programs/eqip.

[4] The 1996 Farm Bill required that for fiscal years 1996 through 2002, 50 percent of the funding available for technical assistance, cost-share payments, incentive payments, and education under EQIP be targeted at practices relating to livestock production.

[5] Chairman Harkin and Senator Cochran were Managers on the part of the Senate for the Conference Committee on the 2002 Farm Bill.

[7] For fiscal year 1999, the Natural Resources Conservation Service sought to add language to the Conservation Operations appropriation to provide authority to expand the use of Conservation Operations funds to support the technical assistance activities of other programs administered by NRCS such as EQIP, WRP and CRP. Hearings before the House Committee on Appropriations, Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations for Fiscal Year 1999, 105th Cong., 2nd Sess., Part 3 at 776 (1998). The language was not included in the final version of the Agriculture Appropriations Act for fiscal year 1999.

[8] OMB cites language in the legislative history of the Fiscal Year 2002 appropriations act that appears to support the use of the Conservation Operations appropriation for conservation technical assistance, and in particular WRP and CRP assistance. Our own review of the legislative history finds language that indicates a congressional intent that technical assistance for the conservation programs in question must be funded from CCC funds. However, in view of the subsequent enactment of the 2002 Farm Bill, which specifically and unequivocally requires that funding for technical assistance for conservation programs named in 16 U.S.C. §3841 shall come from CCC funds, we do not consider the legislative history controlling.

[9] There are two types of impoundment actions—deferrals and rescissions. A deferral is a temporary withholding or delay in obligating or any other type of executive action which effectively precludes the obligation or expenditure of budget authority. Glossary of Terms Used in the Federal Budget Process, Exposure Draft, GAO/AFMD–2.1.1, Page 38 (1993). Deferrals are authorized only to provide for contingencies, to achieve savings made possible by changes in requirements or greater efficiency of operations, or as otherwise specifically provided by law. *See* 2 U.S.C. §684. A rescission involves the cancellation of budget authority previously provided by Congress (before that authority would otherwise expire) and can be accomplished only through legislation enacted by Congress that cancels the availability of budgetary resources previously provided by law. *See* Glossary of Terms Used in the Federal Budget Process, Exposure Draft, GAO/AFMD–2.1.1, Page 70 (1993).

S. 1766

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

SECTION 1. PROHIBITION ON USE OF CERTAIN CONSERVATION FUNDING FOR TECHNICAL ASSISTANCE FOR CONSERVATION RESERVE PROGRAM.

Section 1241(b)(1) of the Food Security Act of 1985 (16 U.S.C. 3841(b)(1)) is amended by inserting before the period at the end the following: ''(other than the conservation reserve program under subchapter B of chapter 1)''.

Ms. SNOWE. Mr. President, I rise today to join my colleagues, Senator LEAHY and Senator BURNS, in cosponsoring the Conservation Technical Assistance Act to preserve funding for our Nation's working lands conservation programs. Through these valuable programs, farmers across the country are able to participate in voluntary farmland, grassland, environmental and wildlife conservation programs that balance stewardship goals with on-farm production. For many States that do not receive large crop subsidies, including Maine, conservation programs are the principal source of Federal assistance and are a valuable tool for helping small and specialty crop growers enhance their production while caring for the land.

This legislation does not set new policy, rather it reinforces the mandates Congress made in the 2002 farm bill. Congress recognized the importance of conservation in agriculture by significantly increasing funding for the working lands conservation programs in the 2002 farm bill. Under the new farm law, the U.S. Department of Agriculture (USDA) should have expanded the opportunity for farmers to practice environmental stewardship.

Unfortunately, the USDA has not followed through on congressional intent. Over the past year, the USDA has diverted $158 million from the Environmental Quality Incentives Program (EQIP), the Farm and Ranchland Protection Program (FRPP), the Wildlife Habitat Improvement Program (WHIP), and the Grassland Reserve Program (GRP) to pay for technical assistance of the Conservation Reserve Program (CRP). As a result of these actions, countless numbers of farmers were prevented from participating in working lands conservation programs.

Without corrective action, farmers' conservation options will be curtailed even more severely as the USDA transfers funding to other programs in the Department. I join my distinguished colleagues today because I believe it is high time that Congress intervene with a solution.

The northeast is home to an incredible array of agricultural products grown by producers both large and small, and, in some cases, sold locally or nationally. In northern Maine, fields of potatoes stretch for miles along the rolling hills of Aroostook County. Along the eastern coast, wild blueberry barrens dot the maritime horizon. Diary farms populate much of inland Maine, and nearly every other type of speciality crop is grown in farms across the State. Despite the unique needs of each grower, the one common thread between these farmers is their nearly unanimous support for the additional commitment Congress made to working lands conservation programs in the 2002 farm bill.

These programs are the State's most effective and substantial source of Federal agricultural support. EQIP, FRPP, WHIP, and GRP make up the lion's share of funding for many States that do not grow traditionally subsidized row crops. Maine, with its diverse agricultural sector, is a prime example of a State that relies on working lands conservation programs to both enhance production and conserve our natural resources. Funds from these programs can be used for projects such as irrigation assistance, water quality, soil erosion control, crop rotation, and other practices. Yet, we are finding these very programs and the benefit they provide being cut by the very department that is tasked with funding them, the U.S. Department of Agriculture.

In fiscal year 2003, the USDA diverted over $158 million from key working lands conservation programs to pay for technical assistance for CRP. The funding shortfall created by this diversion has dramatically reduced the available resources for EQIP, FRPP, WHIP, and GRP and led our States to have to deny assistance to countless willing farmers. As more acres become available to be enrolled in CRP in future years and the program's technical assistance costs rise, the impact on working lands conservation programs will become more severe.

It would have been unnecessary to raid working lands conservation programs to pay for CRP had the Department adhered to the specific language in the 2002 farm bill. In fact, Congress anticipated the need to fund technical assistance for CRP and provided specific language in the 2002 farm bill directing the Department to use mandatory funding to pay for CRP technical assistance.

Until we can reach a broader agreement on implementation of the 2002 farm bill provision on conservation technical assistance, it is imperative that we take steps to hold our working lands conservation programs harmless. This legislation does this by simply, but explicitly, stating that the USDA may not take funding from working lands conservation programs to pay for CRP technical assistance. This clarification will allow EQIP, FRPP, WHIP, and GRP to retain the funding that Congress provides. It does not add or subtract funding from an account, rather it makes sure that the funds are used by the program for which Congress intended.

Maine's farmers and our farm community cannot afford to be short changed for another year. In fiscal year 2003, my state received a little more than $8 million in conservation funding compared with the promise for $12 million as required by the regional equity provision of the 2002 farm bill. This short-fall in funding not only meant less direct assistance to farmers, but it led the USDA to propose cutting 20 Natural Resource Conservation Service staff positions throughout Maine. While I am pleased that the USDA decided against laying off these NRCS workers, the specter of further conservation shortfalls in the future does not bode well for my State. I cannot allow both farmers and the professionals who support them to suffer because of USDA's actions.

In closing, I would like to again thank the Senator from Vermont and the Senator from Montana for working to craft a temporary solution to the conservation technical assistance problem. I believe that this is the right step to take and I hope to continue working with my colleagues to address the problem down the road. I urge my colleagues to support this measure.

By Mr. LEVIN (for himself, Mr. MCCAIN, and Mr. BAUCUS):

S. 1767. A bill to prevent corporate auditors from providing tax shelter services to their audit clients; to the Committee on Banking, Housing, and Urban Affairs.

Mr. LEVIN. Mr. President, today I am introducing with the cosponsorship of Senator MCCAIN and Senator BAUCUS the Auditor Independence and Tax Shelters Act, a bill designed to strengthen auditor independence by prohibiting audit companies from selling tax shelter services to the publicly traded companies they audit and to the officers and directors of those companies.

Last year, Senators MCCAIN, BAUCUS and I each participated in investigations conducted by our respective Committees, the Committees on Commerce, Finance, and Governmental Affairs, into corporate misconduct by Enron and other major U.S. companies, including participation in misleading accounting and tax practices. These investigations led each of us to focus on the role of accounting firms in, not only going along with publicly traded companies' using abusive tax shelters, but also selling them the very tax shelters they used to overstate their earnings on their financial statements.

