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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, January 4, 2005, at 12 noon.

Senate

WEDNESDAY, DECEMBER 8, 2004

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Faithful God, who stretches out the Earth above the waters, Your Name is great and Your goodness extends to all generations. Thank You for Your protection. You make wars to cease, destroying the weapons of those who fight against Your purposes. Today, guide our lawmakers with Your justice and keep them as the apple of Your eye. Instruct them in Your wisdom and hide them under the shadow of Your wings. Help them to find light in Your laws and knowledge in Your instructions. Give them patience as they grapple with issues and wisdom to seek Your guidance.

Bless and strengthen the many staffers who provide the wind beneath the wings of our leaders. Bring to them a bountiful harvest for their many months of faithful toil.

Bless all who mourn the loss of Stan Kimmitt. He will be greatly missed.

We pray this in Your holy Name. Amen.

NOTICE

If the 108th Congress, 2d Session, adjourns sine die on or before December 10, 2004, a final issue of the Congressional Record for the 108th Congress, 2d Session, will be published on Monday, December 20, 2004, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–60 or S–123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Monday, December 20. The final issue will be dated Monday, December 20, 2004, and will be delivered on Tuesday, December 21, 2004.

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By order of the Joint Committee on Printing.

ROBERT W. NEY, *Chairman.*

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will begin consideration of the conference report to accompany the intelligence reform bill. We have a number of Senators who desire to speak, and we hope to lock in a time for a vote later this afternoon. As announced last night—and again we will try to lock all of this in shortly, after discussion with the Democratic leadership—we are working toward beginning the vote sometime around 2 to 2:30 today. This will have to be adjusted depending on how many people do want to speak and how long they want to speak. We continue to have Members who are adjusting their schedules, who will be traveling today, and thus we will, in a very unusual fashion, keep the vote open until sometime around 5 or 5:15 today to accommodate individuals' schedules.

The actual time in terms of bringing the bill to the floor was dependent upon the House schedule, and as everyone knows, and our colleagues know, that bill was passed last night. We will shortly begin to address that bill here formally on the floor. Once all of our colleagues have had the opportunity to discuss the bill, we will proceed to the vote.

I expect later today, tonight, the Senate will adjourn sine die, and that will be following the disposition of the intelligence reform conference report. There will be additional wrap-up items that we will address, including some of the executive nominations before we close sine die.

INTELLIGENCE REFORM BILL

Mr. President, let me also say, with respect to the intelligence bill we will pass today, it is the most sweeping reform of our intelligence community since the beginning of the CIA. This is a huge accomplishment for the United States of America and for the U.S. Congress and, indeed, for the President of the United States, but most importantly for the American people whose safety and security are first and foremost in all of our minds.

The reform of our intelligence community is not going to end today, and we have seen that in the debates. In many ways this is a major leap forward, but we all understand in this changing environment that intelligence community reform and the strengthening and improving of our intelligence is an ongoing process, and debates and recommendations will continue well into the future. This body will continue to respond in an expeditious manner, as has been demonstrated over the last 4, 4½ months since the release of the 9/11 Commission report.

With the step that is going to be taken today in this body, our country will be safer from those plotting against us. The bill provides for much improved coordination, much improved communication within our intelligence community.

We have heard it argued by many people that it does not go far enough, and then we hear it argued that it goes too far. Again, it is not a perfect bill. There is never a perfect bill or piece of legislation that comes to this body, but it is a very strong bill, and we clearly are not going to let the perfect be the enemy of the good.

We must adapt. Our intelligence capabilities must adapt. By passage of this legislation, we demonstrate we are adapting and will adapt. But reform is an ongoing process.

I have a few more remarks to say on the intelligence bill, but let me turn to the assistant Democratic leader for comments about the schedule over the course of today, and then I will make a few more remarks.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The acting Democratic leader is recognized.

Mr. REID. Thank you, Mr. President.

TIME AGREEMENTS

Mr. REID. Mr. President, we are very close to being able to wrap up the time agreements on the most important legislation that is before us. Two efficient staff people are now typing as we speak. I think we should be able to vote around 3 o'clock or something like that. They are adding up the time now. Senator BYRD has indicated he wants 2 hours, leaving a half hour for the managers or the leader, if he wants that time before the vote. So we are almost there. Within a few minutes that should be able to be completed. I think we should get that done as quickly as we can.

DEATH OF STAN KIMMITT

Mr. REID. Mr. President, I just want to say one thing before we get into debate. I think it is appropriate today to mention the death of Stan Kimmitt. Stan died last night. We have had a lot of familiarity with him here. He was in the cloakroom yesterday. Some may not recognize him by name, some of the new people here, but he was a fixture on the Democratic side of the Senate.

He served for 11 years as Secretary of the majority under Senator Mansfield when he was the majority leader. He was also elected Secretary of the Senate from 1977 to 1981. He was well known.

He was a World War II combat veteran, and he spent 25 years in the Army. He served in combat in both Korea and the European theater. He was awarded the Silver Star and the Legion of Merit.

I am not going to dwell on this other than to say it is people like him who have such a love for this institution they have worked in, that even though they leave, they are back. He had a very good business downtown but came here all the time.

As the Chaplain in his prayers talks about the Senate family, Stan Kimmitt was truly a part of the Senate family. I express my condolences on behalf of the entire Senate to his wife and his family.

The PRESIDENT pro tempore. The majority leader is recognized.

THE INTELLIGENCE REFORM BILL

Mr. FRIST. Mr. President, today is a signature day in what has been a Congress of milestone achievements. Our last vote this year will be on one of the most consequential legislative initiatives of this session, intelligence reform. The road to this moment has been filled, as we have all witnessed and participated in, twists and turns. Our hearts still run with the emotions of the attacks on our Nation on 9/11. Our sorrow became our resolve to protect our homeland with all of the tools that could possibly be at our disposal.

Under the President's leadership, al-Qaida was chased from Afghanistan, and that country was freed. To head off an imminent threat, our country toppled Saddam Hussein from his dictatorship in 3 short weeks.

To begin the process of making our country safer here at home, we created the Department of Homeland Security. And now we take another large step forward—not the last, but another large step forward—by recognizing that our intelligence community needed reorganization, responding to that reorganization, and doing that reorganization for the first time in 50 years. Change is never easy—the summer and fall have been proof of that maxim—but big change is on the way for our intelligence community, change that will serve our country to make it safer and more secure.

I can't credit enough the careful and thorough work of the chairman of the Senate Governmental Affairs Committee. At my request she cancelled all summer plans and, with her counterpart on the Senate Governmental Affairs Committee, Senator LIEBERMAN,

began work immediately on this critical project, literally hours after the 9/11 Commission issued its report. From beginning to end she has brought her talents and skill to an extremely difficult issue. Chairman SUSAN COLLINS demonstrated tremendous leadership. The Senate and the Nation are in her debt.

This day cannot go by without also thanking many other Members: Senator LIEBERMAN, the ranking member; members of the Governmental Affairs Committee, and the Senate conferees; Senator WARNER, who stepped in to lend an able hand in this last week; Senator JON KYL, whose patience has been remarkable; Senator TED STEVENS, our very experienced hand who has dealt with all of the programs under review in this bill for decades and whose continued interest and leadership and focus on implementation of this bill will be absolutely critical; Senator TOM DASCHLE, who joined hands with me and said right after the report was released that we would work together in a bipartisan way to generate a complex bill in a responsive, expeditious way that would respond to the recommendations put forth by the 9/11 Commission.

That product has been developed and will be delivered to this body shortly and will be voted on this afternoon. The legislation is not perfect. It does not solve every problem. But the legislation was not designed to solve every problem. Specific problems were identified by the work of the Commission and Congress in reviewing operations in the intelligence community in the years leading up to the 9/11 attacks. To the best of our ability, we have produced legislation that, with the visionary leadership from the President and his Cabinet, will serve to make America safer.

I can't emphasize that last point enough. Today we are safer than we were before 9/11, but we are not yet safe. Active and engaged Americans around the world and here at home are our first and our best line of defense against a philosophy that seeks and is committed to doing us harm. This legislation is an important tool in a war against terrorism, but it is not one-stop shopping for our country's needs. It should help in making sure that our intelligence assets are deployed wisely, that information developed is shared broadly, that our strategy to fight this war evolves effectively, and it will accomplish those things.

The families who lost their parents, their children, their relatives, their close friends on that tragic day in New York and Pennsylvania and Washington, all deserve our constant dedication in the Congress to buttress the war on terror. This conference report is our latest contribution, not our final contribution, to that conflict. No one should have to suffer the horror and anguish of the 9/11 events again.

I will close by saying that when we act later today, we will have acted on that hope. We will have kept our charge as Members to stand on behalf of America in her defense. And we will have stood and made a lasting difference that is a fitting capstone to the 108th Congress.

I thank all Members for their patience. I appreciate them for their diligence and dedication since the end of July, working nonstop to bring this bill to the floor and ultimately see it through to passage today and later signature by the President of the United States.

INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004—CONFERENCE REPORT

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to consideration of the conference report to accompany S. 2845 which the clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2845) to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes, having met, have agreed that the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment, and the House agree to the same, signed by a majority of the conferees on the part of both Houses.

(The conference report is printed in the House proceedings of the RECORD of December 7, 2004.)

The PRESIDENT pro tempore. The majority leader.

Mr. FRIST. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRIST. Mr. President, in a discussion with the Democratic leadership, we have come to an agreement that gives us a pretty good template for the organization during the course of the day. This will be useful, and I will ask unanimous consent shortly to allocate time for the people who have come forward and said they would like to speak prior to the vote.

As part of this, the managers will have time right before the vote—up to 30 minutes, but probably that much time will not be used before the vote—to add closing statements.

I ask unanimous consent that debate on the conference report be limited to the list below:

Senator COLLINS will be controlling 45 minutes; Senator LIEBERMAN, 45 minutes; Senator BYRD, 120 minutes, to begin at 12:30 p.m.; Senator STEVENS, 5 minutes; Senator ROBERTS, 10 minutes; Senator ROCKEFELLER, 10 minutes; Senator DURBIN, 15 minutes; Senator WARNER, 30 minutes; Senator LEVIN, 15 minutes; Senator GRAHAM of Florida, 15 minutes; Senator COLEMAN, 10 minutes; Senator CARPER, 5 minutes; Senator SPECTER, 20 minutes, and his comments will follow Senator LIEBERMAN's comments this morning.

I further ask that following the use or yielding back of the time, the Senate proceed to a vote on the adoption of the conference report, with no intervening action or debate.

Mr. REID. Mr. President, reserving the right to object, I will ask a couple of things: One, that the time for quorum calls run off of the time equally against everybody. I suggest that those people who have time come over and use it. Senator BYRD will be here at 12:30. That time is locked in for 2 hours. I think this is fair and reasonable. I will also ask the distinguished majority leader if we will be able to—this vote is not close or controversial in any way, and nobody is trying to do anything untoward. People on both sides may not be here at whatever time the vote begins.

The PRESIDENT pro tempore. Is the Senator asking that the time be charged against all those who have time, or just against—

Mr. REID. I ask unanimous consent that the quorum calls—when they are in effect—be charged against everyone except Senator BYRD at 12:30. After 12:30, it would be charged against him also. So the time during quorum calls I ask be charged against all speakers equally. Otherwise, we are going to wind up with more people——

The PRESIDENT pro tempore. The Chair is constrained to ask the Senator to modify that. The occupant of the Chair has asked for 5 minutes. That could entirely wipe out the amount of time I have allocated to me.

Mr. REID. It would not if it is done on a proportionate basis. Well, if the vote does not occur until 7 o'clock, I don't really care. I will withdraw that request and we will let things fall where they may.

Mr. FRIST. Mr. President, for clarification, this is a plea to our colleagues to be here and be speaking on the floor of the Senate. We are trying to do an awful lot, so we can start the vote around 3 o'clock. It will likely finish around 5:15. In order to accomplish that, we cannot be sitting in quorum calls. We need the people wishing to speak to be here on time and to be available. Check with the managers.

The PRESIDENT pro tempore. May the Chair suggest that the time for quorum calls be charged against the next person in line to speak and put these speakers in order?

Mr. FRIST. Mr. President, since we have not talked to each individual, I don't want them necessarily to have to come in this order. I think we can leave it with the understanding that we need speakers here to work with the floor managers and to have no down time over the course of the morning and, if so, we are going to ask people to try to shorten their remarks.

Mr. REID. Parliamentary inquiry, Mr. President: If in fact we don't lock in a time for the vote, and Senators decide not to come and speak, we cannot have a vote until they finish their time; is that right?

The PRESIDENT pro tempore. I am informed that if one Senator does not appear, or does not use his or her allocated time, that will not delay the Senate from voting at the time specified.

Mr. REID. Well, so there is no confusion, it is my understanding this adds up to about 3:45 this afternoon.

The PRESIDENT pro tempore. The Chair is so warned by the Parliamentarian not to have a debate with the Senator, but the Senator is correct.

Mr. REID. Mr. President, I ask unanimous consent that the vote occur no later than 4 o'clock, and that it could occur more quickly if the time is used up.

The PRESIDENT pro tempore. Is there objection to the leader's request as modified?

Mr. SPECTER. Mr. President, for clarification, I will follow Senator LIEBERMAN for 20 minutes. So it is Senator COLLINS and Senator LIEBERMAN, and then I am up for 20 minutes?

The PRESIDENT pro tempore. The Senator is correct. The Chair's understanding is that this becomes the order for Senators to speak.

Mr. FRIST. No, Mr. President. We have no specific order. The unanimous consent request was granted that Senator SPECTER follow Senator LIEBERMAN, and that is the only specific request. The order, otherwise, has not been determined. Senator COLLINS will speak, then Senator LIEBERMAN and Senator SPECTER.

Mr. REID. Reserving the right to object, Senator DURBIN would like to speak after Senator SPECTER.

The PRESIDENT pro tempore. Is there objection? Without objection, the modified request is agreed to.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Maine.

Ms. COLLINS. Mr. President, in New England, we have an old expression: The difficult we do immediately; the impossible takes us a little longer.

The Intelligence Reform and Terrorism Prevention Act of 2004 before us today at times seemed to be an impossible goal. So it took us a little bit longer. It has been a long and arduous journey to reach this point today, but the extraordinary perseverance of the 9/11 Commission, the families of the victims of the attacks on our country, the conferees, our talented staff, our leaders, and, most of all, the President of the United States brought us to this point today.

We would not be at this historic moment without the informed, strong, and bipartisan leadership of my good friend, the Senator from Connecticut, Mr. LIEBERMAN. I am deeply grateful to him for his leadership and for working in partnership with me.

When Senator LIEBERMAN and I were first assigned this task by our Senate leaders back in late July, we pledged to work together and to recognize that when it comes to matters of national security, there is no place for partisanship. We worked from the very beginning to forge a bipartisan bill, and I am very pleased that the conference agreement we bring before the Senate today is a bipartisan agreement. I am confident that later today it will receive a strong bipartisan vote. But it was Senator LIEBERMAN's determination, his leadership, and his commitment to this cause that made it possible. It has been a great pleasure to work with him, and I look forward to many future collaborations.

I am also very proud of all of our colleagues on the Homeland Security and Governmental Affairs Committee. They worked so hard. From the very first hearing that we held in late July to the completion of the conference agreement over the weekend, they were there every step of the way. No leaders of a conference could ever have had more devoted and dedicated conferees than Senator LIEBERMAN and I had.

We were also fortunate to be blessed with an outstanding staff. Both Senator LIEBERMAN's staff, and my staff, headed by Michael Bopp, have worked countless hours over the last 4½ months. They sacrificed family vacations, and they have sacrificed a great deal of sleep. They have been here night and day working because they so believed in this legislation. We could not have done it without them.

On the House side, I want to thank Speaker HASTERT. His chief of staff devoted hundreds of hours to assisting in these negotiations. Congressman PETE HOEKSTRA and Representative JANE HARMAN led the conferees on the House side. They did outstanding work. They were absolutely committed to the principle of crafting legislation that would make America safer and more secure.

Throughout this process, President Bush has provided outstanding leadership. I would say that without the help of the President of the United States and his Vice President, we would not be here today. Their intervention at critical points throughout the debate was absolutely essential in helping us to forge the compromises that were necessary to move this bill along.

We all owe a great debt to the members and the staff of the 9/11 Commission. I have worked very closely with the chairman and vice chairman, Gov. Tom Kean and former Representative Lee Hamilton. The work they did, their leadership, their investigations, their interviews of 1,200 people in 10 countries provided a solid foundation for the recommendations they made and for the reforms included in this bill.

I am very pleased that we have their endorsement. They said:

> We believe this is a good bill and a strong bill. We believe it will make our country safer and more secure. We also believe that the essential elements of the Commission's recommendations remain intact. We are of the firm view what this conference report deserves the support of the House and the Senate.

But, Mr. President, perhaps the greatest debt of all is owed to the families of the 9/11 victims. In their profound loss, they found courage and determination. Their knowledge has contributed greatly to our debate, and their passion constantly reminded us of why we are here and what is at stake. They never let us give up. They refused to let us fail.

I am grateful to Senator FRIST and Senator DASCHLE for assigning our committee this important task. They showed great confidence in us, and I am pleased we did not let them down.

This legislation addresses the alarming flaws in our national intelligence structure that were so horribly and painfully exposed on that black September morning more than 3 years ago. It does what nearly a half century of studies and legislation calling for intelligence reform failed to do. It is legislation whose time has finally come.

The legislation implements the major recommendations of the 9/11 Commission. We are rebuilding a structure that was designed for a different enemy in a different time, a structure that was designed for the Cold War and has not proved agile enough to deal with the threats of the 21st century.

We have transformed that structure into one with the agility needed to respond to international terrorism, rogue states, the proliferation of weapons of mass destruction, and the other challenges and threats of the 21st century.

The legislation reforms the intelligence community and it gives us the tools to respond to threats of which we may not even be aware at this point.

It is fitting that this legislation comes to a final vote during the week when we pause to remember the events of December 7, 1941. Just as the National Security Act of 1947 was passed to prevent another Pearl Harbor, the Intelligence Reform Act will help us prevent another 9/11.

I am not saying that this legislation will prevent future terrorist attacks, but it will increase the capabilities of the intelligence community and help us improve the opportunity to better detect, prevent, and, if necessary, respond to attacks on our country.

The four primary components of this legislation are the creation of a director of national intelligence, the establishment of a national counterterrorism center, the creation of a civil liberties board, and strong information-sharing provisions. There are also many other provisions in this bill that improve border security, that improve transportation security, that set a new direction in our foreign policy.

This is a comprehensive approach that embodies many—indeed, most—of the recommendations of the 9/11 Commission.

The new director of national intelligence will be a strong position with clear and effective authority to build

and execute the intelligence budget. The DNI will be a dramatic improvement over the structure we have today. For the first time, we will have, in the words of Secretary of State Colin Powell, an empowered quarterback for our intelligence team.

To illustrate why this is important, why these authorities are crucial, let us consider a passage from the 9/11 Commission Report. In late 1998, it had become apparent to CIA Director George Tenet that al-Qaida was a growing and deadly threat to the people of this country, so on December 4 of that year, he issued a memorandum that said the following:

We are at war. I want no resources or people spared in this effort, either inside CIA or the Community.

Now, that is a pretty clear, concise, direct order from the head of the intelligence community.

According to the Commission, the memorandum had virtually no impact. One reason it had so little overall effect on mobilizing the resources of the intelligence community is that the Director of the CIA, beyond the direct control of the CIA, has very little authority over the funding, the people, and the other resources in the intelligence community. This legislation will ensure that in the future, when such a clear, concise order is issued, it will mobilize and galvanize the resources we can bring to bear.

The second important key component in this bill is the creation of the National Counterterrorism Center. This will build on the good work already being done by the Terrorist Threat Integration Center created by the President through an Executive order. The NCTC will help demolish the information stovepipes that the 9/11 Commission found and it will replace them, it will turn them into conduits for information sharing across the intelligence community. The NCTC will also conduct strategic operational planning to coordinate the agencies that are planning our response to al-Qaida and the other threats to our national security.

Throughout the debate on this bill, in addition to improving the ability of the intelligence agencies to cooperate and coordinate their efforts, we have also been mindful of our troops fighting on the front lines in the war against terrorism in Afghanistan and Iraq. Both Senator LIEBERMAN and I are privileged to serve on the Senate Armed Services Committee. I contend that our current system has not always served our troops well. It did not predict the insurgency that has cost us so many lives in Iraq. We owe it to our troops on the battlefields, as well as to our civilians at home, to improve the quality of intelligence they receive, and I believe, as does Secretary Powell, this bill will do just that.

I emphasize that nothing in this bill in any way hinders or impairs military operations or readiness. To the contrary, I believe this legislation will help improve the reliability and the quality of intelligence provided to our troops.

Another important provision of this bill would implement the recommendations of the 9/11 Commission by creating a civil liberties board. As we increase the power of Government to deal with the threat of terrorism, we must be mindful to preserve those freedoms that define us as Americans. We would be handing the terrorists a victory if we were to compromise the civil liberties Americans cherish. This board will help make sure we strike the right balance.

Finally, other key provisions of this bill, for which Senator DURBIN deserves great credit, are provisions that will improve the sharing of information across our intelligence agencies and throughout the Federal Government. We know from the extensive review of the 9/11 Commission that various agencies throughout our Government had pieces of the puzzle that had it been assembled might have allowed them to prevent the attacks on our country on 9/11. We need to make sure we have a culture in our Government of assembling the pieces of that puzzle, of sharing information. I believe the Counterterrorism Center, the information-sharing provisions, and having a DNI will all improve and remedy that problem.

The 9/11 Commission has told us repeatedly of the valiant and talented men and women we have in our intelligence agencies, and I salute their good work. I believe today that we will be giving them the tools they need to be more effective. This legislation provides those good people with a good structure.

Time, commitment, and perseverance have brought us this far. I urge my colleagues to join us in completing the journey by giving this landmark legislation an overwhelming vote later this afternoon. This legislation will implement the most sweeping significant reforms of our intelligence community in more than 50 years. The reforms are long overdue, and they will help to make our Nation more secure.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to join with Chairman COLLINS in recommending the adoption of this conference report on the Intelligence Reform and Terrorism Prevention Act of 2004 which, of course, implements the key recommendations made by the 9/11 Commission Report.

I begin by thanking Senator COLLINS for her extraordinary leadership in this effort. In the 16 years I have been here—and it is self-evident to the Presiding Officer and others that I am much the senior of Senator COLLINS—I have never had a better legislative experience.

This task came to us quickly. There was an enormous amount of work to do. As I said yesterday, it was a long and winding road we walked down, but we ended up where we needed to be and where the Nation needed us to be, and it simply could not have happened without SUSAN COLLINS' leadership. She has an extraordinary sense of purpose and principle. She understands the difference between right and wrong and, in a legislative context, perhaps, the difference between better and worse because that is often where we are. She is a persistent and very effective negotiator, knows when to hold them and when to fold them.

She is a wonderful person—I think maybe I should be that explicit—and that doesn't hurt around here, either, because it gains the confidence of the people who work with her. Part of her being a great person is her great sense of humor which got us through some of our darker moments.

I was thinking one of the great moments in the process was when we decided, late in the process, that the original title we gave to the central position we created, the National Intelligence Director, would have the acronym NID. It doesn't resonate the strength that we wanted. Some member of our conference with an inferior sense of humor said it would lead to a lot of ''NIDpicking.'' A lot of laughter led to the change of the title to the Director of National Intelligence, the DNI. You can feel the force radiating. We laughed a lot about that and about a lot of other things.

It is a familiar saying in public service and life, and certainly in campaigns, that victory has a thousand parents and defeat is an orphan. This is a victory for the American people. Many people have a right, here in the Senate, on the 9/11 Commission, the families of the 9/11 victims, the President of the United States, the Vice President of the United States—so many people can say, and we might say: Without their involvement this would not have happened. But nobody, really, can say that more or feel that more than Senator SUSAN COLLINS of Maine. I thank her very much for her friendship, for her partnership, for her leadership here, and I, too, look forward to working with you in many similar collaborations in the years ahead.

Before I get to the substance of the bill, I do want to say something about the process here. As we end the 108th session of Congress, unfortunately a session that was very often polarized and partisan, it is really great—besides the specifics of this accomplishment that is so critical to our national security—that we have ended it with a bipartisan, nonpartisan triumph. It ought to send a message to the American people, and perhaps just as important to us here, that we are capable of doing this. When the chips are down, we are capable of getting together across party lines and doing what is right for the country. That, ultimately, is why we all came here. That gives us the greatest satisfaction and,

incidentally, it is probably the smartest and most productive thing we can do politically as well.

This simply would not have happened in the Senate without the chairman of the committee on Homeland Security and Governmental Affairs, and ultimately the chairman of the conference, Senator COLLINS, setting exactly that tone. I thank PETER HOEKSTRA on the House side, JANE HARMAN, and all the members of the conference committee for all they contributed.

This legislation is a testament to the courage and persistence of the families of the victims of September 11. Their personal sacrifices, transformed into a steadfast devotion to see this bill to passage, will help make the rest of America safer. This bill was conceived in the memory of their husbands and wives, their sons and daughters, their mothers and fathers and brothers and sisters, and simply would not have been possible without the constancy of effort and the increasingly sophisticated advocacy by the surviving family members. I thank them.

We have worked hard for this historic agreement because we believe, quite simply, that the security of our Nation depends on it. There were various times at which people in this Chamber and the other body said we were moving too quickly; what was the cause for haste? I can tell you it didn't seem we were moving too quickly to Senator COLLINS and me. But what was the cause for our haste? Our enemies, our terrorist enemies, al-Qaida and their ilk, are not waiting, as we know. They are here. They are planning. We are at peril. Accordingly, we approached this task with a real sense of urgency, a grave and growing sense of urgency because we know we face a clear and present danger from terrorists.

The bill before us today is a landmark achievement because, as others have said and will say throughout the day, for the first time in over half a century we are going to modernize our national intelligence structure to meet the new challenges we face in today's world. With this bill, we recognize we can no longer keep the American people safe simply by projecting military force abroad. The world has changed. Our terrorist enemies today make no distinction between soldiers and civilians, between foreign and domestic locations when they attack us. To defeat them, we must have the best possible intelligence about their plans before they strike so we can stop them before they strike.

This legislation moves us toward that goal significantly by transforming our intelligence community from a Cold-War model—and after all, it was at the outset of the Cold War that the current structure was conceived—a Cold-War model that shared information only if there was a need to know, to a 21st-century model that will share information to maximize the intelligence community's substantial resources and expertise and, yes, guarantee greater returns for the billions and billions of dollars of taxpayer money that are invested in intelligence to protect the American people.

The 9/11 Commission supports our compromise. Chairman Kean and Vice Chairman Hamilton said in a statement:

> We believe this is a good bill and a strong bill. We believe it will make our country safer and more secure.

They support this compromise because it implements the Commission's key recommendations to establish that DNI and a National Counterterrorism Center that will improve coordination and collaboration, as the Commission puts it, ''to forge unity of effort'' between the 15 intelligence agencies scattered throughout the Government, and to ensure that, unlike up until now, someone is genuinely in charge.

I said to a business executive in my home State this morning, talking about this bill, explaining why I couldn't be with him today at a meeting in Connecticut, that if anybody in business really got inside and looked at how we are spending the billions of dollars we do on intelligence, they—well, they wouldn't believe it because no one is in charge.

The Commission indicted the status quo of America's intelligence community. The 9/11 Commission report is an indictment of the status quo. Those who pick and try to look for loopholes in this reform have to remember that the status quo failed to protect the American people on 9/11 and it has failed in different ways to provide us with the quality, accuracy and reliability of intelligence that we need.

Vice Chairman Hamilton memorably told our committee in our hearings on this Commission report:

> A critical theme that emerged throughout our inquiry was the difficulty of answering the question: Who's in charge? Who ensures that agencies pool resources, avoid duplication and plan jointly? Who oversees the massive integration and unity of effort to keep America safe? Too often [the 9/11 Commission said] the answer is no one.

The fact is, below the level of the President no one has been in charge of overseeing the entire intelligence community and its multibillion-dollar budget. Today, as testimony before our committee validated, no one is clearly in charge of the hunt for Osama bin Laden. No one has had the authority to knit together the efforts of the 15 disparate agencies working on intelligence for the American people, and, therefore, no one has ultimately been accountable for the deadly mistakes that have been made.

This legislation changes all of that, putting a clear command structure in place so that in the future the puzzle pieces will be put together, the dots will be connected, and so, I hope, pray, and believe, we will never have to suffer through another attack like the one we did suffer through, and still do, on September 11, 2001.

I wish to briefly discuss some of the key provisions, starting with intelligence reform.

Under our current intelligence structure, the CIA Director has to perform three jobs: acting as the President's principal intelligence adviser, overseeing the intelligence community as a whole, and directing the CIA. The 9/11 Commission reported what many had said before: The tasks are simply too much to expect of any one person.

So we have created a Presidentially appointed, Senate-confirmed Director of National Intelligence, who will lead the national intelligence community but be separate from the Director of the CIA. The DNI will be the President's principal intelligence adviser and will focus exclusively on breaking down those barriers that have obstructed information sharing and professional collaboration in the public interest. With the CIA Director in charge of daily CIA operations, the DNI will be able to forge that unity of effort which we need to better protect the American people.

The DNI will exercise significant budget authority over the intelligence community both in the development and the execution of the budget, and he or she will consult closely with the Secretary of Defense, the Director of the CIA, the head of the FBI, and other intelligence leaders on both funding and personnel issues.

The DNI will have unprecedented authority in the implementation and execution of all funding under our national intelligence program.

Our bill makes clear that the DNI will have the power to ''develop and determine'' the intelligence budget and that the Director of the Office of Management and Budget must apportion the national intelligence program funds at the ''exclusive direction'' of the DNI. The DNI is further responsible for managing the appropriations by ''directing the allotment and allocation'' of appropriations through the heads of Departments containing the elements of the intelligence community. Just to make sure there is no slow-walking in moving those funds forward, the Department comptrollers must then allot, allocate, reprogram, or transfer funds—in the words of the report—''in an expeditious manner.''

The DNI will have a major hand in the appointment of key officials across the intelligence community, thus elevating the authority of that position. He or she will recommend appointment of the Director of the Central Intelligence Agency to the President. The Secretary of Defense will have to obtain the DNI's concurrence in appointing the heads of the National Security Agency, the National Reconnaissance Office, and the National Geospatial-Intelligence Agency. The Secretary will consult with the DNI before appointing the Director of the Defense Intelligence Agency. The Secretaries of the Departments of Energy, Homeland Security, Treasury, State, and the Attorney General will need the concurrence of the DNI to appoint the heads of intelligence agencies under their immediate jurisdiction and under the DNI's

overall jurisdiction. That is real authority in this new office.

The DNI will also have significantly expanded authority to transfer personnel and funds beyond those of the current DCI so that he or she may react quickly to changing threats and direct intelligence resources where they are needed.

In addition to creating the DNI, this conference report will create—as recommended by the Commission—the National Counterterrorism Center and a series of National Intelligence Centers to ensure that critical national security issues are addressed with maximum coordination and teamwork.

This may well be the most significant process we have begun with this bill, the authority of DNI, but creating a model, and a model built on the most effective, modern corporate models of joint team efforts to deal with problems. But it really deals directly and grows out of the experience of the Pentagon post-Goldwater-Nichols, in joint warfare.

This says when we have a critical national security problem the best way to deal with it will be to create a center to deal with it, a table at which every element of our Government involved in dealing with that problem is present so they can collect intelligence together, analyze it together, and then plan how to combat the problem.

Specifically created in this bill, of course, is the National Counterterrorism Center which will seek to make ensure the disastrous disconnect between the FBI and the CIA that occurred prior to 9/11 will never occur again. It will develop plans, assign roles, and monitor the agencies' implementation of those plans in order to thwart the next terror attack.

This is not a narrowly focused, constricted center. The Center's planning will be at the strategic level such as how do we best win the ''hearts and minds'' of the great majority of people in the Muslim world. It will be at the tactical level—for instance, how we are going to capture Osama bin Laden.

The National Counterterrorism Center Director will be confirmed by the Senate and it will report to the Director of National Intelligence, and in some cases to the President himself.

Let me talk about those other centers.

This bill creates one other center to deal with a most pressing threat to our security; that is, the proliferation of weapons of mass destruction. This part of the bill was inserted as a result of the leadership of the majority leader, Senator FRIST. It is an enormous step forward in dealing with the threat of WMD.

These are the central structures of the intelligence reform, but our legislation goes beyond that. The 9/11 Commission documented that, in a period preceding September 11, 2001, potentially helpful information available to one part of the Government was not shared with others which could have used it.

This legislation takes that direction from the Commission to heart and requires the President to establish a network of technologies and policies that will resolve conflicts between the need to share and the need to protect sources and methods. It will create and allow us to use the best technology to make sure we are sharing and culling and filtering and applying the vast amount of data we get from our intelligence networks most effectively.

Beyond intelligence reform, this bill contains much more. In fact, the 9/11 Commission made 41 recommendations to protect our Nation from terrorism. In August, Senator MCCAIN and I drafted legislation to address them all. I am pleased and proud to say I am grateful for the conferees, to the Senate, and to the House that most of those initiatives have become part of this conference report.

For example, the 9/11 Commission observed that many of the actions necessary to protect us in the war against terror also involves a consolidation of governmental authority and the increased presence of government in our lives to protect us. In response, the Commission called for ''an enhanced system of checks and balances'' to protect the civil liberties that define us as Americans. In fact, this conference report creates a Privacy and Civil Liberties Oversight Board.

The Board will have two functions. First, to advise the President and Federal agencies at the front end of policymaking and, second, to conduct oversight at the back end, investigating and reviewing Government actions to determine whether executive branch officials are appropriately respecting the individual freedoms of the American people.

The 9/11 Commission also recognized the futility of combating terrorism only by military means. Of course, we have been, and will continue, doing our best to capture and kill all the terrorists we can as soon as possible. But we understand that ultimately what is required to stop the growth of terrorism are initiatives of foreign policy, diplomacy, economics, and of politics.

Our legislation—this conference report—includes many of the provisions recommended by the Commission which will do just that, including increased American foreign assistance to Afghanistan and a renewed U.S. commitment to Pakistan. It provides enabling authorities to help us win ''the struggle of ideas'' through the greater funding and use of much more imagination in American broadcasts to the Islamic world. It calls for broadening and growth of scholarships and exchange programs between the United States and the Muslim world, with students and faculty going back and forth.

The bill also takes aggressive measures to prevent attacks, as well, by targeting terrorist travel, improving screening at entry and exit points, and securing identification documents.

Our legislation requires secure identification for travel documents for all travel into the United States. This was a topic about which much was said and debated in the conference, and before, during, and after House adoption of this conference report yesterday. I guess the conferees, in their wisdom, decided some of the immigration reform in the House bill would have weighted the bill down and inhibited or prohibited its passage. It is urgently needed and we cannot afford to do that. We will get to that next year.

Make no mistake, this conference report contains some tough antiterrorist law enforcement measures, and some tough immigration enforcement measure. It specifically implements the 9/11 Commission Report recommendation for the Federal Government to establish minimum standards for birth certificates, driver's licenses, and personal identification cards. Those provisions will help decrease fraud so terrorists are not able to hide their identity. They will not deprive the States of the right that States understandably want, to determine, not the form of the driver's license, but who is eligible to receive a driver's license within their States.

Other measures in this conference report will go far to tighten border security. It will increase the number of border guards, immigration officers, and detention beds for those who are being held for legal action and other action to determine their immigration status and whether they should be deported. No longer will we have a case, as in the past, where a challenge is made to someone's immigration status but they are allowed to wander and disappear into the vastness of America. There will be thousands of new beds created, detention facilities, to hold those people while their cases are being reviewed.

We added a provision allowing the Government to deport anyone who has received military training from a terrorist organization. The Government will also be able to obtain a Foreign Intelligence Surveillance Act warrant for anyone engaging in terrorist activities even if they are not clearly connected to a specific terrorist organization. That is common sense, but it is not in the law now.

To better safeguard the Nation's transportation networks, this legislation also requires the Department of Homeland Security to produce a national transportation strategy that evaluates the risks faced by all modes of transportation, not just aviation, and sets some clear priorities and deadlines for security needs.

We also have included measures to help first responders, the hundreds of thousands of men and women, largely in uniform, some out, at the local and State levels. We want to help them obtain interoperable communications equipment so in a crisis they can talk with each other and work cooperatively.

I have long believed if we are going to make sense of what happened on

September 11 we need to look back honestly with clear eyes and honest hearts. The 9/11 Commission's extraordinary work enabled us to do just that. Its 587-page report did not close the book on September 11. It will never be closed. The legislation does not close the book on September 11. It will live alongside December 7 as a day that will live in infamy throughout American history and America's future.

The work on this conference report and its adoption today will open a new chapter for a safer America. Chairman Kean has said:

Our biggest weapon of defense is our intelligence system. If that doesn't work, our chances of being attacked are so much greater. So our major recommendation is to fix that intelligence system and do it as fast as possible.

That is exactly what this historic legislation does.

In this Congress, this President fulfills our constitutional duty to provide for the common defense of our Nation. I said before that many can claim to be parents of this victory. Members of both parties in Congress, leaders of both parties, bipartisan leadership in this Chamber certainly stood by Senator COLLINS and me all the way. This simply would not have happened without the support of the President of the United States, the Vice President of the United States, and their staffs, working hard and long to do something that institutions and government do not do easily, which is to change. If it was easy, the 20-some-odd attempts made in the last half century to reform our intelligence system would have worked, would have succeeded. They did not.

This is about to succeed because of the effort that has been made across party lines in the national interests by everyone from the President of the United States to every single Member of Congress who worked hard on this measure.