In fact, the Permanent Subcommittee on Investigations, on which I am the Ranking Minority Member, has spent the last year investigating the roles played by accounting firms and other professional organizations such as banks, investment advisors and law firms, in developing, marketing and implementing abusive tax shelters. The Finance Committee held a hearing today on this same topic.

Tax shelters have become a huge business in this country. An 1998 article in Forbes magazine—five years ago—described how tax shelter use was growing even then:

> Pay attention. These letters are prime evidence of a thriving industry that has received scant public notice: the hustling of corporate tax shelters. These shelters are being peddled, sometimes in cold-call pitches, to thousands of companies. Will the shelters hold up in court? Maybe yes, maybe no, but many schemes capitalize on the fact that neither the tax code nor the IRS can keep up with the exotica of modern corporate finance. Hesitant at first to participate, respectable accounting firms, law offices and public corporations have lately succumbed to competitive pressures and joined the loophole frenzy.

A March 2003 article in BusinessWeek magazine states that U.S. corporations are some of the biggest players in the tax shelter game:

> The federal tax rate for corporations is 35%, but few pay that much. . . . Many have achieved the Holy Grail of corporate finance: steadily growing profits coupled with a dramatically shrinking tax burden. . . . [I]n the late 1990s, the hunt for tax breaks became a much bigger business. . . . Tax avoidance became a competitive sport, with even blue-chip companies aggressively benchmarking their effective tax rates against those of rivals. According to a recent Harvard University study, U.S. companies avoided paying tax on nearly $300 billion in income in 1998.

Recently, the New York Times reported that a consultant's report prepared for the IRS but not released to the public until now will show that ''corporate tax cheating in 2000 cost the government $14 billion to $18 billion'' in revenues during that one year alone.

Accounting firms are in the thick of the tax shelter activity, earning tens of millions of dollars in fees. According to Bowman's Accounting Report, the Big Four accounting firms, PricewaterhouseCoopers, Deloitte & Touche, KPMG, and Ernst & Young, brought in $5.6 billion of U.S. tax practice revenues in 2001, more than twice the tax-related revenues these companies posted in 1995. While some of these fees are the result of tax return preparation work, our Subcommittee investigation indicates that significant fees were generated by tax shelter services provided to wealthy individuals and corporations.

Increased tax shelter activity has not only led to substantial U.S. tax revenue loss, it has complicated U.S. tax enforcement efforts and undermined taxpayer confidence in the federal tax compliance system, leading the IRS to designate abusive tax shelters as an enforcement priority.

The IRS has accordingly begun a major effort to combat this form of tax avoidance. In 2002, for example, the IRS issued about 200 summonses seeking tax shelter related information from 30 accounting firms and other tax shelter promoters, and filed suit against two major accounting firms, KPMG and BDO Seidman, and two major law firms, Jenkens & Gilchrist and Sidley Austin Brown & Wood, to obtain information about their tax shelter activities. In addition, the Securities Exchange Commission and the new Public Company Accounting Oversight Board have expressed serious concerns about accounting firms that audit publicly traded companies while wearing two hats: those of the tax shelter promoter and those of the auditor auditing the same tax shelters it has promoted.

That issue is the focus of our legislation.

Auditors of publicly traded companies are supposed to be independent watchdogs charged with determining whether a company's financial statements are accurate and fairly report the company's finances. But multiple accounting scandals involving billions of dollars at companies like Enron, Tyco, Healthsouth, Aldelphia, and MCI-WorldCom have rocked investor confidence in auditors and severely damaged the reputation of the U.S. accounting profession. These accounting scandals showed again and again that our laws and financial systems were insufficient to ensure that U.S. auditors were doing their jobs.

In response, Congress passed the Sarbanes-Oxley Act of 2002. A primary purpose of that law was to strengthen auditor independence and restore investor confidence in U.S. financial statements. Among other measures, it established the new Public Company Accounting Oversight Board to strengthen auditing standards, investigate and discipline auditor wrongdoing, and oversee auditing practices to ensure adequate financial statement reviews. While the Sarbanes-Oxley Act is a landmark piece of legislation—replacing decades of self-policing in the accounting industry with independent oversight—a number of reform issues remain unresolved.

One key, longstanding issue that continues to compromise auditor independence is the role played by accounting firms in developing and selling tax shelters to public companies they audit.

As part of their review of public company financial statements, auditors are supposed to review the company's tax practices to ensure that the company is not understating its tax liability and overstating its earnings. But in some cases, the same accounting firm is also pitching tax shelters to that client, many of which rely on aggressive and novel interpretations of tax law. If a company buys one of these tax shelters from its accounting firm, the unacceptable result is that the accounting firm can then turn around and audit the company's financial statements and, in effect, audit its own work, a situation that strikes at the heart of auditor independence.

In some cases, the accounting firm may have even negotiated ''success fees'' which are contingent upon a tax shelter's success in reducing a client's tax burden. In such cases, accounting firms will audit tax transactions in which they have a direct financial interest, creating a conflict of interest between the firm's income and auditing responsibilities, and making it highly unlikely that questions will be raised about a tax shelter that the firm itself sold to its client.

Similar conflicts may arise when accounting firms offer tax shelter services to the officers and directors of the companies they audit. One case extensively discussed in the media involves a major accounting firm which not only audited Sprint Corporation, a publicly traded company, but also sold tax shelters to the Sprint CEO and other Sprint executives. These tax shelters supposedly eliminated taxes owed on millions of dollars in personal compensation from stock options given by Sprint to its executives. When the value of the stock options later fell, the accounting firm apparently analyzed strategies that could have lowered the individuals' taxes but increased the company's taxes, pitting the individual against the company, with the same accountant on both sides of the equation. Sprint eventually fired several of the executives and recently announced it was also changing auditors. In addition, Sprint has instituted a new policy barring its auditor from providing any financial services to its executives.

Investors, our markets, and the American public deserve better. The legislation we are introducing today would end these auditor conflicts by prohibiting auditors from providing tax shelter services to both the publicly traded companies they audit and to those companies' officers and directors. In addition, the bill would codify four common-sense principles of auditor independence that would assist public companies in analyzing what services may compromise auditor independence.

Our bill would build upon the Sarbanes-Oxley Act which took the first step last year to address the conflict of interest problems that arise when accounting firms provide tax services to the companies they audit. Seeking to limit a wide range of possible conflicts of interest, the Act broadly prohibited auditors from providing any tax service to an audit client without first obtaining the approval of the audit committee of the company's board of directors.

The SEC took the next step when it proposed regulations to implement the Sarbanes-Oxley Act. The SEC issued a draft proposal that essentially would have prohibited auditors from selling any tax shelters to their audit clients. The draft SEC proposal also contained the four principles that would have helped company audit committees evaluate whether other tax services proffered by auditors would impair auditor independence. Unfortunately, under heavy lobbying pressure from accounting firms in the tax shelter business, the SEC dropped both of these important provisions from the final regulation.

So we need to legislate. Our bill would, first, prohibit accounting firms that audit publicly held companies in the United States from providing tax shelter services either to the companies they audit or to the companies' officers and directors. The bill defines tax shelter services by referring to existing law, using language in an existing definition of tax shelters in section 6111(d) of the tax code. The bill would prohibit auditors from providing to their audit clients those services related to designing, promoting or executing tax transactions which have tax avoidance or evasion as a significant purpose and which generate fees for the auditing firm exceeding $100,000. It is intended that questions about whether particular tax-related services fall within this definition would be resolved by corporate audit committees when asked by their accounting firm to approve the company's paying for the particular services. The audit committee could consult with the IRS, SEC, or other experts in reaching its decision.

If an audit committee were to approve tax shelter services that should have been barred, the bill does not provide new penalties or enforcement authority, but makes use of the existing oversight authority of the SEC and Public Company Accounting Oversight Board to enforce compliance with federal law. That means, for example, if an audit committee were to allow its auditor to provide prohibited tax shelter services, the SEC or Public Company Accounting Oversight Board could use their existing oversight authority to require the company to "cease and desist" paying for the services or to prohibit the accounting firm from providing the services. If appropriate, the SEC could also order the public company, the accounting firm, or both, to pay a monetary penalty for violating the tax shelter services prohibition.