Maybe I should add another thank you. Maybe I should go from the President to our staffs. Senator COLLINS has said the legions of staff members on both sides of the aisle and both sides of the Capitol put their lives on hold and worked through nights and weekends for the cause of a safer America. I particularly thank Kevin Landy on my staff, whose work started with the legislation to create the 9/11 Commission—that was a story in itself—and who has been single minded in his devotion to crafting this legislation in a way that was real and excellent. I also single out the work of Majority Staff Director Michael Bopp, and all of his team. Michael has terrific legislative skills and leadership abilities and has served the conference and the country extraordinarily well. On my staff I also thank my staff director Joyce Rechtschaffen, and Dave Barton, Mike Alexander, Raj De, Christine Healey, Holly Idelson, Beth Grossman, Larry Novey, Jason Yanussi, Kathy Seddon, Dave Berick, Mary Beth Schultz, Tim Profeta, Fred Downey, Andrew Weinshenk, and Donny Ray Williams, Leslie Phillips, Bill Bonvillian and Laurie Rubenstein. I could go on and on. Many other staffers of other Senators contributed much to this bill and I thank them. I would especially like to thank Marianne Upton and Joe Zogby from Senator DURBIN's staff. And I particularly express my personal appreciation, in this and so many partnerships we have been involved in, to Senator JOHN MCCAIN of Arizona, and to his staff. We worked in close partnership to craft the legislation implementing the 9/11 Commission recommendations. Many provisions were adopted in the Senate and are integral parts of the conference report. I thank them all.

I come back to the beginning to particularly thank my colleague and friend, our chairman, Senator SUSAN COLLINS of Maine.

I ask unanimous consent to have printed in the RECORD two documents from the 9/11 Public Discourse Project regarding driver's licenses and military chain of command.

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

FACT SHEET: DRIVER'S LICENSES, 9/11, AND INTELLIGENCE REFORM

WHAT HAPPENED IN THE 9/11 PLOT

The hijackers obtained 13 driver's licenses (two of which were duplicates) and 21 USA or State-issued identification cards (usually used for showing residence in the U.S. or a State).

The driver's licenses themselves were all legal, that is, they were not forged. But they were not all legally obtained. Seven hijackers used fraudulent means (false statements of residency) to acquire legitimate identifications in Virginia.

Their fraud in obtaining driver's licenses did not arise from them being undocumented aliens. All the hijackers entered the United States with proper immigration documents, but several had committed fraudulent acts to get them.

One hijacker who obtained a driver's license when he was in status was out of status on 9/11. Another hijacker whose documents clearly showed that he was out of status and had overstayed his 30-day visitor's visa did not seek or obtain a driver's license. He used his passport to prove identification and board the aircraft.

Based on what we learned in the 9/11 story, we recommended stronger immigration enforcement to catch terrorists who were exploiting weaknesses in America's border security. We recommended greater attention to terrorist travel tactics and information sharing about such travel.

We also recommended strong Federal standards for the issuance of birth certificates and other sources of identification, such as driver's licenses, to avoid the identity fraud that terrorists can exploit.

We did not make any recommendations to State governments about which individuals should or should not be issued a driver's license.

Specifically, we did not make any recommendation about licenses for undocumented aliens. That issue did not arise in our investigation, as all hijackers entered the United States with documentation (often fraudulent) that appeared lawful to immigration inspectors. They were therefore ''legal immigrants'' at the time they received their driver's licenses.

WHAT THE PENDING CONFERENCE REPORT (FOLLOWING THE COMMISSION'S RECOMMENDATIONS) WOULD REQUIRE

The establishment of new standards to ensure the integrity of the three basic documents Americans use to establish their identity-birth certificates; State-issued driver's licenses and i.d. cards; and social security cards.

New standards to ensure that the applicant for the identity document is actually the person the applicant claims to be; and improvements to the physical security of the document.

States would receive grants to assist them in implementing the new standards.

WHAT H.R. 10 REQUIRES

H.R. 10 requires that before issuing a driver's license a State would need to verify that each applicant:

Is a citizen of the United States;

Is an alien lawfully admitted to permanent residence status in the U.S.;

Has conditional permanent residence status in the U.S.;

Has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the U.S.; or

Has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the U.S. (There are additional requirements but these are the key ones).

Only citizens and permanent residents could receive driver's licenses; all others with documentation would have temporary driver's licenses issued for the length of visa stay or not more than one year if there is no definite end to the period of authorized stay. Undocumented aliens could not receive licenses.

OBSERVATIONS

It is important to have national standards on driver's licenses, passports and other identification documents.

There is no doubt hijackers used State-issued documents to get through a lot of checkpoints. For this reason, we believe Federal minimum standards for such State-issued documents are important.

Whether illegal aliens should be able to get driver's licenses is a valid question for debate.

The debate over this issue ought not to hang up the hundreds of provisions in the conference report that would strengthen intelligence, improve information sharing, strengthen transportation and border security, improve American foreign policy, and support first responders.

We would also note that if the hijackers presented visa documentation that appeared valid to DMV officials (as they apparently did), they would still have been issued temporary driver's licenses for the duration of their visa, under the provisions in the House bill.

FACT SHEET: THE CONFERENCE REPORT AND INTELLIGENCE SUPPORT FOR MILITARY OPERATIONS

1. THE PROPOSED REFORMS DO NOT CHANGE THE CHAIN OF COMMAND FOR CONTROL OF NATIONAL INTELLIGENCE ASSETS

The warfighter today can call upon real-time intelligence support from the military services (like the Air Force), from his joint forces command (like CENTCOM), and from national agencies (like the signals intelligence analyzed by NSA).

The bill does not affect support relationships between combat units and military services (like the Air Force).

The bill does not affect support relationships between combat units and the joint

forces command to which they are assigned (like CENTCOM). It would not affect CENTCOM's management of the assets assigned to that command. So, for example, the bill would have no effect at all on the support relationship between the soldier in the field and a JSTARS aircraft or Predator UAV assigned to CENTCOM's intelligence component, its J–2.

Assets, like satellites, that are run by national agencies are managed for the benefit of the whole US government. That is why these are called ''national'' agencies. The chain of command for operational decisions about those assets therefore goes outside of DOD under the status quo.

Under President Bush's executive order (August 2004), DCI Goss has the duty to set the requirements and priorities for collection by these agencies. The DCI also has the authority to ''resolve conflicts in the tasking of national collection assets. . . .''

Under the conference report these same authorities simply move from the DCI to the DNI, for ''resolving conflicts in collection requirements and in the tasking of national collection assets of the elements of the intelligence community.''

At the operational level, the job of getting national assets in support of the warfighter is managed by the unified combatant commands with the help of the Joint Staff's J–2 and the J–2's National Military Joint Intelligence Center.

None of the current practices for the allocation of national assets would change as the focal point for national coordination moves from the DCI to the DNI.

2. THE SPECIFIC CONCERNS ARTICULATED BY JCS CHAIRMAN GENERAL MYERS IN HIS LETTER OF OCTOBER 21ST WERE ADDRESSED IN THE CONFERENCE REPORT

General Myers' letter of October 21st (attached) did not register any concerns about the chain of command in operational intelligence support for the warfighter.

General Myers focused only on budget matters, where he specifically requested that:

(a) ''the budgets of the combat support agencies should come up from the agencies through the Secretary of Defense to the National Intelligence Director''; and

(b) ''it is likewise important that the appropriations are passed from the National Intelligence Director through the Department to the combat support agencies.''

This latter point, on ''this vital flow,'' is the one—the only one—singled out for a ''recommendation that this critical provision be preserved in the conference.''

It was.

VVIn the conference report, the appropriations do not go to the National Intelligence Director. The appropriations for national intelligence go through the heads of the relevant departments.

With the help of OMB, the DNI can direct allotment or allocation of these funds, but the flow of funds goes through the department to (in DOD's case) the combat support agencies:

''Department comptrollers or appropriate budget execution officers shall allot, allocate, reprogram, or transfer funds appropriated for the National Intelligence Program in an expeditious manner.''

Thus the conference report accepted the recommendation of General Myers for how to direct the flow of funds.

Even on the issue of budget preparation, the conference report addressed the concern raised by General Myers.

In the conference report, the budgets from the combat support agencies come up through the Secretary of Defense. If the combat support agencies are not national intelligence agencies and are covered under the appropriations for joint military intelligence or for tactical intelligence and related activities, the proposed DNI participates with the Secretary of Defense in developing the final budget for them. For these combat support agencies the authority of the Secretary of Defense remains exactly as it is now.

If the combat support agencies are also national intelligence agencies (which is the case for the National Security Agency, the National Geospatial Intelligence Agency, and the National Reconnaissance Office), the proposed DNI would develop and determine the national intelligence program budget ''based on budget proposals provided . . . by the heads of agencies and organizations within the intelligence community and the heads of their respective departments and, as appropriate, after obtaining the advice of the Joint Intelligence Community Council.''

Thus, in the conference report, the Secretary of Defense has input into budget preparation for these national agencies both directly and through his participation in the proposed Joint Intelligence Community Council.

3. THE COMMISSION CONSIDERED DOD CONCERNS IN THE PREPARATION OF ITS RECOMMENDATIONS

Commissioners and Commission staff discussed DOD concerns about intelligence reorganization with Secretary Rumsfeld, Under Secretary of Defense for Intelligence Cambone, Director of the National Security Agency General Hayden, the Director of the National Geospatial Intelligence Agency General Clapper, and many others. General Hayden and General Clapper have spent their careers in providing military intelligence support for the warfighter.

Commissioners and/or Commission staff made three investigative visits to HQ Central Command and HQ Special Operations Command. They interviewed officers at HQ Northern Command and HQ Joint Special Operations Command. They interviewed users of intelligence in the field, in Afghanistan and Pakistan.

4. A BETTER STRUCTURE ENABLES BETTER MANAGEMENT

The Commission never took the view that reorganization solves all problems. A better structure enables better management.

Numerous specific management reforms are needed, in areas such as human intelligence collection; common standards for information technology and network capabilities; more efficient use of available experts; improved language skills; standardized processing of raw intelligence; and better all-source analysis.

What we found is that these and other management reforms falter in an unmanageable intelligence community. A better structure makes it more likely that such urgent management reforms will succeed.

APPENDIX: LETTER FROM GEN. RICHARD MYERS TO HASC CHAIRMAN HUNTER

CHAIRMAN OF THE JOINT CHIEFS OF STAFF,
Washington, DC, October 21, 2004.

Hon. DUNCAN HUNTER,
Chairman, Armed Services Committee, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As we discussed during our recent telephone conversation, I know that you and the conferees are discussing intelligence reform and the intelligence budget process. This is a vitally important subject as we look at the effectiveness of the intelligence provided by our combat support agencies. It is my belief that the responsibilities of the Secretary of Defense for the operation of these agencies, including budget preparation and execution, should be addressed as the conferees proceed to a final bill. In this regard the budgets of the combat support agencies should come up from the agencies through the Secretary of Defense to the National Intelligence Director, ensuring that required warfighting capabilities are accommodated and rationalized and ensuring that the Secretary meets his obligations. For appropriations, it is likewise important that the appropriations are passed from the National Intelligence Director through the Department to the combat support agencies. It is my understanding that the House bill maintains this vital flow through the Secretary of Defense to the combat support agencies. It is my recommendation that this critical provision be preserved in the conference.

The combat support agencies provide critical combat intelligence capabilities important to the day to day operations of our armed forces, including, of course, combat operations. Establishing the budget process in this manner would allow the combat support agencies to continue their outstanding support to the warfighters, our on-going counterterrorism efforts, and the men and women of our nation's armed forces serving in harm's way.

Sincerely,

RICHARD B. MYERS,
Chairman, Joint Chiefs of Staff.

Mr. LIEBERMAN. I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, before the Senator from Pennsylvania is recognized, I have a unanimous consent request.

Mr. President, I ask unanimous consent Senator MCCAIN be allocated 5 minutes of my time at some point during the debate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I will be putting into the record a list of the Senate conferees because each of them contributed in extraordinary ways to this bill. I will be making comments about some of them and their particular contributions later in the debate today.

Mr. LIEBERMAN. I ask unanimous consent that Senator CARPER of Delaware be given 5 minutes to speak at an appropriate time of the time allotted to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I begin by congratulating the chairman, Senator COLLINS, and the ranking member, Senator LIEBERMAN, for their extraordinary leadership in the beginning of the legislative process which has culminated in where we are today and their steadfast determination in pursuit of this bill throughout many arduous months.

Senator COLLINS and Senator LIEBERMAN took up at the direction of the majority leader and the Democratic leader in structuring hearings which began at the end of July of this year immediately after the Democratic National Convention. They proceeded in August in an unprecedented way where the regular schedules were interrupted, a difficult thing to do in a campaign year. They reconvened the Governmental Affairs Committee on which

I served and the committee members were advised of schedules—difficult to do in a campaign season when many Members are up for reelection—but the legislative objective was of paramount importance and the committee responded and the committee pursued the hearings and came up with the legislation.

I believe what we have here is really a battlefield victory over the Department of Defense. The essential issue has long been a turf struggle, and I think we have taken a short step, but a significant one, in the legislation which is presented in the conference report today.

I do not think we should overstate where we have come, but I think, at the same time, we need to recognize we have stepped significantly forward, albeit a single step, as a result of the insistence of the President of the United States who deserves commendation for his leadership in the final stages of this matter to bring the legislation where it is today.

Where we have had a good bit of discussion on the issue of chain of command, I think realistically that has been more smoke than substance. But, at any rate, the key participants in the House of Representatives were satisfied so the bill did come to a vote in the House, and the Senate is ready to take the matter up today.

A great deal of credit is obviously due to the families of the 9/11 victims in their insistence that the 9/11 Commission be formed. And then great credit is due to the 9/11 Commission itself in structuring a report, which was filed in July, and then putting considerable pressure to have their report enacted.

I think, to repeat, the realities are that the final legislation is short of where the 9/11 Commission would like to have gone either with respect to budget control or with respect to day-to-day operations, but in the tortuous process of making changes in the intelligence community, the 9/11 Commission has been a catalyst here in a very important way.

It became apparent, when 9/11 occurred, that had there been proper coordination among the intelligence agencies that 9/11 might well have been prevented. There was that FBI report out of Phoenix about the suspicious character who was interested in learning how to fly a plane, not concerned about takeoffs or landings. That FBI report never got to the proper line in FBI headquarters in Washington.

Then, the CIA knew about the two al-Qaida operatives in Kuala Lumpur, but that information was never transmitted to the Immigration and Naturalization Service. It was not in the INS computers. Those al-Qaida operatives got into the United States and were two of the pilots on 9/11.

Then there was the FBI report out of Minneapolis with Special Agent Colleen Rowley, who wrote a 13-page, single-spaced report which finally received public attention, finally came to the attention of the key officials of the FBI.

The Judiciary Committee held hearings in June of 2002, and there was surprise and consternation that the appropriate test under the Foreign Intelligence Surveillance Act had not been applied. Had that material been known and had we been able to pick up the trail of Zacarias Moussaoui at an early date, again the case was building that 9/11 might well have been prevented, had these facts come to the attention of the appropriate authorities and been collated and put all under one umbrella.

So the need was imperative for revision and reform of the national intelligence system.

I had seen this need when I chaired the Senate Intelligence Committee back in the 104th Congress. At that time I introduced S. 1718, which contained very material changes in the national intelligence community. I will not put that legislation in the RECORD at this time. I have done so on prior debates. But it was apparent at that time there needed to be a revision of the national intelligence community. While the Director of the Central Intelligence Agency had paper authority, he did not have budgetary authority or day-to-day control sufficient to really put all of the intelligence operations under one umbrella.

Following 9/11, after the report from Colleen Rowley came to light in June of 2002, the administration agreed there should be a new Department of Homeland Security. Senator LIEBERMAN and I introduced S. 1534, 30 days after 9/11, on October 11 of the year 2001. The hearings were held and there was considerable debate, and the legislation languished and had a lot of opposition. It finally came to the Senate floor in the fall of 2002. Then, as what frequently happens, the House passed a bill and left town, leaving us with the option of either taking their bill in October of 2002, which was an election year, or putting the matter over, which would have gone to spring.

At that time, Senator LIEBERMAN and I made an effort to give the new Secretary of Homeland Security authority to direct—not to task or not to ask or not to request but to direct—the other intelligence agencies. It seemed to us when you were creating a new Department that this was the time to make some fundamental changes in the national intelligence structure. But the administration was opposed.

I talked to Secretary Ridge, Vice President CHENEY, and I talked to the President, and there was opposition, as concerns had been expressed to putting any agency or any instrumentality or any unit between the CIA and the President. It seemed to me—and I made this argument—that would not have been the case. But we were unable to make that modification. That is where the status of the record lay, until the 9/11 Commission came into operation and filed its report in July of this year.

Immediately thereafter, Senator MCCAIN, Senator LIEBERMAN, Senator BAYH, and I introduced a bill which tracked what the 9/11 Commission wanted done. When the Governmental Affairs Committee took up the issue, with the hearings in July and August, it seemed to me we needed a bill which gave a great deal more authority to the National Intelligence Director than where the committee was heading, and I introduced S. 2811, which gave the National Intelligence Director authority. I am not going to make that bill a part of the RECORD. It has already been made a part of the RECORD in prior debates.

The committee report did not give the National Intelligence Director day-by-day authority, which, as I say, I thought it should have. I offered an amendment which had cosponsors, including the former chairman of the Senate Intelligence Committee, Senator SHELBY; the present chairman of the Intelligence Committee, Senator ROBERTS; and many others who had very extensive experience on the intelligence structure for the country. I offered that amendment on the floor, and it was defeated by a vote of 78 to 19, so that the National Intelligence Director in the Senate legislation was not given day-to-day operation.

It was my thought then, and continues to be my thought, that if we raised the bar a little higher, perhaps in the negotiations—as we know, as a practical matter, in a House/Senate conference there are compromises—we might have ended up with a stronger Director than we have at the present time. In the course of the negotiations with the House, the budgetary control was not maintained.

So what we have today is a step forward. But there is a great deal more, in my judgment, of which the National Intelligence Director needs to have effective control over in the national intelligence community. But again, this is a step forward, not a big step but a significant step, and it is something upon which we can build.

It would be a colossal mistake to reject this bill with the thought of going back to the drawing board next year to begin again what we have accomplished, putting us on another plateau from which we can work.

We have in this legislation significant improvements on transportation security, on terrorist travel and effective screening, on border protection, immigration and visa matters, on terrorism prevention. We do have those areas of very significant improvement.

I believe that Congress is going to have a big job of oversight now, to see precisely what is done by the new National Intelligence Director. We have changed our Senate procedures to make permanent the Intelligence Committee so there will be some institutional knowledge there without the shift on 8-year terms. I served 8 years on the Intelligence Committee and had an opportunity to chair the committee

in the 104th Congress. That continuity will be very important.

On the Appropriations Committee on which I serve, we have structured a new intelligence subcommittee. In the line of seniority, I may have the opportunity to chair that subcommittee. That is something I am thinking about. I am reluctant to give up the subcommittee on Labor, Health, Human Services, and Education, but when we move forward from this point on the restructuring of the national intelligence community, this is a very significant period and is something to which I am giving personal consideration.

The creation of the new National Counterterrorism Center is a significant step forward. That has been an outgrowth of the mistake recognized by the intelligence community from 9/11. That had been in process, and this legislation takes a very important step beyond what is in existence at the present time, putting it into a statutory form. I have conferred with the top officials of the FBI, and the Judiciary Committee has oversight over the FBI. This is something which requires very substantial oversight.

It is my hope, depending on how the Judiciary Committee is structured next year, that this is something which the Judiciary Committee can accomplish. But the Intelligence Committee and the Governmental Affairs Committee and perhaps other relevant committees, Armed Services Committee, will have a big job in not resting on our laurels on legislation which will be enacted today. We ought not to take too much solace in laurels, although though it is justifiable to some extent. But there is a great deal more which needs to be done to see to it that there is the kind of coordination and that we have made a successful attack on the cultures of concealment which are present in the intelligence community.

I have seen that culture of concealment from the work that I have done on the Judiciary Committee on oversight for the past 24 years. I saw that culture of concealment in the Central Intelligence Agency in the 8 years I was on the Intelligence Committee. It may be that what has happened with the events of 9/11 and with the pressure of the 9/11 Commission, with the legislation on the Department of Homeland Security, that the intelligence community has been sensitized, perhaps even more than sensitized, perhaps more accurately stated, bludgeoned by congressional criticism and by public criticism over their failures to coordinate intelligence activities which, had they been coordinated, 9/11 might have been prevented.

In conclusion—the two most popular words in every speech—I urge my colleagues to adopt this legislation. I further urge my colleagues in both this body, the Senate, and the House to be vigilant, to pursue oversight, to see to it that the ultimate objective of coordination and centralized direction is obtained with this legislation as a significant starting point.

Far from perfect, it nonetheless provides a valuable foundation for future legislation and puts us on the path to meaningful intelligence reform. As such, I believe it is preferable to act now on a finite number of matters that can be accomplished immediately. Any attempt in the future to enact intelligence reform legislation from scratch, especially reform of intelligence budget matters, will be subject to the bitter turf battles involving the self-protection of entrenched bureaucratic prerogatives that have characterized this and past efforts at reform. And while the contentious issues of State driver's license standards and refugee asylum must be addressed, it is far better to do so in the context of hearings and additional input from interested parties. But simply starting over in the next Congress will likely accomplish little, if anything. Passage of this legislation—which includes a statutory requirement for the issuance of Presidential guidelines assuring that the statutory responsibilities of the heads of various departments of our government will not be abrogated—will provide a legislative base for Congress to build upon, while preserving the requisite military chain of command.

Valuable preliminary objectives have been accomplished in this legislation, consistent with the recommendations of the 9/11 Commission. This legislation creates a Presidential-appointed, Senate confirmed director of national intelligence, DNI, who, while not serving as the head of CIA, will 1. oversee national intelligence and provide all-source analysis on specific subjects of interest across the U.S. government, and plan intelligence operations for the whole government on major problems such as counterterrorism; 2. manage the national intelligence program and oversee the agencies that contribute to it; and 3. ''manage and direct'' the tasking of collection and analysis. The legislation also will establish a national counterterrorism center, with a Senate-confirmed director, for developing joint counterterrorism plans covering key missions, objectives to be achieved, tasks to be performed, interagency coordination of operational activities, and the assignment of roles and responsibilities in the consolidated counterterrorism mission. Also, under this bill the President must establish a national counterproliferation center which, as envisioned by the provision's sponsor, Majority Leader FRIST, implements a key recommendation of my 1999 Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction. And the legislation will enable the implementation of other policy objectives that I have favored such as expansion of the electromagnetic spectrum to enhance first responder interoperability, deployment and use of explosives detection equipment at airport screening checkpoints, improved watch lists for passenger prescreening, improved border security, including an increase in full-time border patrol agents and detention beds, an increase in criminal penalties for alien smuggling, and for those who seek to use weapons of mass destruction, an increase in the number of serious criminal offenses designated as ''Federal crimes of terrorism,'' improvements in financial crime enforcement and terror financing abatement, authority to use our Foreign Intelligence Surveillance Act powers against ''lone wolf' terrorists, authorization to share grand jury information about terrorist threats with State and local officials, and development of a national strategy on terrorist travel and travel documents.

Many crucial objectives were not achieved, however. The budget execution authority deemed essential for the DNI to exercise genuine control over the intelligence community has been removed from the bill, so that the appropriation for the national intelligence program does not go directly to the DNI, and the DNI does not have authority to direct the allocation of funds to the various elements of the intelligence community. Further, the top line budget figure for the national intelligence program will be kept secret, and thus intelligence spending will remain unaccountable to the American people. The DNI is left with the power to ''develop and determine'' the national intelligence program budget, which is effectively the same authority that the current DCI is given over the National Foreign Intelligence Program budget by executive order. Also, personnel and transfer authority has been further diluted in this final legislation. Specifically, while the DNI can move intelligence community funds in their year of execution, the heads of the intelligence community agencies will have a right of refusal over any reprogramming or transfer exceeding 5 percent of their agency's aggregate budget, or exceeding $150 million, or involving the termination of an acquisition program, e.g., satellite procurement. Personnel transfer is also tightly circumscribed and can be accomplished only with the approval of the Office of Management and Budget.

Beyond budget and transfer authority, the new DNI has not been granted authority that approximates what I consider to be the appropriate level of operational control over the various elements of the intelligence community. The DNI also does not have, as the 9/11 Commission recommended, ''hire and fire'' authority over senior intelligence community officials, but rather has the right of concurrence in the hiring of senior intelligence community officials and the right to be consulted in the appointment of the head of DIA. Nor does the DNI control information infrastructure standards.

I also believe that the failure to include a statutory inspector general weakens the oversight of the new DNI

and thus raises additional privacy and civil liberties concerns.

Finally, the legislation sets up an inadequate structure within which the DNI must operate. I had initially proposed that the DNI serve as the head of an independent agency, or department, and the final Senate bill arrived at a similar ''National Intelligence Authority'' to house the office of the DNI and the national counterterrorism center. Contrary to the concepts conceived in the Senate, the NCTC and the DNI's officers under this legislation will be housed within the office of the DNI. In other words, there is no power base from which the DNI can operate. He will have no ''troops'' other than those that filter through the NCTC and the office, and no actual authority with which to influence, direct, or control intelligence community entities and personnel.

These shortcomings must be addressed in future legislation if we are to have an intelligence apparatus that can be effective against 21st century threats, while protecting constitutional rights.

It will not be easy, however, to overcome the ingrained bureaucratic tendencies to protect turf and the status quo. It has recently been reported that the Department of Defense fought extremely hard during the conference committee negotiations to further reduce the powers that would be accorded to the DNI. My experience in attempting to enhance the budget and operational authority of the Director of Central Intelligence in 1996 led me to the conclusion that the same turf battles existing prior to 9/11 would endure during the process of formulating this most recent attempt at intelligence reform. Unfortunately, this is precisely what has occurred this year and, like in 1996, the Pentagon has successfully attenuated intelligence reform legislation.

Thus, while we have gained marginal advantages over current law and practice in this legislation, the conference report in its totality should be viewed as the basis for building upon the powers of the DNI in future legislation. Conversely, if we reject this bill, it is ''back to the drawing board'' when we reconvene with an entirely new set of priorities to tackle in the next Congress. This delay will allow reform opponents the time and renewed vigor to marshal their resources in opposition to changing the status quo. It is far less likely that we will accomplish anything meaningful on intelligence reform next year if we must start from scratch, lacking the momentum of the 9/11 report and without the pressure of the congressional and presidential elections.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, we gather today in the Senate for an historic occasion. What we are about to consider is a conference report on the Intelligence Reform and Terrorism Prevention Act of 2004. In about 250 written pages, we will literally rewrite the laws governing the intelligence community of America.

This is an historic moment. It is rare, if ever, that the Congress rises to the occasion as it has with this legislation. It is rare, if ever, that we can find a bipartisan consensus on an item of such controversy. Yet we have achieved it. The National Security Intelligence Reform Act will make America safer. It will force our Government to modernize the way we collect and use intelligence.

This legislation was born from the tragedy of 9/11 and the determination of the victims' families that their loved ones would not have died in vain. These courageous survivors are the reason this congressional effort could not and did not fail. In their grief, many people tend to withdraw, to say that they will mourn in private. These victims' families, after a period of mourning, decided to step forward and to lead our country and our Government toward a safer America. Their dedication and their determination have resulted in this document.

The bipartisan 9/11 Commission gave us an excellent blueprint, a sense of urgency, and a constant reminder that we had to rise above our partisan differences. We all know about this report. It is so well known and so well read. It was even nominated as one of the great literary works. That is rare for a Government publication, but it deserved that nomination because it is well written, well thought out, well prepared. Governor Kean of New Jersey, Congressman Lee Hamilton of Indiana put together an extraordinary panel of Democrats and Republicans who brought us this report. And this report was our blueprint, as we sat down to write this historic legislation.

My personal contributions to this bill were in two specific areas. After three years of effort, we finally broke through the technical and bureaucratic obstacles to information sharing among our intelligence agencies by adopting a proposal which I suggested for a new government-wide approach, one with clear goals and clear authority to reach the goals. And for the first time, at the suggestion of the 9/11 Commission, we added to our intelligence efforts a privacy and civil liberties board which was crafted to ensure that we do not pay for our security with our freedoms. Let me salute those who made this possible, particularly on the Senate side.

Senator SUSAN COLLINS, chairman of the Governmental Affairs Committee, has really been an extraordinary leader. She is a close friend. We have worked on so many things together. I knew she would rise to the occasion, but I didn't know that she would have the endurance and the determination to bring it to this day. I watched as the conference committee drove on and on, day after day, hour after hour, week after week, month after month—many times appearing to disintegrate before our eyes. She never quit. She just kept pushing forward. She did it not just with a determination, but with such a unique understanding of what was in this conference report. She would dismiss critics in a moment if they misstated what was within the report. She knew it cover to cover. She was well prepared.

Had Senator COLLINS been doing this alone, she might not have achieved her goal. Standing by her side throughout was Senator JOE LIEBERMAN of Connecticut. Joe is my colleague in the Senate, a good friend, and a great Senator. I think what he did with SUSAN COLLINS was to demonstrate to America what Congress can do, that we can rise to the occasion, that we can put aside partisanship and have a genuine, honest discussion for the good of this country. That dynamic duo of Senator SUSAN COLLINS of Maine and Senator JOE LIEBERMAN of Connecticut, on our side of the Rotunda, were the guiding force.

I want to say a word about Congresswoman JANE HARMAN and Congressman PETER HOEKSTRA who, on the other side of the Rotunda, on the House Intelligence Committee, did an extraordinary job as well.

They would be the first to add that they could not have achieved any of this without extraordinary staff contributions. On my own staff, I salute Marianne Upton, who has put in more hours than you could possibly imagine, doing around-the-clock sessions, preparing different portions of this bill; Joe Zogby, an attorney on my staff who really carried the banner many times on issues of civil rights and civil liberties, oftentimes a lonely battle, not always successful but with a real determination and extraordinary skill that he brought to the Senate; and Shannon Smith, a member of my staff who looked at this bill from the perspective of defense issues and foreign policy issues. Those three, from my point of view, made my presence felt, even when there were times I could not be in conference committee meetings.

The path that led us to this point has not been without obstacles. We had to make major compromises in order to move the legislation forward. But this conference report proves that Congress could work in a bipartisan manner to bring together strength and wisdom and produce this significant bill.

Many people recall what happened on 9/11 and where they were when they learned of the tragedy. I remember. Everybody listening remembers. We also remember that late in the evening, after that sad and worrisome day, the Members of Congress, on a bipartisan basis, gathered on the steps outside and together sang God Bless America. How many times as I went through Illinois and across this country people would say: That was a good thing. We were sure glad you did it, to put aside your differences and to stand together.

That day was a precursor of this day because this day we will stand together again. There will be a vote today that will be a bipartisan vote, and it will be a clear and definitive victory for the passage of this legislation.

Let me speak to two or three areas that were of particular importance. First, the Privacy and Civil Liberties Oversight Board. The 9/11 Commission realized that one of the problems we have is when we give Government enough power to protect us, occasionally it overreaches. That has happened in virtually every war and in every period when there was a threat to our national security. Abraham Lincoln, who I believe to have been our greatest President, suspended habeas corpus during the Civil War. There were those who said he went too far in usurping the Constitution. During the period of World War I, when there was concern, we had the Espionage and Sedition Acts, which some believe was an overstepping of governmental authority. In World War II, Franklin Delano Roosevelt gave personal approval to the Japanese internment camps, where innocent Americans were, in fact, jailed and imprisoned when they had done nothing wrong, just for fear that they might. In the Cold War, with our fear of the Soviet Union, we went into the McCarthy era, questioning the patriotism of good Americans, destroying lives and careers in the process. During the Vietnam war, J. Edgar Hoover and the FBI compiled a list of suspects across America. The President compiled an enemies list.

This list goes on and on. It tells us that as we try to be safe, sometimes we go too far. The 9/11 Commission said we need to put into place something that is unique, has never existed in history. This Privacy and Civil Liberties Oversight Board will make certain they keep an eye on Government activity, make sure it doesn't violate privacy or civil liberties. I agree with the Commission when the Commission said to us ''the choice between security and liberty is a false choice.'' I believe, the Commission believes, we can be both safe and free.

We can protect the lives of Americans, and we can also protect their liberties. That is what the Board is setting out to do.

As Governor Kean said in answer to a question I asked, this Board should be ''disinterested'' and it should not be speaking for the Government. It should be independent in its oversight of the Government and its activities. This Board will have the authority to obtain information, to ensure the Government is respecting our privacy and civil liberties. If someone outside of the Government refuses to provide needed information, the Attorney General will have authority to subpoena it.

There is an exception for the National Intelligence Director and the Attorney General to withhold information in the interest of national security. That is understandable, but members of the Board and the Board's staff will have high-level security clearances, so we expect that it will only rarely, if ever, be necessary to invoke this national security exception.

The Privacy and Civil Liberties Oversight Board will be required to report to Congress about its work on an annual basis. These reports, to the greatest extent possible, will be unclassified so we can all look at the activities of our Government when it comes to respecting privacy and civil liberties. This transparency will keep us informed. The bright sunlight will shine on these activities when it doesn't compromise national security. This Board will ensure that as we fight the war on terrorism, we will respect the precious liberties that are the foundation of our society.

The second area I worked in that I think may turn out to have historic importance relates to information sharing. When the 9/11 Commission Report came out a little over 135 days ago, they kept referring to one basic theme. This is what the report said:

> The biggest impediment to all source analysis—to a greater likelihood of connecting the dots—is the human or systemic resistance to sharing information.

I have really focused on this since 9/11. So many colleagues looked at different aspects of the challenge created by that terrible day. When I looked at information sharing, the first thing I did was turn to the FBI, the premier law enforcement agency in America, the top of the heap, the best and brightest when it comes to law enforcement. I asked the basic question: Tell me about the computers at the FBI headquarters on September 11, 2001.

Do you know what I learned? Just three years ago, if you looked at the computers at the FBI, you found computers with no e-mail capacity, no access to the Internet, no mechanism for word/name search matching, and no capacity for the electronic transmission of photographs. Anyone listening—particularly younger people—have to shake their heads and say: Senator, they could have gone down to the local computer store and bought a basic computer that had all of this capacity.

What happened? Why did the FBI fall so far behind in technology? What happened was, in their vanity and in their bureaucratic protectionism, they said: We don't need to go to other firms creating computers. The FBI will create its own computer system.

They did and what a mess it was. On September 11, 2001, the technological capability of the FBI was virtually nonexistent when it came to computers. That is hard to imagine, isn't it?

As I spoke to every level that I could of Government leadership, including Vice President CHENEY; Attorney General Ashcroft; FBI Director Mueller, every one of them conceded that this was an obvious problem. Let me tell you something else. We asked the FBI and the Border Patrol to establish a common fingerprint database.

That makes sense, doesn't it? If we are going to bank all the fingerprints of suspects around America, wouldn't the Border Patrol want to have an integrated network of fingerprints they could check against the FBI base?

Let me tell you where we are on that. For more than six years, we have been trying to achieve this. For more than six years, we have been trying to get two agencies of Government to cooperate in comparing fingerprints. Earlier this year, the inspector general of the Justice Department reported it would take at least four more years to combine the systems.

I am sure a lot of people following this debate are saying: He has to be exaggerating. Why would it take ten years to reach the point that the fingerprints collected by one agency of the Federal Government could be compared to the fingerprint database of another agency?

It is a fact. It has to do with two things. First, it has to do with equipment. It has to do with technology. And second, it has to do with a mindset of cooperation rather than exclusion.

That is what led me to this whole issue of information sharing. I tried to encourage a debate on this issue when we created the Department of Homeland Security. I said to my colleagues on both sides of the aisle: It is great for us to talk about a new department bringing together all these agencies, but if they do not have compatible computer databases and the will to share, then we are going to lose out when it comes to information gathering.

I did not win that debate when we created the Department of Homeland Security, but I am happy to tell you that we have won the debate when it comes to this bill.

It is distressing to read chapter 8 of the 9/11 Commission's report entitled ''The System was Blinking Red.'' It is hard to make sense out of the information-sharing breakdowns before September 11.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DURBIN. Mr. President, I ask unanimous consent for 10 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. On July 10, 2001, an FBI agent in the Phoenix field office sent a memo to FBI headquarters and to two agents on the international terrorism squads in the New York field office advising of the ''possibility of a coordinated effort by Osama bin Laden'' to send students to the U.S. to attend civil aviation schools—the famous Phoenix memo.

This Phoenix memo went into the system and virtually disappeared. On its face, this memo was fair warning. This memo was a flare that went off, climbed into the sky, and flashed a warning of danger, and no one noticed. This was July 10, 2001. The Phoenix memo went forward, and it disappeared in the sky without even notification.

The notice was there. Something needed to be done, but no one responded within the FBI or in the other appropriate agencies.

As we learned, the Phoenix memo was not an alert about suicide pilots. We learned the author was more concerned about a Pan Am 103 scenario. The fact is, whether they are talking about the Phoenix memo or what led up to the intelligence investigation involving Zacarias Moussaoui, we did not have a sharing of information among agencies that might have protected America and the 3,000 victims on September 11.

For well over two years, I have urged that we do something profound and historic. I thought about the Manhattan Project. That was a project, if you recall, that dates back to the attack on Pearl Harbor. Prior to that attack, Franklin Roosevelt had his atomic project that was looking into this new scientific research when it came to use of the atom. It was moving along at a snail's pace, and then came December 7, 1941. On that date, the President said we were shifting into a new approach. We want to know if we can use this new research in science to create atomic bombs, weapons that we may need in this war.

He shelved the commission that had been working on it and created a new group under the head of GEN Leslie Groves. GEN Leslie Groves, who was involved in the Army Corps of Engineers, dubbed it the Manhattan Project. What the general said was we are going to break all the rules. We are going to have Government leadership to develop this atom bomb, but we are going to turn to the academic side, the universities doing research, and we are going to turn to private business, and we are going to create what this country needs to defend itself. And we did. The Manhattan Project met its goal and produced the bombs that ended the Second World War.

I thought we needed something very similar when it comes to information sharing and technology in fighting this war on terrorism. This bill moves us in that direction. It creates an environment for us to have computers that communicate with one another, databases that can work with one another, information that can be shared. But all of the good words in this bill mean little or nothing if there is not the will in these agencies to make it happen, not only the person supervising this new environment, but each person who is involved at each agency to share this information and to make certain that we do not protect turf at the expense of protecting America.

Let me address one aspect of this bill—a bill which I am happy to support and will vote for—that is troubling to me. It is an aspect of the bill where we lost a provision in the conference which I think is very important.

That is a provision that was added in the Senate relative to the detention and humane treatment of captured terrorists. A provision in the Senate bill, which passed 96 to 2, addressed it. Unfortunately, the House Republican conferees insisted the provision be removed from the final version of the bill, so the bill is silent.