The legislation would further reduce potential conflicts by codifying four principles of auditor independence that public company audit committees would be required to apply when determining what non-audit services an auditor can provide. These principles have been repeatedly cited in SEC efforts to strengthen auditor independence and were also cited during debate on the Sarbanes-Oxley Act. They provide that auditor independence is compromised when auditors: 1. audit their own work; 2. perform management functions for their clients; 3. act as advocates on behalf of their clients; or 4. act as promoters of their clients' stock or other financial interests.

To better ensure auditor independence, our bill would require audit committees to apply these four principles when considering what services, not otherwise prohibited, an auditor may provide to their company. If an audit committee were to find that the proposed auditor service would reasonably result in a violation of one of the above principles, the audit committee would have to disallow the proffered service.

Experts in the financial and accounting industries agree that auditors should not be permitted to provide tax shelter services to their audit clients. In January of this year, The Conference Board's blue-ribbon Commission on Public Trust and Private Enterprise, co-chaired by John Snow before he became Secretary of the Treasury, concluded the following:

> [P]ublic accounting firms should limit their services to their clients to performing audits and to providing closely related services that do not put the auditor in an advocacy position, such as novel and debatable tax strategies and products that involve income tax shelters and extensive off-shore partnerships or affiliates. . . . The Commission believes that any work performed by the company's outside auditors [should] be closely related to the audit. Auditors' development and recommendations of new tax strategies for their clients is not closely related to the audit, and, in our opinion, removes focus from their audit work and poses a potential conflict of interest. Furthermore, the development and recommendations of these strategies have often been accompanied by "success fees." In turn these strategies, if implemented, were often then subject to an audit by the firm. This practice, in our opinion, is highly undesirable. The firm's need for impartiality in conduct of the audit is in direct conflict with the financial incentives to provide tax strategies which themselves must be audited.

William McDonough, Chairman of the Public Company Accounting Oversight Board, has indicated that the Board is also considering whether to ban auditors from providing tax shelter services to their audit clients and will be closely monitoring how accounting firms audit a company's tax liabilities and any company use of tax shelters. In testimony before the Finance Committee earlier today, Mr. McDonough stated:

> While the SEC made clear that it did not consider conventional tax compliance and planning to be a threat to auditor independence, it distinguished such traditional services from the marketing of novel, tax-driven, financial products, which the SEC noted raise some serious issues. . . . [T]he AICPA has also suggested that "advice on tax strategies having no business purpose other than tax avoidance is an appropriate dividing line for activities that should be prohibited to auditing firms registered under the Sarbanes-Oxley Act." Thus, there appears to be consensus that auditors ought not to be selling abusive tax shelters to audit clients.

In an unrelated Wall Street Journal interview, Mr. McDonough was described as saying that "[w]hat he finds problematic is 'very creative tax work' . . . . 'There is no way you can do that and claim to be independent,' he said."

The Sarbanes-Oxley Task Force formed by the American Bar Association's Section of Taxation, has also expressed support for barring auditors from providing tax shelter services to their audit clients. In a comment letter supporting the proposed ban in the SEC regulations on auditor independence, the Task Force wrote:

> We believe that tax shelter products raise particular auditor independence concerns. Companies purchasing tax shelter products are exposed to a variety of risks over and above the calculation of tax liability. An accounting firm that markets a tax shelter product to a registrant should be prohibited from conducting the audit of the registrant because it cannot be expected to fairly evaluate the risks inherent in the tax shelter product.

Our legislation has been endorsed by a number of public interest groups working to strengthen auditor integrity, renew investor and consumer confidence in the financial statements of U.S. publicly traded companies, and curb abusive tax shelters. The Consumer Federation of America, Consumers Union, Consumer Action, U.S. Public Interest Research Group, and Common Cause have stated in a letter of endorsement: "Passage of this bill is one of the most important steps Congress could take to ensure that last year's corporate reform efforts have their intended effect of restoring real independence to the 'independent' audit and, with it, a reasonable level of reliability to public companies' financial disclosures.''

Our bill's reforms are straightforward. Auditors should not audit their own work, including evaluating a tax shelter that the auditor itself sold to its audit client. Auditors should not sell personal tax shelters to the officers and directors of its audit clients, due to the conflicts of interest that can arise. Publicly traded companies ought to have explicit guidance to help them avoid auditor conflicts of interest, and the best guidance we can give them is the four auditor independence principles that have long guided SEC and Congressional action in this area.

Together, a ban on auditors providing tax shelter services to their audit clients and a codification of the four auditor independence principles to guide public companies away from auditor conflicts of interest could go a long way to restoring the confidence of investors in the U.S. auditing profession, financial reporting system, and capital markets. I urge my colleagues to support this common-sense and much-needed legislation.

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

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

S. 1767

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 ''Auditor Independence and Tax Shelters Act''.

SEC. 2. PROHIBITION ON AUDITORS PROVIDING TAX SHELTER SERVICES TO AUDIT CLIENTS.

Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1) is amended—

(1) in subsection (f)—

(A) in the first sentence, by striking ''section, the term'' and inserting the following: ''section—

''(1) the term'';

(B) by striking ''law. As used in this section, the term'' and inserting the following: ''law;

''(2) the term''; and

(C) by striking the period at the end and inserting the following: ''; and

''(3) the term 'tax shelter services' means services provided by a registered public accounting firm (or by an associated person of that firm) to an issuer, or an officer or director of an issuer, to design, organize, promote, assist, or execute any investment, entity, plan, arrangement, or transaction for which a significant purpose is the avoidance or evasion of Federal income tax by such issuer, or an officer or director of such issuer, whether acting as a direct or indirect participant, and for which such firm may receive fees in excess of $100,000 in the aggregate.'';

(2) in subsection (g)—

(A) in paragraph (8), by striking ''and'' at the end;

(B) by redesignating paragraph (9) as paragraph (10); and

(C) by inserting after paragraph (8) the following:

''(9) tax shelter services; and'';

(3) in subsection (h)—

(A) by inserting ''other than tax shelter services'' after ''tax services''; and

(B) by striking ''(9)'' and inserting ''(10)''; and

(4) in subsection (i)(1)—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following:

''(B) ASSURANCE OF AUDITOR INDEPENDENCE.—Before preapproving a non-audit service that is not otherwise prohibited under this section, the audit committee of an issuer shall—

''(i) determine whether there is a reasonable likelihood that provision of the non-audit service would impair the independence of the registered public accounting firm by resulting in the firm—

''(I) auditing its own work for the issuer;

''(II) performing a management function for the issuer;

''(III) advocating in a public forum for the issuer; or

''(IV) promoting the stock or other financial interest of the issuer; and

''(ii) if the audit committee determines that such a reasonable likelihood exists, the audit committee shall not provide advance approval of such service under this section.''.

SEC. 3. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall take effect on the date of enactment of this Act, and shall apply to any tax shelter service, as defined in section 10A of the Securities Exchange Act of 1934, as amended by this Act, that is submitted for preapproval to the audit committee of an issuer or is provided by a registered public accounting firm to an issuer in accordance with that section 10A on or after the date of enactment of this Act.

Mr. MCCAIN. Mr. President, I am pleased to join my colleague from Michigan, Senator LEVIN, in sponsoring the Auditor Independence and Tax Shelters Act.

While the Sarbanes-Oxley Act and Securities and Exchange Commission rules rightly prohibit accounting firms from providing certain non-auditing services to the publicly traded companies they audit, auditors are not prohibited from providing tax shelter services to their audit clients.

The Auditor Independence and Tax Shelters Act is intended to address this gap in the law by prohibiting audit firms from providing such services to their audit clients. It would thereby significantly strengthen auditor independence and eliminate a fundamental conflict of interest that is adverse to the best interest of investors.

Although I believe that any firm that serves as an auditor of a company should generally be prohibited from providing any non-audit service to that company, I strongly support this bill because it is a significant step toward achieving true auditor independence.

I urge my colleagues to support this important bill to further protect investor confidence in our capital markets.

By Mr. CAMPBELL (for himself, Mr. INOUYE, and Mr. DOMENICI):

S. 1770. A bill to establish a voluntary alternative claims resolution process to reach a settlement of pending class action litigation, to the Committee of Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am pleased to be joined by Senators INOUYE, DOMENICI and STABENOW in submitting a Senate Resolution urging settlement of the 8-year old Indian trust funds lawsuit, and by Senators INOUYE and DOMENICI in introducing a bill that I hope and believe will accomplish that goal, the ''Indian Money Claims Satisfaction Act of 2003''.

The saga of Cobell v. Norton did not start in 1996 with the filing of the lawsuit, it began long before any of us were born. In 1887 Congress enacted the General Allotment Act to break up the tribal landmass and teach Indians to be ''civilized''.

The legacy of that failed policy is still with us in the form of horribly fractionated Indian lands and the class action case filed in 1996 that is still ongoing.

The remedy the plaintiffs in the Cobell case are seeking is an accounting by the United States of funds that are or should be in the hundreds of thousands of individual Indian money accounts (IIMs) managed and maintained by the Federal Government.

Eight long years have passed without an accounting, and without a single penny being paid to an account holder. Last month, Judge Lamberth issued a 400-page decision and order that guarantees at least 5 more years of litigation, hundreds of millions and maybe billions more spent, with no end in sight to the lawsuit.

Those who insist that a decision by the Judge would mean the beginning of the end of this case are wrong: with likely appeals, Congressional squabbling over money spent on this effort, and additional lawsuits aimed at securing money damages, this case is just beginning.

The U.S. claims that pennies on the dollar are owed the plaintiffs but, without billions more spent on accounting activity, it cannot say for sure how much is in the accounts or should be in the accounts.

Preliminary cost estimates from the Interior Department suggest that it will take $10 billion or more to comply with Judge Lamberth's order on historic accounting. This money will be spent year after year through Fiscal Year 2008 at least.

I believe this money is better spent on re-constituting the Indian land base and building a forward-looking, state-of-the-art trust management system, and providing more dollars to Indian health care and education, which we know are underfunded.

The plaintiffs claim more than $175 billion dollars should be in these accounts, a number the Department has vigorously contested.

Today I am introducing a bill that I believe will end this lawsuit in a way to provide justice to individual Indian account holders and restore some sense of normalcy to the Interior Department.

Just as the Indian Claims Commission, the Trust Resolution Corporation, and the Volcker Committee on Swiss Bank Accounts helped resolve cases of highly complex, historical-based litigation, the bill I am introducing will establish a 9-member, expert-filled ''Indian Money Claims Satisfaction Task Force'' to develop alternative methodologies to arrive at account balances.

The bill also establishes the ''Indian Money Claims Tribunal'' to provide binding arbitration for any IIM holder that contests the account balance provided by the Task Force.

I look forward to the swift enactment of this bill and with it, an honorable conclusion to this sad and destructive chapter of Federal-Indian relations.

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

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

S. 1770

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 ''Indian Money Account Claim Satisfaction Act of 2003''.

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) since the 19th century, the United States has held Indian funds and resources in trust for the benefit of Indians;

(2) in 1996, a class action was brought against the United States seeking a historical accounting of balances of individual Indian money accounts;

(3) after 8 years of litigation and the expenditure of hundreds of millions of dollars of Federal funds, it is clear that the court-ordered historical accounting will require significant additional resources and years to accomplish and will not result in significant benefits to the members of the class; and

(4) resolving the litigation in a full, fair, and final manner will best serve the interests of the members of the class and the United States.

(b) PURPOSE.—The purpose of this Act is to provide a voluntary alternative claims process to reach settlement of the class action litigation in Cobell v. Norton (No. 96cv01285, D.D.C.).

SEC. 3. DEFINITIONS.

In this Act:

(1) ACCOUNTING.—The term ''accounting''—

(A) with respect to funds in an individual Indian money account that were deposited or invested on or after the date of enactment of the Act of June 24, 1938 as provided in the first section of that Act (25 U.S.C. 162a), means a demonstration, to the maximum extent practicable, of the monthly and annual balances of funds in the individual Indian money account; and

(B) with respect to funds in an individual Indian money account that were deposited or invested between 1887 and the day before the date of enactment of the Act of June 24, 1938, means a demonstration of the probable balances of funds in an individual Indian money account that were deposited or invested.

(2) CLAIM.—

(A) IN GENERAL.—The term ''claim'' means a legal or equitable claim that has been brought or could be brought, asserting any duty claimed to be owed by the United States under any statute, common law, or any other source of law to an individual Indian money account holder that pertains in any way to the account holder's account, including the duty to—

(i) collect and deposit funds in the account;

(ii) invest funds in the account;

(iii) make disbursements from the account;

(iv) make and maintain records of activity in the account;

(v) provide an accounting; and

(vi) value, compromise, resolve, or otherwise dispose of claims relating to the account.

(B) INCLUSION.—The term ''claim'' includes a claim for damages or other relief for failure to perform, or for improper performance of, any duty described in subparagraph (A).

(3) CLASS ACTION.—The term ''class action'' means the civil action Cobell v. Norton (No. 96cv01285, D.D.C.).

(4) DE MINIMIS INDIVIDUAL INDIAN MONEY ACCOUNT.—The term ''de minimis individual Indian money account'' means an individual Indian money account that contains less than $100.

(5) ELIGIBLE INDIVIDUAL.—The term ''eligible individual'' means—

(A) a living individual who is or has been an individual Indian money account holder, except any such individual whose account holds or held funds only from the distribution of a judgment fund or a per capita distribution; and

(B) the estate of a deceased individual who—

(i) was living on the date of enactment of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.); and

(ii) held an individual Indian money account on that date or at any time subsequent to that date, except any such individual whose account holds or held funds only from the distribution of a judgment fund or a per capita distribution.

(6) IMACS TASK FORCE.—The term ''IMACS Task Force'' means the Indian Money Account Claim Satisfaction Task Force established by section 4.

(7) INDIVIDUAL INDIAN MONEY ACCOUNT.—The term ''individual Indian money account'' means an account that contains funds held in trust by the United States, established and managed by the United States on behalf of an individual Indian.

(8) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(9) TRIBUNAL.—The term ''Tribunal'' means the Indian Money Claims Tribunal established by section 5.

SEC. 4. INDIAN MONEY ACCOUNT CLAIM SATISFACTION TASK FORCE.

(a) ESTABLISHMENT.—There is established the Indian Money Account Claim Satisfaction Task Force.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The IMACS Task Force shall be comprised of not fewer than 9 members, appointed jointly by the majority leader and minority leader of the Senate and the Speaker and minority leader of the House of Representatives.

(2) QUALIFICATIONS.—

(A) BACKGROUND.—Members of the IMACS Task Force shall be selected from private enterprise and academia and shall not be employees of the United States.

(B) EXPERTISE.—Of the members appointed to the IMACS Task Force—

(i) 2 shall have expertise in the field of forensic accounting;

(ii) 2 shall have expertise in the field of Federal Indian law;

(iii) 2 shall have expertise in the field of commercial trusts;

(iv) 1 shall have expertise in the field of mineral resources;

(v) 1 shall have expertise in the field of economic modeling and econometrics; and

(vi) 1 shall have expertise in the field of complex civil litigation.

(3) IMACS TASK FORCE LEADER.—An IMACS Task Force Leader shall be chosen by majority vote of the members of the IMACS Task Force.

(c) COMPENSATION AND TRAVEL EXPENSES.—A member of the IMACS Task Force shall be entitled to—

(1) compensation, at a rate that does not exceed the daily equivalent of the annual rate of basic pay prescribed under level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day the member is engaged in the performance of duties the IMACS Task Force; and

(2) travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service under section 5703 of title 5, United States Code.

(d) INFORMATION AND SUPPORT.—The Secretary of the Interior shall provide the IMACS Task Force—

(1) access to all records and other information in the possession of or available to the Secretary relating to individual Indian money accounts; and

(2) such personnel, office space and other facilities, equipment, and other administrative support as the IMACS Task Force may reasonably request.

(e) CONFIDENTIAL INFORMATION.—Section 10(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the IMACS Task Force.