This is especially serious from my point of view because of the poor track record over the last several years when it comes to the use of torture.

In a January 2002 memo to the President, White House Counsel Alberto Gonzales concluded that the Geneva Conventions, which have guided us for decades when it comes to the humane treatment of prisoners, in the words of Mr. Gonzales were ''quaint'' and ''obsolete.''

In August 2002, the Justice Department sent a memo to Mr. Gonzales in which they adopted a new, very restrictive definition of torture. They stated that physical abuse only rises to the level of torture if it involves ''intense pain or suffering of the kind that is equivalent to the pain that would be associated with serious physical injury so severe that death, organ failure, or permanent damage resulting in a loss of significant body function will likely result.''

They also concluded that the torture statute, which makes torture a crime, did not apply to interrogations conducted under the President's Commander-in-Chief authority.

Under our Constitution, the President does not have the authority to make his own laws by creating a new definition of torture, and he cannot choose which laws he will obey. There is no wartime exception to our Constitution.

In November 2002, Defense Secretary Rumsfeld approved the use of coercive interrogation techniques at Guantanamo Bay. These included removal of clothing, using dogs to intimidate detainees, sensory deprivation, and placing detainees in painful physical conditions. According to a recent Red Cross report, the use of these techniques has grown ''more refined and repressive'' and constitutes torture.

There are so many unanswered questions about the administration's position on the use of torture. Mr. Gonzales said, ''We categorically reject any connection'' between the administration's torture memos and the abuses at Abu Ghraib, Guantanamo Bay, and elsewhere. But how can the administration reject these connections when the torture techniques that they approved for use in Guantanamo were being used in Abu Ghraib and elsewhere in Iraq?

Mr. Gonzales was recently nominated to be the Attorney General. I look forward to getting to the bottom of this issue when he comes before the Judiciary Committee in January.

The 9/11 Commission correctly concluded that the Iraqi prisoner abuse scandal has negatively affected our ability to combat terrorism. They wrote:

Allegations that the United States abused prisoners in its custody make it harder to build the diplomatic, political, and military alliances the government will need.

As a result, the Commission recommended that the U.S. develop policies to ensure that captured terrorists are treated humanely. That is exactly what we did in the Senate bill. In fact, the Senate provision is similar to an amendment which I offered to the Department of Defense authorization bill requiring that the Department issue policies to ensure that they will not engage in torture or cruel, inhumane, or degrading treatment, a standard embodied in our Constitution and in numerous international agreements.

The Senate intelligence reform bill would have simply extended these requirements to the intelligence community. What possible basis could the House conferees have had for opposing this provision, turning its back on the Geneva Convention's basic standards that we have held in this country for decades?

I think what we have here, unfortunately, is a decision by the conferees to be less than explicit about America's commitment. We need to make certain that we stand by standards which America has preached to the world for decades, that we realize we are not just not talking about detainees captured by our Government, but the potential treatment of Americans and American soldiers facing detention.

For us to remove this provision from this new bill is troublesome to me.

I think the intelligence community should be held to the same standards as the Department of Defense, and taking this language out of the bill will make that very difficult to monitor, as I hoped we would be able to do.

As the 9/11 Commission report admonishes, we have to think more imaginatively to protect America and use information in a more sensible and thoughtful way. Intelligence is the first line of defense against terrorism. With this legislation, our intelligence gathering, analysis, and application will be significantly improved. No agency can do it alone. Collective vigilance requires mutual cooperation and not just within the executive branch. We need to do our part on Capitol Hill.

Congress needs to be part of this new concerted effort. I am ready to work with administration officials to make this happen. I salute President Bush, Vice President CHENEY, Speaker HASTERT, and many other Republican leaders who stepped up to make certain they did their part to pass this legislation.

As we have done on the Senate side, we have demonstrated that this kind of bipartisan cooperation makes America a safer place.

Finally, thanks to the decision of my colleagues on the Senate Democratic side, I step into the capacity of the Senate whip, the assistant Senate leader, in a few days. As a result of that, I will have new responsibilities on the floor and more demands on my time. It was necessary for me to step aside from

my service on the Governmental Affairs Committee, which I really enjoyed during the period I have been in the Senate.

I am glad the last action of the committee was the passage of this important legislation. I think a lot of work that was put in in that committee paid off with the passage of it. I am going to miss this committee. I wanted to make certain that whoever would fill that slot would have the time to dedicate to its important work of protecting America.

I thank Governmental Affairs Committee Chairman SUSAN COLLINS, as well as Senator LIEBERMAN, for all of the kindness they have extended to me during my period on the committee. I hope I will be able to continue to help them in my new capacity as the Democratic whip of the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from Illinois for his comments. He has been an extraordinarily active member of the Governmental Affairs Committee. He has contributed to so many different investigations. Whether it was our review of mental health services for children or the food safety investigation, he has always been front and center in the committee's deliberations, as he has been with this intelligence reform bill. We will miss very much having him as a member of the committee, but I am grateful for his past service, and we hope he will return to the committee some day.

I know that two of the Homeland Security and Governmental Affairs Committee members are waiting to speak, so I will not prolong. I will talk more about my conferees, my wonderful, able group of conferees, later.

I ask unanimous consent that Senator CARPER be recognized next. He has already reserved time under the time agreement; to be followed by Senator COLEMAN, who has already reserved time under the time agreement; to be followed by the chairman of the Intelligence Committee, Senator ROBERTS, who similarly has reserved time. Two out of the three of these individuals were conferees on the bill. Two of the three also are members of the Governmental Affairs Committee. Each of them has played a significant role in bringing us to where we are today, and I am grateful for their support and involvement.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware.

Mr. CARPER. Mr. President, I say to our chairwoman of the committee, Senator COLLINS, a heartfelt thank-you for the leadership and persistence that she and my good friend JOE LIEBERMAN have demonstrated to get us to this day.

I also say to the President, thanks for using some of that political capital. You picked up a little bit last month, and I am pleased you have decided to invest a little bit of it in a worthwhile cause.

I plan to vote for this bill. I was privileged to be a member of the committee in the Senate that developed the proposal under which this bill is based, and we are happy to be here for this day.

To the members of the 9/11 Commission who have worked hard for about 18 months, their staff, a lot of folks who lost loved ones who provided the impetus, really the wind beneath the wings for the Commission and really for this effort, I say just a heartfelt thank-you for their efforts, and I hope they are pleased with where we are today.

Is this proposal perfect? No. Few of mine are. Is it better? You bet it is. It is a real improvement.

Back in 1947, the year I was born, the CIA was born as well. The intelligence structure that was created around the CIA and Cold-War years that followed was a structure that was designed to enable us to win the war against communism, the Cold War. That war is over. We won that war. We have a new war that we are fighting today, and it is a war against terrorism.

Just as the one approach worked well for many years—our intelligence apparatus worked well for many years against communism—it does not necessarily mean it is going to work well against terrorism. In fact, it has not.

When I was a naval flight officer, when I was not flying in a P–3 airplane, one of my ground jobs was to be the air intelligence officer on the ground, briefing other crews for their missions. We had a crew over here that was flying a top-secret mission, needed information about it, and then another group over here with the same clearance that did not fly that same mission. We did not brief the crew that was not going to fly the mission. There was a need to know. If they had a need to know, we provided the information for them. If they did not have a need to know, we did not provide it for them. It worked well in naval aviation. It did not work so well when it came to sharing information across 15 different intelligence agencies on information about terrorism.

We had one agency that knew there were bad guys around the world who wanted to come here and hurt us. We had another agency that knew the names of the people who actually came in and actually could have said that these were some of those bad guys. We had another agency that knew folks were being trained to fly in airplanes, not to land them, not to take them off but to literally fly them straight and level. Among those 15 different agencies, I call them stovepipes, they had the information but they never talked. At least they did not talk enough. We did not put it together.

People talked about connecting the dots. That is exactly what did not happen. So we were not talking; we were not sharing information. There was a need-to-know mentality that existed and has existed for a long time with respect to our agencies. It has to change. This bill is going to change it.

Another problem we had, nobody was in charge. There was nobody to assess accountability and say you were accountable for not letting this happen. With this provision, we are going to have a powerful person put in place, nominated by the President, selected by the President. It has to be an extraordinary individual, somebody smart, somebody who enjoys the confidence of both sides of the aisle, somebody who will enjoy the confidence of the intelligence community, somebody who will be willing to work real hard. I am sure that person is out there. My hope is the President will find him. My hope is we will confirm that person.

Some people say this is not a perfect bill; there are some provisions they do not like maybe with respect to our borders, maybe with respect to immigration, maybe with respect to the rights and prerogatives of the military and making sure they are still in a position to be strong and provide the intelligence that is needed when it is needed to our battlefield soldiers.

This is not a constitutional amendment. This is not something that is in concrete. This is a bill. It is a bill that has been hard fought and a compromise has been well won, but it is not forever. To the extent we go forward and we find that changes need to be made, we can make them, and we should.

In conclusion, we have been working at this stuff for a long time. People have known the system was broke for a long time. We have had any number of recommendations and studies that said, fix this system and this is how to do it. We have not done it. Today we have the opportunity to change it and to take a real step in the right direction. We would be foolish not to. I am happy to say we are not foolish. We are doing the right thing. It is time to seize the day, and that is exactly what we are going to do.

My thanks again to all those who have worked so hard to get us to this point.

I yield back my time.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. LEVIN. Mr. President, will the Senator from Minnesota yield for a unanimous consent request, unless there was someone else who was in order here? I wonder if we could set up an order following the Senator from Minnesota, the Senator from Kansas be recognized, and then I be recognized following the Senator from Kansas.

Ms. COLLINS. That is fine.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Minnesota.

Mr. COLEMAN. Mr. President, I serve on the Governmental Affairs Committee. I served on the conference committee that helped draft this bill, and I am going to be very proud to vote for this bill this afternoon.

I wish to start and end by thanking the chair, Senator COLLINS, for her incredible leadership. This was not easy to do. When we left around Thanksgiving, there were a lot of folks who said this would not happen, that it could not be done. We had people who had some very strong opinions about a wide range of issues, and there were differences.

Leadership makes a difference. The leadership of Chairman COLLINS made a difference. The leadership of Ranking Member LIEBERMAN made a difference.

I will also note, I am sure before we finally vote on this the chairman will talk about staff. But I see Michael Bopp, who is the staff director and chief counsel of the Governmental Affairs Committee. Staff worked very hard. They did an extraordinary job. We were on break, weren't around, but folks were working day and night over holidays to give us this opportunity to get it done. I do want to compliment Mr. Bopp and all of the staff, on a bipartisan basis, including my own staff who worked so hard. America should thank them because this bill is good for America. This bill makes America safer.

As I look back on the opportunities I had in my first session of Congress, the 108th, I believe the passage of this bill is the most significant thing this Congress has done. We have made America safer. There are a lot of important achievements—Medicare reform, tax cuts—but in the end you can't have economic security without national security. Americans cannot live if they live in fear. The threat of terrorist attack is the greatest threat that faces America, and we have now taken substantial steps in making America safer. We make us safer, as I said before, by the creation of a Director of National Intelligence, a single person whom we can say is in charge.

I was struck during the hearings by my understanding of the statement of George Tenet that a few years before 9/11, he made a statement, sent out an e-mail, that we were at war with al-Qaida, but a lot of folks didn't know the war was happening. The CIA didn't talk to the FBI and the Defense Department was not coordinated with the CIA to the degree it needed to be for us to be as safe as we should be. This bill addresses that by creating a Director of National Intelligence to advise the President, to be the go-to person, the person we know is in charge. It then creates a National Counterterrorism Center so we can bring the best and brightest together to make America safer.

This bill is not the same bill the Senate passed, but it is a good one. At the beginning of our efforts way back in June, Senator CARPER, from Delaware, shared the credo that one of his constituents lived by: The main thing is to keep the main thing the main thing. I believe we have done that in this bill.

This bill implements both of the 9/11 Commission's most important recommendations. It creates a Director of National Intelligence to oversee and coordinate the effort in the intelligence community. A central problem the Commission identified was that prior to 9/11, no one was in charge of our intelligence operations. We have taken care of that problem.

It is important to note a lot of people were doing a lot of things and doing good things, but they were not sharing information, they were not coordinating efforts to the degree we needed. We had this concept that has been talked about on the Senate floor of silos, folks working in their own areas, doing a good job. But the reality is, to be effective, you can't work in a silo, you can't work in isolation; you have to work together so all the activities of all those involved in intelligence reflect similar priorities.

We have corrected that now. The DNI is in charge of intelligence. He has the power to shape the intelligence community over time. He can implement joint policies on personnel, training, information systems, and communications. The DNI also has a National Counterterrorism Center to lead our counterterrorism efforts. The Center will contain the best and brightest the Government has. Merely by creating these two new entities we take an important step forward. This is not about more bureaucracy; this is about more effective, focused, targeted efforts to improve the safety of America, to improve our intelligence efforts. It is a base upon which we can continue to move forward.

Like all legislation, this bill represents a compromise. On intelligence reform, we agreed to many of the provisions in the House bill. We gave the Department of Defense more of a say in how funds are allocated after Congress appropriates them. We agreed to keep the total amount of money spent on intelligence classified. But the House, in turn, has agreed to respond to many of our concerns with the rest of their original language.

This bill makes important reforms in immigration and law enforcement powers but omits the most controversial sections included in the House bill, and I believe that is wise. We need to address the issue of immigration reform. It is a critical issue. But we cannot allow our efforts to improve intelligence, we cannot allow our efforts to improve security to get pushed aside, to somehow get held up because we have not had the kind of debate and analysis and scrutiny we need to have in both Chambers on the important issue of immigration reform.

9/11 was a horrible tragedy. We saw the face of evil. We learned the desperate measures people will take to stamp out our way of life. But we have seen and we have learned. From learning—I want to stress this—in this process we had extensive hearings. We moved forward quickly, but we didn't rush to judgment. The Senator from Kansas, Senator ROBERTS, who chairs the Intelligence Committee, has been part of our discussions. He noted there have been decades of efforts to reform intelligence. We had a base to build upon, but we had not moved forward until today, and we have moved forward building on so much of what has been done in the past and building on a record, which we heard about from folks who headed the CIA, doing operations work today.

There was a very extensive analysis of what the needs are. We looked at the work of the Commission, the families of the victims, the history of intelligence reform, and we made a difference today. For that, Chairman COLLINS, Ranking Member LIEBERMAN, and all involved—and the President of the United States—should be proud. The President of the United States played a tremendous role in getting this done.

One final point before I yield the floor. When we talk about intelligence reform, we do talk about the big things. We talk about creating a Director of National Intelligence and the National Counterintelligence Center. But I also want to take a moment to talk about what this bill does for the rest of us, some of the folks at the local level.

I come from Minnesota. It is a small State, located on our border with Canada. But, like her northern neighbors such as Maine, Minnesota can be a gateway for many of the goods and people crossing by boat, car, plane, and train. They may end up in Chicago or San Francisco or New York, but many come in through the border States. Homeland security starts with border security.

This bill recognizes that. It understands that when it comes to border security, it is going to be folks at the local level, not folks at the Federal level, who are going to be the first on the scene. That is why this bill contains a provision to ensure that State and local officials will be part of an integrated command system so first responders can communicate with each other. Communication and teamwork go hand in hand, and thanks to this bill, if we face another 9/11, local, State, and Federal officials will not only be ready but will be able to work as a team.

This bill also understands that border security takes resources and manpower by providing an additional 10,000 agents over 5 years to protect U.S. borders and unmanned aerial vehicles to monitor our border with Canada. This is good news for America and good news for places such as International Falls, MN.

International Falls is just a small town in Minnesota, but because of its location, this city is among the 50 busiest gateways in this country, admitting many hundreds of thousands of men and women through it into this country each year. I went there this August to see what was going on and to talk with people directly responsible for our border security, people like

Paul Nevanen, director of Koochiching County's Economic Development Authority, and Glen Schroeder, the chief agent in charge of border patrol. People like Paul and Glen highlighted the difficulties they had just communicating with their Federal counterparts and the difficulty of adequately screening entry of people into the United States without proper technology and resources. After talking with the people at International Falls, I came back to Washington and fought hard for our folks on the border. This bill reflects that hard work. It gives them the resources and manpower necessary to support and secure our border.

This is a good bill. I am going to vote for it with a great sense of pride. There are some who may say we could walk away from this bill and hope for something better next year. That would be irresponsible. This bill makes America safer. Passage of intelligence reform will only become more difficult as time passes—unless, God forbid, there is another terrorist attack. In that case, of course, there will be another call for reform. But I submit that Congress will have failed in its duty to the American people if it waits until then to do anything.

We don't have to wait. We have a great bill before us. We have been provided with great leadership from Chairman COLLINS, from the ranking member, and the President's efforts. I applaud all of them. As I said before, I look forward to voting for this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, it is my understanding that I have allotted to me 10 minutes. I had originally understood it was 15. I ask the distinguished chairman of the Governmental Affairs Committee if she could yield me 5 minutes out of her time, which I know is precious, thus making it 15?

Ms. COLLINS. I am happy to yield to the distinguished chairman of the Intelligence Committee 5 additional minutes from my time. It is my understanding that the ranking member of the committee, the vice chairman of the committee, is also seeking some additional time.

In between, however, Senator LEVIN has set a schedule to speak. I appreciate the order amongst Members. I will also be happy to yield 5 minutes from Senator LIEBERMAN's time to Senator ROCKEFELLER.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kansas is recognized for 15 minutes.

Mr. ROBERTS. I thank the Presiding Officer, and I thank the chairman.

Mr. President, one day after the 62nd anniversary of the attack on Pearl Harbor, and 3 years and 82 days after the 9/11 terrorist attacks on our country, we will now pass the National Security Intelligence Reform Act of 2004.

I rise in strong support of this conference report which is a remarkable first step in our goal to strengthen and improve our Nation's intelligence capabilities.

My colleagues, we should start—and others have said this, and it is certainly true—by recognizing Senator COLLINS and Senator LIEBERMAN and their staff for their efforts to get a bill which will have a positive impact on our intelligence community. They have put in a tremendous amount of hard slugging, sometimes very contentious and very difficult work, and overtime, since they began this effort back as of the 1st of August. I thank them. Together, we will have made a positive difference in behalf of our national security.

I would also like to thank President Bush for his instrumental efforts in getting this conference report moving. Without his leadership, this reform would still be in the midst of a turf and issue gridlock. The President knows that national security demands intelligence reform and that the status quo is not an option. So I thank the President for weighing in.

All one had to do is listen to the debate on this bill in the other body yesterday to understand that this bill by necessity is a compromise. When you compromise you do not get everything you want. In my case—and in the view of many who serve on the Senate Intelligence Committee—it does not do everything that I believe is necessary to clearly streamline the structure of our intelligence community. It is no secret that I believe we should have gone farther.

It is perplexing to me and a paradox of enormous irony that after the 9/11 investigation by both the Senate and House Intelligence Committees, after our Senate committee's WMD report, after the findings of the 9/11 Commission, after the report of the President's WMD commission, and after all of the hearings we have held within the appropriate committees and the Senate Intelligence Committee—we have held over 200 hearings this session, 60 percent more than the previous session of Congress—after all of this, and the knowledge of the attacks on the Khobar Towers, the USS *Cole*, and the embassy bombings, 9/11, terror attacks all over the world that we know are connected, that still some believe we do not need comprehensive reform or have or will vote against this legislation because they believe it is a rush to judgment or that the legislation did not include what they deem their top national security priority.

In this regard, some have argued that this bill will interrupt the military chain of command or prevent the men and women of the armed services from receiving crucial intelligence information. Certainly these arguments should not be ignored. But in the end, this legislation does very little to modify the chains of command within the intelligence community.

The tactical intelligence elements of the U.S. Government remain clearly and explicitly under the command of the Secretary of Defense.

The leadership construct for national intelligence assets remains largely unchanged. The Director of National Intelligence remains primarily a budget and policy leader for national intelligence assets.

Undoubtedly, the Director's budget and policy authorities are strengthened. But day-to-day operational control of our national intelligence collection agencies remains dispersed. The Central Intelligence Agency will now be led by an independent Director. The Secretary of Defense retains the operational control of the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office.

Note the word of all three agencies, ''national.''

These are not only combat support agencies, but national policy assets.

I cannot see how the existing chains of command have been seriously changed.

The history of the intelligence community does not support the opponents' second argument—that the Armed Forces will somehow be deprived of intelligence by a stronger Director of National Intelligence. The former DCI has always set requirements and priorities for collection by national assets. Moreover, neither the President nor Congress—certainly not this Member of Congress, a former marine—would ever permit the crucial intelligence needs of our military to be ignored by the Director of National Intelligence.

Certainly, the requirements of our men and women in the military must be met. That has been said over and over again, especially in the House. But we must also recognize that the principal user of national intelligence that is produced by our national intelligence agencies are our national policymakers, primarily the President of the United States, the National Security Council, and the Congress of the United States. The DNI must have authority to ensure that the intelligence requirements of the President and other national policymakers are met.

Thus, while the Department of Defense is by volume—everybody understands that, by volume—the largest user of national intelligence, we must not forget that our national collection assets at the CIA and at the NSA, the NRO and the NGA—what the critics call combat support agencies—serve our policymaking needs as well.

However, while this is not the best bill possible, it is the best possible bill. It is also a big step in the right direction.

As has been said it will create a Director of National Intelligence, or a DNI, who is separate from the Director of the CIA. It will give this Director, the DNI, marginally improved budget authorities over our intelligence community agencies. It will provide authority to conduct quality control

checks of the analytic products of our intelligence community. It will also create a National counterterrorism Center which will, I hope, eventually serve as the Nation's true clearinghouse for terrorist-related intelligence. These are, in my view, very positive steps forward in our intelligence community.

I would also like my colleagues to take note of several other important and long overdue provisions in this bill. For example, this bill will consolidate what is now a needlessly complicated and expensive background investigation and security clearance process under one agency. Today, it takes too long to get good people in very crucial positions. Noting the debate in the other body, it is important to stress this bill will also bring important improvements to our Nation's border security.

I am not, however, under any illusions. This bill is not perfect. No bill is. Senator COLLINS and Senator LIEBERMAN were forced to put the Senate bill through the filter of the demands of the House and still manage to get a bill that is a step in the right direction—a big step.

In conjunction with the administration, we in the Congress—more especially those of us who had the privilege of serving on the House and Senate Intelligence Committees—will need to nurture this new intelligence structure over the years and clarify as necessary the various authorities in order to make it effective.

For those who are uneasy with the unprecedented speed with which this bill was brought to this point, I would like to offer the reassurance that what we will pass today is certainly not the final chapter on the reform of our intelligence. After this bill becomes law, we will monitor its implementation and make any needed adjustments in subsequent years. If one looks at history, the process of amending and improving the National Security Act of 1947 began almost immediately following its passage. I expect that this bill will be no different. This bill is only the beginning of the intelligence reform process. Since July, several other Senators and I have made it clear that while we believe this bill has many good provisions, what it fails to do is create a leader of the intelligence community who is clearly in charge and as a result is fully accountable.

That does not make this a bad bill. It just means that Congress must continue to monitor and guide the intelligence reform process. We must continue the logical reform of our intelligence community. If we are not diligent, our newly created Director of National Intelligence could end up a director in name only. Our national security certainly demands better.

I am determined to work with my colleagues in this Congress and the administration to continue the process that has been started by this reform effort. This process will be difficult, but it is essential and we must persevere. President Eisenhower, a five-star general, a national hero, was unable to achieve the reforms he sought to unify the Department of Defense in the 1950s. Instead, President Eisenhower's reforms would have to wait another 30 years for the Goldwater-Nichols Act which made the U.S. military the very remarkable and unified force it is today.

The forces of the status quo beat back President Truman's efforts in 1947 to put military operations under the control of the Joint Chiefs of Staff and the unified commands that had shown their utility during World War II. Instead, in 1947, President Truman was forced to accept a National Security Act that codified a system in which the military services were loosely joined under a very weak Joint Chiefs of Staff organization that had no significant authority independent of the military services.

The compromise President Truman was forced to accept mirrors in many ways the compromise bill we are voting for today. But there is reason for optimism. That shell of a Joint Chiefs of Staff which was codified in 1947 did provide the foundation upon which the Goldwater-Nichols Act would build the remarkable unified command and control structure we have today.

In addition to serving as that important foundation, the Joint Chiefs of Staff also became a voice. That voice was independent of the military services turf interests in the debate over how to continue the process of the reform of our defense. That was the first step in the struggle that resulted in the Goldwater-Nichols Act and a major overhaul of the military command structure.

This bill does not give the Director of National Intelligence all of the authorities I would like to provide. It is my sincere hope, however, that it will at least create the same kind of voice, independent of the institutional interests that currently divide our intelligence community, a voice that can lead us toward the ultimate goal: a more rationally organized intelligence community with a clear chain of command and the real accountability that comes with it.

Since 1949, 24 attempts have been made to pass comprehensive intelligence reform legislation. I thank all concerned that we have been successful on the 25th attempt. It has been 3 years and 82 days since September 11. On behalf of the families of the victims of September 11 and on behalf of national security and every American, I am thankful we will not wait another day.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Michigan is recognized for 15 minutes.

Mr. LEVIN. I thank the Presiding Officer. I ask unanimous consent, instead of my proceeding, that the Senator from Florida be recognized and I be recognized following that; and following that, Senator ROCKEFELLER, and then we proceed to Senator BYRD, who, I understand, has agreed to begin at about 12:40 instead of 12:30.

I ask unanimous consent that be the order of debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida.

Mr. GRAHAM of Florida. Madam President, I am going to submit for the RECORD a fuller statement, but in deference to the limited time we have, I have a few brief comments on what I consider to be one of the most important enactments of my 18 years in the Senate.

This is an accomplishment which did not happen beginning this summer but rather has been underway for at least the 15 years since the fall of the Berlin Wall. I am extremely pleased we have now arrived at the point we may be in a position to enact serious intelligence reform for the first time in over 50 years.

There are many important aspects of this legislation. One, it will centralize the intelligence agencies, not as an end in itself, but to create the platform from which we can then decentralize. As Senator ROBERTS was discussing, in 1947, the various separate military branches—there was a Secretary of the Army, there was a Secretary of the Navy—were brought together under a Secretary of Defense. Then, 39 years later, that centralized organization was decentralized into the combatant joint commands that now are the principal warfighters for America.

That is exactly the process anticipated here. The only major difference is it will not take 39 years to get from centralization to decentralization.

A second aspect of this bill I point out, we have much work to do in the area of human intelligence. The case could be made that both the war in Afghanistan and the war in Iraq were a product of our inadequate human intelligence capabilities. We must make a major effort to rebuild our human capabilities. This bill takes a step in that direction through emphasis on more linguistic training in the Defense bill that was the establishment of what I refer to as the intelligence equivalent of the Reserve Officers Training Corps. We need many other initiatives to fill this gaping hole in our intelligence.

The third area—and I particularly commend Senator WYDEN and Senator LOTT and others involved in this—is to try to make our security classifications more truly an issue of security rather than agencies trying to bury their mistakes.

In this legislation we establish a new classification board that will review decisions that are made in the executive branch to determine if there has been an excessive use of secrecy. Our former colleague, Senator Pat Moynihan, used to say that secrecy is for losers. We do not want the United States to be in that category of losers.

What we are doing today is an important step. It is not by any means the

last step. Let me mention a few things that will need to flow from our decision today. Some are rather tangential to the issue of intelligence reform. As an example, we are now requiring any visa applicant to have a face-to-face encounter with a visa agent. That may sound like an appropriate protection against inappropriate people getting access to the United States.

There are also, however, very practical matters. A country that will be of increasing significance to the United States is the country of Brazil. Brazil is a country which is the size of the continental United States plus a second Texas. It is the fourth largest country in population in the world. Today we have three places in which a person could get a visa. They are relatively close together. It would be as if the only place you could get a visa in the United States was Washington, New York, or Boston. We have to develop some strategy to make it more reasonable for persons around the world, but particularly in these large-sized nations that are so important to our economy, to be able to have reasonable access to the visa process.

The second part of this legislation relates to the United States relationship with Saudi Arabia. It points out that the Government of Saudi Arabia has not always responded promptly or fully to the United States request for assistance in the global war on Islamic terrorism.

I believe we need an enormous increase in the transparency of the relationship between the United States and Saudi Arabia, and that is a goal we have been retreating from. In the joint House-Senate report on the factors that led to 9/11, an 800-page report contained 27 pages on the role of Saudi Arabia in 9/11. Every one of those 27 pages was classified, so the American people in that and other instances have been denied access to the information about our relationship with Saudi Arabia. I hope the provision contained in this legislation will move us toward a greater frankness and candor in that important relationship.

Finally, this legislation places responsibility for important future actions in at least three places. One of those is the President. The President will have the responsibility for making a series of critical appointments so there will be the human beings responsible for implementing this legislation in a creative, dynamic manner.

He also must assure there is a value system in relationship to this new office and other positions which are also his responsibility to appoint. The most notable of these will be between the Director of National Intelligence and the Department of Defense. It will require continued Presidential involvement and monitoring to assure that relationship achieves rather than frustrates the objectives of this legislation.

The new Director of National Intelligence will have enormous responsibility. He or she will have to establish clear priorities for the intelligence community, and this will be reflected in the creation of additional national intelligence centers. These are the decentralizing units that have been established in the case of terrorism and counterproliferation and will be under the directive of the DNI to establish in other emerging threat areas. The DNI must also revise current budget priorities, particularly in areas such as research and development, to reflect response to our emerging threats.

He also will have to establish communitywide personnel policies that support the recruitment, training, and retention of the most effective intelligence community personnel.

Finally, there will be a responsibility here on the Congress. In the Senate, we have taken steps to reform our oversight of intelligence. No longer will there be an 8-year term limit. No longer will intelligence budgets go through the Defense subcommittee but, rather, through their own Appropriations subcommittees.

These are good starts. But we are also going to have to look at the culture of the congressional oversight committees, focusing much more on the future and the threats that are coming at us and relatively give less of our time to constant focus on the accidents that can be seen through the rearview mirror. By its nature, the intelligence community is going to create accidents from time to time. They need to be reviewed, but we cannot afford for them to be totally consuming in terms of our oversight responsibility. It is in the future that the threats are to be found, and it is our responsibility to be able to assure the American people that our intelligence communities are capable of identifying those threats and providing information to decisionmakers to mitigate the chances that those threats will become the next Pearl Harbor or the next 9/11 tragedy.

Madam President, in conclusion, I thank all the people who have played such a significant role. Obviously, Senator COLLINS and Senator LIEBERMAN deserve special notice. But there are many other people in this Chamber today, such as Senator ROBERTS and Senator ROCKEFELLER, who have played a continuing role in seeing that our intelligence community is able to serve its responsibility to the people of America.

Thank you very much.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I ask unanimous consent that I be allowed to yield 2 minutes of my time to the Senator from New York.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York is recognized.

Mr. SCHUMER. Madam President, I thank my friend from Michigan for yielding. I thank all those who worked on this bill. It is not everything we all would have wanted, but it is a large improvement, and I am proud to vote for this bill. I want to take a few brief minutes simply to praise the families from the New York metropolitan area who worked so long and hard on this bill.

Today we live in a cynical time. But these families showed that a small group of people, if they have the will and the fortitude and the strength and the courage, can move mountains, even here in Washington. Without the families, we would not have had a 9/11 Commission. Without the families, we would not have had a 9/11 bill. Without the families, we would not have had each House pass its own bills. And without the families, we would not have had the agreement we have come to now.

They are an amazing group. When you look into their eyes, as they carry their pictures of their lost husbands and wives and children and parents, you see the best of America and the best of New York. They are a beacon, a model of strength, of courage, of indomitability, and they can rest easier tonight, as we all can, that our world will be safer, and perhaps the horrible thing that happened to our city and our country on that tragic day of 9/11 will not be repeated, God willing, again.

Madam President, I yield the floor and thank my colleague from Michigan for his generosity.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, first, I want to state how indebted we all are to the 9/11 Commission and to the families for their work in putting us on the road to reform. That road will reach a culmination today. It is appropriate that we spent the time we did to try to put together a bill which is comprehensive and the most dramatic reform in the intelligence community that we have had in many decades.

We in the Congress started out on that road with the goal of creating a strong Director of National Intelligence, or DNI. One milepost was to empower that Director with real budget power and adequate control over personnel in the intelligence community. Another milepost was the creation of a strong National counterterrorism Center, or NCTC, with the authority to conduct strategic counterterrorism planning and to assign roles and responsibilities for counterterrorism activities. The managers deserve great credit as the conference agreement represents a significant achievement in regard to those issues. Their work, the work of Senators COLLINS and LIEBERMAN, is a model of bipartisanship, and I heartily commend them for it.

The conference agreement contains a number of provisions that I proposed in the Senate-passed version. For example, it is critical that there be a customer focus instead of a top-down focus in setting intelligence collection and

tasking requirements. There is language in this conference report to provide that customer focus.

The Senate bill contains language which I offered which precludes the NCTC Director from assigning specific responsibilities directly to components of the Department of Defense. That authority would have had a negative impact on the military chain of command. That authority should remain in the Department of Defense. The conference report retains our Senate language.

The legislation also contains a provision which I authored with Senator COLEMAN to stop money laundering and terrorist financing. The 9/11 Commission acknowledged that disrupting terrorist financing is one key to winning the battle against terrorism. Our provision strengthens bank oversight by imposing a 1-year cooling-off period on Federal bank examiners before they can take a job with one of the financial institutions which they oversaw. The need for this provision arose from our investigation conducted by the Permanent Subcommittee on Investigations which disclosed the weak anti-money laundering controls at Riggs Bank which resulted in highly suspicious financial transactions.

Among other problems, we were surprised to learn that the Federal bank examiner who oversaw Riggs and allowed the bank to continue operating for years with a deficient anti-money laundering program retired from the Government and immediately took a job at the bank, raising conflict of interest concerns. Our new provision will help eliminate such conflicts.

Our provision also directs the Treasury Department to conduct a study of current Federal anti-money laundering efforts and recommend improvements to the process for setting priorities so that we direct our efforts where they are most needed.

On the other side of the ledger, I want to talk about a number of provisions that were included in the Senate-passed bill but which are, unfortunately, absent from this conference report. We had a number of provisions in our Senate bill, on which we worked so hard, that are omitted from this bill. It seems to me the bill is weaker as a result.

One Senate-passed provision would have permitted the new DNI to transfer military billets among activities within the intelligence community but would not have permitted the new Director to transfer individual members of the armed forces, thereby avoiding the potential for the Director to interfere with the military chain of command. That was changed and it mystifies me as to why our provision was dropped.

Another Senate provision would have provided that the administration review certain Defense Intelligence Agency programs to determine whether they should be managed by the new Director of National Intelligence or by the Secretary of Defense rather than automatically transferring them to the new DNI without review. The conference report now gives that nonreviewable power to the new Director of Intelligence. The programs, then, that the new Director will have that kind of control over include the intelligence staffs of the Chairman of the Joint Chiefs of Staff, the intelligence staffs of the commanders, and the intelligence staffs of certain communications, and control over certain communications systems which support sensitive military command and control activities within the Department of Defense.

As I said, I am mystified why these two provisions, which were included in the Senate-passed bill, were omitted from the conference agreement. Did House Republicans object to those provisions even though those provisions addressed concerns that a number of us have and, as a matter of fact, that the Armed Services chairman in the House, Duncan Hunter, had about protecting the military chain of command and about the Department of Defense having a voice in budget matters which so directly and keenly affect them?

There are a number of other troubling omissions from the conference report. I happen to be one who agrees that we need a new strong director of national intelligence and a new NCTC, a new national counterterrorism center, with strong authority. But their creation will not solve all or even the most critical of the problems in our intelligence community. In fact, the creation of a stronger intelligence director makes it even more important that we enact reforms to ensure that intelligence assessments are not influenced by the policy judgments of whatever administration is in power and that a stronger DNI is not just a stronger political arm of any administration.

I am deeply troubled that the conference report does not contain critical provisions that were included in our Senate-passed bill on a bipartisan basis that were intended to promote independent and objective intelligence analysis.

The scope and the seriousness of the problem of manipulated intelligence cannot be overstated. History has too many examples of intelligence assessments being shaped to support an administration's policy goals, with disastrous results. Forty years ago Secretary of Defense McNamara invoked dubious classified communication intercepts to support passage of the Gulf of Tonkin resolution which was then used by President Johnson as the legislative foundation for expanding the war against North Vietnam.

Director of Central Intelligence Bill Casey heavily manipulated intelligence during the Iran Contra period. A bipartisan Iran Contra report concluded that CIA Director Casey ''misrepresented or selectively used available intelligence to support the policy that he was promoting.''

The intelligence failures before the Iraq war were massive. The CIA's failures were all in one direction, making the Iraqi threat clearer, sharper, and more imminent, thereby promoting the administration's decision to forcibly remove Saddam Hussein from power. Nuances, qualifications, and caveats were dropped. A slam-dunk was the assessment relative to the presence of weapons of mass destruction in Iraq. The CIA was telling the administration and the American people what it thought the administration wanted to hear.

In July of 2004, just a few months ago, our Intelligence Committee in the Senate issued a 500-page unanimous report setting out a long list of instances where the CIA or its leaders made statements about Iraq's WMD and, to a lesser extent, Iraq's links to al-Qaida, which statements were significantly more certain than the underlying intelligence reporting and more certain than the CIA's earlier findings.

In fact, the first overall conclusion on WMD in the intelligence committee's report was that ''most of the key judgments in the Intelligence Community's October 2002 National Intelligence Estimate . . . either overstated or were not supported by the underlying intelligence reporting'' regarding Iraq's programs of weapons of mass destruction.

These are life-and-death issues. We in Congress and the American people need to know that we are getting objective assessments on North Korea's nuclear program or Iran's nuclear intentions, for instance. We cannot have any doubt in our mind the intelligence assessments that we get represent the facts as they are objectively assessed and are not shaped to serve policy goals of the White House—this White House or any other White House.

We need a stronger national director of intelligence, but a stronger DNI must not simply be a stronger yes man for whatever administration happens to be in power at the time. When we wrote the Senate bill, we included provisions to promote the objectivity and independence of intelligence assessments and to provide a check on the new National Intelligence Director from becoming a policy or political arm of the White House. I am troubled that the conference report excludes some of those checks and significantly weakens others.

Perhaps the most troubling area in which this conference report falls short in that regard is the elimination of provisions which we had in our bipartisan Senate bill which gave Congress the tools to do effective oversight of the intelligence community. On this issue, the 9/11 Commission itself said that ''Of all of our recommendations, strengthening congressional oversight may be among the most difficult and important.'' That is why during the Senate's consideration of the bill, we worked so hard to include provisions

aimed at achieving that goal. The absence of these provisions from this conference report is deeply troubling.

The bipartisan bill that we passed here in the Senate contained language that required the new Director of Intelligence, the National Intelligence Council, the NCTC, and the CIA to provide intelligence not shaped to serve policy goals. The conference report omits that language.

The Senate-passed bill promoted independence of the NCTC by stating that the Director could not be forced to ask permission to testify before Congress or to seek prior approval of congressional testimony or comments. The conference report leaves out that provision.

The Senate-passed bill contained a provision requiring the DNI to provide Congress access to intelligence reports, assessments, estimates, and other intelligence information and to do so within a time certain.

The conference report omits that Senate-passed requirement giving us a tool to do oversight. There is a long, painful history of efforts in Congress, on a bipartisan basis, to obtain information from the intelligence community which have never been answered or have been slow-walked for weeks, months, and years at a time. It is unacceptable.

A more powerful DNI could make matters worse—or better. Congress is coequal to the executive branch on intelligence issues and it baffles me why any Member of Congress, over in the House where we had this opposition, would oppose strengthening our ability to access information and carry out our oversight responsibilities and to prod the intelligence community to give us objective facts without spin.

I ask unanimous consent for 1 more minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. I was also troubled to find out that White House staff was actually present in the room during staff negotiations of these issues. It is my understanding that the White House objected to the Congressional oversight provisions during those discussions. I know these Senate provisions were strongly supported by both the Senator from Maine and the Senator from Connecticut. I know how difficult those discussions were and I appreciate that support very much. It was not a lack of trying on their part which led to the exclusion of these provisions. It was the opposition of the White House carried by House Republicans.

In the final negotiations leading up to the November 20 draft conference agreement, I even offered what I know the managers agreed was a reasonable compromise that would have simply required that the DNI report to Congress the status of outstanding requests for intelligence information from committee chairmen and ranking members. It is my understanding that the House Republicans and the White House opposed even that language. The record should be clear on this matter if we are to carry on the battle for stronger Congressional oversight, which is so essential.

Other provisions directed at the production of independent, objective intelligence were also included in the Senate-passed bill but were dropped from this conference report. For example, the Senate-passed bill created a statutory ombudsman to initiate inquiries into problems of politicization, biased reporting, or lack of objective analysis. This conference report weakens that provision by requiring merely that the DNI identify an individual—and that could be any individual, including the DNI him or herself—to fill that role.

The Senate-passed bill created a statutory inspector general in the office of the DNI with strong investigative powers. This conference report does not. Instead, it simply leaves it up to the DNI to create an IG or not.

The Senate-passed bill created a statutory Office of Alternative Analysis or ''red team.'' This conference report weakens that by simply requiring the DNI to establish a process and assign an individual or entity—again, any individual or entity—to conduct the function of red teaming.

Let me summarize. While I am pleased that we were successful in creating a strong DNI and NCTC, I am deeply disappointed that we did not reach our destination in these other equally important areas.

Mr. President, on balance, I have concluded that I will vote for this bill, but I am concerned about what has been left out of this conference report. I think the managers share my concern about these omissions and would ask that they work with me to address these issues in the 109th Congress.

While we have the chairman of the committee on the floor, I thank her and Senator LIEBERMAN for the strong support they gave to the provisions I just described. We should give Congress the tools to do the oversight which is so essential if we are going to get independent, objective analysis. I don't know why the House—apparently Republicans who are carrying out the desires of the White House—took this position. But it weakens Congress. I want to create a record here, number one, acknowledging and thanking and commending our managers for the work they did in conference, trying to preserve our bipartisan provision, but asking, if I could, that they comment on what I just said relative to where the objection came from to these provisions that gave Congress the tools to do effective oversight over intelligence assessments, which we had in our bipartisan Senate bill, and whether I was correct in stating that.

Perhaps the Senator can answer on her own time as to whether the objection came from the House Republicans and the White House.

Ms. COLLINS. Madam President, the Senator from Michigan worked so hard to craft a series of provisions that were included in this bill. Unfortunately, the conference agreement does not include many of the provisions the Senator cared most about concerning access to information by Congress in order to ensure effective congressional oversight.

I think the loss of those provisions is unfortunate. On the Senate side, they had bipartisan support. I think it reflects a historic tension between Congress and the executive branch when it comes to oversight and the inadequate sharing of information with Congress.

This has been a problem in previous administrations, and it has continued to this day. So the Senator is correct that this objection did not originate with any of the Senate conferees, either Republican or Democrat, and it did reflect the views of the executive branch. I want to make it clear that regardless of whether we have had a Democratic President or a Republican President, that tension has existed over decades.

Mr. LEVIN. I thank the chairman of the committee.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Madam President, I will spend a minute on separate intelligence-related matter before speaking about the bill currently before the Senate. In the time I have been vice chairman of the Intelligence Committee, I have worked hard to try to make sure that funds are channeled to where they ought to be in intelligence. For this reason, and with a great deal of reluctance, I am going to oppose the fiscal year 2005 intelligence authorization conference report, which the Senate will consider later today.

My decision to take this somewhat unprecedented action is based solely on my strenuous objection—shared by many in our committee—to a particular major funding acquisition program that I believe is totally unjustified and very wasteful and dangerous to national security.

Because of the highly classified nature of the programs contained in the national intelligence budget, I cannot talk about them on the floor. But the Senate has voted for the past 2 years to terminate the program of which I speak, only to be overruled in the appropriations conference. The intelligence authorization conference report that I expect to be before the Senate later today fully authorizes funding for this unjustified and stunningly expensive acquisition. I simply cannot overlook that.

My decision is shared by a number of my colleagues. Speaking for myself, if we are asked to fund this particular program next year, I will seriously consider and probably will ask the Senate to go into closed session so the Senators can understand, fully debate, become informed upon, and then vote on termination of this very wasteful acquisition program.

Mr. WYDEN. Madam President, I rise today to express my concern regarding

a provision included in the Intelligence authorization conference report, which has been included in the intelligence reform legislation before us. I commend the efforts of both Chairman ROBERTS and Vice Chairman ROCKEFELLER for their hard work during the negotiations over this legislation. But I, like the vice chairman, do not support the continued funding of a major acquisition program which is unnecessary, ineffective, over budget, and too expensive. The easier path would be to step aside and let this program continue without dissent. In this case, however, I do not believe the continued funding of this program is the best way to secure our Nation and the safety of our troops and citizens.

The Senate Select Committee on Intelligence has raised concerns about the need and costs of this program for the past 4 years and sought to cancel this program in each of the past 2 years. This has not been a political issue, a Democratic or Republican issue, nor should it be. The members of the Senate committee have supported these efforts in a nonpartisan way with unanimous votes each time.

The Senate Intelligence Committee has determined that this program should not be funded based on firm policy judgments. Numerous independent reviews have concluded that the program does not fulfill a major intelligence gap or shortfall, and the original justification for developing this technology has eroded in importance due to the changed practices and capabilities of our adversaries. There are a number of other programs in existence and in development whose capabilities can match those envisioned for this program at far less cost and technological risk. Like almost all other acquisition programs of its size, initial budget estimates have drastically underestimated the true costs of this acquisition and independent cost estimates have shown that this program will exceed its proposed budgets by enormous amounts of money. The Senate Intelligence Committee has also in the past expressed its concern about how this program was to be awarded to the prime contractor.

I understand why funding for this program was included in the conference report. The administration requested it, the appropriators have already funded it, and the House wanted to maintain the funding. Nevertheless, I believe this issue must be highlighted because it is not going away. I wish more of my colleagues knew of the details of this program and understood why we are so convinced that it should be canceled. I encourage you to request a briefing, to come to the Intelligence Committee and let our staff explain why we believe we are right about this program. If you do, I believe my colleagues would agree with the members of the Senate Intelligence Committee and vote to stop this program next year.

I am pleased that the so-called ''lone wolf'' terrorist provision, which had passed the Senate twice since the attacks of 9/11, has been included in the intelligence reform legislation.

As all my colleagues who have read the 9/11 Commission Report know, the case of Zacarias Moussauoui—the ''twentieth hijacker''—showed that current law was insufficient to address cases in which a foreign person is suspected of terrorist involvement but had no known connection to a terrorist organization. Current law under the Foreign Intelligence Surveillance Act, or FISA, required that the FBI show that any suspected terrorist must have links to a known foreign terrorist group before the special FISA court would issue an intelligence warrant to surveil or search the suspect. The Senate passed bill made this needed change and included reporting requirements necessary to ensure proper congressional oversight of how this provision was implemented. The bipartisan effort to enact this provision was led by Senators KYL and SCHUMER who proved that we can fight terrorism more effectively without giving up our privacy and cherished civil rights.

The 9/11 Commission identified the Moussaoui case as one instance where, if things had gone right and with a lucky break here or there, the disastrous attacks against the World Trade Center and the Pentagon may have been delayed, disrupted, or even stopped. I acknowledge the concerns some have expressed regarding the possibility this provision may be misused or unnecessarily extends the reach of the FISA statute. I believe that we can address these concerns with proper congressional oversight of how this authority is used and review of this provision prior to its 2005 sunset.

Mr. ROCKEFELLER. Madam President, I now turn to the business currently pending before the Senate, the National Security Intelligence Reform Act. I am pleased to be here at long last to speak in support of the National Security Intelligence Reform Act. After 5 months of endless work, led by Chairman COLLINS and Senator LIEBERMAN, we are poised to achieve what people thought was impossible. Some have criticized this legislation for being too hastily conceived or rushed to completion. To the contrary, this reform has been 50 years in the making and the issues have been the subject of 46 different commission reports. Most of them have suggested the same kinds of things we are doing here.

Now, under the extraordinary leadership coming from Senator SUSAN COLLINS and Senator JOE LIEBERMAN, our Nation will soon have a Director of National Intelligence who can begin to effectively coordinate our intelligence agencies for the first time since the creation of the National Security Act of 1947.

This critical reform was first suggested during the Nixon administration and was the central recommendation not only of the 9/11 Commission, but also the joint inquiry—not so well known in this body—that was conducted by both the House and Senate Intelligence Committees, working together over a period of 2 years ago.

The intelligence reform bill also establishes a National Counterterrorism Center where our analytical and operational efforts to combat terrorism, here and abroad, can be brought together in a coordinated way. This builds on the effort to centralize Counterterrorism analysis begun with the creation of the Terrorist Threat Integration Center.

But unlike TTIC, the new center will coordinate much more than just intelligence analysis. The NCTC, National counterterrorism Center, will be responsible for the strategic planning of all Counterterrorism operations across the Government. It will provide a unity of effort that we have been lacking for all of these years.

The final legislation is, I believe, a monumental achievement. I am proud to support it. But I am also very honest, as was the previous speaker, Senator LEVIN from Michigan, that it does not address all of the recommendations of the 9/11 Commission. That is somewhat natural in the process of a conference. But it is important to point out what we don't yet have and what we need to continue working for.

I am disappointed that a number of important provisions in this bill were dropped or weakened—in some cases necessarily—in order to get this agreement. The agreement had to be reached. The intransigence of the House conferees forced the Senate conferees to give up more than I would have hoped. A couple of examples are the DNI's ability to transfer funding and personnel. It is a basic part of what the President is asking for, what the commission was asking for. It is significantly weakened from the Senate bill, which passed 96 to 2.

The comptroller established to execute the National Intelligence Program funding has been dropped, requiring intelligence spending to still be channeled through the Pentagon comptroller.

The creation of the inspector general in the Office of the Director of National Intelligence is discretionary, not statutorily mandated. It is not going to be any good unless there is a person there doing their job.

Many provisions in the Senate bill designed to ensure the objectivity of intelligence and improve congressional oversight were modified or were dropped, including the provisions of the bill authored by Senator CARL LEVIN—many excellent suggestions that would have improved congressional access to information and unvarnished intelligence reporting.

Similarly, the Senate conferees were forced to modify other important provisions on the civil liberties, privacy, and declassification boards in order to overcome House objections.

Even with these shortcomings and others, the agreement reached is still a

very good one, one that I can support and one on which I hope we can build in the future in our intelligence authorization bills.

While several provisions from the Senate bill were weakened or dropped, the final agreement still includes many very important provisions—as I would say, the beginning of the turning of the battleship—that will make meaningful improvements to the operation of the intelligence community in all areas, not just counterterrorism.

We had a press conference yesterday, and I pointed out that in 1998, George Tenet announced and declared that there was a war against al-Qaida. Nobody listened. Nobody had to listen, I guess, and they did not. Under this new setup, if the Director of National Intelligence so declares and has the authority to follow through, that will be absolutely enormous.

Some of the good provisions are: Language directing the DNI to create an ombudsman to ensure the objectivity and independence of intelligence analysis. That is so important because it means that people can come to an ombudsman within an intelligence agency and air their grievances, saying they are being pressured to do analysis a certain way, whatever. But having an ombudsman is very important in big and sensitive organizations.

The establishment of a intelligence community reserve corps is, I think, a really good idea. It is in the bill. It helps relieve the burden during periods of increased deployments, such as we are going through right now.

And the establishment of an alternative analysis or ''red teaming'' capability—which is simply the act and the art of taking the collection of intelligence and then the analysis that comes from that collection and having people who are there to say: But did you ask this question? What about that? In other words, they bring a contrarian point of view, thus disciplining intelligence at the collection, development, and production phase into a more worked product.

These reforms address problems uncovered in the Senate Intelligence Committee inquiry into the prewar intelligence on Iraq, some of the ones I just mentioned. When we put them to those two heroic Americans, Governor Kean and Congressman Hamilton, they supported them strongly. They are very critical to this reform effort.

The creation of a Senate-confirmed Director of National Intelligence presents the President with the opportunity and the challenge to select an individual with strong national security and management credentials and who will be viewed by all as a nonpartisan leader of the intelligence community. That goes without saying. That is absolutely basic.

Now, more than ever, we need an individual who will not only effectively manage the intelligence community for the first time ever, but who can also be an objective adviser to the President, somebody immune to the influence of political pressure.

In order to carry out the enormous responsibilities created in this bill, the new Director cannot be seen as pursuing a political agenda of any kind or forcing the intelligence community to support a particular administration policy. That would apply, obviously, to both Democratic and Republican Presidents and their administrations.

We need a Director who will speak truth to power, as we say, and present what the intelligence community knows, does not know, or believes in a timely and objective way.

I urge the President to nominate an individual to serve as the first Director of National Intelligence who embodies these qualifications.

In conclusion, I again thank Senators COLLINS and LIEBERMAN for leading us through this extraordinary process, watching the process seem to disintegrate, and then, through the absolute persistence of both of them—even to the extent, I understand it, of BlackBerrying each other from the office to the Kennedy Center—and I will not say which Senator was at which place. But all of this helped bring the deal together.

They were extraordinary in what they did. I have never seen anything like it in the 20 years I have been here. I am really proud of both of them. They never gave up their fight. They never took their eyes off the prize. They overcame institutional resistance to change, and, in the end, they overcame House efforts to undermine and emasculate the bipartisan mandate for intelligence reform, but did so in a way which drew an enormously positive vote from the House last night. They are skillful, and we honor them.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I thank the Senator from West Virginia for his extraordinarily generous comments. We would not be where we are today without the support of the vice chairman of the Senate Intelligence Committee. He contributed greatly to the bill. He was there from the very first day, drawing on his impressive experience in intelligence and national security matters, advising Senator LIEBERMAN and me on what should be in the bill. He was one of our most active and dedicated conferees.

I am very grateful for his support and efforts and his contributions. I realize the bill we produced is by no means a perfect bill, and I know that in the years to come, he and his colleague, Senator ROBERTS, will work to strengthen and improve our efforts. I thank him very much.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, might I inquire of the distinguished managers as to the recognition of speakers that meets the desire of the two managers? The Senator from Virginia has indicated a desire to speak, and I believe I am on the list. I will be happy to take whatever position is available. I can follow my distinguished colleague from West Virginia. I am here to listen and learn.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, it is my understanding that the Senator from West Virginia is scheduled to speak next. The Senator from Virginia is on the list for 30 minutes of time. The Senator from West Virginia is on the list for 2 hours of time. I am uncertain whether the Presiding Officer can be advised whether there is a further order beyond what I have just indicated?

The PRESIDING OFFICER. That is the extent of the list of speakers.

Mr. WARNER. Madam President, the senior Senator from West Virginia indicated to me that in all probability he might not use that time. To facilitate matters, I can be on short notice to come after should he not use 2 hours.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, am I recognized?

The PRESIDING OFFICER. If the Senator from Maine yields the floor.

Ms. COLLINS. Madam President, I will yield the floor. I just want to indicate that the Senator from Alaska, Mr. STEVENS, is also on the list to speak for 5 minutes. I believe he wanted to follow the Senator from West Virginia. And I see that the Senator from Louisiana is also here and would like to speak for 5 minutes. So I ask that they also be put in the queue.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia.

Mr. BYRD. What does ''in the queue'' mean in this situation?

Madam President, maybe I can shed just a little bit of light here to help. I do not intend to take the full 2 hours which have been allotted to me under a previous request. I will be very happy to yield to the very distinguished senior Senator from Virginia at this time if he so wishes to precede me.

Mr. WARNER. Madam President, I thank my colleague. As we discussed, I would like to have the benefit of the remarks which he is going to deliver to the Senate prior to my speaking. If we just leave it, I will be available whenever the managers wish to indicate I can speak, I will do so.

Mr. BYRD. Madam President, as I say, I will not use the full 2 hours. There will be ample time, I am sure, for some of the others whose names have already been mentioned.

When I refer to the distinguished Senator from Virginia, may I take this opportunity to thank him for the service he continues to give to the country and to his constituents, the people of the great State of Virginia. I have noted in the press some of the concerns he has expressed with respect to this particular legislation, and I am sure

those concerns have led to improved legislation, certainly improved chances for its passage today, and I want to thank him for that.

Mr. WARNER. Madam President, I thank my distinguished colleague. History will have to reflect, once this is adopted into law, and I intend to support it, upon certain provisions that I had some role in preparing, working with the distinguished managers of the bill and my counterpart in the House, the distinguished chairman of the House Armed Services Committee, DUNCAN HUNTER, who has been a very forceful and committed individual to achieve the common goals Congressman HUNTER and I shared.

I might add to the distinguished Senator from West Virginia, there were at least four or five others in the Chamber who consulted with me, worked with me, and provided ideas, and I want to thank them, although I shall not take the time at this time to mention their names.

I will be available whenever the managers wish to put in a call to me.

On another subject, I say to my distinguished colleague from West Virginia, the Christmas tree that is now gracing the west lawn of the Capitol grew on the border between Highland County and West Virginia, and my understanding is that some of the roots penetrated into West Virginia. So while the trunk may have been in our State, it really drew on the wisdom of West Virginia and Virginia, and I think my colleague and I are very appreciative that this tree was selected.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the managers of this bill, Senator COLLINS and Senator LIEBERMAN, for the courtesies which they never failed to extend. I have the utmost respect for the dedication and for the knowledge which they have brought to this particular subject matter. They have spent many weeks, days, and hours in the consideration of this matter in the committee, on the Senate floor, in the conference, and their kindnesses, their studies, their knowledge, their ability to translate into action the concerns that so many of us have held with respect to intelligence is something worthy of admiration.

I also thank Senator ROBERTS and my colleague in the Senate from West Virginia, Senator ROCKEFELLER. They, too, have worked hard and have contributed much and will continue to do so. I recognize that these Senators have worked tirelessly since last summer in trying to craft the best legislation possible. So I have to compliment these Senators. I have to salute them. I have to respect them for their tenacity.

I regret that I cannot join them in supporting the conference report. I will vote against it. Mine may be the only vote against it, for that matter. But I feel that I must speak out and must vote my own sentiments as I attempt to represent the people of West Virginia according to my own lights.

I know the families of the individuals who perished in the September 11 attacks are following the proceedings of the Senate closely today, and my sympathies go out to them, as my sympathies did immediately after the terrible tragedy that befell them and befell the Nation. As chairman of the Appropriations Committee at that time, I responded in a very positive way. We passed a $40 billion appropriations bill within 3 days. That is somewhat of a record, I must say. Again, I say, we enacted—when I say ''we,'' I mean the entire Congress—a $40 billion appropriations bill within 3 days of that tragic happening.

These families who have grieved over the loss of their loved ones for more than 3 years, and who will continue to grieve over these losses throughout their lifetimes, have been critical to the efforts to create the 9/11 Commission and allow their thorough investigation to be completed. The greatest tribute to their efforts of these past years would be for the Congress to get these intelligence reforms right.

When the elected representatives of the people allow themselves to be coerced into a process that encourages the abdication of our responsibility to understand and fully debate and thoroughly review legislation, the people are robbed of their voice and their government. Senators take an oath to defend the Constitution of the United States. I have taken that oath many times over these 58 years that I have served in public office. Common sense suggests that that means reading and studying the legislation before the Congress. We are dutybound to explore the opinions on all sides of an issue and, especially an issue that is so serious as is this one, we are dutybound to work toward a process that does not exclude opponents or silence the opposition.

In its heyday, the Senate, this body, the U.S. Senate, was known as the greatest deliberative body in the world. It should still be that. I wonder if it is. What we have seen in recent times, however, is a hollow shell, a hollow shell of that noble tradition. Time after time after time, the Senate forgoes its responsibility to deliberate and to carefully review legislation, and even defers to others to craft legislation for it.

Legislation is passed by the Senate and then, all too often, hastily rewritten in a conference report behind closed doors marked, as it were, ''no minority view admitted.'' All too often during the 108th Congress, the party leadership has held bills until just before a recess and then employed disingenuous rhetoric about, ''Oh, last opportunities, these are the last opportunities to get something done.''

Senators, preoccupied with holiday schedules and holiday travel plans, for example, roll over timidly and accept whatever is placed in front of them. They do it. They do it time and time again. And they importune those Senators who might be hopeful of speaking out and spending some time and debating with their colleagues. These Senators are pressured by their colleagues and by the leadership and by the White House to roll over and let the vote come and let us go home. I anguish about the eroding character of the Senate.

I have now served in this Senate 46 years. I have seen the Senate when it took the time to speak and to debate and to amend, to ask questions. I have seen those times, and those were the great days for the Senate. It fulfilled its duties to the American people and to the Framers, to the forefathers, to those who have preceded us. I greatly regret that those days seem to be gone. They seem to be gone.

I anguish, as I say, about the eroding character of this body. I anguish about the message it sends to the American people when this body allows itself to be stampeded, as it so often does allow itself to be stampeded, into passing legislation without thorough examination.

Oh, we congratulate ourselves on a job well done and then vote overwhelmingly in support of the legislation, and yet we cannot even be bothered to ask questions about the changes made in conference. Like pigmies on the battlefield of history, we cower like whipped dogs in the face of political pressure when it comes to issues such as intelligence reform.

I felt the pressure to forego any speech, forego any request for a rollcall vote but just to let it pass by voice vote. Can you imagine that? Let this piece of legislation pass by voice vote; oh, Senators have travel plans, and it would be well if we could just have a voice vote.

We have too much of that around here. I for one have a rebellious feeling against our relaxing in our duties to the Senate and to the people by giving in to such pressure.

I do not claim to know as much about this legislation as the managers of the bill. But I do know about process. And it galls me that the Senate has allowed itself to be jammed against a time deadline time and time and time again—and in this instance, jammed against a time deadline in considering this conference report.

This is the most far-reaching reorganization of our intelligence agencies since 1947. These changes will remain for decades, and these changes will impact upon the security of our Nation at countless levels. Such matters ought to be held to a higher standard of consideration by the Congress than is the case here.

This conference report has been reworked and redrafted over the course of 2 months in a closed-door conference, and the Senate has only received a printed copy of the conference agreement less than 24 hours ago. I

don't know what is in the conference report. I would say that any other Senator who stands before this Senate and tells the American people he or she knows what is in the conference report is like the emperor who had no clothes.

As late as yesterday, the conferees were still making changes. It is outrageous, outrageous, to expect Senators to read and understand a 615-page measure in less than 24 hours. Is that the way we ought to legislate? Here we have young pages who come here from all States of the Union. They expect to learn how legislation is made, how the Senate works, how we Senators perform in the bright lights of publicity, how we do the people's business. I know they read the casebooks and the history books and the textbooks and all these things about how legislation is made. They come here with bright eyes, open eyes, open ears, great hope, great aspirations, and they work for what I say has been rightly called the greatest deliberative body in the world.

Is this deliberation, a 600-page report? If I stood before the American people and said I can vouch for everything that is in this, I know what is in it, the people would know I am misleading them, wouldn't they? But this is so often the way it is. We allow ourselves to be pressured by the leadership. The leadership calls up measures here in the Senate. Any Senator can make a motion to proceed. But Senators don't do that. They defer to the majority leader. I have been the majority leader. I have been the minority leader. Senators defer to the majority leader, whether it is a Democrat or a Republican, to call up measures. I say that we often just do not have the debates the Senate should give to important measures.

This conference report—as I say, it is outrageous for Senators to understand the 600-page bill in less than 24 hours.

I want to call attention to the Washington Post of today and its lead editorial titled ''Reform In Haste.'' I shall just take the time to read the first two paragraphs of today's Washington Post lead editorial titled ''Reform In Haste.'' I quote therefrom:

> The rhetoric emanating from the Capitol Hill in the past few days may have created the impression that, after a hard-fought battle over key provisions, Congress worked its way to a sensible plan for reorganizing the U.S. intelligence community. Sadly, that is far from the truth. The 600-page omnibus measure on its way to approval yesterday had not been read or carefully considered by the vast majority of members, including some of those most involved in its construction. What passed for a debate in the past couple of weeks was actually little more than a turf battle by Pentagon satraps and the Congressmen who share their interests on issues that are marginal to the broad reorganization outlined in the legislation.
>
> That shake-up, driven by an odd combination of election-year politics and the determination of the September 11 commission to leave a mark, may improve the quality of intelligence information supplied to the President and other key policymakers; we have our doubts. Like the passage of the USA Patriot Act or the creation of the Department of Homeland Security, it has been mandated hastily and with scant consideration of its long-term consequences.

That is what I am talking about. The Washington Post hit it right on the head.

I tell you that I am not going to vote for legislation of this importance under such circumstances. I have done it before. I have voted against other legislation from time to time which I felt was being rammed through the Senate without proper consideration, without ample time for debate. And this measure, of course, cannot be amended. A conference report under Senate rules cannot be amended. So we have to take it or leave it, vote it up or down. We are buying a pig in a poke here, I can assure you.

This conference report is very different from the legislation that passed the House of Representatives and the Senate 2 months ago. I have heard Senators here on the floor today talk about how this differs from the legislation that we passed in the Senate a few weeks ago.

For example, a number of provisions related to the U.S. PATRIOT Act and the law enforcement powers have been inserted into this bill, which again has never been considered on the Senate floor.

This legislation has encountered virulent opposition since the time of its conception. And while it may enjoy the support of the overwhelming majority of Members here today, nobody—I say nobody—can say with any confidence or certainty as to how this new layer of bureaucracy will affect our intelligence agencies or the security of our country. We don't know if it will enable the intelligence agencies or enable the Government in all its ramifications to better guard against a terrorist attack or whether it will cause a host of unforeseen problems. We are failing in yet another misguided rush to judgment to take the time and effort to find out. We are failing to take the time. It is a rush to judgment. There has been a mad scramble to cobble the pieces together and pass a bill. Oh, I have to pass a bill.

The Senate barely understands how the experts line up on this bill. The 9/11 Commission is for it. That much we know. But former CIA Director George Tenet said last week he opposes this bill. That is sobering criticism from someone who, having left Government months ago, no longer has any turf to protect.

A distinguished group of national security experts wrote in September that they oppose any intelligence reform this year. That group included former Senate Intelligence Committee Chairman David Boren; former Senator Bill Bradley; former Secretary of Defense Frank Carlucci; former Secretary of Defense Bill Cohen; former CIA Director Robert Gates; former Deputy Secretary of Defense John Hamre; former Senator Gary Hart; former Secretary of State Henry Kissinger; former Senate Armed Services Committee Chairman Sam Nunn; former Senator Warren Rudman; former Secretary of State George Shultz.

We do not know how these experts regard this conference report. We do not know how they regard the bill today, but even months ago they urged we take more time.

Henry Kissinger appeared before the Senate Appropriations Committee and urged we take more time. He suggested we take more time, even as much as perhaps 8 months—nothing this year.

I read from an excerpt of a statement by former Secretary of State Henry Kissinger, as of Tuesday, September 21, this year:

> What we are urging is a time for reflection and a time for consideration with maybe a short deadline of 6 to 8 months, but to take it out of the immediate pressures of a period that is bound to affect the thinking.

There we were, about to enter into the heat of an election campaign and Henry Kissinger was saying, whoa, whoa, wait a minute. Let's slow down. Let's take adequate time. Don't be pressured by the election. Let's don't do these things in such a hurry.

We do not know what these experts regard how they would perceive this conference report today. I don't know how Henry Kissinger would judge it. He doesn't know what is in the conference report, just as I don't know what is in it. Why should Senators forego the valuable insight of almost every public figure who may actually be able to assess what is in the new version of intelligence reform?

So I say again, let us not say we believe we understand what is included in this conference report. I don't understand it. We have not had the time to understand it. We do not have sufficient resources by way of assistance from capable staff people. They have not had the time. It is, in effect, a new bill and in some ways very different from anything the Senate has considered to date.

Common sense suggests the Congress ought to hold hearings on the contents of this new measure so we may be informed by experts about its benefits and defects, so that we may ask questions, so that those questions and answers may be compiled into printed hearings so we all may have the benefit of the knowledge, the benefit of time to study and to reflect.

There is no reason the Senate cannot proceed in this prudent matter early next year. Instead of viewing this conference report as the final stage of the process, we ought to consider it as the starting point for debate next year. It is only a few days away, next year. We ought to invite witnesses back to testify and allow the process to begin anew outside the election cycle and built on the foundations of knowledge acquired this year.

Instead, we are allowing ourselves to be lulled into the fallacious belief that we must accept this bill, we must accept this conference report, we cannot

amend it, we must accept it from page 1 through page 615. We have to accept it lock, stock, and barrel.

We do not know what is in it. There may be several pigs in this poke, but we buy them all; we embrace the whole thing virtually sight unseen. We allow ourselves to be lulled into the fallacious belief that we must accept this bill or risk it not passing next year, with some even suggesting a terrorist attack could result from it.

Now, a terrorist attack may happen, but it won't happen because this conference report would have been put over until next year. If it is going to happen, it will happen and nothing in this conference report would stop it if it happened next week or the next month or the next several weeks or months. That is nonsense. Don't believe it.

I have heard even some comments from people who ought to know better on the TV saying, What I am concerned about, if we don't pass this report, I just hope we don't have another terrorist attack—as though passage of this conference report will make any difference to any terrorist who may be planning an attack next week or 10 days or the next month or the next 2 or 3 months. No legislation alone can forestall a terrorist attack on our country.

The momentum is strong now to reform our intelligence agency. I submit the greater risk is not that the momentum will dissipate next year if this bill does not pass today or this week, but that the passage of this bill will remove any incentive to focus on the broader intelligence failures that have occurred outside the war on terror.

This legislation is appropriately focused on the failings of September 11 but oblivious to the many other glaring deficiencies in our intelligence community. Our country went to war in Iraq, a war we should not have engaged in, a war in Iraq on the shoulders of false claims about weapons of mass destruction. But this bill dances around that issue on tippy toes. It is as though Congress is too afraid to mention the fact that faulty intelligence claims deceived the public out there, deceived the man and the woman on the street, deceived the people of this country into believing there was an imminent threat from Saddam Hussein.

Why is Congress avoiding that critical issue? Is it because some do not wish to expose the role of the White House in feeding bad intelligence to the American people? The Founding Fathers intended Congress to be a check on the power of the Chief Executive, but increasingly Congress appears content merely to be a cheerleader for the President depending upon which party might be in control at a given moment.

The intelligence bill fails to address the unfolding prison abuse scandals in Iraq, Afghanistan, and Guantanamo Bay.

The Armed Services Committee has held six hearings on the abuse of prisoners in U.S. military jails. There is mounting evidence that the CIA had some hand in the mistreatment of detainees. The Red Cross has reported on the illegal practices of U.S. intelligence agencies holding ''ghost detainees'' in secret prisons. Why is this intelligence bill silent on such outrageous policies? How can Congress claim to fix what is wrong with our intelligence agencies if this major piece of legislation does not even address such colossal intelligence failures?

The only way to reduce the risk of such failures is to ensure the accountability of this new Intelligence Director to the people's representatives in the Congress. It is the Congress that must make the decision to declare war, and it is the Congress that is responsible for the oversight of this new intelligence program to help guard against future intelligence failures.

It is paramount that the Congress do everything possible to ensure itself access to timely, objective intelligence. Yet that is not what we see in this legislation.

This conference report eliminates provisions to ensure that the Congress receives timely access to intelligence. It also allows the White House's Office of Management and Budget to screen testimony before the Intelligence Director presents it to the Congress. Whistleblower protections for intelligence officials who report to the Congress have also been stricken from the Senate-passed bill.

The conference agreement creates senior intelligence positions but exempts many of them from confirmation by the Senate. It eliminates the privacy and civil rights officers included in the Senate-passed bill. It strips 18 pages of legislative text that would have created an inspector general and ombudsman to oversee the Intelligence Director's office. That language has been replaced with one paragraph, authorizing the Intelligence Director, at his discretion, to create or not to create an inspector general, and provides the Director with the power to decide which, if any, investigative powers to grant the inspector general.

That means the new Intelligence Director could exempt his office from inspector general audits and investigations, and that the Congress would not receive reports from an objective internal auditor. The Congress is limiting its own access to vital information within this new intelligence office, and it will have thereby compromised an essential mechanism for identifying potential abuses within the new intelligence program.

Given the dark history of abuses of civil liberties and privacy rights by our intelligence community, I had hoped that the Congress would exercise more caution, but it has not done so in this legislation.

The 9/11 Commission recognized that its recommendations call for the Government to increase its presence in people's lives, and so it wisely endorsed the creation of an independent Civil Liberties Board to defend our privacy rights and liberties. The Senate-passed bill embraced this recommendation and included additional protections to help ensure that executive agencies could not exert undue influence on the Board. This conference agreement, however, scuttles those protections by burying the Board deep inside the Office of the President, subjecting Board members to White House pressure. Why?

The conferees included language making changes to the 1978 Foreign Intelligence Surveillance Act, the law that blurs the rules on electronic surveillance and physical searches by the U.S. Government. This conference report, though, states that the Intelligence Director shall have authority to direct or undertake electronic surveillance and physical search operations pursuant to FISA if authorized by statute or executive order. This is dangerous ground, isn't it? This is dangerous ground to walk when the President, through executive order, and without the authorization of the Congress, can direct this new Intelligence Director to undertake electronic surveillance and physical search operations.

Yet another provision would make terrorist crimes subject to a rebuttable presumption of pretrial detention, which means that prosecutors will not be required to show a judge that the defendant is a flight risk. Instead, the defendant will be presumed to be a flight risk. Are Senators sure we are not trampling on the civil liberties of the American people with the hasty passage of this conference report?

Again, few, if any, Senate hearings have been held on these provisions by the full Senate Judiciary Committee. The inclusion of these provisions in title VI, with so little examination of their real meaning, reminds one of how the PATRIOT Act itself was enacted in haste without sufficient review, and with no real understanding of its true consequences.

These are unsettling provisions, and the Senate ought to insist on its rights to consider them more carefully. The Senate has not had enough time to understand this legislation or its implications. This new Intelligence Director has been granted significant authorities, and the Congress has not done enough to ensure adequate checks on the actions of the Intelligence Director.

With regard to homeland security, the bill authorizes a significant increase in the number of Border Patrol agents, immigration investigators, and a significant increase in the number of beds for immigration detention. The bill also authorizes increased funding for air cargo security and for screening airline passengers for explosives. All of these are worthy goals, but the provisions are just empty promises.

Last September, when I offered an amendment to the Homeland Security

appropriations bill to fund these precise activities, the White House opposed the amendment and my Republican colleagues lined up, virtually to the man or woman, and voted against it. And today, Members will line up and vote for more empty promises.

President Bush had the opportunity to support Congressman SENSENBRENNER and insist on tougher immigration reforms in this bill, but the President welched. Senators talk about reforms needed to protect against terrorism, and the fact is that this bill is a hodgepodge of empty border security promises that the administration has no intention of funding—and I am certainly concerned about that; no intention of funding—and that will only encourage the kind of illegal immigration that leaves our country wide open to terrorists.

Mr. INHOFE. Will the Senator yield?

Mr. BYRD. Yes, I will yield.

Mr. INHOFE. I ask the distinguished senior Senator from West Virginia if he would yield me a little bit of his time, and then I will yield right back, because something the Senator said I think is worth elaborating on a bit.

Mr. BYRD. Very well. Will the distinguished Senator inform me as to how much time?

Mr. INHOFE. Oh, 10 minutes, but I probably will not use it all.

Mr. BYRD. Does the Senator wish me to yield at this point?

Mr. INHOFE. I would like that, yes, or I will wait until the Senator finishes his current thought. I want to reference former Senator Boren and some things that you mentioned.

Mr. BYRD. Yes.

Mr. INHOFE. I will wait.

Mr. BYRD. I will certainly yield to my friend very shortly. Let me say, however, continuing my thought, it may well be that the only problem that this bill will actually fix is one of politics.

Passing this bill in the waning hours of the 108th Congress means that for all intents and purposes intelligence reform will be removed from the agenda of the next Congress. By passing this bill today, the Senate will be giving political cover to those who wish to dismiss calls for more thorough reform of intelligence agencies to fix problems that are not addressed in the legislation, including the Iraq WMD, weapons of mass destruction, fiasco and the abuse of prisoners in secret detention facilities.