(f) DUTIES.—

(1) IN GENERAL.—The IMACS Task Force shall—

(A) not later than 1 year after the date of enactment of this Act, complete an analysis of records, data, and other historical information with regard to the conduct of an historical accounting submitted by the parties in the class action to the district court in January 2003; and

(B) not later than 60 days after completing the analysis under subparagraph (A), hold meetings with representatives of—

(i) the plaintiffs in that civil action;

(ii) the Department of Justice and the Department of the Interior; and

(iii) any other parties that, in the discretion of the IMACS Task Force, are necessary to allow the IMACS Task Force to carry out its duties under this Act.

(2) ACCOUNT BALANCES.—

(A) METHODOLOGIES OR MODELS.—The IMACS Task Force shall develop 1 or more appropriate methodologies or models to conduct an accounting of the individual Indian money accounts.

(B) DETERMINATION.—Using methodologies or models developed under subparagraph (A), the IMACS Task Force shall conduct an accounting to determine in current dollars the balances of—

(i) first, all individual Indian money accounts opened in or after 1985;

(ii) second, all individual Indian money accounts opened on or after the date of enactment of the first section of the Act of June 24, 1938 (25 U.S.C. 162a), and before 1985; and

(iii) third, all individual Indian money accounts opened before the date of enactment of the first section of the Act of June 24, 1938 (25 U.S.C. 162a).

(C) NOTICE OF DETERMINATION.—On making a determination of the balance in the individual Indian money account of an eligible individual, the IMACS Task Force shall provide notice of the determination to the eligible individual and the Secretary.

(g) ACCEPTANCE OR NONACCEPTANCE BY ELIGIBLE INDIVIDUAL.—

(1) ACCEPTANCE.—If an eligible individual accepts the determination by the IMACS Task Force of the balance in the individual

Indian money account of the eligible individual—

(A) not later than 60 days after the date on which the eligible individual receives notice of the determination, the eligible individual shall submit to the Secretary a notice that the eligible individual accepts the determination of the balance;

(B) not later than 30 days after the Secretary receives the notice of acceptance under subparagraph (A), the Secretary shall make any adjustment in the records of the Secretary to reflect the determination;

(C) based on the adjustment made pursuant to paragraph (B), the Secretary shall make full payment to the eligible individual of the balance in the individual Indian money account of the eligible individual in satisfaction of any claim that the individual may have;

(D) the eligible individual shall provide the Secretary an accord and satisfaction of all claims of the eligible individual, which shall be binding on any heirs, transferees, or assigns of the eligible individual; and

(E) the eligible individual shall be dismissed from the class action.

(2) NONACCEPTANCE.—If an eligible individual does not accept the determination by the IMACS Task Force of the balance in the individual Indian money account of the eligible individual, the eligible individual may—

(A) have the amount of the balance determined through arbitration by the Tribunal; or

(B) remain a member of the class in the class action.

SEC. 5. INDIAN MONEY CLAIMS TRIBUNAL.

(a) ESTABLISHMENT.—There is established the Indian Money Claims Tribunal.

(b) MEMBERSHIP.—The Tribunal shall be comprised of 5 arbitrators drawn from the list of arbitrators maintained by the Attorney General.

(c) ELECTION TO ARBITRATE.—If an eligible individual elects to have the amount of the balance in the individual Indian money account determined through arbitration by the Tribunal—

(1) not later than 60 days after receiving the notice of determination under section 4(f)(2)(C), the eligible individual shall submit to the Tribunal, in such form as the Tribunal may require, all claims of the eligible individual, with an agreement to be bound by any determination made by the Tribunal; and

(2) the United States shall be bound by any determination made by the Tribunal.

(d) REPRESENTATION.—

(1) IN GENERAL.—An eligible individual may be represented by an attorney or other representative in proceedings before the Tribunal.

(2) ATTORNEY'S FEE.—No legal representative retained by an eligible individual for purposes of proceedings before the Tribunal may collect any fee, charge, or assessment that is greater than 25 percent of the amount of the balance in the individual Indian money account of the eligible individual determined by the Tribunal.

(e) TIMING.—To the extent practicable, the Tribunal shall—

(1) schedule any proceedings necessary to determine a claim to occur not later than 180 days after the date on which the eligible individual submits the claim; and

(2) make a determination of the claim, and provide the eligible individual and the Secretary notice of the determination, not later than 30 days after the conclusion of the proceedings.

(f) ACTION FOLLOWING DETERMINATION.—Not later than 30 days after the Secretary receives the notice of determination under subsection (e)(2)—

(1) the Secretary shall make any adjustment in the records of the Secretary to reflect the determination;

(2) based on the adjustment made pursuant to paragraph (1), the Secretary shall make full payment to the eligible individual of the balance in the individual Indian money account of the eligible individual in satisfaction of any claim that the eligible individual may have;

(3) the individual Indian money account of the eligible individual shall be closed;

(4) the eligible individual shall provide the Secretary an accord and satisfaction of all claims of the eligible individual, which shall be binding on any heirs, transferees, or assigns of the eligible individual; and

(5) the eligible individual shall be dismissed from the class action.

SEC. 6. JUDGMENT FUND AVAILABILITY.

The funds for any payment made pursuant to section 4(g)(1)(C) or 5(f)(2) shall be derived from the permanent judgment appropriation under section 1304 of title 31, United States Code (commonly known as the ''Judgment Fund''), without further appropriation.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) to carry out section 4, $10,000,000 for each of fiscal years 2004 and 2005; and

(2) to carry out section 5, $10,000,000 for each of fiscal years 2006 and 2007.

By Ms. SNOWE (for herself and Mr. CONRAD):

S. 1771. A bill to amend title XIX of the Social Security Act to permit States to obtain reimbursement under the Medicaid program for care or services required under the Emergency Medical Treatment and Active Labor Act that are provided in a nonpublicly owned or operated institution for mental diseases; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce the Medicaid Psychiatric Fairness Act of 2003, which will serve to improve access to mental health treatment and remove an unfunded mandate on our private mental health treatment centers. I am particularly pleased to introduce this bill with my good friend and colleague, Senator CONRAD, who like me believes we must improve access to treatment for many of the 18.5 million Americans who are afflicted with a mental health disorder.

Moving one step closer to achieving this laudable goal, our bill will require the Medicaid program to provide reimbursement to private mental health facilities that receive patients under the Emergency Medical Treatment and Labor Act, known as EMTALA. EMTALA requires hospitals to provide emergency care to patients, regardless of their ability to pay. However, this stands in conflict with Medicaid law, which in most cases prohibits payment for psychiatric treatment for people between the age of 21 to 65 years. Our bill takes the critically important step to provide Medicaid coverage for emergency treatment, which will expand access for acute care and will ensure that Americans receive the assistance they vitally need in a timely fashion.

Under current law, Medicaid payment for psychiatric treatment for patients between the age of 21 and 65 years is restricted to hospitals that have an in-house psychiatric ward. If a patient seeks care from a private psychiatric hospital or is transferred to a private facility from a community hospital that does not have a psychiatric treatment ward, Medicaid payment is not provided. In comparison, if that same patient seeks care under EMTALA from a hospital because of a physical ailment, Medicaid provides coverage regardless of the type of facility that provides the treatment. By introducing this bill, we are taking a vitally important step toward removing an unfunded mandate on private providers that has served to limit access to care for millions of Medicaid recipients.

It also is important to note that the current situation is jeopardizing Medicaid recipients' access to emergency treatment, and ultimately is overwhelming our emergency rooms and in many cases the criminal justice system. The U.S. Department of Justice estimates that on average 16 percent of inmates in local jails suffer from a mental illness and in Maine, NAMI, a state advocacy group for persons with mental illness, estimates that figure is as high as 50 percent. This is the result of a severe shortage of psychiatric beds in Maine, and as a result many people go without treatment. Action must be taken to provide access to care and we must start by ensuring that Medicaid reimburses facilities that provide treatment.

Senator CONRAD and I have joined together in introducing our legislation that will require Medicaid to pay for the cost of care associated with psychiatric treatment necessary to comply with EMTALA. No longer will private entities be required to shoulder the burden of this federal mandate, and no longer will Medicaid eligible beneficiaries go without access to necessary emergency treatments.

In my home State of Maine, 65,000 people have a severe mental illness and could benefit from this bill. Ensuring that our community treatment facilities are appropriately paid, we will be able to open access to vitally important treatment options.

This bill has been carefully crafted with input from both the provider and beneficiary communities to ensure assistance is directed to those who are most in need and to ensure that the coverage only extends to people who require emergency treatment. We have tied the legislation to the EMTALA statute to ensure that this new requirement cannot be exploited.

Demonstrating the importance of this legislation, we have received support from a number of leading national mental health and medical associations, including NAMI, the National Association of County Behavioral Health Directors, the American Psychiatric Association, the American Hospital Association and the National Association of Psychiatric Health Systems. I am especially pleased to have also received endorsements from a number of Maine organizations, including the Maine Hospital Association, Maine chapter of NAMI, the State Department of Behavioral and Development Services and the Spring Harbor Hospital.

This legislative change is vitally important to ensure Medicaid patients have access to emergency mental health treatment. I want to thank Senator CONRAD for his help in crafting this policy and urge my colleagues to join us as cosponsors.

I ask unanimous consent that letters of support be printed in the RECORD.

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

NATIONAL ALLIANCE FOR THE MENTALLY ILL,
Arlington, VA, September 8, 2003.

Hon. OLYMPIA SNOWE,
Hon. KENT CONRAD,
U.S. Senate,
Washington, DC.

DEAR SENATORS SNOWE & CONRAD: On behalf of the 210,000 members and 1,200 affiliates of the National Alliance for the Mentally Ill (NAMI), I am writing to express support for your legislation to addressing the growing crisis in access to acute care services for non-elderly adults living with severe mental illness. As the nation's largest organization representing individuals with severe mental illness and their families, NAMI is pleased to support this important measure.

As NAMI's consumer and family membership knows first-hand, the acute care crisis for inpatient psychiatric care is growing in this country. This disturbing trend was identified in the recently released Bush Administration New Freedom Initiative Mental Health Commission report. Over the past 15–20 years, states have closed inpatient units and drastically reduced the number of acute care beds. Also, general hospitals, due to severe budget constraints, have had to close psychiatric units or reduce the number of beds. This has resulted in a growing shortage of acute inpatient psychiatric beds in many communities.

Your proposed legislation would address an important conflict in federal policy that has contributed to restricted access to needed inpatient services—the Medicaid Institution for Mental Disease (IMD) Exclusion and the Emergency Medical and Labor Treatment Act (EMTALA). EMTALA requires hospitals to stabilize patients in an emergency medical condition, while the IMD exclusion prevents certain hospitals (psychiatric hospitals) from receiving Medicaid reimbursement for Medicaid beneficiaries between the ages of 21–64 in these circumstances.

Your legislation would allow Medicaid funding to be directed to non-publicly owned and operated psychiatric hospitals (IMDs) for Medicaid beneficiaries between the ages of 21–64 who require stabilization in these settings as required by EMTALA. Today, these hospitals are denied payment for care required under the EMTALA rules. The result is that psychiatric hospitals are forced to absorb these added costs of care to their already growing un-reimbursed care even though these patients have insurance through Medicaid.

This legislation will go a long way in addressing the growing psychiatric acute inpatient crisis, while creating fairness in the reimbursement structure for psychiatric hospitals under the limited circumstances required by the EMTALA law. Your leadership in carefully crafting and introducing this targeted legislation addressing a critical problem for persons with serious mental illnesses is much appreciated. NAMI looks forward to working with you and your Senate colleagues to ensure passage of this important legislation.

Sincerely,

RICHARD E. BIRKEL,
Executive Director.

THE NATIONAL ASSOCIATION OF COUNTY BEHAVIORAL HEALTH DIRECTORS,
Washington, DC, September 5, 2003.

HON. OLYMPIA SNOWE,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR SNOWE: The National Association of County Behavioral Health Directors (NACBHD), which is the behavioral health affiliate of the National Association of Counties (NACo), is writing to strongly support the legislation you are introducing to alleviate the crisis in access to acute hospital inpatient psychiatric services. A lack of acute inpatient services was recently highlighted in President Bush's New Freedom Commission on Mental Health report and is a problem in many counties. In twenty of the most populous States, counties have the designated responsibility to plan and implement mental health services.

Over the past 20 years most states have closed many of their state hospitals and returned these patients to the community for care. General hospitals have over the past 10–15 years begun to close psychiatric inpatient units due to cost restraints and the fact that general medical/surgical beds are more profitable. Freestanding psychiatric hospitals have been significantly reduced due to the reduction in reimbursements brought about with the advent of managed care. Over all, the availability of acute psychiatric beds, in many states, has decreased dramatically in the last 10 years. Given the shortage of inpatient acute beds, many individuals with serious psychiatric disorders end up in county jails or homeless rather than receiving basic psychiatric services in hospital.

Your legislation specially addresses the conflict in Federal between the Medicaid Institution for Mental Disease Exclusion (IMD) and the Emergency Medical and Labor Treatment Act (EMTALA). EMTALA requires hospitals to stabilize patients with emergency medical conditions. However, if freestanding psychiatric hospitals receive direct admissions of Medicaid eligible patients or if receive transfers from general hospitals whose psychiatric units are full under EMTALA regulations, they can't receive reimbursement under Medicaid because of the IMD exclusion.

The Snowe-Conrad legislation would allow Medicaid funding to non-publicly owned and operated psychiatric hospitals (IMD's) for Medicaid beneficiaries between the ages of 21–64 who require medical stabilization in these settings as required by EMTALA. Currently, these hospitals are denied payment for care required under the EMTALA rules and clearly represents an unfunded mandate to these hospitals.

The IMD exclusion also prevents counties from contracting with psychiatric hospitals, which are considerably less expensive, for care for the seriously mentally ill. This legislation would assist in creating fairness in the reimbursement structure for psychiatric hospitals under the current EMTALA law.

The National Association of County Behavioral Health Directors appreciates your leadership in introducing this specific legislation that will address this inherent conflict in Federal requirements and will assist in promoting access to acute psychiatric inpatient services. We look forward to working with you and your colleagues in getting this legislation passed through this Congress.

Sincerely,

THOMAS E. BRYANT,
Executive Director.

AMERICAN PSYCHIATRIC ASSOCIATION,
Arlington, VA, October 17, 2003.

Hon. OLYMPIA SNOWE,
Russell Senate Office Building,
U.S. Senate, Washington, DC.

DEAR SENATOR SNOWE: On behalf of the 38,000 physician members of the American Psychiatric Association (APA), and most particularly on behalf of the patients they treat, please accept my thanks for your Senate sponsorship of the Medicaid Psychiatric Hospital Fairness Act of 2003.

The Emergency Medical and Labor Treatment Act, which requires hospitals to stabilize patients in an emergency medical condition, directly conflicts with the Medicaid Institution for Mental Diseases (IMD) exclusion. The IMD exclusion prevents non-public psychiatric hospitals from receiving Medicaid reimbursement for Medicaid patients between the ages of 21–64 that have required stabilization as a result of EMTALA regulations.

Your legislation will allow non-public psychiatric hospitals to receive appropriate reimbursement for Medicaid beneficiaries between the ages of 21–64 who require emergency treatment and stabilization as required by EMTALA.

Thank you for your foresight and leadership in your sponsorship of the Medicaid Psychiatric Hospital Fairness Act of 2003. Thanks are also due to the outstanding work by Catherine Finley, who ably represents you. The APA looks forward to working with you to make your bill a reality this year.

Sincerely,

MARCIA GOIN,
President.

AMERICAN HOSPITAL ASSOCIATION,
Washington, DC, October 17, 2003.

Hon. OLYMPIA SNOWE,
U.S. Senate,
Washington, DC.

DEAR SENATOR SNOWE: On behalf of the American Hospital Association's (AHA) nearly 5,000 member hospitals, health care systems, networks and other providers of care, I am writing to express our support for your bill, the Medicaid Psychiatric Hospital Fairness Act of 2003.