Intelligence reform should be done right the first time. But the actual implementation of this bill will be shrouded in secrecy and hidden from public scrutiny. Under this conference report, the total amount of intelligence spending will remain classified so that the American people may never know if the President is shortchanging the reform effort that this bill requires. Senators ought not be so willing to rush this bill through knowing that it may serve as political cover for an administration that has a sorry history of promising big reform efforts that it never funds.

Mr. President, I am happy to yield now, if I may retain my right to the floor, to my friend from Oklahoma.

Mr. INHOFE. I thank the Senator for yielding.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, the Senator had referred to a report and named several very distinguished people, including the former Senator from Oklahoma, my predecessor, current president of Oklahoma University, David Boren.

Mr. BYRD. Yes.

Mr. INHOFE. I would share with the Senator from West Virginia that when I won the election to replace him, he and I had a talk. And he said: I have something very significant to talk to you about.

If the Senator from West Virginia will recall, Senator Boren was the chairman of the Senate Intelligence Committee at that time.

Mr. BYRD. Yes.

Mr. INHOFE. He said: You have to do something. I have tried and I haven't really succeeded because no one is aware of the shambles that the system is in in terms of the turf battles in intelligence collection and all of that.

I told him at that time I would do everything I could even though I was going to be on the Intelligence Committee but not on some of the committees dealing directly with this. So he talked about the crisis it was in.

I will read to you from the CSIS report that was written by the very people the Senator from West Virginia listed. It reads:

> Racing to implement reforms on an election timetable is precisely the wrong thing to do.

I think that it does have to be deliberative, and we do have to have more time.

Additionally, there is no one I hold in higher regard in terms of his background and capability than Porter Goss. I served with him in the other body. Here is a man who has the background, yet we haven't heard anything from him on this. It seems to me if we all agree, as we did when his confirmation took place, that he is the expert that he is, he should have some participation. At least I want to know what his thinking is about this.

Just for a moment, I saw several things in the House bill I liked. I have a very short list of things that were taken out of the House bill in conference. This disturbs me. For example, they took out any requirement for proof of lawful presence in the United States. The requirement applies to immigration law provisions passed in 1996, which I supported, as did the Senator from West Virginia, that were signed into law by President Clinton.

Secondly, the temporary license requirements, including a requirement—again this was in the House bill and was taken out—that the license term should expire on the same date as a visa or other temporary lawful presence authorizing document. This means if you are here on a document—it might be a visa—and it expires, your driver's license should expire at the same time. That was a part of the House bill that was taken out.

The required documentation for identity is the hard document. Many States have inadequate and outdated proof of identity. This provision ensures that the States would have hard documentation on this.

The restriction of the State's ability to accept foreign documents for a driver's license, we have discussed this. I, for one, do not hold in as high a regard foreign documents as I do our own documents that are generated here.

The antitrafficking provision was taken out. The House bill adds to the existing criminal code addressing identity theft and fraud language to address the growing and lucrative crime of selling the technology and information that facilitates counterfeiting of identity documents. This was taken out. I have not had the opportunity to find out the reason for this. Notwithstanding that, I know there are many good provisions we should be passing.

One of them I draw to the attention of the Senator and the Senate is the electronic confirmation by the various State Departments of Motor Vehicles to validate other States' driver's licenses.

Had Virginia referenced the Florida records of Mohammed Atta who was stopped here, it is likely they would have discovered that his license was not current. Who knows whether that would have prevented 9/11 from happening. However, we do know this: He piloted one of the airplanes that went into the towers, and he was also one of the masterminds at that time. Mohammed Atta was actually stopped in Virginia. The House put a provision in to make it very difficult for that to take place.

This morning on a news show on Fox News, Congressman SENSENBRENNER was on, and E. D. Hill asked him some questions:

> . . . Explain to me this whole driver's license thing. Because I know that out in California they're giving out licenses and then there are these matricular I.D.s—all sorts of stuff like this.
>
> This bill—the last part that I read—said that they wanted national guidelines for federal—for identification, for driver's licenses and that type of identification form. What does this mean?

Congressman SENSENBRENNER responded:

> Well, it would be proof of lawful presence in the United States, which means either a birth certificate, a U.S. passport, a foreign passport with a green card. Or if someone is here on a temporary visa with an expiration date, that passport and changing the law to have the driver's license expire as of the date the visa expires.

He goes on and talks about Mohammed Atta and when he was stopped and what happened. That part is very disturbing to me.

Finally, there has been a lot of talk about the 16-mile gap that was in there that has now been returned back to about a 2½ mile gap between San Diego and Tijuana. It is a gap because there is no fence there. People come and go as they will. That is where a lot of the illegals are coming through, a lot of people who could be terrorists. We don't know. Nonetheless, they are going through.

They had closed that gap in the House bill, and that language was taken out. That might be something that has been said on this floor. I haven't heard anyone justify why that was done, but it seems like it was done.

I know that Congressman HUNTER placed a provision to close the gap, and apparently there were some endangered species lawsuits that came in and have caused this conference report to leave that gap open.

I suggest that if we are leaving it open, I say to the Senator from West Virginia, we are leaving it open to protect a maritime succulent shrub which is something that is required or could create a harassment to some endangered species. So I checked to see what that was. I found out that the two major species that might be endangered species, that might be harassed—not killed, harassed—were the vireos or the flycatchers.

I am holding a picture of a flycatcher. Let me get the full name.

I don't seem to have that here.

Anyway, this is one of the species that might be harassed—not killed, but harassed. The other is this critter, a vireo. I checked with the U.S. Geological Survey, and I found out there are an estimated 2,000 vireos in existence today and 1,000 flycatchers in existence today, and the most this would prevent, not from being killed but from being harassed, would be 2 of these and 3 of these.

Now, I ask you to prioritize this. Is it better to harass five of these endangered species and at the same time leave this 3.5-mile gap open for perhaps terrorists or someone else to come through? I have been very concerned about these things.

I do understand that the House has said they are going to fix all this in January—I cannot remember, I think in the first part of January sometime—but every time that happens, when they say they are going to fix something that we rush through to pass, it doesn't happen.

I saw my friend, the Senator from Florida, walking through here a minute ago. He reminded me that I was the only Senator in 2000 to vote against the Everglades Restoration Act. I did so because we did not have a core plan, a feasibility study, and we didn't know about the cost. We were given assurances that if we would pass that bill on that particular day, we would have a feasibility study and the cost would not exceed where they are today. Now we find out that the costs have dramatically exceeded the estimates in 2000.

I only say this not to criticize anyone, but only to say that, without exception, every time we have rushed to do something, we have used the excuse that we are going to fix it 3 weeks from now or tomorrow or in the beginning of the next session, but it doesn't seem to take place. So like a lot of reforms that are in this, I would rather go back and have the opportunity to make sure we get the reforms I outlined that were taken out or put in by the House. The reason is that once you pass a bill, you lose your leverage to get those things that were controversial back in. I don't have any doubt that the Speaker—he says he will bring this up, and I don't doubt that. I have serious doubts that if they pass something in the House and send it here to correct those five areas I outlined, it would be done over in this body.

I appreciate very much the Senator yielding me a few minutes of his time to share those thoughts with him.

Mr. BYRD. Mr. President, I thank the Senator who has expressed, rightly, his concern. The Senator has cited excellent examples of why this bill is being rushed and why it should not be rushed.

I am for intelligence reform. There are many things in this package, I am sure, that are worthwhile. But we cannot fully protect ourselves against terrorists unless we address the gaps in our borders and stem the rise of illegal immigration. There is a great deal of friction in the House of Representatives with respect to this conference report because of the failure to address many of the problems Congressman SENSENBRENNER spoke about. I hope we will still have an opportunity to do that. But this is just one area in the conference report that ought to have had more time, but it did not get the time, as the subject matter in its entirety should have had more time.

Next year, the President will ask the Congress to pass a sweeping amnesty. It's clear that illegal aliens will continue to pour into this country until the Congress takes action to protect its borders.

The 9/11 Commission's endorsement of this legislation will mean nothing if these so-called reforms lead to future intelligence failures.

What the American people will remember, however, is that the Congress—the Senate and the House—abdicated its role to fully protect their security interests. The American people will remember that the Congress empowered an unelected bureaucrat while doing little else to protect against future intelligence failures.

This process has been hurried and rushed from the beginning. It has been tainted ever since the decision was made to tie its consideration to a political schedule.

When the 9/11 Commission needed more time to conduct its investigation into the September 11 attacks, the Congress acted magnanimously in granting a 2-month extension. Senators said at the time:

> It would be counterproductive to deny the commission the extra 2 months it now says it needs to complete its investigations. . . .

Mr. President, the Founding Fathers would be ashamed of the notion that time is a luxury reserved for the unelected members of independent commissions. What about the Senate? What about the elected representatives of the people who serve in this body?

The Framers of the Constitution conceived a Senate that would resist the forces that urge us to bend with each change in the political breeze. To the contrary, the Constitution binds Senators to serve the greater causes of the Republic and reserves the power of each Member to demand more time for debate, more time for thoughtful consideration. So shame on us for not invoking that wisdom in claiming the additional time we need to better assess this legislation and to better protect the security of this Nation and to better enhance the well-being of the American people, who stand in need of closer examination and scrutiny of legislation that will provide for their security and the security of their children and the security of the institutions that need that protection and that security.

Mr. President, I yield the floor.

FOSTERING THE FLOW OF INFORMATION

Ms. COLLINS. Mr. President, the 9/11 Commission found that the biggest impediment to ''connecting the dots'' was resistance to information sharing. As the Commission stated in its report: ''Agencies uphold a 'need to know' culture of information protection rather than promoting a 'need to share' culture of integration.'' I ask if the ranking member on the Governmental Affairs Committee, Senator LIEBERMAN, would explain how this legislation addresses this finding of the Commission.

Mr. LIEBERMAN. In drafting this legislation, we fully considered the finding of the 9/11 Commission that Senator COLLINS refers to, and we designed the bill to foster a shift away from a ''need-to-know'' culture of excessive secretiveness, toward a more integrated and open culture of ''need to share.'' The bill assigns key responsibilities to the DNI and to the President to achieve this shift in culture.

The bill makes the DNI responsible for establishing guidelines for the intelligence community to ensure maximum availability of, and access to, intelligence information within the community, and to maximize the dissemination of intelligence consistent with protection of sources and methods. The legislation recognizes that there will sometimes be a tension between the need to share intelligence information and the need to protect intelligence sources and methods, and the DNI will be responsible for establishing policies and procedures to resolve any conflicts in this area. The DNI's guidelines are to foster a shift from a culture of undue secrecy by, among other things, allowing for dissemination of intelligence products at the lowest possible

level of classification consistent with security needs—and in unclassified form to the extent possible.

The President will be responsible for also establishing an information sharing environment for communicating terrorism information beyond the intelligence community. This program will facilitate the sharing of information among all appropriate Federal, State, local, and tribal entities and the private sector. To help shift from a culture of undue information protection that can impair our security efforts, the legislation instructs the President, among other things, to require a reduction in overclassification of information. The President will also issue guidelines to ensure that information is provided in its most shareable form, such as by using ''tearlines'' to separate data from the sources and methods by which the data is obtained.

Ms. COLLINS. I thank the Senator.

Mr. President, some concerns have been expressed to us about whether the authorities under this bill might be used, or abused, to unduly limit the flow of information to the Congress, State and local governments, and the public. Nothing could be farther from our intent than to chill the appropriate and desirable dissemination of information. This bill does not grant any new authority for the DNI or the President to establish a regime of undue government secrecy. The bill properly affords the DNI authority to protect intelligence sources and methods, but this is the same authority that is currently vested in the Director of Central Intelligence. The legislation does not include any new provisions to criminalize or unduly suppress the lawful sharing of unclassified information, nor does the bill waive any existing protections of government employees who raise legitimate concerns by disclosing information to Congress or through other lawful channels.

I fully expect the DNI and the President will exercise their responsibilities under this bill in a way that fosters—not unreasonably restricts—the flow and dissemination of information to Congress, State and local officials, and the public. Certainly, if there is any indication that the authorities under this legislation are being misused to unduly stifle the flow of information and to thereby defeat the purposes of the bill, I fully expect and intend that Congress will promptly look into and remedy the situation. Congressional oversight of these issues will be fostered by the reports that are required during the implementation and operation of the Information Sharing Environment, and through the establishment of the Privacy and Civil Liberties Oversight Board.

Does the Senator from Connecticut agree with my assessment?

Mr. LIEBERMAN. I could not agree more. This legislation is designed to enable the Governmental and non-Governmental entities with security responsibilities to have access to the intelligence information they need to do their jobs. And the legislation will also enable and encourage the diffusion of information about terrorism to the American people. It has often been said that an informed citizenry is a bulwark against tyranny, but an informed citizenry is also a bulwark against terrorism. By fostering the diffusion of information, consistent with the need to secure intelligence sources and methods, the legislation should help enable the American people to have the information they need to make informed decisions about the threats our nation faces and the steps we must take to overcome those threats.

Mr. NELSON of Florida. I would like to make a statement in regard to an important provision in the conference report: Section 4071, Watch Lists for Passengers Aboard Vessels. I would like to first commend the cruiseline industry for all of its proactive measures to enhance passenger vessel security. Both the cruise industry and I share the same commitment—that is to ensure the safety and security of the millions of passengers and crew traveling on their vessels each year, in addition to securing our ports.

In an effort to clarify the intent of the provision included in the Intelligence Reform Conference Committee Report, I want to take this opportunity to recognize the current procedures in place at the Department of Homeland Security in regard to passenger vessels and express support for the increased security procedures undertaken in this area. Currently, passenger vessels electronically transmit advance passenger information through the Federal APIS reporting system or through the 96-hour advanced notice of arrival. This allows the government to review all passenger and crew manifest information and check against numerous Federal agency databases to ensure that all passengers and crew are cleared for sailing, though not always before departure.

The purpose of section 4071 is to prevent terrorists or suspected terrorists from physically boarding cruise vessels that depart from U.S. and U.S. controlled ports. Currently, both Customs and Border Protection and the Coast Guard require the submission of passenger and crew manifests. This provision would codify the reporting requirement for vessels, and ensure that both manifests are checked against one consolidated terrorist watchlist prior to departure. The provision also includes language which would allow the Secretary to waive the requirement for vessels embarking at a foreign port if the requirement is impractical, however, in such cases the passengers and crew would continue to be screened prior to arrival at a U.S. port according to the 96-hour rule.

Mr. LIEBERMAN. I thank the Senator from Florida for highlighting this important matter. As the Senator pointed out, since January 2003 DHS, through the Bureau of Customs and Border Protection, has required commercial aircraft and commercial vessels to electronically transmit advance passenger and crewmember information in order to assist the Department in the effective inspection of passengers and crew. Currently, passenger vessels provide advanced passenger manifests both upon the original departure of the voyage and 24 to 96 hours before arrival into the United States. This provision will help streamline the process, by requiring the manifest data be compared against one consolidated, comprehensive terrorist database, and by requiring that the comparison be done prior to the departure of the vessel. The cruise industry will do its part by ensuring that complete and accurate data is collected as early as possible, and the Department of Homeland Security will work to ensure the comparison is done effectively and efficiently, and make every effort to not delay the departure of these vessels. We expect the cruise industry and the Department to work closely together on these issues throughout the rulemaking process.

Ms. COLLINS. I thank both Senators for their excellent summary of the DHS reporting requirements currently in place. The intent of section 4071 is to encourage DHS to establish a simple and timely method of collecting information. I want to make clear that the intent of this provision is to ensure accurate passenger vessel information is collected and shared with the appropriate authorities in an efficient manner, so it may be compared against one consolidated database to be developed by DHS. The provision is not an entirely new requirement. It is based, in part, on current practices, but is designed to utilize one consolidated and comprehensive terrorist database that can be used to screen crew and passenger data more effectively in all transportation modes, while keeping delays to a minimum.

Mr. NELSON of Florida. I thank Chairwoman COLLINS and Ranking Member LIEBERMAN for their comments and support on this important issue. Our efforts here today are focused on encouraging the Department of Homeland Security to further increase passenger vessel security. I urge the Department to work closely with the cruise line industry in crafting this rule to prevent any unnecessary departure delays from occurring.

TERRORIST SANCTUARIES DEFINITION

Ms. COLLINS. Mr. President, section 7102 of the conference report provides that the term ''repeated provided support for acts of international terrorism,'' as used in the Export Administration Act, shall include, but not be limited to, ''the recurring use of any part of the territory of the country as a sanctuary for terrorists or terrorist organizations.'' I ask if the ranking member on the Governmental Affairs Committee, Senator LIEBERMAN, would clarify the addition of this criteria to the definition used in the Export Administration Act.

Mr. LIEBERMAN. ''The recurring use of any part of the territory of the country as a sanctuary for terrorists or terrorist organizations'' is not the only factor the administration should take into account when making determinations of which nations are terrorist sponsors for the purposes of the Export Administration Act. It is just one of the appropriate factors to be taken into account when the Secretary exercises his discretion to determine whether the government of a country has repeatedly provided support for acts of international terrorism. I understand from the State Department that other factors that the Secretary of State typically takes into account include: Whether the government of a country is furnishing arms, explosives or lethal substances to individuals, groups or organizations with the likelihood that they will be used in terrorist activities or whether a government is providing direct or indirect financial backing for terrorist activities.

Ms. COLLINS. I thank the Senator.

DRIVER'S LICENSE AND PERSONAL IDENTIFICATION CARD PROVISIONS

Ms. COLLINS. Mr. President, I yield to the Senator from Illinois to speak on one of the provisions in the conference report.

Mr. DURBIN. Mr. President, I want to discuss section 7212 of the conference report accompanying the intelligence reform bill that deals with minimum standards for driver's licenses and personal identification cards.

I am joined on the floor by Senators COLLINS, LIEBERMAN, SUNUNU, and LAUTENBERG, who are all my colleagues on the Governmental Affairs Committee, and who have been leaders in this effort. I hope they will join in a colloquy to help explain what we collectively intended as we drafted this provision.

In the days immediately following September 11, 2001, we read in the newspapers that the hijackers had in their possessions multiple driver's licenses and State identification cards. The press reported that some of the nineteen hijackers had obtained these documents from DMV offices in States that, at that time, had lenient rules on issuing such documents. They also obtained other official-looking identification documents from the Internet.

In the last Congress, the Governmental Affairs Committee held a hearing that revealed that the 9/11 terrorists took advantage of loopholes in some State DMVs' issuance processes that have been apparent for years to anyone willing to obtain fake IDs.

Following the hearing, I asked the GAO to study how easy it would be for someone to obtain driver's licenses and State ID cards from DMVs, using false pretenses. The GAO investigators went out to several States and conducted undercover operations where they tried to obtain licenses using fake breeder documents, or using other false methods. Incredibly, the GAO investigators succeeded every single time. More incredibly, the GAO study was undertaken several months after some of these same States claimed that they reformed their driver's license issuance processes following the 9/11 tragedies.

In October 2002, I introduced S. 3107, the Driver's License Fraud Prevention Act of 2002, with Senator MCCAIN, to address the glaring problems we uncovered with the hearing and the GAO study. The core goal of that bill was to allow for the Federal Government to work with States and interested parties to develop a set of minimum security standards to be applied uniformly to all States.

In drafting that bill, we had three main principles for reforming the State processes: 1. reform must apply uniformly to all 50 States; 2. State's rights and jurisdictions must be respected; and 3. applicants, holders, and users of driver's licenses must have their privacy, civil liberties, and other constitutional rights protected.

Then, a few months ago, when Senators MCCAIN and LIEBERMAN drafted S. 2774, their comprehensive bill to implement the 9/11 Commission Report, I worked with them to add a provision that would provide Federal standards for driver's licenses. This addressed one of the recommendations that the 9/11 Commission made:

> [T]he federal government should set standards for the issuance of birth certificates and sources of identification, such as drivers licenses. Fraud in identification documents is no longer just a problem of theft. At many entry points to vulnerable facilities, including gates for boarding aircraft, sources of identification are the last opportunity to ensure that people are who they say they are and to check whether they are terrorists.

This provision was adopted unanimously by the Senate as an amendment to the Collins-Lieberman intelligence reform bill, and is also in the conference report before us today. I am glad to see that the provision in the conference report before us today lives up to the three principles I outlined above.

First, the provision would prohibit Federal agencies from accepting, for any official purpose, a driver's license or identification card newly issued by a State more than 2 years after the regulations on minimum Federal standards are promulgated, unless the document conforms to such standards. The language also requires the Transportation Secretary to set a date after which no license may be accepted unless it conforms to the new standards.

This should encourage all 50 States to work together and adopt the minimum Federal standards at the same time so that no State will remain the weakest link in our national efforts to protect our homeland. We want to make sure terrorists and criminals do not forum shop for the easiest State from which to obtain fraudulent ID cards.

Second, the language of the Senate bill as adopted in the conference report requires a negotiated rulemaking process under the Administrative Procedure Act. This requires the formation of a negotiated rulemaking committee that would include representatives of States, among other stakeholders. The committee is empowered to make a recommendation for the minimum standards to be promulgated by the Department of Transportation. The mininum standards would address among other issues 1. documentation required as proof of identity of the applicant; 2. verifiability of documents used to apply for a license; 3. processing of the applications to prevent fraud; and 4. security features to be included in the card.

On this point, I would like to commend the chair of the Governmental Affairs Committee for her tireless efforts on behalf of the States' interests. Senator COLLINS has worked to ensure that this bill recognizes the limited role of the Federal Government in this area—issuing driver's licenses are a unique State function and that we should not impose reform measures on States without their valuable input.

Third, the rulemaking process includes safeguards to protect the privacy and due process rights of applicants.

Ms. COLLINS. If the Senator from Illinois would yield, I would like to speak on that issue.

Mr. DURBIN. I am happy to yield to the distinguished manager on the floor.

Ms. COLLINS. I want to take this opportunity to thank Senator DURBIN for his leadership on this issue. He and I serve together on the Governmental Affairs Committee and we have worked hand-in-hand on identity theft issues.

I wholeheartedly agree with what the Senator has said, and I want to emphasize again how important it is for the appropriate stakeholders to have a seat at the table in developing a recommendation for minimum standards that the Department of Transportation will promulgate. I know that State officials and their representatives from the National Governors Association and the National Conference of State Legislatures have raised serious concerns about Congress imposing unfunded mandates on the States and preempting State laws on eligibility requirements. That is why I support the innovative approach we came up with in the Senate bill and the conference report that would allow representatives of State officials to have a real voice in the development of a recommendation for these Federal standards.

That is also why I believe it is important to emphasize that the conference report includes language ensuring that any recommendation made by the negotiated rulemaking committee include an assessment of the benefits and costs of the recommendation. The report also states that the Secretary of Transportation shall award grants to States to help them conform to the minimum standards and that each State shall receive a minimum allocation of grant monies to help offset the costs of implementing the new Federal standards.

Mr. SUNUNU. Will the Senator yield for a question?

Ms. COLLINS. I am happy to yield.

Mr. SUNUNU. I believe the National Governors Association and the American Association of Motor Vehicle Administrators both endorsed the Senate version of this language over the House version because, among other things, the Senate version provided the flexibility and partnership between the Federal and State governments. Is this an accurate portrayal of their position?

Ms. COLLINS. The Senator from New Hampshire is correct, and I would also point out that the White House has also weighed in on that issue. In its statement of administration policy, dated October 7, 2004, the White House emphasized the need for ''consultation with the states . . . to address important concerns about flexibility, privacy, and unfunded mandates.'' This conference report maintains those important aspects of the approach in the Senate bill.

Mr. SUNUNU. I thank the Senator.

Mr. LAUTENBERG. I also have a question for the Senator from Maine, or for any other Senator who helped draft this important provision in the bill. Would the Senator yield for a question about who else would be involved in the negotiated rulemaking?

Ms. COLLINS. I see the distinguished Senator from Connecticut is on the floor and I wonder if the ranking Democrat on the Governmental Affairs Committee, who is the expert on this issue, would be willing to engage in this dialog.

Mr. LAUTENBERG. I will address this question to the Senator from Connecticut. In reading section 7212(b)(4)(B), I see that the negotiated rulemaking committee to be established by the Secretary of Transportation has to also include ''interested parties.'' What does the author of this provision understand to be the intent of this category?

Mr. LIEBERMAN. I want to thank the distinguished manager for yielding to me, and the Senator from New Jersey for the excellent question. The general legal criteria for selecting such parties for inclusion in a negotiated rulemaking is described in the Negotiated Rulemaking Act. We have been told by many experts, including the 9/11 Commission, that we need to address every vulnerability to prevent any future attacks, and that we need to enlist the assistance of everyone who can contribute to protecting our homeland. So in this provision, we are really asking for experts and interested parties who can bring some productive ideas to the table to join us in developing these minimum Federal standards. Interested parties must also include groups or organizations presenting the interests of applicants for and holders of driver's licenses and personal identification cards, such as consumer organizations and organizations representing immigrants. It is important that the interests of these groups be considered.

Mr. LAUTENBERG. I thank the ranking member and also the chair of the Governmental Affairs Committee. I am pleased that they agree that it is important that representatives of interested parties have a seat at the table, and I would emphasize that the negotiated rulemaking committee should also include organizations with technological and operational expertise in document security, in addition to organizations that represent the interests of applicants.

Mr. SUNUNU. I would also like to ask a follow-up question to the Senator from Connecticut. Although the conference report does not specify any particular group or organization to be included on the rulemaking committee, it is certainly expected that privacy and civil liberties groups, along with organizations like the National Conference of State Legislatures, the National Governors Association, and the American Association of Motor Vehicle Administrators would play an important role in the rulemaking process. I would ask my colleague from Connecticut if I understand this provision correctly?

Mr. LIEBERMAN. I thank the Senator from New Hampshire for his inquiry. The Senator makes an important point in noting that the language of the conference report does not specify any particular group or organization to be included. However, I think a collaborative rulemaking process would be difficult to imagine without input from interested groups and organizations. And I believe the distinguished, chair of the committee would agree that this is the intention behind our language.

Ms. COLLINS. I absolutely agree with the Senator from Connecticut that the negotiated rulemaking process has to include groups that represent the interest of many interested parties, including the States, and applicants for, and holders of, driver's licenses. It is also important to note the Department of Homeland Security and other Federal entities will represent the security interests of the Federal Government in the process.

This collaborative process among all parties is essential to ensure that the final rule strikes the right balance of all the competing interests. One of the interests that should not be lost in this debate is the need for protecting privacy and civil and due process rights of all applicants for, and holders of, driver's licenses and personal identification cards. 1 believe it is crucial that the American people be assured that these new Federal standards will not encroach on their fundamental rights and that their personal information will be handled properly, respectfully, and securely.

That is why we included language in the conference report that specifically requires the agency rulemaking to include procedural safeguards for the privacy rights of applicants and holders of driver's licenses and identification cards.

Mr. LIEBERMAN. The Senator from Maine has raised a very important part of our language that is worth emphasizing. Moreover, in making our country safer by tightening standards for identification documents, we must never trample on any individual's civil and due process rights.

One of the standards we require for the rulemaking is for a State to confiscate a driver's license or identification card if any component or security feature of the license or identification card is compromised. It is important that this standard, as well as all of the standards, include procedures and requirements to protect the civil and due process rights of all individuals who apply for and hold driver's licenses and personal identification cards.

Mr. DURBIN. I ask the Senator from Connecticut a related question on how this provision of the conference report deals with the issue of immigration laws.

It is my understanding that the language of the conference report makes it clear that the Federal regulations to be developed by the Department of Transportation cannot directly or indirectly infringe on a State's power to set eligibility criteria for who can qualify to obtain a driver's license or identification card. So if a State has unique reasons for allowing or prohibiting certain groups of people to hold licenses based on their age, physical disability, in-State residency, or legal status in the United States, then, under the conference report language, those would continue to be the State's decisions.

This issue was handled differently by the other Chamber. The House bill had language that would have taken away the States' rights to determine eligibility by imposing a new harsh legal presence requirement for the issuance of driver's licenses. This is the provision that, I believe, created a lot of misunderstanding in the press about what the conference report does.

States around the country are already struggling with the issue of whether to provide licenses to undocumented aliens, and they should continue to work on the issue through their own legislative processes. Congress should not preempt the rights of all 50 States through the backdoor.

The issue of how our country treats those who are here without proper documentation is a complex one that involves myriad of overlapping immigration, foreign policy, and economic laws. We should not open that debate here unless we are ready and willing to address all the comprehensive proposals that ought to be included in such a debate.

I certainly hope the President will engage in this debate, and soon. But obviously, we cannot accomplish such an enormous task of overhauling our immigration laws through the 9/11 Commission bill, and the 9/11 Commission did not ask us to do that. We should not use this bill to require the

States to turn their DMV employees into immigration agents, and this conference report will not do so.

Mr. LIEBERMAN. I thank the Senator from Illinois for pointing out this language in the conference report. I know that this is a complicated and emotional issue and one which the States are already dealing with on a State-by-State basis. I agree that the conference report language does not allow the minimum standards to directly or indirectly infringe on States' power to set eligibility criteria for who can obtain a driver's license or personal identification card.

Ms. COLLINS. I thank the Senators from New Hampshire, New Jersey, Illinois, and the distinguished ranking member for their comments, their valuable contributions to this bill, and for participating in this colloquy.

DNI, NCTC

Ms. COLLINS. Mr. President, the legislation that is before the Senate remedies the problem identified by the 9/11 Commission that there is no one in charge of the U.S intelligence community. The Commission found that the Director of Central Intelligence, DCI, has too many jobs—namely leader of the intelligence community, principal intelligence adviser to the President, and director of the Central Intelligence Agency, CIA—to do any of them effectively. In addition, the Commission found that the DCI lacks sufficient authority to manage the Intelligence Community, including authority over funding, personnel, security, and technology.

The intelligence community is dominated by its component agencies and is organized into ''stovepipes'' that do not share information adequately among themselves and with the rest of government effectively. The DCI lacks the authority to break-down these stovepipes and transform the Intelligence Community into a 21st century enterprise.

The intelligence community needs to operate as a network in order to counter 21st century terrorist networks and other agile foes. Despite many impressive accomplishments since the 9/11 attacks, the intelligence community is unable to transform itself into a network due to its anachronistic structure and is still oriented toward fighting the bureaucratic nation-state enemies of the Cold War.

In response to the 9/11 Commission's findings, this legislation restructures the intelligence community by creating a strong Director of National Intelligence, DNI, who can lead, shape, and transform the 15 organizations of the intelligence community into a cohesive network. It creates a DNI who has the authority needed to set the course for the intelligence community and ensure that the course is followed.

It is fitting that this legislation should be completed during the week of December 7, the day on which the United States was attacked at Pearl Harbor in 1941. The National Security Act of 1947 was adopted in order to prevent another Pearl Harbor attack in the Cold War. This legislation seeks to enable the intelligence community to prevent another 9/11 attack from terrorists and other adversaries in the 21st century.

Under this legislation, the DNI has two primary responsibilities.

First, the DNI is the head of the intelligence community. In this capacity, the DNI will unify and optimize the resources of the intelligence community to serve the President, the National Security Council, and other intelligence consumers. The direct locus of the DNI's authority is the National Intelligence Program, which is the new name for the National Foreign Intelligence Program. The renaming of the program signifies that the national security threats of the 21st century straddle the foreign/domestic divide and that our Intelligence Community must have capabilities that cross this seam.

Second, the DNI is the principal intelligence adviser to the President. Accordingly, the DNI, not the CIA Director, will be responsible for briefing the President, including the President's daily brief. As the President's principal intelligence adviser, the DNI will rely on the National Counterterrorism Center and the National Counter Proliferation Center; additional National Intelligence Centers established by the DNI, which will have primary responsibility for analysis of particular topics or matters; the National Intelligence Council; and all of the analysts who reside within the various agencies of the Intelligence Community.

Mr. President, will the Senator from Connecticut explain the National Intelligence Centers and their purpose?

Mr. LIEBERMAN. I thank the Senator and agree with her statements. The National Intelligence Centers are a critical element in the transformation of the intelligence community into a 21st century enterprise. The 9/11 Commission stressed the role of the centers in the restructured intelligence community. The Commission's recommendation stems from the pre-9/11 and current situation in which no one below the DCI is responsible for how the CIA, the National Security Agency, and other intelligence agencies integrate their capabilities against specific intelligence targets.

The centers will provide unified direction across the intelligence community to fulfill missions. They are analogous to the Defense Department's combatant commanders, who unify the military services' capabilities to perform missions and fight wars. The purpose of the National Intelligence Centers can be summed up in one word: ''jointness.'' Just as, in the military, the Goldwater-Nichols Department of Defense Reorganization Act of 1986 sought to integrate the military services' capabilities by strengthening the combatant commanders, so this legislation fosters greater jointness among the intelligence agencies.

The centers are to be created within the Office of the DNI, which also will house the National Counterterrorism Center, the National Counter Proliferation Center, the National Intelligence Council, and other entities whose purpose is to integrate and unify the efforts of the various intelligence agencies to accomplish intelligence missions. Among their responsibilities, the centers will provide all-source analysis of intelligence, identify and propose to the DNI intelligence collection and analysis requirements, and have primary responsibility for net assessments and warnings. With their ability to harness the capabilities of entities across the Intelligence Community and create a unified effort, the centers will improve the intelligence community's ability to respond with speed and agility.

Each center will be led by a director who will be appointed by the DNI and serve as the DNI's principal adviser in that center's area of responsibility. The center's director reports to the DNI. Each center will have a professional staff, including personnel transferred, assigned, or detailed from elements of the intelligence community as directed by the DNI. The centers will be administratively distinct from the intelligence agencies, just as the combatant commands are administratively distinct from the Military Services. This prevents a center from being subsumed within and dominated by a particular agency.

I should add one point of clarification. The legislation calls on the DNI to explore creating an open source intelligence center to improve the collection and analysis of open source materials. This entity is different from the national intelligence centers, which are organized on geographic or transnational topics rather than functional topics like human or signals intelligence. This center would be like the agencies and entities in the intelligence community—like the CIA or the National Security Agency—that are organized to exploit particular collection disciplines.

Ms. COLLINS. I thank the Senator and concur with his description of the centers.

This bill provides the DNI with significant new authorities regarding such areas as determining the National Intelligence Program budget and executing its appropriation, transferring funds and personnel, and reprogramming funds. I would like to summarize some of these critical authorities.

Under this bill, the DNI will have sole authority to ''develop and determine'' an annual budget for the National Intelligence Program based on the budget proposals provided by the heads of the agencies and organizations of the intelligence community as well as these agencies' and organizations' respective department heads. The word ''determine'' in the legislation means that the DNI is the decisionmaker regarding the budget and does not share

this authority with any department head. The DNI is to produce a consolidated annual budget for the National Intelligence Program, which ensures the integration of the agencies and entities within the intelligence community.

The heads of such agencies and organizations within the intelligence community must provide directly to the DNI such other information as the DNI requests for the purpose of determining the budget. Thus, the DNI will have direct access to information from such agencies as the National Security Agency in the budget-build process and so be able to understand the needs of each component of the Intelligence Community when determining the annual consolidated national intelligence budget. The department heads may not interpose themselves between the DNI and the heads of agencies and organizations within the intelligence community.

Whereas the DCI today effectively only has a role in the execution of the CIA budget, the DNI will ''ensure the effective execution'' of the entire National Intelligence Program appropriation across the intelligence community. The Director of the Office of Management and Budget, OMB, for instance, must apportion National Intelligence Program funds—whether for the CIA, Federal Bureau of Investigation, FBI, National Security Agency, or any other element of the intelligence community—at the DNI's ''exclusive direction.'' The DNI's ''exclusive direction'' is intended to extend to apportionment plans as well, which delineate how appropriated funds will flow from the U.S. Treasury to the agencies and entities of the intelligence community. The DNI is further responsible for managing the National Intelligence Program appropriation by ''directing the allotment or allocation'' of such appropriation through the heads of departments containing elements of the intelligence community. Department comptrollers must then allot, allocate, reprogram, or transfer those funds ''in an expeditious manner.''

In order to ensure that the National Intelligence Program budget is executed in accordance with the DNI's direction, the DNI will ''monitor the implementation and execution'' of the appropriation, including by audits and evaluations. A department, agency, or entity has no authority to refuse or obstruct DNI-mandated audits. If department comptrollers act in a manner inconsistent with the DNI's directions, then the DNI shall report such action to the President and to Congress within 15 days. I expect that the DNI will need to create a chief financial officer with comptroller-like responsibilities to implement these authorities.

Some observers have raised concerns regarding whether departmental comptrollers are able to 'tax' the National Intelligence Program appropriation channeled through their departments in order to pay for fact-of-life costs such as increased fuel costs. The legislation precludes any reprogramming or transfer of funds from the National Intelligence Program without the DNI's consent. In addition, apportionment plans—in which any 'taxes' would have to be reflected—are to be prepared at the DNI's exclusive direction. Accordingly, under this legislation, comptrollers are not authorized to exact such 'taxes' unilaterally. Congressionally mandated cuts will also be implemented through the apportionment process, which will occur at the exclusive direction of the DNI.

We have worked closely with White House, OMB, and the National Security Council staff in developing this budget language, and all agree that this language will provide the new DNI with the full budget authority needed to manage the national intelligence budget and appropriation effectively.

The new DNI will also have significantly expanded authorities to transfer personnel and funds. After OMB's approval and congressional notification, the DNI may transfer personnel from one element of the intelligence community to another for not more than 2 years as long as the transfer is for a higher priority intelligence activity and supports an emergent need, improves program effectiveness, or increases efficiency. Most significantly, while personnel transfers must be made in accordance with procedures developed by the DNI and department heads, those department heads will no longer have the right to object to such transfers—as they do under current law. Finally, the DNI is also provided additional authorities to transfer a limited number of personnel upon the establishment of the Office of the DNI and each time a new National Intelligence Center is created.

As I mentioned, National Intelligence Program funds may not be transferred or reprogrammed without the DNI's approval except in accordance with procedures prescribed by the DNI. All transfers and reprogrammings must be for a higher priority intelligence activity; must support an emergent need, improve program effectiveness, or increase efficiency; and may not involve funds from the CIA Reserve for Contingencies or a DNI Reserve for Contingencies. Most importantly, the DNI will not require concurrence for such transfers or reprogrammings from affected department heads as long as they are less than $150 million and 5 percent of a department's National Intelligence Program funds and do not terminate an acquisition program. Thus, the DNI will have unilateral authority to transfer or reprogram a significant National Intelligence Program funds, subject to OMB approval and congressional notification. Permit me to take a moment to mention the DNI Reserve for Contingencies. I believe that creation of this reserve is important to permit the DNI to meet special circumstances that arise.