The Emergency Medical and Labor Treatment Act (EMTALA) requires hospitals to stabilize patients in an emergency medical condition including psychiatric hospitals. At the same time the Medicaid program, through the Institution for Mental Diseases (IMD) exclusion, prevents non-public psychiatric hospitals from receiving Medicaid reimbursement for Medicaid patients between the ages of 21–64 that require stabilization. These hospitals are burdened with an unfunded mandate in fulfilling their EMTALA obligations for this patient population.

Your legislation will allow non-public psychiatric hospitals to receive appropriate reimbursement for Medicaid beneficiaries between the ages of 21–64 who require emergency treatment and stabilization as required by EMTALA. This will relieve overcrowding in emergency departments and provide the appropriate care these patients deserve in a more timely manner.

Thank you for addressing this important issue. We support the Medicaid Psychiatric Fairness Act of 2003 and look forward to working with you and your colleagues to ensure swift passage of this legislation.

Sincerely,

RICK POLLACK,
Executive Vice President.

NATIONAL ASSOCIATION OF PSYCHIATRIC HEALTH SYSTEMS
Washington, DC, September 10, 2003.

Hon. OLYMPIA SNOWE,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR SNOWE: The National Association of Psychiatric Health Systems (NAPHS) strongly supports your legislation to alleviate the crisis in acute hospital services for persons with mental illnesses. NAPHS represents provider systems that are committed to the delivery of responsive, accountable, and clinical effective prevention, treatment, and care for children, adolescents, adults, and older adults with mental and substance use disorders. Members are behavioral healthcare provider organizations, including 300 specialty hospitals, general hospital psychiatric and addiction treatment units, residential treatment centers, youth services organizations, partial hospital services, behavioral group practices, and other providers of a full continuum of care.

Mental illness ranks first among all illnesses that cause disability in the United States, with about 5% to 7% of adults suffering from a severe mental illness in any given year. For those who are acutely ill, short-term psychiatric care provides stabilization and is a critical component of community-based care.

After reviewing reports and listening to testimony over the past year, the President's New Freedom Commission on Mental Health identified the lack of acute care as a serious concern. The Commission noted that many communities are experiencing severe problems with access to short-term inpatient care—with some areas reporting that the shortage has risen to crisis proportions. the result is that many emergency rooms are overwhelmed with patients in extreme psychiatric distress who have nowhere to go. I am attaching a report prepared by NAPHS on acute care that provides additional details on this issue for your review.

Your legislation will resolve an unintended and unfair conflict in federal law that has negatively impacted access to acute care. Currently, the Emergency Medical Treatment and Labor Act (EMTALA) provides that hospitals stabilize patients in an emergency medical condition, while Medicaid's Institution for Mental Disease (IMD) provision prohibits psychiatric hospitals from seeking reimbursement for services for beneficiaries between the ages of 21 to 64. General hospitals with psychiatric beds are not subject to the IMD exclusion.

The Snowe-Conrad legislation would increase access to acute care by allowing psychiatric hospitals to bill Medicaid for reimbursement just as general hospitals do for EMTALA patients who are Medicaid-eligible. We look forward to working with you and your colleagues on this important and timely piece of legislation.

Sincerely,

MARK COVALL,
Executive Director.

MAINE HOSPITAL ASSOCIATION,
Augusta, ME, October 20, 2003.

Hon. OLYMPIA SNOWE,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR SNOWE: On behalf of the Maine Hospital Association's 28 acute-care and specialty hospitals, I am writing in support of your bill, the Medicaid Psychiatric Hospital Fairness Act of 2003.

As you know, the Medicaid program, through the Institution for Mental Diseases (IMD) exclusion, prevents non-public psychiatric hospitals from receiving Medicaid reimbursement for Medicaid patients between the ages of 21–64 who require stabilization. When the Federal Government created Medicaid they prohibited Medicaid funding for services at IMDs because Washington viewed mental health services to be the responsibility of the State—particularly since at that time most psychiatric hospitals were State-owned hospitals. The Federal Government did provide funding through the DSH–IMD (Disproportionate Share Hospital Fund for Institutes for Mental Disease). Initially these funds were used solely by the private IMDs, however, in 1991, Maine, in response to a severe budget shortfall, began to shift costs associated with Augusta Mental Health Institute (AMHI) and Bangor Mental Health Institute (BMHI) into the Federal DSH–IMD pool rather than funding those costs with all general fund dollars.

In the mid-1990s the State passed a rule that entitled AMHI and BMHI to be paid first out of the DSH–IMD pool leaving the remainder for the two private hospitals. With a declining Federal cap on the DSH–IMD pool and increasing hospital expenses, there was less and less money with which to reimburse the two private psychiatric hospitals for services provided to this indigent population.

Maine has two private psychiatric hospitals: Spring Harbor Hospital in South Portland and The Acadia Hospital in Bangor. For fiscal year 2000, Acadia had inpatient admissions of 1,731 and Spring Harbor had 2,047. Both hospitals also provide a significant amount of outpatient services.

The two private hospitals play a pivotal role in the delivery of mental health services especially for low-income individuals. As the State has desired to encourage greater behavior services within communities, the Department of Behavioral and Developmental Services worked with both of these hospitals to increase the number of beds and services available to allow for certain patients to be placed in these hospitals rather than the State institutes. The inability of these two hospitals to effectively meet these patient needs would have a detrimental impact throughout the State especially because communities are already stressed attempting to develop needed community-based services.

Your legislation will allow non-public psychiatric hospitals to receive appropriate reimbursement for Medicaid beneficiaries between the ages of 21–64 who require emergency treatment and stabilization as required by EMTALA. This will relieve overcrowding in emergency departments and provide the appropriate care these patients deserve in a more timely manner.

Thank you for addressing this important issue. We support the Medicaid Psychiatric Hospital Fairness Act of 2003 and look forward to working with you and your colleagues to ensure swift passage of this legislation.

Sincerely,

STEVEN MICHAUD,
President, Maine Hospital Association.

NAMI MAINE,
August 29, 2003. Augusta, ME,

Senator OLYMPIA SNOWE,
U.S. Senate,
Portland, ME

DEAR SENATOR SNOWE: I am pleased to write this letter in support of legislation that would allow Spring Harbor Hospital to receive reimbursement for emergency psychiatric stabilization services to Medicaid-eligible patients between the ages of 21 and 64 under the Emergency Medical Treatment and Labor Act (EMTALA).

Chronic metal illness is a disease of impoverishment. Chronic mental health patients who need psychiatric stabilization within an acute-care setting usually are eligible for either charity care of Medicaid funding. Since Spring Harbor Hospital serves a population that by virtue of its illness is financially challenged, it strikes me as inequitable that they should also be denied reimbursement for acute stabilization services provided to Medicaid-eligible adults under EMTALA. Often during the last three years, I have trained Maine's jails to understand EMTALA laws and send suicide inmates to the hospital, rather than admit them to jail. With 30–50% of Maine's jail inmates having mental illness, this places an additional burden on hospitals like Spring Harbor Hospital.

I understand that care for this population in 2002 represented nearly 30% of Spring Harbor's adult psychiatric treatment at a cost of close to $7 million. I also know that Spring Harbor is increasingly viewed by the community as the place where Medicaid-eligible adults who cannot afford to pay for their acute psychiatric stabilization can referred—no question asked. And this is where the benefits of EMTALA turn problematic.

No business—and certainly not a nonprofit organization—can provide $7 million in non-reimbursable services without eventually jeopardizing its financial viability. And this is what concerns NAMI the most: that there will be an even greater lack of acute impatient stabilization services in Maine for the chronic and severely mentally ill individuals who most need-but can least afford—them.

I am hopeful that a legislative solution can be passed that will support Spring Harbor's ability to continue serving people with mental illness, both in keeping with EMTALA and yet without the inequitable financial burden that threatens the long term availability of these services in Maine. Please let me know what more I can do to support this legislation.

Sincerely,

CAROL CAROTHERS,
Executive Director,

STATE OF MAINE, DEPARTMENT OF BEHAVIORAL AND DEVELOPMENTAL SERVICES,
Augusta, ME, August 29, 2003.

Senator OLYMPIA J. SNOWE,
Russell Office Building,
Washington, DC.