The DNI is also responsible for overseeing the coordination of the intelligence community's liaison with foreign intelligence and security services to avoid having each agency of the intelligence community pursue an individualistic approach. The DNI will create common policies and strategy among the various entities in the intelligence community to ensure maximum returns from foreign liaison relationships. In implementing the DNI's strategy, the CIA will coordinate foreign liaison ''on the ground'' in foreign countries.

The DNI should be in the chain of command involving the conduct of covert action and will be responsible and accountable to the President for such conduct by the intelligence community, including their funding. The DNI would be undercut if the President interacted directly with the CIA Director—who is the DNI's subordinate—or any other element of the Intelligence Community directly regarding covert action. Instead, this legislation envisions that the President will give orders regarding covert action directly to the DNI, who will then task the CIA and other agencies of the Intelligence community as appropriate.

Mr. LIEBERMAN. I agree with the Senator's statements. I would like to elaborate on the CIA's role under this legislation. With respect to the CIA, the 9/11 Commission stressed that the DNI should no longer be responsible for managing the day-to-day activities of the CIA. The legislation has been very carefully crafted to ensure that the Director of the CIA is subordinate to and reports to the new DNI only, and not directly to the President, but that the DNI does not manage the CIA's daily activities. This situation is similar to how a CEO runs a company composed of various business divisions. The CEO is the undisputed head but focuses on high-level issues of strategy, policy, personnel, and budgets rather than getting involved in the daily workings of any single business division. Likewise, the DNI should not manage the CIA and other intelligence agencies. No CEO would run a company that way, nor should the DNI manage the Intelligence Community that way.

To emphasize that the DNI is no longer the head of the CIA, the legislation stipulates that the Office of the DNI—which houses the centers and other entities designed to unify and integrate agencies' capabilities—cannot be co-located with any other element of the intelligence community after October 1, 2008. This provision ensures that the DNI is not put in the inherently conflicted position of being both the CEO of the intelligence community and closely aligned with one of the subsidiary elements simultaneously.

The Senator from Maine previously stated that the DNI, not the CIA Director, is the President's principal intelligence advisor and is responsible for briefing the President or preparing the President's daily brief. The CIA Director is subordinate to and reports to the

DNI only, and not directly to the President, both regarding intelligence activities and covert action. The CIA Director should concentrate on ensuring that the Central Intelligence Agency transforms its human intelligence and special activities capabilities to meet the difficult challenges of the 21st century. The CIA Director should also ensure that the Central Intelligence Agency trains analysts of the highest caliber for deployment to the centers and that whatever analysis is conducted by the CIA in-house—which would primarily be on topics for which there is no center—is done with the greatest independence, clearest objectivity, and best tradecraft.

I would like to discuss for a moment the CIA Director's salary. Under current law, the DCI is paid at Executive Schedule Level II pursuant to section 5313 of title 5, United States Code. The legislation places the DNI at Executive Schedule Level I but does not delete the reference to the DCI at Executive Level II. Section 1081(b) of the legislation makes clear that any reference to the DCI in the DCI's capacity as the head of the CIA in any law, regulation, document, paper, or other record of the United States shall be deemed a reference to the CIA Director. After passage of this legislation, the provision in current law that states that the DCI is paid at Executive Schedule Level II will therefore refer to the CIA Director.

Ms. COLLINS. I thank the Senator and agree with his statements. I previously discussed the purpose of the Office of the DNI, which is to house entities such as the centers which integrate and unify the efforts of the various intelligence agencies to accomplish intelligence missions. The legislation authorizes the DNI to create new entities within the Office of the DNI to respond to new challenges, such as new centers and ad hoc groups.

The legislation also authorizes the DNI to coordinate the performance by elements of the intelligence community of services of common concern that can be more efficiently accomplished in a consolidated manner. For example, there may be information technology services, security services, and personnel services that are being performed in duplicative or competitive manner by various entities across the intelligence community and that the DNI believes would be more efficiently performed—such as by exploiting economies of scale, or preventing discrepancies between agencies—when done in consolidated manner. The DNI may select one entity within the intelligence community to perform those services for the community. The DNI may also create a new entity within the Office of the DNI to perform such services. I expect that the DNI will exercise this authority in order to streamline the intelligence community, reduce discrepancies across agencies, and save resources that can be devoted to producing better intelligence.

I want to highlight two other DNI authorities. Current law precludes the DCI from directing, managing, or undertaking electronic surveillance or physical searches under the Foreign Intelligence Surveillance Act, FISA unless otherwise authorized by statute or executive order. This legislation also precludes the DNI from directing or undertaking such operations. As the legislation makes clear, the role of the Department of Justice and the Attorney General under FISA are unaffected by this legislation. However, this legislation does delete a restriction that now precludes the DNI from managing FISA collection. This change should better ensure that national intelligence collected under FISA is used efficiently and effectively for national purposes.

Current law also makes the CIA the manager of all human intelligence operations. The legislation changes that formulation, authorizing the CIA to manage human intelligence operations abroad. The intent of the legislation is not to have human intelligence operations split among the CIA, the FBI, and elements of other agencies with no one in charge. Instead, it is the DNI who is in charge. Of course, the DNI should not be spending his or her day managing human intelligence operations. Instead, the DNI should delegate his or her authority to an official within the intelligence community, when appropriate.

Indeed, the issue of delegation is critical. This legislation centralizes authority in the DNI in order to clarify responsibility, authority, and accountability for the intelligence community. However, the intent of this legislation is not that the DNI should retain all authority himself or herself. Like any good CEO, the DNI should delegate and decentralize. This legislation centralizes authority so that the DNI can build a network—with information, resources, and personnel flowing freely across the agencies of the intelligence community—that operates in a decentralized, fast, and flexible manner. For example, the DNI should delegate authority to the heads of the National Intelligence Centers so that they can utilize capabilities throughout the intelligence community to accomplish intelligence missions.

Included in this legislation is very strong tasking authority for the DNI. Under current law, the DCI has authority to task assets across the intelligence community to collect information. Pursuant to the National Security Act of 1947 as amended, the DCI controls the tasking of national intelligence assets. Section 403–3 of Title 50, United States Code, states explicitly that the DCI ''determine[s] collection priorities, and resolve[s] conflicts in collection priorities levied on national collection assets.'' The President's latest Executive Order 13355 on the issue is even stronger: It gives the DCI authority to ''manage collection tasking.'' This language is interpreted in practice that the DCI decides whether a satellite is to be positioned over North Korea or Iraq. Of course, the DCI consults closely with the Secretary of Defense—but the DCI is the final decision-maker. And there is no evidence that the military has been dissatisfied in recent conflicts with the supply of intelligence from national collection assets.

The legislation's provision regarding tasking authority merely sharpens current law by making the DNI's authority to task collection and analysis explicit. In this way, the bill essentially codifies current practice.

The DNI's tasking authority will be critical to the DNI's success. The 9/11 Commission envisioned a strong, empowered DNI, with more—not less—authority to control the collection and analysis of intelligence information. The Commission cites specifically the DCI's limited ability ''to influence how . . . technical resources are allocated and used'' as a problem. 9/11 Commission Report, p. 409. In a hearing before the Senate Armed Services Committee on August 17, 2004, Secretary of Defense Donald Rumsfeld spoke of the need to rebuild the intelligence community ''along 21st century lines.'' According to Secretary Rumsfeld, this reorganization includes ''a national intelligence director with authority for tasking collection assets across the government.''

This legislation includes a provision that the Senator from Connecticut and I drafted requiring that the President issue guidelines to ensure the effective implementation and execution within the Executive branch of the authorities granted to the DNI under this legislation, in a manner that respects and does not abrogate the statutory responsibilities of department heads. The interaction among the DNI, department heads, and heads of agencies and entities within the intelligence community is critical and must be as smooth and efficient as possible. These guidelines will be important for ensuring such seamless interaction.

This provision does not authorize the President or department heads to override the DNI's authority as contained in this legislation. This legislation has carefully crafted authorities for the DNI—including budget, transfer, tasking, et cetera—that give the DNI sufficient authority to manage the Intelligence Community. This provision is not intended and should not in practice trump or undermine in any way the DNI's authorities contained in the legislation.

In addition, the legislation amends the Secretary of Defense's authority to implement the DNI's decisions regarding the National Intelligence Program, contained in section 105(a) of the National Security Act of 1947 as amended, to ensure that the Secretary of Defense does not interact with the Intelligence Community in a way that is inconsistent with the DNI's authorities. This provision is another example of Congress's intent to create a strong

DNI with sufficient authority to manage and be accountable for the Intelligence Community, including those elements within the Department of Defense.

Some observers have raised concerns that this legislation will impede the flow of intelligence to the warfighter. I believe that nothing is further from the truth. The warfighter will benefit from far-reaching intelligence reorganization that creates a DNI with significant authorities. The DNI will have the power to force the various Defense and non-Defense intelligence entities to work together seamlessly, creating a more accurate intelligence product that can be shared more quickly than today. The DNI would also be a single point of contact for the military—and the military would know whom to hold responsible if intelligence from national assets is inadequate. The DNI inevitably will prioritize the warfighter's need for intelligence, subject to the direction of the President as to overall intelligence priorities.

Mr. LIEBERMAN. I thank and agree with the Senator. This reform legislation will benefit our troops in the field, as well as better protect our citizens at home.

The 9/11 Commission found that the U.S. intelligence agencies are still organized to counter yesterday's challenges, not today's threats. During the Cold War, the enemy was well-known, and our intelligence was appropriately focused on determining its capabilities. We could tolerate then a stove-piped intelligence system where the FBI's intelligence efforts were separate and disconnected from overseas and military intelligence because our enemies were not attacking us from within our borders. We could tolerate then a separate overseas intelligence system run by the CIA because there was no clear reason to integrate foreign military and domestic intelligence. We could tolerate then a separate military intelligence system because we faced a military force comparable to our own, using conventional tactics against us, different from the threats we faced at home.

In the war on terror, all that has changed. The threat has become asymmetrical, meaning a weaker enemy attacks a stronger force at its points of vulnerability. That's how al-Qaeda operates, working in the shadows, attacking us on all fronts: domestic, overseas, civilian and military.

The cold fact is that the killing zone has expanded. This requires a much more integrated and more agile intelligence apparatus. It requires someone in charge with the authority to force disparate agencies to share information, to determine overall priorities, and to make sure we maximize the return on our enormous investment in intelligence so that we will be successful at thwarting an enemy determined to kill civilians as well as military combatants.

A modernized intelligence community will help us better protect both our citizens and our soldiers. Reforms that help achieve greater ''unity of effort,'' as the 9/11 Commission put it, will clearly benefit our troops in the field because information critical to their safety and success could just as easily come from the CIA or the FBI as from the Pentagon's own intelligence systems. Similarly, the vital clues to stop the next attack on our own soil could come from the National Security Agency or the other national intelligence agencies within the Department of Defense. Fully connecting all these pieces is now critical to our total security effort.

But as the 9/11 Commission showed in its powerful report, we will not succeed if there is no one in charge who is able to forge unity among all of our intelligence agencies. A fundamental lesson of bureaucracy is that there will be no coordination at the working levels if there is no unified authority at the top. And there will be no real unified authority in the intelligence community unless a Director of National Intelligence has significant authority over budgets and people. Our troops battling in Iraqi streets must have, in real time, not simply traditional military intelligence on the force levels they face, but CIA-developed intelligence on the nature and identity of the al Qaeda and insurgent combatants firing at them.

Ms. COLLINS. I thank the Senator from Connecticut and agree with his statements. Mr. President, I wonder if my distinguished colleague from Connecticut would be kind enough to describe the National Counterterrorism Center provision in our bill.

Mr. LIEBERMAN. I thank the Senator from Maine. The 9/11 Commission's recommendation for a National Counterterrorism Center, NCTC, arises from two main findings. First in keeping with the Commission's general finding regarding the intelligence community, the intelligence agencies are not fully integrated in their efforts against terrorism. No one below the DCI has responsibility, accountability, and authority for the counterterrorism mission. Second, counterterrorism requires an integrated Executive branch-wide effort in which departments and agencies beyond intelligence must work together on a tactical level, with agility, and a rapid pace—like a network—but today ''stovepipes'' still dominate the Executive branch. Although departments and agencies are cooperating at unprecedented levels, the Commission concluded that such cooperation is more confederative than truly joint and integrated. To remedy these two problems, the Commission proposed that the NCTC be responsible for both joint counterterrorism intelligence and joint counterterrorism operational planning.

The legislation creates the NCTC along the lines of the Commission's model. Per the Commission's recommendation, the NCTC director is a Deputy Secretary-equivalent and with a dual line of reporting: (1) to the DNI regarding the NCTC's budget and programs and concerning intelligence matters, and (2) to the President regarding Executive branch-wide planning. This arrangement reflects the nature of the NCTC's mission, which is both to integrate intelligence—for which the DNI is the ultimate authority—and to conduct Executive branch-wide planning—which is beyond the DNI's jurisdiction.

As per the Commission's proposal, the NCTC will have two directorates to reflect its dual mission. The NCTC's Directorate of Intelligence will in essence be the national intelligence center for counterterrorism, but the NCTC will be more than just a strengthened TTIC. The NCTC will transcend the TTIC because the NCTC will clearly be preeminent in the intelligence community for counterterrorist analysis, will propose collection requirements to the DNI and otherwise integrate the intelligence community's capabilities, and will attract the best professionals from across the intelligence community. The tasks of this directorate are similar to those of any national intelligence center: integrating the activities of intelligence agencies such as the CIA and the National Security Agency; performing all-source analysis on transnational terrorism; being the repository for intelligence on transnational terrorism; conducting net assessment matching terrorist capabilities and intentions with U.S. vulnerabilities and countermeasures; and warning about potential threats.

Some observers question whether the NCTC will absorb all the counterterrorism analysts from across the intelligence community. However, those who question whether the NCTC would drain our precious supply of analysts actually prove the case for the NCTC—because there are so few analysts, we need to centralize this precious resource rather than dissipate them across the intelligence community. And the same reasoning applies to the National Counterproliferation Center and the National Intelligence Centers as well.

The NCTC's second directorate is for Strategic Operational Planning. This directorate would conduct strategic operational planning for the entire Executive branch—ranging from the combat commands, to the State Department, to the FBI's Counterterrorism Division to the Department of Health and Human Services to the CIA.

Witnesses at the Committee on Governmental Affairs hearing on August 26, 2004, argued that interagency operational planning is already taking place organically and thus there is no need for the NCTC. Yet the witnesses could only identify planning processes within their organizations in which representatives from other agencies were involved, not a single truly joint planning process across the Executive branch. The military had a process—but so did then-DCI George Tenet, who

had a daily counterterrorism meeting. And the multitude of joint planning processes drain personnel, time, and resources. Moreover, the lack of a central coordinating mechanism provides no safety net for an issue falling through the cracks when each agency—viewing it through a stovepipe—misses the issue's overall significance. There should be only one interagency strategic operational planning process, run by the NCTC, for counterterrorism.

The Commission has analogized this directorate to the J–3 Directorate of Operations of the Joint Staff, which works for the Chairman of the Joint Chiefs of Staff. J–3 does planning for operations conducted by the combatant commands. However, because the Chairman is not in the Defense chain of command, J–3 has no operational authority to enforce its plans on the combatant commands. The Chairman's stature gives J–3's plans a certain amount of persuasive authority, but J–3 has no direct authority over the combatant commands. As the Commission has stated explicitly, and as reflected in this legislation, the NCTC's Directorate of Strategic Operational Planning has no operational authority. Accordingly, the NCTC would not interfere with the military chain of command.

I would like to discuss in-depth the definition of strategic operational planning. Some observers have advocated confining the NCTC's operational planning function to high-level strategic issues, such as fashioning an Executive branch-wide strategy for winning Muslim ''hearts and minds''—leaving more tactical planning to the agencies individually. An Executive branch-wide ''hearts and minds'' strategy would fall within the NCTC's purview, but the NCTC must reach below that strategic level in order to have the impact envisioned by the Commission and this legislation.

The legislation defines strategic operational planning to include ''the mission, objectives to be achieved, tasks to be performed, interagency coordination of operational activities, and the assignment of roles and responsibilities.'' Examples of missions include destroying a particular terrorist group or preventing a terrorist group from forming in a particular area in the first place. Objectives to be achieved include dismantling a terrorist group's infrastructure and logistics, collapsing its financial network, or swaying its sympathizers to withdraw support. Tasks include recruiting a particular terrorist, mapping a terrorist group's network of sympathizers, or destroying a group's training camp. Examples of interagency coordination of operational activities include the hand-off from the CIA to the Department of Homeland Security and the FBI of tracking a terrorist as that terrorist enters the United States, or the coordination between CIA and special operations forces when operating against a terrorist sanctuary abroad.

With respect to the assignment of roles and responsibilities, the NCTC will not dictate to each department or agency which personnel or capabilities to utilize, unless the selection of the personnel or capabilities directly impact the mission such as a risk calculation or likely collateral damage.

Perhaps the best example of an issue for strategic operational planning is the hunt for Osama bin Laden. There is no policy dispute about the objective; all departments and agencies agree. But the mission inherently cuts across the Executive branch: Intelligence agencies must find bin Laden's whereabouts, diplomats must pressure countries to cooperate, public diplomacy must persuade his sympathizers to turn him in, and special operations forces must raid suspected sanctuaries. Some of the action is longer-term, such as using diplomatic and economic pressure to win countries' cooperation. Some of the action is very short-term. For example, the NCTC would recommend to the CIA and the Defense Department's Special Operations Command, SOCOM, whether to infiltrate or raid a sanctuary; indeed, one can imagine a situation in which the CIA recommends infiltrating while SOCOM recommends raiding, and now the only independent interagency body that can help resolve the issue is the National Security Council staff. If SOCOM objected, then the legislation's provision for the resolution of disputes would apply. If the CIA and SOCOM accepted the NCTC's plan, the NCTC would not dictate how the department or agency performed the mission, i.e., how the CIA infiltrated the group or SOCOM executed the raid.

An analogy for strategic operational planning is like lanes in a highway, each lane symbolizing an agency's expertise (e.g., special operations, espionage, and law enforcement). The NCTC will not tell each agency how to drive in its lane. But effective counterterrorism requires choosing which lane—meaning which type of activity, and thus which agency, to utilize in a particular situation. The NCTC would select the lane but would have no authority to order an agency to drive.

Returning to the discussion of the DNI's authorities, I note that the new DNI will take on a number of additional duties and responsibilities beyond what the DCI has today. I would ask my friend from Maine, how will the new DNI manage the new community functions that he or she will need to direct as head of the intelligence community?

Ms. COLLINS. I thank my colleague and agree with his statements. The new DNI will not need to create a staff from scratch to manage the intelligence community. Today, the DCI relies on the Deputy Director of Central Intelligence for Community Management, DDCI/CM, and that official's staff to coordinate the activities of the intelligence community. This professional staff already has substantial experience that will be invaluable to the DNI in managing the intelligence community. This legislation supplants the DDCI/CM but transfers the official's staff as the DNI considers appropriate to the Office of the DNI. The DNI can then build on this staff as necessary to implement the DNI's new authorities.

Finally, I would like to describe the implementation of this legislation. The legislation does not permit the current DCI to become the DNI without going through the Presidential nomination and Senate confirmation process for the DNI position. This legislation gives the DNI different authorities and responsibilities than the DCI has today. As such, the Senate will need to provide advice and consent to the President's selection for the DNI.

Title I of the intelligence reform legislation takes effect not later than six months after the Act's enactment. The legislation envisions that the President will decide upon the effective date for title I and may effectuate parts of title I at different times within that 6-month period. For example, the President could decide that all or parts of title I become effective upon the confirmation of the DNI. Until such time as the President determines—but in no event later than six months after enactment—the DCI will remain head of the intelligence community and the DDCI/CM and the various assistant DCIs will continue to report to him. The legislation requires that the President submit an implementation report to Congress not later than 180 days after the act's effective date, but it is desirable that this report be submitted as soon as possible.

Some provisions in title I explicitly state that they are effective on the act's date of enactment, namely the transfer of the TTIC or its successor to the NCTC and the transfer of the staff of the DDCI/CM to the Office of the DNI as appropriate. The NCTC has already been created by Executive order, absorbing the TTIC. With respect to the staff of the DDCI/CM, that staff does not cease to exist upon the act's enactment but rather becomes available for transfer to the Office of the DNI after the Office of the DNI is established.

This legislation requires the DNI to take various actions within 180 days of the act's enactment, including submitting a report to Congress concerning operational coordination between the CIA and the Defense Department, assigning an individual or entity to be responsible for analytic integrity, and identifying an individual to serve as an ombudsman. The DNI also shall prescribe regulations and other directives not later than one year after the act's enactment. Thus we hope that the President will move speedily to nominate an individual to serve as the DNI. The threats arrayed against the United States do not afford us a grace period.

INFORMATION SHARING

Mr. LIEBERMAN. Mr. President, I wish to call attention to an important

part of this legislation—the provision in section 1016 on information sharing.

The effective use of information, from all available sources, is essential to the fight against terrorism. The 9/11 Commission, in fact, concluded that the biggest impediment to all-source analysis, and to a great likelihood of ''connecting the dots,'' is the resistance to information sharing. As the commission documented, in the period preceding September 11, 2001, there were instances o potentially helpful information that was available but that no person knew to ask for; information that was distributed only in compartmented channels; and information that was requested but could not be shared.

As a result of its findings, the commission urged that a new approach to information sharing be developed that would help move from a ''need-to-know'' culture of information protection to a ''need-to-share'' culture of integration. Noting that no single agency could develop a meaningful information sharing system on its own, the commission recommended a new, government-wide approach, based on the conceptual model of the Systemwide Homeland Analysis and Resource Exchange SHARE Network proposed by a task force of leading professionals assembled by the Markle Foundation.

This legislation puts the commission's information sharing recommendations in place, requiring that the President establish a new, government-wide Information Sharing Environment ISE to share information among federal, State, local and tribal entities, and, where appropriate, with the private sector which owns or controls much of the nation's critical infrastructure)—in a manner consistent with national security and with the protection of privacy and civil liberties.

Ms. COLLINS. I agree wholeheartedly with my colleague about the importance of these information sharing provisions. I also want to emphasize that the ISE is not some mammoth new database. Indeed, it is not just technology, but rather represents a combination of technologies and policies designed to facilitate the appropriate sharing of terrorism information.

Section 1016 includes a list of attributes the ISE is required to have. These include such things as facilitating the sharing of information among those who have differing levels of access or clearance or different capacities to make use of the information—i.e., providing information from the beginning in its most shareable form, so that the maximum number of individuals can access the information in at least some meaningful form at its earliest point of consumability—while having additional details available to those who are granted appropriate access; in this way, the right information gets to the right consumer at the right time. It also includes building on existing systems where possible, rather than creating whole new, and potentially overlapping, systems, and employs an information access management approach that controls access to the data rather than just systems and networks without sacrificing security. And it includes incorporating protections for individuals' privacy and civil liberties from the very beginning—both in the policies of the environment and in technologies and processes to ensure that the policies are adhered to.

Mr. LIEBERMAN. Another important aspect of this provision is the mechanisms it puts in place to ensure that this new approach to information sharing actually gets implemented. We have known for some time now about the critical importance of information sharing in the fight against terrorism. But translating generalized calls for improved information sharing into a working, fundamentally changed system requires hard and sustained work. To help ensure that this ambitious new effort will succeed, and that the ISE is actually implemented as envisioned, the legislation provides for a staged development process, with periodic reporting and the promise of significant and sustained Congressional oversight.

The first benchmark in the ISE development process is 180 days after enactment: by this date, a review must be conducted of current agency capabilities; in addition, a description of the technological, legal and policy issues presented by the creation of the ISE, and how they will be addressed, must be submitted to the President and Congress. Within 270 days of enactment, the President is required to issue guidelines for acquiring, accessing, sharing, and using information, and, in consultation with the Privacy and Civil Liberties Oversight Board established in section 1061 of the legislation, guidelines to protect privacy and civil liberties in the development and use of the ISE. These two sets of guidelines are critical in defining the framework of the ISE, and their issuance will provide an important opportunity for Congress to evaluate the proposed direction of the ISE. Within a year, a detailed implementation plan for the ISE, including budget estimates and proposed performance measures, must be submitted to Congress, which will provide for a further opportunity for Congressional evaluation. Finally, in 2 years, and annually thereafter, the President must submit a report to Congress on the state of the ISE and of information sharing across the Federal Government.

Ms. COLLINS. In addition to the step-by-step development process my colleague has described, I would also note that the other key means by which the legislation seeks to ensure the successful implementation of the ISE is through the appointment of a program manager. Not later than 120 days after enactment of the legislation, the President is required to designate an individual who is to be responsible for information sharing across the Federal Government. By placing a single individual in charge of the development of the ISE, the legislation seeks to ensure the accountability and focus necessary to accomplish this critically important task.

Although the President has discretion to determine whom to designate as program manager, it is essential, and required by subsection 1016(f)(1), that the program manager have and exercise government-wide authority; the ISE will involve the sharing of terrorism-related information from across the government, including from entities outside the intelligence community—whether bioterror information from the Centers for Disease Control or relevant border information from Customs and immigration offices at the Department of Homeland Security—so that the program manager will be someone with responsibilities that cut across the Federal Government as well. Although the DNI is, and will continue to be, responsible for setting information sharing standards throughout the intelligence community (a responsibility expressly recognized in subsection 1016(e)(10)(A)), it is not our intent that the DNI also assume the further responsibilities of program manager. We expect and intend that whomever is designated as program manager will have the development of the ISE as their sole or primary responsibility, and we believe that it is desirable that the individual have management expertise in enterprise architecture, information sharing and interoperability.

The legislation provides that the program manager is to serve for 2 years, during the initial development of the ISE, to ensure that the project gets off to a sound start. As part of the implementation plan to be submitted to Congress after one year, the program manager is to recommend a future management structure for the ISE, including a recommendation as to whether the position of program manager should continue. During this two-year start up period, the program manager will be assisted in his or her efforts by an Information System Council established by the legislation and based on the existing Information System Council established by the President through executive order. The council, made up of representatives from agencies participating in the ISE, will not only advise the President and the program manager, but also, among other things, provide a means of coordinating among the various agencies participating in the ISE, helping to resolve interagency disputes that may arise. In performing its duties, the council is to consider input from those outside the Federal Government as well—including state, local, and tribal officials and those in the private sector who are potential participants in the ISE or who have relevant policy or technical expertise.

I also note the legislation provides that the individual agencies that possess terrorism information or otherwise participate in the ISE are to fully

cooperate in the development of the ISE. The cooperation of all relevant agencies is critical to the success of this government-wide information sharing effort, and agencies can expect Congressional oversight to ensure that they are planning for, and fully contributing to, the construction of the ISE.

PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

Mr. LIEBERMAN. Mr. President, among its other significant provisions, the bill before the Senate, S. 2845, establishes a new Privacy and Civil Liberties Oversight Board. Waging the war on terror has required that the federal government take steps that consolidate governmental authority and increase the government's presence in our lives. As the 9/11 Commission observed, this shift of power and authority to the government, while necessary, calls for ''an enhanced system of checks and balances to protect the precious liberties that are vital to our way of life.'' Following the commission's recommendation on this point, this bill creates, for the first time, a Board that can look across the federal government and ensure that liberty concerns are appropriately considered in the policies and practices of the executive branch.

Ms. COLLINS. Specifically, the board established in the bill is to be made up of five members, who are to be appointed by, and serve at the pleasure of, the President. Two of the five members—the chairman and vice-chairman—are also required to be Senate-confirmed. To help ensure an independent and effective board, all of the members are to come from outside the federal government and are expected to be people of stature, selected on the basis of their achievements, experience and independence. All of the members of the board are expected to devote significant time to this important endeavor, and the chairman may be appointed to a full-time position; given the broad responsibilities of the board, we believe that having a full-time chairman though not required would usually be the wisest course.

The Privacy and Civil Liberties Oversight board's purpose is to ensure that privacy and civil liberties concerns are appropriately considered in the implementation of all laws, regulations, and policies that are related to efforts to protect the Nation against terrorism. The board is empowered to carry out its mission in two equally important ways. First, the board is to advise policy makers at the front end, to ensure that when executive branch officials are proposing, making or implementing policy, they appropriately consider and protect privacy and civil liberties. Second, the board is to conduct oversight, by investigating and reviewing government actions at the back end, reviewing the implementation of particular government policies to see whether the government is acting with appropriate respect for privacy and civil liberties and adhering to applicable rules. Further, the bill provides the board with the tools it will need to carry out its functions.

Mr. LIEBERMAN. I agree with the Senator from Maine that the board will have the tools necessary to carry out its purpose. In its advice role, the board has a broad mandate to review and provide advice to the President and to federal agencies on proposed policies, whether or not codified formally in regulations, and on the implementation of new and existing laws, regulations and policies, in order to ensure that privacy and civil liberties are appropriately considered. Following a related 9/11 Commission recommendation, the board is further specifically directed, when providing advice to executive branch officials on proposals to retain or enhance particular governmental powers, to consider whether the need for those powers have been balanced against the need to protect civil liberties and privacy and whether there are adequate guidelines and supervision to ensure that the use of the power is properly confined and that privacy and civil liberties are protected.

Although the board has no authority to veto or delay executive branch actions, executive branch officials are expected to routinely consult with the board, and the board to routinely review and provide input, on the development and implementation of policies intended to protect the Nation a against terrorism; indeed, a suggestion in conference negotiations that would have limited the board to providing advice only when requested by the head of an agency was specifically rejected. It is our intention that the board become an institutionalized voice that ensures that privacy and civil liberties concerns are always considered and, where appropriate incorporated, in policy making.

With respect to its oversight role, the board has broad authority to review and investigate executive branch actions, whether limited to a single agency or involving interagency policies, to determine whether the government is appropriately protecting privacy and civil liberties. To carry out this function effectively, the board has been given investigative powers similar to those of a government-wide inspector general. Specifically, the and is to have access to all relevant documents and materials in the executive branch, including classified information, and to all relevant federal officials to interview them and take statements. Departments and agencies, moreover, are required to cooperate with the board: if the board believes information or assistance has been unreasonably refused, it is to notify the relevant agency or department head, who, unless the information cannot lawfully be provided to the board, is to ensure compliance with the request.

The bill provides an exception to the requirement that an agency comply with a board request for information only in cases where the DNI in consultation with the Attorney General, determines that withholding information from the board is necessary to protect the national security interests of the United States or where the Attorney General determines that withholding the information is necessary to protect ongoing sensitive law enforcement or counterterrorism operations. In light of the fact that board members must in any event have appropriate clearances to see classified information, as well as the expected nature of the board's work, we anticipate that these exceptions will rarely need to be invoked.

In addition to getting information from the executive branch, the board may also request information and assistance from State, local and tribal officials, and it may request documents or testimony from others outside the executive branch, including private parties who may have relevant information, such as former federal employees and government contractors. Although the board does not itself have the authority to subpoena documents from private parties, if the card is unable to obtain relevant information from a nongovernmental party, it may refer the matter to the Attorney General, who may take such action as appropriate to ensure compliance, including the use of compulsory process.

I would also like to note that although the board's jurisdiction is not intended to extend beyond matters related to efforts to protect the Nation against terrorism—to, for example, claims that the IRS is not adequately protecting the confidentiality of tax returns—it is our intent its jurisdiction be interpreted inclusively, to reach, for example, laws that were originally adopted to protect against terrorism, but may now have been turned towards other purposes.

Ms. COLLINS. I thank my colleague for his clear explanation. Just as important to the other authorities provided to the board is ensuring some transparency of the activities of the board. Transparency helps to give confidence to the American people that the protection of their civil liberties and privacy is being addressed as we take actions to further protect our Nation from terrorism. To that end, the board is to report to Congress at least annually on its activities, and may do so more frequently, as would be expected should the board complete an important investigation or otherwise make findings or recommendations of which Congress would wish to be apprised. The bill requires that the board's reports to Congress be unclassified to the greatest extent possible, in order to facilitate public discussion of the board's activities; where it is necessary to include classified information in the reports, it is to be included in a separate classified annex. Whether and when to release reports directly to the public or to otherwise engage in activities that directly involve and inform

the public is left to the discretion of the board, but we believe that given the public importance of the issues entrusted to the Privacy and Civil Liberties Oversight Board, openness is called for and will ultimately foster public trust that the government is appropriately protecting privacy and civil liberties as it continues to vigorously fight the war on terror.

Also intended to foster this public trust is the fact that, while the board is exempted from the requirements of the Federal Advisory Committee Act because, as a permanent, ongoing entity, it does not fit comfortably into the mold of the usual subjects of that act, the board is expressly subject to the Freedom of Information Act, like any other agency.

Mr. LIEBERMAN. I would also like to point out that the bill encourages federal departments and agencies involved in law enforcement and anti-terror functions to designate an agency official to serve as a privacy and civil liberties officer. Such officers, modeled on similar officers at the Department of Homeland Security and newly created in the Office of the DNI, can play an important role in providing day-to-day advice and insights on civil liberties and privacy matters and conducting internal reviews. Because such officers would be highly knowledgeable about their own agencies, they could augment the role of the board and help address issues early on. The role of such officers would be distinct from those of the new chief privacy officers created in the Omnibus Appropriations bill. Those officers would be largely responsible for focusing on informational privacy issues and not responsible for addressing broader civil liberties concerns.

Ms. COLLINS. I would like to thank my friend for working with me on these very important provisions. In the wake of the terrorist attacks on September 11, 2001, during his joint address to Congress, the President called on all Americans to ''uphold the values of America and remember why so many have come here. We're in a fight for our principles, and our first responsibility is to live by them.'' Indeed, as we improve government to better secure our Nation against future attacks, we must at the same time protect those American values that define our free society. These freedoms and values are what define us as Americans and what defines our Nation. Since the inception of our Nation, there has been much sacrifice in order for us to have the freedoms we enjoy today. These liberties are what have been entrusted to us to protect. That is why, as we protect our Nation from future terrorist attacks, we also must ensure that we do no trample on the very values that the terrorists seek to destroy.

Mr. WYDEN. Mr. President, I wish to commend Senators COLLINS and LIEBERMAN for their leadership in working round the clock for months to translate the key recommendations of the 9/11 Commission into reality. Thanks to their tireless and bipartisan effort, I and my colleagues today can point to a provision in the intelligence reform bill that will clear the fog of unnecessary secrecy that has for too long clouded our national intelligence picture. As the principal sponsor of this bipartisan provision, which will establish for the first time an appeals procedure that members of Congress may use regarding the classification of materials for national security purposes, I wish to explain how I envision this new process working.

The power to classify documents as secret is one of the most powerful tools in American Government, and it seems to be very much in vogue. Over-classification of documents is now the rule rather than the exception. Documents are sometimes classified for political reasons rather than to protect national security interests. Last year alone, the Federal Government spent $6.5 billion creating 14.3 million new classified documents. That is double the number of documents 10 years ago. This awesome power should be used judiciously, and it surely should not be the subject of old fashioned horse trading, as it was last summer during the preparation of the Senate Intelligence Committee's report on pre-Iraq war intelligence.

Last summer the Senate Intelligence Committee, on which I serve with my co-authors, spent more than 6 weeks arm-wrestling with the Central Intelligence Agency, CIA, over how much of the report on pre-Iraq war intelligence would be made public. Originally, the agency wanted to black out more than half of the report. In the end, ''only 20 percent'' of the report was blacked out.

At that time, there was no independent body to which the committee members could turn to find out what should and should not be classified for national security purposes. That is precisely the problem addressed by the provision crafted by Senators LOTT, BOB GRAHAM, SNOWE, and myself. Our provision will give Congress for the first time a means of appealing classification decisions.

The provision gives Congress the authority to appeal classification decisions to an independent standing body, the Public Interest Declassification Board. This Board is made up of nine members with expertise in national security and related areas; five are appointed by the President and four by the bipartisan leadership of the Senate and House. Under the amendments made by section 1102, when any Member of Congress asks the Board to declassify a document or materials, the Board ''shall advise the originators of the request in a timely manner whether the Board intends to conduct such review.''

This means that if I or another Member of the Senate were to ask the Board to determine whether a document is properly classified for national security purposes, the Board must respond in a timely manner. ''Timely'' is defined as ''early'' or ''soon.'' It is my expectation that whether it is a member of Congress or a committee seeking the Board's decision on the proper classification of information, the Board will get back to the requester expeditiously.

I am of the view that the problems in our intelligence community will not be addressed until the problems in the national security classification system are addressed. Thomas Kean, who chaired the 9/11 Commission, said that three-quarters of the classified material he reviewed for the Commission should not have been classified in the first place. Now, as the Senate acts on the conference report that strongly reflects the 9/11 Commission recommendations, it only makes sense to include this provision.

I have no illusions that this classification appeals mechanism will abolish the strongly rooted institutional bias in favor of overclassification, but taken in conjunction with the overall review of the standards used to classify information contained in other sections of the conference report, it is a very sound first step.

I am grateful to Senator LOTT, my principal cosponsor, for championing this matter in conference. He and his staff worked nonstop to preserve this provision. I also want to acknowledge the efforts of Senator BOB GRAHAM, another conferee, and his staff to defend our work.

Mr. DOMENICI. Mr. President, I rise to express my support for the intelligence reform provisions negotiated by the House and Senate. These measures provide common sense restructuring of our Nation's approach to national intelligence.

For years the United States has contemplated reorganizing the intelligence community. Unfortunately, it took the tragedy of September 11 and the loss of nearly 3,000 citizens to achieve systemic change. This legislation, however, is the culmination of a serious national debate that has occurred since that fateful day. It is a just tribute to those we lost, their families and to future generations of Americans whose security depends on our actions today. I believe this legislation better prepares us to meet the security challenges of today and I would like to make note of some important provisions.

First, it creates a National Director of Intelligence who has the necessary authority to write and execute intelligence budgets. This critical change will help ensure that resources and personnel can be moved to areas of priority throughout the intelligence community for more effective management of intelligence operations and analysis. This change was strongly endorsed by both the 9/11 Commission and Joint Inquiry of the House and Senate Intelligence Committees and I believe it is essential.

Second, it establishes a National Counterterrorism Center. This will

achieve an integrated approach to counterterrorism intelligence and strategic operational planning. Given the continuing threat the United States faces from international terrorists, it is vital that we organize our information and resources in a highly coordinated fashion to meet this challenge. The NCTC provides the proper mechanism to facilitate this coordination by gathering relevant information from all appropriate departments and agencies within our government.

In addition to these primary reforms provisions, I am pleased the conference report includes two other provisions of importance to New Mexico. By retaining my language directing the Department of Homeland Security to report on development of an Unmanned Aerial Vehicle border surveillance capability, this legislation recognizes the need to exploit emerging technologies for securing the homeland. The porous nature of our borders, particularly in remote areas of the Southwest, is vulnerable to terrorists, drug smugglers and other criminal activity. My language begins to seek new solutions to this significant security concern. Also, I am gratified that the conferees recognized the value of the National Infrastructure Simulation and Analysis Center operated by our national laboratories as Sandia and Los Alamos. The formal relationship this legislation creates between NISAC and the National Director of Intelligence ensures the intelligence community has access to the very best capability our Nation has for understanding vulnerabilities to critical infrastructures.

In conclusion, I believe this legislation is historic. Nothing is more important than the security of our country and intelligence is the underpinning of success in the war on terror. Objective, timely, accurate intelligence is what our policymakers need to make the right decisions affecting the safety of Americans at home and abroad. This legislation takes an important step toward invigorating our intelligence gathering as we face the threats of the 21st century and it has my strong support.

Mr. AKAKA. Mr. President, I rise today to express my support for the conference report on legislation creating a Director of National Intelligence. Before doing so, I commend the tremendous effort made by Senator SUSAN COLLINS, the chairman of the Governmental Affairs Committee, and Senator JOE LIEBERMAN, the ranking member, who have dedicated the last few months to ensuring this legislation was passed. I salute them.

Passage of this legislation ensures that many of the key recommendations of the 9/11 Commission become law. Most important of these are the establishment of a Director of National Intelligence, DNI, and a National counterterrorism Center, NCTC.

However, much still remains to be done. I continue to believe that the key to a stronger America lies not just in clarifying institutional lines of authority but in ensuring that we have the best and brightest on the front lines of our national defense.

One of the important objectives driven home by the 9/11 Commission's report and in testimony before the Governmental Affairs Committee is the need to have the right people in the right places in our Government, both civilian employees and military personnel, to combat future threats. We must ensure that our Federal workforce remains trained and ready to respond to the challenges we may face in the future, just as Federal employees have responded with courage when called upon in the past.

There is a human capital crisis in the Federal Government. Not only are we losing decades of talent as civil servants retire, we are not doing enough to develop and nurture the next generation of public servants. Nowhere is this more evident than in our intelligence services. Time and time again senior officials note the lack of trained linguists, the lack of trained analysts to evaluate information, and the lack of scientific technical expertise needed to confront these new threats.

Staffing new interagency intelligence operations centers on a 24/7 basis, developing new human intelligence, HUMINT, operations and interpreting the information coming into our intelligence analysts pose management problems of massive proportions. We continue to be seriously understaffed. I have been calling attention to this problem, along with my colleague, Senator VOINOVICH, for a number of years.

Thus, I am pleased that the legislation we vote on today contains provisions similar to those in S. 589, the Homeland Security Federal Workforce Act, which I introduced and was passed by the Senate last November.

The National Intelligence Reform Act mirrors the intent of S. 589 by establishing a program awarding scholarships to students in exchange for government service in the intelligence community. I would like to reiterate that the language in the Governmental Affairs Committee report relating to this provision and urge the DNI to give special consideration to applicants seeking degrees in foreign languages, science, mathematics, or a combination of these subjects.

S. 2845 includes other aspects of S. 589, such as an incentivized rotational program for employees in the intelligence community in order to break down cultural and artificial barriers to information sharing, build a cadre of highly knowledgeable professionals, and ensure cooperation among national security agencies.

In addition, the conference report includes language offered by Senator BOB GRAHAM and Senator RICHARD DURBIN, and myself requiring the Director of National Intelligence to review existing programs to increase the number of personnel with science, math, and foreign language skills and report to Congress on the proposals to improve the education of such individuals if existing programs are found inadequate.

These programs partially address, however, a larger national problem in our educational system that must be tackled, including at the primary and secondary level. I look forward to working with my colleagues in the next Congress to implement additional programs to solve the human capital crisis in our national security community as well as elsewhere in the government.

In addition, I am pleased that the legislation includes language creating an Office of Geospatial Management in the Department of Homeland Security, which was added to S. 2845, the Senate version of the bill, through an amendment offered by Senator ALLARD and myself. This language is identical to S. 1230, the Homeland Security Geographic Information Act. It will help to better coordinate the procurement and management of geospatial information within the Department of Homeland Security and centralize activities within one office. Geospatial information has become a critical component in both assisting our war fighters and in protecting our homeland.

However, I would be remiss not to mention areas that are not included in the legislation.

I regret that the conference report did not include a Senate amendment I sponsored with Senator FITZGERALD to create a chief financial officer, CFO, within the Office of the Director of National Intelligence. Our amendment would have placed the NIA under the Chief Financial Officers Act of 1990, which requires agencies to submit audited financial statements and requires that CFOs be appointed by the President, confirmed by the Senate, and report directly to an agency's head. This amendment is similar to legislation Senator FITZGERALD and I sponsored now Public Law 108–330—which brings the Department of Homeland Security, DHS, under the CFO Act and ensures a Senate-confirmed CFO who reports directly to the Director of DHS. I plan to introduce legislation that embodies our amendment because I strongly believe that this new entity must have the financial management systems and practices in place to provide meaningful and timely information needed for effective and efficient management decisionmaking.

It would be naive to say that this legislation by itself will make America stronger. Americans will make America stronger. What this legislation does offer is a framework within which we can build a more secure nation if we all work together within the limits of our Constitution.

In creating a Director of National Intelligence it is critical that the President pledge to make this office accountable to the American people. The DNI must be kept free of political pressures and independent of partisan policy agendas. While employees working

under the DNI will have the same rights and protections as those at the CIA, I urge the DNI to make every effort to ensure that whistleblowers are not retaliated against and that their disclosures, which may have a significant impact on the security of this nation, are taken seriously.

The DNI must make civil liberties and privacy rights a capstone in the structure of this new agency. Without these basic protections, our freedoms will not be strengthened, our Nation will not be more secure.

I pledge to do all I can to exercise my responsibility to oversee this new intelligence agency and ensure it lives up to the trust being placed in it by the Congress today.

Mr. CONRAD. Mr. President, I will join many of my colleagues today in voting for the Intelligence Reform bill; however, I do so with some reservations.

First, let me highlight the provisions contained in this bill that are especially important to North Dakota. The bill includes a proposal I authored that would establish a pilot project on the Northern border to enhance security through the use of advanced technologies like remote sensors, cameras, and unmanned aerial vehicles. The bipartisan 9/11 Commission Report recognized that the Northern border operates with only a fraction of the manpower and resources that are devoted to the Southern border, but poses no less risk for terrorists sneaking across into the United States. This project will help the border patrol in monitoring the border more effectively and efficiently. Additionally, I am pleased that the bill includes a provision directing that at least 20 percent of any increase in the number of Border Patrol agents be assigned to the northern border. Both of these provisions take a step in the right direction to improve the security of our northern border.

In considering intelligence reform, I embraced the recommendations of the 9/11 Commission. They made a major effort to understand what happened on September 11, 2001, and to figure out how we could help prevent future attacks. This legislation never would have passed without their hard work. By adopting one of the key recommendations of the 9/11 Commission, this bill takes a major step toward improving our Counter-terrorism efforts. Establishing a National Counterterrorism Center that can both analyze the terrorist threat and do strategic planning for operations to defeat terrorists will make us safer.

This bill would never have become law without the commitment of the families of the victims of the 9/11 attacks. They demanded real reform, without any further delay. We in Congress owed those families no less.

Some of my colleagues today have said that this bill is the largest reform of our national security agencies since 1947. The provisions I have just mentioned are important reforms. Nevertheless, I remain concerned that creating a new Director of National Intelligence will not do enough. It still leaves too many participants with an opportunity to fail to communicate and cooperate.

No one can argue against the basic rationale for creating a Director of National Intelligence. The American intelligence community has suffered from a lack of coordination and communication, as the 9/11 Commission and many other reports have outlined. This lack of coordination and communication comes in part from the absence of any one person in charge and, ultimately, accountable for the accuracy and timeliness of our intelligence. I strongly agree that we need a National Intelligence Director. But such a Director cannot improve the communication and coordination between the intelligence agencies without the full authority and resources necessary to do the job.

The concern I have with this final bill is that we have maintained the CIA and all of the other intelligence agencies we had before, and added a National Intelligence Director on top. Instead of consolidating the various intelligence agencies, we have created additional boxes on an organizational chart that I fear will only create more turf battles, thereby undermining our ability to enhance and improve our intelligence capabilities. I was concerned about this issue in the Senate's intelligence reform bill. The final bill has an even weaker Director of National Intelligence. That makes me even more concerned.

In my view, this bill simply does not provide the National Intelligence Director with all of the tools he needs to do the job. He will have only a very limited power to move money among the different intelligence agencies. Without strong control over the money, the Director could become just another layer of bureaucratic review.

If that was the end of the story, I probably would have to vote against this bill. But I see this bill as a step in the right direction. Its authors have assured me this is a beginning. In the end, the success of the Director of National Intelligence depends on the President creating procedures that place that official at the heart of the intelligence community, with real authority and real accountability. I am counting on President Bush to do so.

Ms. MIKULSKI. Mr. President, I rise in support of the National Security Intelligence Reform Act.

I am proud to cast my vote in favor of the first major reform of the intelligence community. Intelligence reform will make our Nation safer and stronger, and ensure we use our resources smarter. We have created a framework that works to prevent a predatory attack on the United States, supports our troops, and provides good intelligence to policymakers so we can guard and guide the Nation.

I am excited that we are going to pass such fundamental reform of our intelligence agencies. I have been fighting for intelligence reform for years. It is overdue and greatly needed. Now is the time.

This is a very good and important bill. This bill will make the American people safer by reforming our intelligence community for the 21st Century, by improving protection of our homeland, and by unifying and strengthening our efforts to combat terrorism.

The reforms will help prevent another 9/11 attack and help ensure we never go to war again on dated and dubious information. These reforms will make highest and best use of the talent in our intelligence agencies, who will have a framework to be able to protect the Nation and speak truth to power.

I have fought for reform of our intelligence community for years. I have been a member of the Intelligence Committee since before 9/11 to be an advocate for reform, particularly regarding signals intelligence.

Since I joined the intelligence committee we have also investigated two serious intelligence failures:

Why couldn't we prevent the 9/11 attacks on America?

Why did we think Saddam Hussein had weapons of mass destruction?

The House and Senate intelligence committees had a joint inquiry into intelligence relating to 9/11. We found insufficient information, missed opportunities, and failures to share information. So many talented and highly skilled people in our intelligence community worked so hard and so effectively, but our intelligence agencies did not serve them or us well.

These investigations convinced me that our intelligence agencies needed fundamental reforms. I recommended the creation of a Director of National Intelligence to unify and lead the intelligence community and many other important intelligence reforms. I am pleased that many of the reforms I have been advocating are part of this bill.

The National Security Intelligence Reform Act also builds on the work of the 9/11 Commission. I want to thank Senator COLLINS and Senator LIEBERMAN for their work on this bill in Committee, in the Senate, and holding the line in conference with the House. The result is broad, deep and authentic reform.

The bill gives the intelligence community one leader, a Director of National Intelligence, with real authority over the National Intelligence Program budget and personnel, to manage and unify and oversee the intelligence community.

The bill creates a National Counterterrorism Center to unify our Nation's intelligence information and planning to fight terrorism more effectively.

The bill creates a National Counterproliferation Center to provide the same unity of effort and effectiveness in the effort to prevent the spread of weapons of mass destruction.

The bill provides for diversity of opinion in intelligence analysis and protects the independence of analysis from policy and political pressures, by using red-teaming to test assumptions and avoiding group-think by ensuring that alternative views are presented to policy-makers.

The bill requires better sharing of intelligence information, both within the intelligence community and with first responders in our States and communities who have a need to know.

The bill provides protections for the rights of Americans by creating a Privacy and Civil Liberties Oversight Board and making officials in each agency responsible for protecting civil liberties and privacy rights.

The bill will also unify and streamline the standards for granting security clearances and require that a clearance granted by one agency is accepted by other agencies.

This bill goes beyond intelligence reform to address many of the other 9/11 Commission recommendations: to improve aviation security, including air cargo inspections, to improve maritime security, to strengthen border enforcement, and to strengthen criminal laws on terrorism, building weapons of mass destruction, and financing terrorist groups.

I have been fighting for many of these reforms and am very pleased that this bill includes them. They are going to make America safer, stronger and smarter.

This is not a perfect bill; no bill is. There are some provisions in this bill that raise questions or concerns. You can count on me to be vigorous and rigorous in oversight, to make sure we have real reform to protect America and protect the freedoms that America stands for.

Thanks to the dedication, commitment and persistence of the 9/11 families and the Congress, we had an independent commission to investigate 9/11. The 9/11 Commission brought into the sunshine what many of us knew from our classified hearings. The 9/11 Commission report was not just riveting reading—it was a good blueprint for intelligence reform. Senators COLLINS and LIEBERMAN picked up that blueprint and ran with it. The Senate produced a bipartisan bill that is a shining example of what can be done around here when we work together, not as blue State Democrats, not as red State Republicans, but as Americans—as members of the red, white and blue party, working together for America and the American people. As a proud member of the red, white and blue party, I enthusiastically support the National Security Intelligence Reform Act.

Mr. REED. Mr. President, I rise to express my support for S. 2845, the intelligence reform bill.

I first want to commend the 9/11 families who have worked so tirelessly to ensure that necessary reforms were implemented through the formation of the 9/11 Commission and the enactment of this bill.

I believe this bill is an important first step toward needed intelligence reform. As we are all aware, intelligence is the key to keeping America safe and winning the global war on terrorism. I think that there are many provisions of this bill which will improve U.S. intelligence. It creates a Director of National Intelligence who has personnel and budget authority; establishes an Information Sharing Environment to facilitate the sharing of terrorism information among all appropriate Federal, State, local, tribal and private sector entities; provides for training and education to meet linguistic requirements; and emphasizes the use of open intelligence, a resource I believe we have overlooked recently to our detriment.

I am also pleased that this bill establishes a National Counterproliferation Center since I believe the proliferation of weapons of mass destruction and the potential for terrorists and rogue states to obtain these weapons are the greatest threats facing us today.

In addition, I commend the House and Senate for providing for a Privacy and Civil Liberties Oversight Board within the Executive Office of the President that would ensure that privacy and civil liberties concerns are appropriately considered in the implementation of laws, regulations, and executive branch policies related to efforts to protect the Nation against terrorism. While Americans are more willing to give up some of their privacy after 9/11, necessary intrusions must be carefully balanced against the rights of U.S. citizens and I believe the Board will help maintain the balance.

Again, this bill is simply a first step. The United States remains vulnerable in many areas. I do not believe the bill does enough to provide for transportation security such as for ports, public transportation and railroads. In addition, it does not address other asymmetrical threats such as food safety. Two days ago Secretary of Health and Human Services Thompson noted how easy it would be to tamper with and poison our food supply.

Finally, I would like to express my disappointment with the administration's and Republican congressional leadership's participation in this undertaking. The administration originally did not want a 9/11 Commission and its support of this bill was lukewarm at best. The tragedy of September 11 made it clear that our Nation was not as secure as it could be and changes needed to be made. It is the duty of the administration to make those changes as quickly as possible. September 11 was over 3 years ago and we are just now enacting the first changes. The process certainly could have proceeded more quicky if the administration had been more actively engaged throughout the process.

But we have a bill which is a good first step. I support this bill and look forward to working with my colleagues on future reforms.

Mr. CHAMBLISS. Mr. President, an enormous amount of time and effort by the White House, the Congress, the 9/11 Commission, the families of the victims the 11 September 2001 terrorist attacks, and others have gotten us here, today, to make a final decision on the Intelligence Reform and Terrorism Prevention Act of 2004. We owe a debt of gratitude to all those involved with this process. However, not everyone will agree, nor should they, with everything contained in, or missing from, the bill we are about to vote on.

This should not surprise us, since no one individual or group has all the answers on how best to reform our vast intelligence community. What we can all agree upon, however, is the dedication and sense of purpose of everyone in the Congress who has worked on this legislation. The Members and staffs, from both sides of the aisle, all tried to do what they thought was best for the future security of the United States and for that they all deserve our appreciation.

I rise today not simply to commend the hard work of a lot of people, rather, I want to make the point that today marks the start, and not the end, of the intelligence reform process. Our work in the Congress on this issue is not ending today; it is just beginning in earnest.

We were attacked on 11 September 2001 in a vile, unprovoked manner that employed methods heretofore never used in warfare. Before 11 September, the idea of hijacking civilian airliners, loaded with innocent people, and using them as guided missiles to destroy landmark buildings and thousands of non-combatant people was something you would only find in a book of fiction.

It was difficult to imagine before that attack that a group of people could be so evil, so focused on destroying innocent lives, and so ready to kill themselves for some warped sense of their own religion and their distorted sense of justice.

We can fault our intelligence analysts for not ''connecting the dots,'' but maybe they had too few ''dots'' to work with and maybe what they did have didn't seem quite plausible at the time relative to our own understanding of human nature and how wars have been fought in the past.

The House Subcommittee on Terrorism and Homeland Security issued the first report outlining problems within the intelligence community about our failure to stop the 9/11 attacks. As the chairman of that subcommittee, I released that report on 17 July 2002. What we discovered was that the two most egregious intelligence failures involved human intelligence or HUMINT and the sharing of intelligence, primarily between the CIA and the FBI.

A dedicated enemy without any constraints on their behavior is a difficult

and extremely dangerous foe to defeat. As I said in this Chamber last July 21, ''. . . there is only one principle to follow on intelligence reform. Intelligence is our first line of defense against terrorism, and we must improve the collection capabilities and analysis of intelligence to protect the security of the United States and its allies.'' The question we all need to ask ourselves is does this bill strengthen this principle or not? The answer is a qualified one and there is much more to do before we can unequivocally say we have done everything possible on reforming our intelligence community. Let me mention just six issues that we will need to focus on early in the 109th Congress relative to intelligence reform:

One, once this bill becomes law, the President will be nominating the first Director of National Intelligence, DNI. This will be one of the most important decisions of his presidency and, in like manner, the confirmation of the individual nominated will be one of the most important responsibilities of this Senate. We need to make sure that the DNI has the ability, experience, and leadership qualities to successfully implement the legislation we are voting on today.

Two, the Congress needs to put its primary focus on rebuilding the most critical aspect of our intelligence collection capability, namely HUMINT. If we are ever to win the war on terrorism we need to put our spies inside of al-Qaida and other organizations that mean us harm. We also need good HUMINT to get a better indication of the threats being posed by nation states such as North Korea, Iran, and Syria.

Three, in this regard, we need to reshape the culture in the Directorate of Operations at CIA, which is responsible for managing our HUMINT activities, from ''risk-avoidance'' to ''risk-taking.'' Porter Goss has begun this process, but he will need the strong support of the Congress to institutionalize this new, aggressive culture. It is because of this very point that I voiced objections to the creation of a Privacy and Civil Liberties Oversight Board, both in the original bill passed by the Senate and in the Conference Report. We need to take more risks in HUMINT and we need to rebuild the morale of our HUMINT collectors. What kind of message are we sending to our intelligence agents in the field who are risking their lives to protect us by creating a board designed to look over their shoulders and, which is redundant to the President's Board on Safeguarding Americans' Civil Liberties? This may create a morale problem throughout our intelligence community that might take years to repair and, I hasten to add, at a time when we need HUMINT more than ever to protect our citizens.

Four, to help Porter Goss rebuild our HUMINT capabilities and to raise the importance and priority of HUMINT reform, the Senate Select Committee on Intelligence, SSCI, should establish in the 109th Congress a Subcommittee on HUMINT to focus our attention on this critical aspect of our security. Without a subcommittee structure in the SSCI, I fear we will not be up to the task of providing in-depth oversight of the intelligence community, which would be a failure of one of the Congress' most important constitutional responsibilities.

Five, the span of control for the new DNI that is being created by this legislation is enormous. In fact, it is almost impossible. This bill leaves the intelligence community at fifteen members, eight of which are in the Department of Defense. I had a bipartisan amendment to S. 2485 that was co-sponsored by my colleague from Nebraska, Senator BEN NELSON, that would have created a unified command for military intelligence giving the new DNI a single point of contact for military-related intelligence requirements and collection capabilities instead of eight. Collectively, the eight members of the intelligence community that this bill leaves in the Department of Defense are huge, with tens of thousands of people and multi-billion dollar budgets. How someone outside of the Department of Defense, like the DNI, could adequately and efficiently manage these vast intelligence capabilities by dealing with eight separate military members is beyond me. Senator NELSON and I are committed to fix this shortcoming by introducing a bill to create a four-star command for military intelligence in the 109th Congress.

Six, Chairman JIM SENSENBRENNER championed several critical proposals relative to immigration reform, including improving our asylum laws and standards for issuing driver's licenses. I regret his proposals are not in the conference report before us today. We should be committed to working on legislation to strengthen our immigration laws as soon as possible.

Yes, our work in the Congress on intelligence reform is just beginning. Confirming the first DNI, focusing our effort on HUMINT, shaping a ''risk-taking'' culture among our intelligence officers, improving our oversight of the intelligence community, creating a four-star military intelligence command, and strengthening our immigration laws will assuredly keep the 109th Congress fully focused on intelligence reform. Today is but the beginning of this effort and this process.

Ms. LANDRIEU. Mr. President, today, nearly 38 months after the September 11 attacks on New York City and the Pentagon, the Senate will pass a bill to make Americans safer at home and abroad. What was broken before 9/11 must be fixed. S. 2845 is based on the lessons learned from the National Commission on Terrorist Attacks Upon The United States—the 9/11 Commission. This legislation is a great step forward to revamp and strengthen our intelligence community to thwart terror attacks on Americans in the future.

It has not been an easy task to bring this legislation to the Senate floor for a vote. Initially, the 9/11 Commission was not to report its findings to Congress and the American public until after the November elections. Fortunately, the Commission was permitted to issue its findings during the summer, which allowed Congress to draft S. 2845 and act upon nearly all of the 9/11 Commission's 41 recommendations to reform the intelligence community and improve the public's safety. Nevertheless, there were roadblocks along the way. Many Members in both Houses tried to kill this legislation, and it is a major accomplishment that we will hold a vote today and send this bill to the President this evening.

Of course, the credit goes to Senators SUSAN COLLINS and JOSEPH LIEBERMAN, the chairman and ranking member of the Senate Committee on Governmental Affairs. With great skill, they pushed and pulled in unison when they needed to keep this legislation afloat. They refused to let our national security fall prey to those who sought inaction over action. Additionally, Senator JOHN WARNER, the able chairman of the Armed Services Committee, worked tirelessly to ensure that S. 2845 would preserve the military's chain of command and ensure necessary intelligence resources would remain available to the military at all times. As a result of the efforts of these Senators, we will pass a bipartisan bill that will achieve the goal of centralizing U.S. intelligence operations while helping intelligence agencies better coordinate with U.S. military efforts.

Again, the 9/11 Commission found that our Nation was vulnerable to attacks because we were not properly collecting, analyzing, and acting upon intelligence. Our domestic intelligence agencies were not talking with their foreign intelligence counterparts, and federal law enforcement offices were not working with local law enforcement. And so, perhaps most importantly, this bill creates a Director of National Intelligence, DNI, and a National Counterterrorism Center, both of which will go a long way toward ensuring that our Nation's many intelligence and military agencies have the oversight, resources and coordination necessary to protect our borders and our citizens.

This bill will also help improve interagency cooperation by requiring extensive sharing of intelligence and law enforcement operations among Federal, State, and local agencies. That alone is a key step toward better protecting our citizens by ensuring information that could be vital to our national security makes it to the appropriate level. To better balance security with citizens' rights, this bill also establishes a Privacy and Civil Liberties Board to review Federal policies and practices.

Before I close, I do want to point out a provision that was deleted in the conference which could have made this bill even stronger. Our Nation needs a director of national intelligence with the mandate to provide the President and

other intelligence consumers with accurate, truthful, and even blunt intelligence. The DNI should not feel hamstrung to tell the President and other intelligence consumers what they want to hear; rather, the DNI must be able to tell them what they need to hear. The DNI must be independent and unsusceptible to the political whims of his/her superiors. S. 2845 does not go as far as I would like to ensure that there will be no politicization of the gathering and analysis of intelligence. The original Senate bill contained safeguards to ensure intelligence would not be politicized. I am hopeful the DNI will not feel pressured to validate certain political or policy points of views where the intelligence simply cannot provide such validation.

While I hope we can revisit this issue in the 109th Congress, this bill is a success. It will benefit the American people greatly, and I look forward to its passage.

Mr. KOHL. Mr. President, I am pleased that in one of the final acts of this Congress we have overcome the objections of the House leadership to pass a major intelligence reform bill. The 9/11 Commission report provided a unique opportunity for Congress to act. If we had allowed this moment to pass and we had not succeeded in enacting the Commission's reforms, it is unlikely that we would ever achieve effective intelligence reform, leaving us right where we started—with a fragmented counterterrorism infrastructure struggling to keep up with the terrorist threats of tomorrow.

The legislation before us creates a Director of National Intelligence who will have broad authority over the many elements of our intelligence community. While many of us were confident that the Senate bill did not jeopardize the chain of command, language was added to ensure that the military would have access to the intelligence it needs.

In addition to creating a National Counterterrorism Center to coordinate counterterrorism intelligence and missions, the bill includes important provisions strengthening FBI intelligence capabilities, transportation security, border protection, and diplomatic and military efforts in the war on terrorism. We cannot rely on intelligence alone to prevent the catastrophic terrorist attacks of the future. We must remain vigilant in all these areas.

Finally, I want to applaud the diligence of our colleagues and the members of the 9/11 Commission who pressed on when it seemed that this bill was doomed to die. While I have no illusions that this bill will suddenly make us invincible, it is critical that we begin the difficult process of realigning the way our government anticipates and responds to terrorism. That is why I intend to support this bipartisan legislation.

Mr. VOINOVICH. Mr. President, I rise to support the Intelligence Reform and Terrorism Prevention Act of 2004. I first must recognize and congratulate the extraordinary hard work and leadership of Senator COLLINS and Senator LIEBERMAN and their respective staffs. It is only because of their determination and tireless efforts that we are able to consider this legislation today. I would also thank and recognize Representatives HOEKSTRA and HARMAN and their staffs for their hard work. On balance, this legislation is an important step in improving our national security.

This legislation establishes a Director of National Intelligence with greater budget authority than the current Director of Central Intelligence to provide leadership and direction to the 15 agencies of the Intelligence Community.

It also establishes a National Counterterrorism Center to conduct analysis of terrorism-related intelligence and conduct strategic planning for the War on Terror.

To ensure that the civil liberties of Americans are protected during this time of justifiably increased government powers, the legislation also establishes a Privacy and Civil Liberties Oversight Board within the Executive Office of the President.

All of these provisions were key recommendations of the 9/11 Commission, and I am pleased that they are included in this legislation.

I am also pleased that the legislation we are considering includes three provisions that I have sponsored.

The bill reforms the broken process of granting security clearances. The extended length of time it has taken to conduct and subsequently adjudicate a security clearance prevents qualified Federal employees and their private sector partners from doing important work to enhance our national security. In addition, a lack of reciprocity among agencies for already granted clearances delays and mobility of Federal employees within the government and places an unnecessary administrative burden on agencies as they duplicate the clearance process.

The reforms in this legislation are an important step in expediting the process, while preserving national security interests. The President designates a single entity to oversee the security clearance process and develop uniform standards and policies for access to classified information. The President also designates a single entity to conduct clearance investigations. Additional investigative agencies could be designated if appropriate for national security and efficiency purpose. Reciprocity among clearances at the same level is required.

The bill also includes a provision I added in Committee to improve the intelligence capabilities of the Federal Bureau of Investigation. Specifically, the FBI Director may work with the Office of Personnel Management to develop new classification standards and pay rates for intelligence analysts. This will facilitate the development of a robust national security workforce at the FBI and falls squarely within the spirit of the 9/11 Commission recommendations. It is my sincere hope that the FBI will utilize these flexibilitie4s to build an elite cadre of intelligence analysts that will help win the War on Terror.

Finally, this legislation attempts to reform the Presidential appointments process, which has been broken for decades. An amendment I offered on the Senate floor would require the Office of Government Ethics to submit a report to Congress evaluating the financial disclosure process for executive branch employees within 90 days of the date of enactment. It would require the Office of Personnel Management to submit a list of presidentially appointed positions to each major party candidate after his or her nomination. It would require the Office of Government Ethics, in consultation with the Attorney General, to report to Congress on the conflict of interest laws relating to Federal employment. The provision would also require each agency to submit a plan to the President and Congress that includes recommendations on reducing the number of positions requiring Senate confirmation. I hope that we are able to take definitive action to reform the appointments process in the 109th Congress and finally reform a process that has been examined by no less than 15 commissions, including the 9/11 panel.

I would like to offer an observation regarding the Office and Director of National Intelligence which this bill establishes. The director only will be successful if an individual is chosen who can develop a strong working relationship with the President. In other words, the DNI can be successful with the powers provided by Congress if this individual has the confidence and trust of the President. If not, then no amount of authority granted to that individual by Congress will make a difference.

Similarly, the Office of the Director will have to be staffed by the best and brightest minds in the Intelligence Community if it is going to be successful in managing and improving U.S. intelligence efforts. I hope that our Intelligence Community agencies will work closely with the DNI, his staff, and the new intelligence centers to ensure their effectiveness and enhance the security of the United States.

The passage of this legislation also places a new burden on Congress. Every Member of the Senate, but especially the members of the Senate Select Committee on Intelligence, will need to be involved in ensuring that this legislation is implemented effectively. Robust congressional oversight of intelligence is vital, and we here in this chamber are not off the hook just because we have passed this bill.

Finally, I want to inform my colleagues that while we have demonstrated our willingness to reform the

structures and processes of the executive branch to better protect our Nation, we have been less willing to reform our own structures and procedures. The 9/11 Commission recognized that changing congressional committee jurisdiction is exceptionally difficult but also noted reforms of the executive branch ''will not work if congressional oversight does not change too.'' They recommended that the Senate and House each establish a single authorizing committee for the Department of Homeland Security.

I remain deeply disappointed that the Senate did not do this in October. Rather, Senate Resolution 445 maintains authorizing jurisdiction over significant elements of DHS with at least three different committees. The inappropriately renamed Committee on Homeland Security and Governmental Affairs will have jurisdiction over less than 10 percent of the DHS workforce and less than 40 percent of its budget. Let me repeat that. We didn't even give the proposed Homeland Security Committee the jurisdiction over either the majority of the budget or the personnel of the department.

It is disappointing that the Senate was unable to put aside turf considerations and adopt meaningful reform of its committee structure. Shame on us for not doing better. I intend to raise this issue again when Congress reconvenes in January and hope that my colleagues will join me in that effort.

Once again, I would like to thank Senators COLLINS and LIEBERMAN and their staff for all their hard work on this legislation. I hope they are proud of their efforts.

I yield the floor.

Ms. SNOWE. Mr. President, I rise to support the conference report to accompany the intelligence reform legislation before us today.

First and foremost, I want to recognize and thank my colleague, the Senator from Maine and chair of the Governmental Affairs Committee, Ms. COLLINS, for her exceptional and tireless work throughout the past several months to produce this comprehensive to reform to our nation's intelligence community. I applaud her for undertaking this historic effort and for guiding this legislation through her committee and through the conference with the House of Representatives on a bipartisan basis.

As well, I want to express my appreciation to the ranking member, Senator LIEBERMAN, for his efforts in bringing us to this day. It truly was an enormous undertaking that was assigned to the Governmental Affairs Committee, and I want to thank them for all they have done on this intelligence reform legislation.

Intelligence community reform is not a new issue. Since the First Hoover Commission in 1949, studies have been conducted, commissions have been established, and reports have been issued on how best to structure and reform our Intelligence Community.

Despite over 50 years of debate on the issue, it was the morning of September 11, 2001, and all that followed thereafter that provided the major impetus to get us where we are today, on the floor of the U.S. Senate passing legislation to finally address what has eluded so many for so long.

To say that September 11 is a seminal moment for our nation is an understatement. That day forever changed the way we view the world. It was that day, more than any one before, that proved that we have entered a new era where our nation faces very different, more pervasive and inimical threats.

It was a day, more than any before, which proved that intelligence is now and must always be our best, first line of defense against a committed enemy who knows no borders, wears no uniform and pledges allegiance only to causes and not states.

It was a day that has proven that the intelligence community's old structure and old ways of doing business are insufficient for confronting the challenges of the twenty-first century.

As a member of the Senate Select Committee on Intelligence, my position on intelligence community reform has been steady and consistent—I was an early supporter of comprehensive reform and came to believe that a new Director of National Intelligence was vital in order to address the deficiencies and failures that became evident to us as a Congress and as a nation. The work of the Senate Select Committee on Intelligence over the past 2 years in undertaking a thorough review of the pre-war intelligence on Iraq's weapons of mass destruction programs, the regime's ties to terrorism, Saddam Hussein's human rights abuses and his regime's impact on regional stability allowed me to delve into those failures and ask pointed questions about the methods and organization of the community.

After the in-depth analysis of 30,000 pages of intelligence assessments and source reporting, and the interview of more than 200 individuals, the committee produced a report in July, 2004 that indisputably begged for intelligence community reform.

I joined several of my colleagues, most notably, Senator FEINSTEIN, on legislation overhauling the community and championing the idea of establishing a position, to be filled by single person, independent from the day to day responsibilities of running a single intelligence agency, and whose sole responsibility is to lead and manage the intelligence community. The Feinstein legislation, I believe, was a catalyst from which to begin this reform and I am proud to have been associated with it. Senator FEINSTEIN's early and steadfast work on this issue was crucial and I commend her for her dedication and vision.

The conference report we have before us today is not perfect. It is not, in my mind, an ideal solution. There are holes—some glaring—that I believe should be filled. But the fact that we are on the precipice of passing such a landmark package is indeed impressive. This bill is a product of compromise and again, I want to thank my Senate colleagues, led by Senators COLLINS AND LIEBERMAN, who served on the conference committee that produced this bill.

Mr. President, issues of accountability have often been central to the work we as Senators do in seeking to bring better government to our constituents—particularly when matters of national security are at stake.

In that vein, Mr. President, before the release of the 9/11 Commission report earlier this year, I introduced stand-alone legislation—cosponsored by Senator MIKULSKI creating an Inspector General for Intelligence. The ''Intelligence Community Accountability Act of 2004'' proposed an independent inspector general for the entire intelligence community—all fifteen agencies and department members. I introduced this legislation largely as a result of my experience as a member of the Senate Intelligence Committee and the revelations of the investigation on the pre-war intelligence of Iraq.

The version of the reform bill adopted by the Senate in October embraced the concept and spirit of my earlier bill and included language creating an Inspector General for the Director of National Intelligence.

I was disappointed to learn that much of the language included in the Senate-passed version of the bill was not ultimately included in the final package before us today. The conference agreement gives the DNI the authority to establish an IG according to the guidelines set forth in the Inspector General Act of 1978. Unfortunately, the conference agreement does not mandate that he establish an IG.

I want to make clear my intentions to continue working for better and more comprehensive accountability in our intelligence community. It is my view that the scaling back of the Inspector General provision in this bill flies in the face of the 521 page report that followed the Intelligence Committee's investigation on Iraq pre-war intelligence and ignores vital problems of information sharing that have been found throughout the community.

My strong preference would be to codify and explicitly define expanded authorities for the DNI's inspector general rather than simply give the DNI the authority to create an IG on his/her own. While I am pleased that the conference agreement does retain DNI inspector general language in spirit, I am dismayed that it is not stronger.

I firmly believe that a community-wide IG should have the authorities to delve into the coordination and communication between and among the various entities of the intelligence community.

An inspector general will help to enhance the authorities of the National

Intelligence Director that we will shortly create, assisting this person in instituting better management accountability, and helping him/her to resolve problems within the intelligence community systematically.

Ideally, the inspector general for intelligence should have the ability to investigate current issues within the intelligence community, not just conduct ''lessons learned'' studies. The IG should have the abilities to seek to identify problem areas and identify the most efficient and effective business practices required to ensure that critical deficiencies can be addressed before it is too late, before we have another intelligence failure, before lives are lost.

In short, an inspector general for intelligence that can look across the entire intelligence community will help improve management, coordination, cooperation and information sharing among the intelligence agencies. A strong, effective IG will help break down the barriers that have perpetuated the parochial, stove-pipe approaches to intelligence community management and operations.

Too many incidents of failure to prevent attacks, failure to properly collect the needed intelligence, failure to adequately analyze that intelligence and failure to share information within the community beg for better accountability in the entirety of the community. Who better to do this than a single IG, who can reach across the community, work with the existing individual agency IG's, and confront any problem with a macro, overarching view? This remains an issue on which I look forward to further working with my colleagues in the very near future.

As I stated earlier, members of the Senate Select Committee on Intelligence have spent a great deal of the past year looking at the intelligence available to national policymakers in the run-up to military action in Iraq. One of the major conclusions we drew was that the intelligence community suffered from a collective presumption that Iraq had an active and growing weapons of mass destruction program and that this ''group think'' dynamic led intelligence community analysts, collectors and managers to both interpret ambiguous evidence as conclusively indicative of a WMD program as well as ignore or minimize evidence that Iraq did not have active and expanding weapons of mass destruction programs.

From our review, we know the intelligence community relied on sources that supported its predetermined ideas, and we also know that there was no alternative analysis or ''red teaming'' performed on such a critical issue, allowing assessments to go unchallenged. This loss of objectivity or unbiased approach to intelligence collection and analysis led to erroneous assumptions about Iraq's WMD program.