DEAR SENATOR SNOWE: I would like to thank you for your insight and understanding of one of the problems confronting Maine's Mental Health System, reflected in your drafting legislation to amend Title XIX of the Social Security Act permitting Medicaid reimbursement to IMD's for services required under EMTALA.

Currently, as you know, non-public community hospitals, designated as Institutes for Mental Disease (IMD), cannot receive Medicaid reimbursement if a patient (age 22–64) is admitted under the EMTALA Laws. This prohibition is, I believe, inconsistent with the intent of the EMTALA regulations, places the IMD's in some financial jeopardy, and fails to recognize the critical role the non-public IMDs play in Maine's Mental Health System of care.

The State of Maine has 2 non-public designated IMD facilities; Spring Harbor Hospital located in South Portland; and Acadia Hospital, located in Bangor. These two facilities in partnership with the 2 State Psychiatric facilities, contain most of the high acuity psychiatric inpatient beds in Maine and as such, provide the safety net for Maine's Community mental health system. These 4 IMDs are constantly being called upon to take clients who can no longer be stabilized within the existing network of community hospitals. Yet those community hospitals, under current EMTALA law, get reimbursed (rightfully) for services under Medicaid. The IMD's however, cannot access Medicaid reimbursement for that same service and hence a financial inequity and burden is placed on these non-public IMD's. Your proposed draft legislation, which I have had the opportunity to review, alleviates that unfairness and will provide some financial support for Maine's 2 IMD hospitals.

I want to offer you my support in helping pass this bill. Please let me know if there is something I can do or information I can provide that would be helpful to get this bill passed.

Sincerely,

SABRA C. BURDICK,
Acting Commissioner.

SPRING HARBOR HOSPITAL, MAINE'S COMPREHENSIVE MENTAL HEALTH NETWORK,
South Portland, ME, August 26, 2003.

Hon. OLYMPIA J. SNOWE,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR SNOWE: On behalf of both Spring Harbor Hospital in Maine and the National Association for Psychiatric Healthcare Systems, I would like to thank you for supporting legislation to enable freestanding private psychiatric hospitals in the US to receive payment for the emergency stabilization services they provide each year to thousands of Medicaid-eligible adult clients under the Emergency Medical Treatment and Labor Act (EMTALA).

As you know, it is becoming increasingly difficult for freestanding private psychiatric facilities to absorb the cost of treating Medicaid-eligible adults between the ages of 21 and 64 who are referred to them for emergency stabilization under EMTALA. At Spring Harbor alone, the cost of serving this population last year was close to $7 million.

Faced with both diminishing reimbursement streams and a concurrent rise in demand for inpatient stabilization services from overflowing emergency rooms across the country, private freestanding psychiatric facilities are quite literally caught between a rock and a hard place. In Maine and in many other places, freestanding private psychiatric hospitals are protecting their financial health by offering fewer and fewer adult psychiatric services in the inpatient setting. This tactic simply skirts the issue and creates a further void of services for individuals with acute mental illness, precisely at a time when it is widely accepted that the availability of mental health services in this country is substandard.

When all is said and done, these financial figures pale in comparison to the ultimate cost to our society when these adults fail to receive the treatment they deserve. It has been estimated that the lifetime cost of providing for an individual with an untreated serious mental illness is $10 million. Though this figure includes the financial impact of lost work days and the cost of providing Social Security disability benefits, it does not even begin to speak to the emotional toll of mental illness on friends or the scars mental illness can have on loved ones for generations to come. If we could quantify these numbers adequately, I am certain that I would not need to be writing to you today.

In closing, I would like to acknowledge the receptiveness of your office and that of Senator Collins to issues concerning the plight of the one in four adults and one in ten children in the US who will experience a mental illness this year. It is high time that the issues surrounding this illness were addressed with understanding, compassion, and a concern for our country's long-term mental health. I am both pleased and proud that the Maine congressional delegation is leading the way on these critical issues.

Best regards,

DENNIS P. KING,
Chief Executive Officer/President, Natl. Assoc. of Psychiatric Healthcare Systems.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 248—EXPRESSING THE SENSE OF THE SENATE CONCERNING THE INDIVIDUAL INDIAN MONEY ACCOUNT TRUST FUND LAWSUIT

Mr. CAMPBELL (for himself, Mr. INOUYE, Mr. DOMENICI, and Ms. STABENOW) submitted the following resolution; which was referred to the Committee on Indian Affairs:

S. RES. 248

Whereas, in exchange for ceding hundreds of millions of acres of land and other valuable consideration by Indian tribes, the United States was obligated to protect Indian funds and resources;

Whereas, since the 19th century, the United States has held Indian funds and resources in trust for the benefit of Indians;

Whereas the Senate reaffirms that in continuing to hold and manage Indian funds and resources for the benefit of the Indians, the United States should act in accordance with the highest fiduciary standards;

Whereas in 1996, a class action was brought against the United States seeking a historical accounting of balances of individual Indian money accounts;

Whereas after 8 years of litigation and the expenditure of hundreds of millions of dollars in Federal funds, the Senate believes that continued litigation will not provide significant benefits to, or serve the interests of, the members of the class; and

Whereas, subsequent to the filing of the class action, the Indians and the United States have tried without success to reach settlement of the Indian claims: Now, therefore, be it

Resolved,

SECTION 1. SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) the interests of Indians and the United States would best be served by a voluntary alternative claims resolution process that will lead to a full, fair, and final settlement of potential individual Indian money account claims; and

(2) legislation is necessary to establish a voluntary alternative claims resolution process and achieve a full, fair, and final settlement of potential individual Indian money account claims.

AMENDMENTS SUBMITTED & PROPOSED

SA 1890. Mr. CAMPBELL submitted an amendment intended to be proposed by him to the bill S. 521, to amend the Act of August 9, 1955, to extend the terms of leases of certain restricted Indian land, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1890. Mr. CAMPBELL submitted an amendment intended to be proposed by him to the bill S. 521, to amend the Act of August 9, 1955, to extend the terms of leases of certain restricted Indian land, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 6 and insert the following:

SEC. 6. AUTHORIZATION OF LEASES OF RESTRICTED LAND FOR TERMS OF 99 YEARS.

The first section of the Act of August 9, 1955 (25 U.S.C. 415) (as amended by section 3), is amended by adding at the end the following:

''(h) AUTHORIZATION OF LEASES OF TRIBALLY OWNED RESTRICTED LAND FOR TERMS OF 99 YEARS.—

''(1) IN GENERAL.—Notwithstanding subsection (a), any restricted Indian land that is owned by an Indian tribe may be leased by the tribal owner, with the approval of the Secretary of the Interior, for a term of not longer than 99 years, for—

''(A) public, religious, educational, recreational, residential, or business purposes; and

''(B) any other purpose stated in subsection (a), unless the Secretary determines that the principal purpose of the lease is for—

''(i) exploration, development, or extraction of a mineral resource; or

''(ii) storage of materials listed as high level radioactive waste (as defined in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101)).

''(2) APPROVAL BY THE SECRETARY.—

''(A) TIMING.—The Secretary shall approve or disapprove a lease described in subsection (a) or an amendment to such a lease not later than the date that is 180 days after the date on which an application for approval of the lease or lease amendment is submitted to the Secretary.

''(B) FAILURE TO ACT.—If the Secretary fails to take action on an application for approval of a lease or lease amendment by the date specified in subparagraph (A), the Secretary shall be deemed to have approved the lease.''.

SEC. 7. BINDING ARBITRATION.

Section 2(c) of Public Law 89–715 (25 U.S.C. 416a(c)) is amended—

(1) in the first sentence—

(A) by inserting ''(including a sublease, substitute lease, or master lease)'' after ''Any lease''; and

(B) by inserting '', or any contract affecting land within the Salt River Pima-Maricopa Indian Community,'' after ''Reservation''; and

(2) in the second sentence, by striking ''entered into pursuant to such Acts''.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I announce that the Committee on Indian Affairs will meet on Wednesday, October 22, 2003, at 10 a.m. in Room 106 of the Dirksen Senate Office Building to conduct a hearing on the nomination of Mr. David W. Anderson to be the Assistant Secretary for Indian Affairs, U.S. Department of the Interior; to be followed immediately by a business meeting to consider pending committee business.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.