For this reason, I believed that was vital that we use this opportunity to reform the intelligence community to ensure that the new National Intelligence Director was given the tools and the authority to ensure that alternative analysis becomes a key component in the development of national intelligence products. To that end, I offered amendment during the Senate debate that called on the Director of National Intelligence to establish, as he sees fit, alternative analysis units within our analysis agencies.

I am pleased the conferees elected to retain provisions within the bill that require the Director of National Intelligence to establish a process for ensuring that elements of the intelligence community conduct alternative analysis of their intelligence products. National policy makers must be confident that the underlying assumptions and judgements of any analysis have been tested and found valid before making decisions that affect our national security.

Another key failure the committee uncovered was in the production of a comprehensive and coordinated intelligence community assessment of Iraq's WMD programs. In fact, a National Intelligence Estimate on Iraq's weapons of mass destruction programs was not written until Congress requested that one be drafted in September 2002, in the midst of the debate about taking military action against Iraq.

We received the NIE just 2 weeks before we voted to authorize the President to take action in Iraq. The intelligence community should have been more aggressive in identifying Iraq as an issue that warranted the production of a National Intelligence Estimate and should have initiated the production of such an estimate prior to the request from Congress.

For this reason, I offered an amendment that would have required the examination of the process by which the NIE's are initiated, developed, coordinated and disseminated to national decision makers. I believe we must develop methods to ensure that NIE's are linked to priorities outlined by the President and Director of National Intelligence and not simply developed in an ad hoc fashion.

It is unacceptable that just weeks before Congress considered the weightiest matter that will ever come before us—the decision to commit our young men and women to war—the intelligence community only first began working on an intelligence estimate on what they would face. We must do better than that. We must have the foresight to know what threats face us in the future and the ability to develop and report accurate and timely national intelligence estimates.

I am disappointed that the final bill passed out of conference did not include provisions for streamlining the development of our National Intelligence Estimate and I will continue to work toward improving that process.

During the year, we in the committee heard testimony that indicated that the effectiveness and interagency coordination within the Terrorism Threat Integration Center left much to be desired so I am vitally interested in what structures work best for integrating the vast intelligence collection, analysis and dissemination efforts necessary to counter the international threat of terrorism. Coupled with the 9/11 Commission's recommendation that a series of such centers be established, I believed it was time that we took the time to understand what worked well in such centers and what didn't. Therefore I amended the Senate bill to require an evaluation of the effectiveness of the NCTC at the end of one year. That evaluation would have included an assessment of whether the NCTC is accomplishing their mission, the state of interagency relations, problems or issues relating to personnel assignments, funding, and so forth.

Unfortunately, with this bill, will not have the opportunity to understand whether the NCTC construct is the best way to approach other threats facing the nation. My concern has been amplified by the merging of the TTIC into the NCTC and the establishment of a National Counter Proliferation Center in this bill. Congress will need to closely monitor the effectiveness of such centers to ensure that they provide the nation with the agility and flexibility we must have to counter the 21st century threats.

The legislation before us today addresses another key issue: the continuing vulnerability of our transportation system. Obviously, failures in transportation security were paramount in the September 11 attacks. As the 9/11 Commission report states, the 9/11 terrorists were ''19 for 19'' in penetrating our shortcomings. To be sure, we can never secure our entire transportation system 100 percent. But, given the consequences of a failure to secure the system, that doesn't mean we should not expend 100 percent of our effort in trying.

First, the conference report implements the central 9/11 Commission recommendation with respect to transportation security by requiring that the Secretary of Homeland Security develop and implement a national, overarching strategy for transportation security. Timely development of this strategy is critical so that we are able to understand what needs to be done, what we need to do to get there, and to fill the gaping holes in our homeland security system as quickly as possible.

This bill also addresses the issue of air cargo security, which in my view is currently a gaping hole in our homeland security net—particularly when you consider that half of the hull of each passenger flight is typically filled with cargo. As Governor Kean, Chair of the 9/11 Commission, put it, quite simply, before the Senate Commerce Committee this summer, ''The Transportation Security Administration must improve its efforts to identify and physically screen cargo.''

The bill before us today would help TSA to do just that by incorporating an amendment written by Senator ROCKEFELLER, which I cosponsored, authorizing $600 million to enhance security on both all-cargo and passenger aircraft. The conference report also requires TSA to develop better technologies for air cargo security, authorizes funding for equipment and research and development and to create a pilot program to evaluate the use of currently available and next generation blast-resistant containers.

Overall, with respect to transportation security, I believe that the comprehensive, bipartisan bill before us today will give TSA the tools it needs to carry out his critical piece of the homeland security puzzle—securing our air transportation system.

I have addressed some of the issues that were central to my work on this matter and shared many of my concerns with this conference agreement package. It is critical, however, that I also express my deep sense of satisfaction that we are here today, ready to pass this bill and send it to the President's desk.

We have come a long way this year. And while it is not a perfect product, this legislation is still one the American people can be proud of. As of last week, we were not even sure this accomplishment would be attributed to the 108th Congress or if we would begin anew next year with the 109th. This legislation builds on the recommendations of the 9/11 Commission and also addresses the views of many other studies and related commissions which focused on protecting the United States.

Mr. President, on September 7, 2004, I had the opportunity to question members of the 9/11 Commission during a SSCI hearing and in response to my question about how much we needed to accomplish in this round of reform, former Secretary of the Navy John Lehman reminded us that in the 1947 National Security Act, there were at least three major fine-tunings in the subsequent years.

He told us that the basic framework was passed as one package, but it was recognized there was more needed to be done or refining what was done in the original act. He said that if we could get the framework passed, then the flesh can be put on the bones further down the road. He specifically mentioned that some things such as how many of the national intelligence centers we should establish could wait until the DNI got his feet on the ground but that our primary focus should be to put the framework in place now.

I agree with Secretary Lehman and that is why I will support passage of this bill even while believing we have much work left ahead before we have successfully transformed our intelligence apparatus, in the executive branch and the legislative branch, into an organization that is fully equipped to meet the challenges and threats this Nation will face in the future.

Mrs. BOXER. Mr. President, I am pleased to have this opportunity to vote in support of the Intelligence Reform and Terrorism Prevention Act. Passage of this conference report today is an important step forward in defending our country against the new threats that face us.

While I expect that the overwhelming majority of the Senate will vote in favor of the conference report today, it has not been an easy road to this point. The Bush administration fought tooth and nail against creating an independent commission to investigate the Government's failings leading to the tragic day of September 11, 2001. And, once the 9/11 Commission was established, the President's record of cooperation was spotty, at best. But largely because of the brave efforts and persistence of those families who lost loved ones on 9/11, these obstacles were overcome and the important recommendations made by the bipartisan 9/11 Commission will be enacted into law.

The 9/11 Commission, led by co chairs Thomas Kean and Lee Hamilton, did this country a great service by conducting a thorough investigation of the events leading up to September 11, 2001. The report issued in July contained more than 40 important recommendations that will make us a stronger nation as we work to confront the dangers of global terrorism. Through the hard work of Senator COLLINS, Senator LIEBERMAN and others, these recommendations were incorporated into bipartisan legislation that easily passed the Senate. And although the House of Representatives did not take the same bipartisan approach, the final negotiated conference report is a good bill that will improve our ability to fight terrorism in several ways.

First, the bill creates a new Director of National Intelligence to serve as the head of all 15 intelligence agencies and control their budgets. This person would be accountable to Congress, the President, and the American people in implementing the National Intelligence Program.

Second, the bill requires the President to create a new information sharing environment. The 9/11 Commission found that our ability to defeat terrorism is severely hampered because government agencies are resistant to sharing information. This provision will ensure that information about terrorists is shared not only among Federal agencies, but also between Federal, State and local agencies.

Third, the bill creates a new National counterterrorism Center to plan and coordinate counterterrorism missions and a new National Counterproliferation Center to improve the Government's ability to halt the proliferation of weapons of mass destruction.

Fourth, the bill increases the number of border guards and immigration agents while also improving surveillance capabilities along the southwest border.

Finally, the bill improves security for our aviation system, including additional funds for Federal air marshals. And while I am pleased that conferees took note of my concern about protecting the anonymity of Federal air marshals, I do not believe the final provision is strong enough.

Clearly, this bill cannot be the last piece of legislation we pass to make us safer. There is much more work to be done to protect our ports, our nuclear and chemical plants, and the flying public. Our first responders need far more attention so they have the interoperable communications systems they need, and an adequate number of personnel to protect our streets at all times and for whatever reason. I also believe that we are moving far too slowly on developing countermeasures to protect commercial aircraft against the threat of shoulder fired missiles. I will press hard for action on all of these issues so that we do not simply return to business as usual.

America will never forget the tragedy that took place on September 11, 2001. We are a changed Nation because of it. The families of those who lost their lives that day have done tremendous work in fighting for this bill. That is why I am pleased we are passing this bill today. The Federal Government must do everything it can to prevent another attack and today's vote is a step in the right direction.

Mr. FEINGOLD. Mr. President, with a recognition that this bill is imperfect, and with the firm conviction that this effort is only one step in a much broader effort needed to get this country on the right track to effectively defeat the terrorist forces that have attacked this country, I will vote in favor of the intelligence reform conference report today.

I have tremendous respect for the 9/11 Commission that made the recommendations at the heart of this legislation. Their report was not characterized by an ill-considered rush to simply act, but rather an imperative to act wisely. It was not colored by partisan biases, or tainted by self deluding rosy scenarios about where we stand as a country. I may not agree with every word in the 9/11 Commission's report, but I strongly agree with the vast majority of it, and I believe that the Commission performed a tremendous service for the American people.

Among the most detailed and thoughtful recommendations of the Commission were those focused on the urgent need for reform of America's intelligence community. By stressing unified effort, and most importantly, accountability, the Commission pointed the way toward the reforms contained in this bill.

This bill puts someone in charge of America's intelligence community—someone to be appointed by the President and confirmed by the elected representatives of the American people in

the Congress. The Director of National Intelligence will be in charge not simply via title and not only because we reorganized boxes on an organizational chart. This legislation provides real authorities to the DNI in terms of allocating resources, establishing tasking priorities, and ensuring information-sharing to unify our efforts. It is up to the Director to use the powers granted in this bill to make this community function—to make sure that the right people have the right resources and the right priorities, and that they share crucial information with their colleagues.

And I will add that it is up to the President of the United States and this Congress to ensure that the lines of authority and the clear accountability laid out in the language of this legislation come alive. We must insist on real accountability; we must accept nothing less.

The conference report also establishes, in law, the mandate for the National Counterterrorism Center to bring an integrated effort to that urgent priority. If we are ever to connect the disparate dots that can shed light on the methods, the plans, and the vulnerabilities of fluid, flexible terrorist networks that operate in the shadows, we must integrate our own efforts, not as an afterthought, but as a fundamental organizing principle.

However, I am troubled by some provisions that were added in conference that have nothing to do with reforming our intelligence network. The bill includes in section 6001 what has come to be known as the ''lone wolf'' provision. The lone wolf provision eliminates the requirement in the Foreign Intelligence Surveillance Act, FISA, that surveillance or searches be carried out only against persons suspected of being agents of foreign powers or terrorist organizations. I am very concerned about the implications of this provision for civil liberties in this country.

It is important to remember that FISA itself is an exception to traditional constitutional restraints on criminal investigations, allowing the government to gather foreign intelligence information through wiretaps and searches without having probable cause that a crime has been or is going to be committed. The courts have permitted the government to proceed with surveillance in this country under FISA's lesser standard of suspicion because the power is limited to investigations of foreign powers and their agents. This bill therefore writes out of the statute a key requirement necessary to the lawfulness of intrusive surveillance powers that may very well otherwise be unconstitutional.

By allowing searches or wiretaps under FISA of persons merely suspected of engaging in or preparing to engage in terrorism, the bill essentially eliminates the protections of the Fourth Amendment. I voted against the lone wolf bill when it passed the Senate early in this Congress. I believe there are better and more constitutional ways to deal with a situation where evidence of a connection to a foreign government or terrorist organization is not easily obtained.

Even if section 6001 survives constitutional challenge, it would mean that non-U.S. persons could have electronic surveillance and searches authorized against them using the lesser standards of FISA even though there is no conceivable foreign intelligence aspect to their case. This provision may very well result in a dramatic increase in the use of FISA warrants in situations that do not justify such extraordinary government power.

When the lone wolf provision was considered in the Senate as a stand alone bill last year, I supported an amendment by Senator FEINSTEIN that we thought was a reasonable alternative way to make sure that FISA can be used against a lone wolf terrorist, without eliminating the important agent of a foreign power requirement. The amendment would have created a permissive presumption that if there is probable cause to believe that a non-U.S. person is engaged in or preparing to engage in international terrorism, the individual can be considered to be an agent of a foreign power even if the evidence of a connection to a foreign power is not clear. The use of a permissive presumption rather than eliminating the foreign power requirement would have maintained judicial oversight and review on a case by case basis on the question of whether the target of the surveillance is an agent of a foreign power. The permissive presumption would permit the FISA judge to decide, in a given case, if the government has gone too far in requesting a FISA warrant.

Senator FEINSTEIN's formulation would have put some limit on the government's ability to use this new power to dramatically extend FISA's reach. If the government comes to the conclusion that an individual is truly acting on his or her own, then our criminal laws concerning when electronic surveillance and searches can be used are more than sufficient. True lone wolf terrorists can and should be investigated and prosecuted in our criminal justice system. Section 6001 allows the government to use FISA to obtain a warrant for surveillance even if it knows that the subject has no connection whatsoever with a foreign power or a terrorist organization. That is not right.

I am also very concerned about the material support, section 6601 et seq., and pre-trial detention, section 6952, provisions contained in the conference report. Neither of these provisions was considered by the Senate, or even by the Senate Judiciary Committee. While it appears that the material support provision adopted by the conference is not as broad as the provision contained in the House bill, its full implications cannot possibly be analyzed in the brief time we have to consider this bill.

The material support provision amends and expands the current crime of providing material support to terrorists or terrorist organizations. One federal court, of course, has ruled that a provision of the current statute is unconstitutional because it criminalizes First Amendment protected activities. In January, a federal judge in California ruled that a provision added by the PATRIOT Act criminalizing the provision of ''expert advice or assistance'' to a terrorist organization was vague and therefore unconstitutional. The judge found that the term ''expert advice or assistance'' could be interpreted to include unequivocally pure speech and advocacy protected by the First Amendment. The judge found that the PATRIOT Act bans all expert advice and assistance, including providing peacemaking or conflict resolution advice, and places no limitation on the type of expert advice and assistance that is banned.

The conference report attempts to cure this constitutional defect in the law. It states that the law criminalizing providing material support to a foreign terrorist organization shall not be construed to abridge rights guaranteed by the First Amendment. The conference report also allows an exception for providing personnel, training, or expert advice or assistance that is approved by the Secretary of State and the Attorney General. But I am not convinced that these provisions cure the constitutional flaws. And expanding this provision is therefore the wrong way to go.

Furthermore, as I noted earlier, the material support provision in the conference report has not been debated and analyzed in the Senate Judiciary Committee or even on the floor of the Senate when this bill was considered before the election. The 9/11 Commission strongly recommended that when determining whether to expand Federal law enforcement power, the burden is on the executive branch to show how its proposals would materially enhance security and what steps it will take to ensure the protection of civil liberties. The executive branch has not even started to meet that test here. We don't know how this new provision will work, and what problems might arise because of it. We haven't had the opportunity to consult with experts and consider amendments in the normal legislative process. Congress and the American people deserve a full debate on this issue. Inserting this provision in the conference report without that debate was a mistake.

Similarly, the pretrial detention provision was not recommended by the 9/11 Commission, and the administration has never shown how current law is inadequate. Furthermore, like the material support provision, this provision did not receive adequate consideration by the Senate. At the only hearing where this issue was raised this year, the Department of Justice could not give a single example where current

law failed and this expanded presumption of pretrial detention was needed. Current law, which allows for bail to be denied if a defendant is a flight risk or a danger to the community, is fully adequate to cover the kinds of terrorism cases where bail should not be granted. Reasonable bail is a constitutional right. I am very troubled by the expansion of the presumption that bail will be denied.

Unfortunately, this Justice Department has a record of abusing its detention powers post-9/11 and of making terrorism allegations that turn out to have no merit. It is worth noting that the crime of material support of terrorism, which has been expanded in this bill, is one of the crimes where a suspect is presumptively denied bail. In sum, as with the material support provision, the administration has not met its burden of showing how the expanded pretrial detention provision is necessary and would not impair constitutional rights and protections. It has no place in this bill.

This bill is not perfect. Over time, as the new structure begins to operate, we may find that additional changes are needed. But the conference report takes critically important steps in the right direction. I commend Senators COLLINS and LIEBERMAN for working tirelessly to ensure that this legislation becomes law this year.

Mr. REID. Mr. President, the United States of America today is the greatest military force in history. Our men and women in uniform are second to none. Nobody disputes our military superiority. And yet, military might alone will not win the war on terror.

Military might alone will not win because our enemies will never meet us face to face. Instead, they will try to hit us when we aren't looking. That is why good, solid intelligence is one of our most important weapons in the war on terror.

Our enemies caught us off guard on September 11, 2001. And even as we vowed that it must never happen again, we realized that we needed to make some fundamental changes in our intelligence agencies. The creation of the 9/11 Commission was a major step toward needed change. There was initially some political opposition to this Commission, but mainly because of the unrelenting support of the families of 9/11 victims, we created the Commission.

One of these family members is Denise Keasler of Las Vegas, who lost her daughter, Karol Keasler, in the twin towers. Karol worked on the 89th floor of the World Trade Center. After the first plane hit the north tower, she called her mother to tell her that she was OK. Then the line went dead.

Like many of the people who lost loved ones that day, Denise has dedicated herself to reforming our intelligence system. And was because of the dedication of people like her that the 9/11 Commission was created. Once the Commission was in place, its members rose above partisan politics. They unanimously passed a report that contained comprehensive recommendations to make our intelligence better and our country safer. The Senate responded to the Commission's work and on October 6 overwhelmingly passed a reform bill that enjoyed the support of the commission and the families.

This conference report also enjoys the strong support of the 9/11 Commission, and the families who lost loved ones. Most important of all, it enjoys the strong support of the American people. This bill creates a strong National Intelligence Director and a Counterterrorism Center, as well as an independent board to protect our civil liberties.

These reforms will make it harder for information to slip through the cracks of our intelligence system. They will make it easier for our intelligence officials to connect the dots and see the kind of warnings that could have prevented the tragic events of 9/11. They will make it easier to coordinate the efforts of the 15 different agencies that are responsible for providing the good intelligence we must have to win the war on terror.

Along with the Congressional reforms we achieved in October, we have improved our intelligence operations and followed the key recommendations of the 9/11 Commission.

I appreciate the hard work of the Commission and its co-chairs TOM KEAN and LEE HAMILTON, who endorsed this conference report. I appreciate the House leadership for allowing a vote on this bill, despite opposition from many members of the majority parry. And of course our Nation owes a debt of gratitude to Denise Keasler and all the other Americans who lost loved ones on 9/11, and who fought tirelessly for these reforms.

Denise said today that she is so glad this bill is passing, because she doesn't want a single other American to endure the kind f pain that she has suffered since her daughter was killed on 9/11. That is the goal we all share. This bill will move us closer to making our country safer.

Mrs. FEINSTEIN. Mr. President, I today offer my support for the conference report on the Intelligence Reform and Terrorism Prevention Act of 2004. Simply put, this legislation represents the first, and most critical, step towards bringing our national security structure into the 21st Century.

I begin by offering my thanks, and praise, to Senators SUSAN COLLINS and JOE LIEBERMAN. This bill would never have been done without their extraordinary work. Their effort combined intellectual distinction and adherence to the best traditions of the United States Senate. They were able to construct good, solid law and then build a consensus that crossed party lines in the midst of an intensely political season.

When we speak of how the Senate should work—with a spirit of collegiality and mutual respect—we are talking about Senators COLLINS and LIEBERMAN, and what they did here to make America safer.

This legislation is particularly important to me, for I have been working to bring about the essential reform contained in this law—the creation of Director of National Intelligence to effectively lead the intelligence community—for a long time.

This work began in 2002, when I introduced the Intelligence Community Leadership Act, which would have created a Director of National Intelligence with authority over budget, personnel, and strategy, similar to what is in the bill before the Senate today.

First, the Senate and House Intelligence Committees joined together to create the ''Joint Inquiry into the attacks of September 11th, 2001.'' That inquiry carefully examined the intelligence-related background of the attacks.

The resulting report had, as its very first recommendation, the creation of a Director of National Intelligence. This recommendation was unanimously adopted by both the Senate and House Intelligence Committees.

The following year, the Senate Intelligence Committee examined the intelligence relating to the assertions that Iraq possessed weapons of mass destruction.

As we all know, no such weapons were found, despite prewar intelligence which unambiguously stated that Saddam Hussein both possessed and intended to use such weapons.

The findings of that report illustrated what the Joint Inquiry had found the year before: The failures were in part due to flaws in the intelligence community, most notably the lack of an effective leadership structure.

Even as the Senate Intelligence Committee was completing its work, so too was the 9/11 Commission.

Again, their findings were clear. The Commission found that America's intelligence community needed structural reforms, most important of which was the creation of a single head of the intelligence community, with adequate budget, personnel, and statutory authority. Further, that person could not simultaneously serve as Director of the Central Intelligence Agency.

In the beginning of this Congress, I reintroduced the original 2002 legislation, and soon I was not alone. Senators SNOWE, LOTT, WYDEN, and MIKULSKI joined my effort, along with Senators ROCKEFELLER and GRAHAM, the current and former Vice Chairman of the Intelligence Committee.

In August of 2004, I wrote with Senators SNOWE, GRAHAM, MIKULSKI and WYDEN to the President asking for his ''support and assistance in moving forward with legislation to make needed changes to the structure of our nation's intelligence community.'' I ask unanimous consent that this letter be printed in the RECORD immediately following this statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mrs. FEINSTEIN. Soon thereafter, Senators COLLINS and LIEBERMAN were given the monumental task of moving forward with the project of intelligence reform. They were certainly the right choice. I provided my legislation to them, and I am pleased that much of it was included in their finished product, which in turn forms the basis for the conference report we are considering today.

Let me now turn to the substance of the law we are about to vote upon, noting that this legislation is just a first step towards reform. It is a top-level structural change that is designed to lay the groundwork for the deep cultural, bureaucratic and operational changes which are needed throughout the intelligence community. The DNI will have a big job to do, and this legislation is just the beginning.

As I have noted, the way our intelligence community is structured is fundamentally flawed. It is unsuited for the 21st century. The old days of the Soviet Union and Communism are over, replaced by a world of asymmetric threats, rogue states, and shifting terror organizations.

The most important of these structural failings is related to what under current law is called the office of the Director of Central Intelligence, known as the DCI. That title involves two separate, and I believe incompatible, jobs—head of the intelligence community and head of the Central Intelligence Agency.

Thus, there is only a nominal head of the intelligence community, who cannot be effective. This is because of two problems built into its structure.

The first problem is that the DCI has two basic, incompatible jobs: Leader of the intelligence community, which includes 15 agencies and departments, and in that role is the principal intelligence adviser to the President; and leader of the Central Intelligence Agency, which is only one of the 15 agencies which make up that big, and sometimes fractured, community.

These two jobs cannot effectively be held by one person. Each is a full time job. They require full and undivided attention.

Perhaps worse, they can be in direct conflict, because what is good for the intelligence community in terms of mission, resources, and strategy, may not be good for the ''troops'' at the Central Intelligence Agency.

Secondly, under the current structure, the DCI lacks basic tools needed to run any large government department—budget, personnel, and statutory authority.

Today, the DCI nominally administers the nuts and bolts functioning of the intelligence community, money and people. I say ''nominally'' because the DCI does not really control all that much of that money, or the people who use that money to run operations, conduct analysis, and build spy systems.

The solution to this problem is to ensure that the position of intelligence community director is provided real budget authority, real personnel authority, and real authority to set strategy and policy, and this bill does that.

This conference report includes compromises that slightly diminish these authorities as they were originally conceived in the Senate bill which overwhelmingly passed in September.

I would have preferred that the DNI have more authority, but I understand and respect the concerns raised by some, including my friend and colleague Senator WARNER of the Armed Services Committee, that we could unintentionally harm the uniformed military.

The result is a compromise, and I think we can and should live with that compromise.

The structure that is set out in the conference report closely tracks what originally was contained in the 2002 Intelligence Community Leadership Act: It creates a Director of National Intelligence, separate from the CIA Director; The DNI is given adequate budget, personnel and strategic planning authority; The DNI can set priorities for intelligence collection and analysis, and manage tasking across all 15 agencies.

It also contains some ideas advanced by the 9/11 Commission which I believe are important. Most important of these is the creation of a National Counterterrorism Center, which will serve under the DNI when engaged in intelligence-related matters. It also includes the creation of a Directorate of Intelligence within the Federal Bureau of Investigation.

What is the bottom line? It is that, with the passage of this bill, we will have taken a critical concrete step towards equipping our Nation to defend against the enemy of the 21st century—terrorists, rogue states and others who would do us harm.

We recognize that what worked in 1947 does not necessarily work today. We create a new intelligence community, and a new leader of that community, with stature and authority to do the job.

I thank my colleagues in this and the other body who worked so hard to bring us to where we are today, prepared to pass a truly historic law which will make everyone safer in an unsafe world.

EXHIBIT 1

U.S. SENATE,
Washington, DC, August 3, 2004.

Hon. GEORGE W. BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We write to seek your support and assistance in moving forward with legislation to make needed changes to the structure of our Nation's Intelligence Community. We are co-sponsors of the ''Intelligence Community Leadership Act of 2003,'' which was first introduced on January 16, 2003, legislation which we believe is a valuable starting point for this effort.

That legislation closely matches the recommendations recently made by the 9–11 commission, most importantly by ''splitting'' the two jobs held by one person into two: a ''Director of National Intelligence'' to lead the Intelligence Community, and a ''Director of the Central Intelligence Agency'' to provide leadership for the CIA.

You announced yesterday your support for the creation of a Director of National Intelligence to oversee our nation's intelligence agencies. In addition to this fundamental structural change, we agree with many of the Commissioners' most important recommendations concerning additional intelligence reform. We look forward to working with you in implementing these important reforms.

We would welcome the opportunity to discuss the legislation with you, and look forward to working together to address these critical issues.

Sincerely yours,

DIANNE FEINSTEIN,
OLYMPIA J. SNOWE,
BOB GRAHAM,
BARBARA A. MIKULSKI,
RON WYDEN,
United States Senators.

Enclosures as described.

Mrs. MURRAY. Mr. President, I rise today to express my support for the Intelligence Reform and Terrorism Prevention Act of 2004. This landmark legislation will modernize and unify our intelligence community and help ensure the safety of our country.

I strongly support this vital intelligence reform bill. The 9/11 Commission worked incredibly hard to identify how to better protect our country from terrorism and gave us an excellent roadmap to protect our people. We in Washington State are proud of the outstanding work put in by Commissioner Slade Gorton. He has again done his State proud in service to our country.

My colleagues, Senators COLLINS and LIEBERMAN, deserve a great deal of credit for getting us here today. When some thought that real reform of our intelligence community was just a dream, too complicated to be realized, it was their dogged determination to craft a good piece of legislation that carried us through. And when others threw roadblocks in their path, it was their patience and perseverance that allowed us to come together and put the safety and security of our nation before politics.

I especially commend the September 11 families who bravely stood up and spoke out in favor of creating the Commission. They forced our Government to fully examine the terrorist attacks and to find ways to make our people safer. Their brave advocacy has made a difference, and this bill is a fitting tribute to their loved ones.

As a member of both the Homeland Security Appropriations Subcommittee and the Senate's 9/11 Working Group, I have looked closely at these challenges. Over the past few years, I have worked closely with the Department of Homeland Security, including the Coast Guard, FBI, TSA, Border Patrol, as well as the National Guard and local law enforcement throughout Washington State. Through our work together, I have learned first hand the difficulties they face every day in defending our country.

We need clear direction for our country's intelligence community. The Commissioners stressed better coordination between the various intelligence agencies, and this bill accomplishes that and so many other important goals. I am glad that in the same bipartisan spirit that the 9/11 Commission showed throughout their work, we in Congress were able to work through our differences to pass this most important reform bill.

I fully support the steps this bill in taking in several areas, including:

Intelligence—through the creation of a Director of National Intelligence, DNI, this bill restructures and strengthens the intelligence community. The DNI will have the authority and resources to transform the intelligence community into an agile network to fight terrorism.

Information sharing—the 9/11 Commission recommended a new, Government-wide approach to information sharing. This bill will facilitate information sharing among Federal, State, local, tribal, and private sector entities.

Privacy and civil liberties—this bill creates an oversight board that will ensure privacy and civil liberties are appropriately considered as laws regulations, and policies are implemented to protect our country against terrorism. This oversight board will safeguard individual's rights.

Transportation security—the 9/11 Commission highlighted several deficiencies in transportation security. This bill will improve passenger prescreening on airlines and cruise ships and require the TSA to develop better technologies for air cargo security.

Border and immigration enforcement—this bill includes provisions to enhance security of our borders and enforce border and immigration laws. It allows the Secretary of Homeland Security to carry out a pilot program to test advanced technologies that will improve border security between ports of entry along the northern border of the United States. These technologies would be used for border surveillance and operation in remote stretches along the border where resources are stretched thin.

Since the tragedy of September 11, Congress has passed strong legislation to protect the homeland only to see the President fail to request adequate funding to achieve the homeland security mission. We can not play homeland security roulette forever and expect to successfully defeat terrorism. To best protect the American people, we must fund our intelligence and homeland security efforts to swiftly implement these changes.

Today's action is an important step toward achieving a truly integrated national effort in the global war on terror. This bill makes significant changes necessary to meet current and future national security challenges.

I am proud to support this historic legislation, and I look forward to working with all of my colleagues in the Congress and the administration to provide the critical funding needed to achieve the homeland security mission.

Mr. CORZINE. Mr. President, I am pleased today to vote for the Intelligence Reform and Terrorism Prevention Act of 2004. The bill represents a critical step toward improving our intelligence capabilities. If faithfully implemented, it will allow our intelligence community to coordinate its efforts to thwart terrorism and defeat terrorists abroad. The establishment of a Director of National Intelligence is also necessary if we are to successfully prioritize our efforts to fight terrorism, confront threats from nation states, stabilize failed states that act as breeding grounds for terrorists, and stop the proliferation of nuclear and other dangerous weapons. The Director will also be responsible for ensuring that our policies are once again informed by accurate and objective intelligence.

Improving our intelligence capabilities is especially important to the people of New Jersey. More than 700 of New Jersey's citizens died on September 11, 2001. At least two of the 9/11 terrorists lived in New Jersey, and the anthrax that struck Washington in October 2001 originated in New Jersey. Our State is also especially vulnerable to terrorist attack. Our transportation infrastructure, chemical plants and ports are not adequately secured, and one stretch of road has been called by the FBI the most dangerous 2 miles in America.

We would not be passing this bill were it not for the families of 9/11 victims. They turned our national tragedy into meaningful reform. They have inspired us, even as they have helped make us safer. This bill is also a testament to the incredible work of the 9/11 Commission. Under the steady leadership of former New Jersey Governor Tom Kean and former Representative Lee Hamilton, the bipartisan commission put our Nation's safety ahead of politics. The Commission brought the country together in understanding the attacks of 9/11 and the events that preceded the attacks. Through its public hearings and transparent approach, they also rallied the country behind the hard, but critical work of intelligence reform.

The bill itself will not, however, make us safer, unless it is fully implemented in letter and spirit. The success of these reforms is also dependent on the people tasked with carrying them out. As a new member of the Senate Intelligence Committee, I will make sure that the bill is implemented as intended, that our intelligence community has the tools and resources to protect us, and that reforming our intelligence does not result in the infringement of our civil liberties. I will also ensure that our intelligence agencies are led by the best people our country has to offer.

Mr. BIDEN. Mr. president, I wish to speak briefly about section 7109 of the bill, which relates to public diplomacy responsibilities of the Department of State. I commend the conferees for setting forth the important statement that public diplomacy must be integral to American foreign policy. I don't have any doubt that Secretary Powell understands that fact, but it is worth codifying this statement in law.

Section 7109 adds a new section 60 to the State Department Basic Authorities Act of 1956, which, as the name implies, is the main operating statute for State Department activities. Subsection (b) of section 60 instructs the Secretary of State to make every effort to coordinate the public diplomacy activities of the Federal Government, and to coordinate with the Broadcasting Board of Governors to develop a strategy ''for the use of public diplomacy resources.''

The Broadcasting Board of Governors, BBG, is an agency that is separate and distinct from the Department of State. It was established as a separate agency in 1998 for an important reason: to place a ''firewall'' between the foreign policy makers and the journalists who operate our international broadcast services as a means of protecting journalistic integrity. The Board consists of nine members, one of whom is the Secretary of State. Of course, the two agencies do cooperate, as current law already instructs. The State Department has a voice in the Board's activities through the Secretary's seat on the Board, and the Department has a statutory mandate under the U.S. International Broadcasting Act of 1994 to provide ''information and guidance on foreign policy issues to the Board.'' And, by law, the Secretary must be consulted whenever decisions are made about adding or deleting language services.

The requirement for a strategy under section 60 must be read in light of this existing law. It does not breach the firewall. Rather, it recognizes the reality that creating a public diplomacy strategy for the Government will involve collaboration between the State Department and the BBG. The provision in this legislation does not give the Secretary any more authority with regard to the international broadcasting activities of the BBG than he has under current law, nor does it give the BBG any authority over other public diplomacy activities outside of international broadcasting.

Subsection (b) of section 7109 amends current law to further delineate the responsibilities of the Under Secretary of State for Public Diplomacy. Among other things, this subsection tells the Under Secretary to assist the Broadcasting Board of Governors to ''present the policies of the United States clearly and effectively,'' and to ''submit statements of United States policy and editorial material to the [BBG] for broadcast consideration.'' These provisions are consistent with the current practice under which editorial statements of U.S. policy are reviewed by

the Department of State. The language in the bill that material is to be submitted for ''broadcast consideration'' makes clear that final authority about what is to be broadcast rests with the BBG.

Mr. DODD. Mr. President, I rise today to speak about the conference report of the national intelligence reform bill, which is currently pending before this body. I would like first to commend Senators COLLINS and LIEBERMAN, as well as Representatives HOEKSTRA and HARMAN, for their efforts in crafting this legislation.

Let me be clear from the outset. I support the 9/11 Commission's recommendations, as I think do most of us here in the Senate. The Commission was a bipartisan group whose members dutifully dedicated well over a year of their lives to the protection of our Nation. We owe them a great debt of gratitude—not only for the hard work that went into preparing their report, but for their concerted effort since then to keep the issue of intelligence reform at the front of the national agenda.

But as we all know, many months have passed since the 9/11 Commission issued its report. And our Nation's intelligence system remains broken. That is not because the Senate failed to act. I was pleased in October when the Senate came together in a bipartisan fashion to pass the National Intelligence Reform Act of 2004, which closely followed the important recommendations of the 9/11 Commission. I strongly supported that bill.

Had the House's version of that bill followed the 9/11 Commission's recommendations as closely as the Senate's version, we would not have been here today talking about the lingering need to pass intelligence reform. Unfortunately, House Republicans included several provisions in their bill—and insisted on them during conference—that nearly derailed the entire effort.

The 9/11 Commission urged them to drop these provisions. But their pleas fell on deaf ears.

President Bush was also slow to react. Although he has professed his support for intelligence reform, during most of this time, the President sat on the sidelines as members of his own party nearly prevented its implementation.

Having said that, I am pleased that House-Senate conferees worked out their differences over this measure. I voted in support of this conference agreement a short while ago because reform of our intelligence systems is long overdue. It can not be put off any longer.

In part, this bill achieves some important objectives set out by the 9/11 Commission. It establishes the position of Director of National Intelligence, DNI, the person who, hopefully, will help coordinate the flow of intelligence to the President, as well as set budgetary priorities for a fair amount of our Nation's intelligence activities. Among other things, this bill will also establish a national counterterrorism center, and direct the Transportation Security Administration to take steps to strengthen our transportation security efforts.

But I also have strong reservations about certain aspects of this conference report.

First, the new Director of National Intelligence, DNI, would not be directly in charge of day-to-day intelligence-gathering operations. Indeed, this bill—whose language, in some crucial places, is disturbingly vague—provides that the DNI will not in practice head up the intelligence pyramid providing recommendations to the President.

Instead, the DNI will now have competition from the CIA Director, as well as the Director of the newly created National counterterrorism Center—both of whom will be presidential appointees requiring confirmation by the Senate. Rather than simplification and consolidation, it is possible that this could have the effect of creating new bureaucracies and increasing confusion.

We should remember that among the purposes of creating a DNI was to consolidate intelligence coordination efforts in one person who could craft a suitable budget, ensure sharing of information among agencies, and consolidate information for presentation to the President. It is by no means certain that this purpose will be achieved by this legislation.

Second, although the DNI would have control over much of America's total intelligence budget—roughly $40 billion—he or she would not have control over approximately 30 percent of this total, including certain tactical military intelligence operations. The Department of Defense, DOD, would retain control over those operations and funds.

Why is this a problem? Because these DOD intelligence collection agencies provide three-quarters of our Nation's military and international intelligence. Leaving aside operational control, if the DNI doesn't have budgetary authority over three-quarters of some of our most important intelligence activities, how will that person be able to effectively carry out their job of protecting the American people?

Also of concern are provisions which could affect Americans' civil liberties. For example, this bill will create an FBI intelligence directorate, and it will require the FBI to specifically train and dedicate a group of its agents to gather domestic intelligence against suspected terrorists. Obviously, we need to prevent terrorists from reaching our shores and root them out if and when they are here. But we will have to keep close watch to ensure that Americans' civil liberties are not violated as part of these efforts.

That is why I am so concerned that although this legislation creates a panel to protect civil liberties and to prevent privacy abuses, this panel will not have subpoena power, and its members will serve at the pleasure of the President. This situation calls into question whether, in practice, the panel will be able to fulfill its role of protecting Americans from the excesses of power exercised by their Government.

Despite these reservations, I voted in support of this conference report. We have already waited too long—3 years and 3 months—and the process of intelligence reform must begin. This legislation is a beginning.

The tragedy of 9/11 continues to echo today with each family that lost a loved one that horrible day. No legislative reforms can alleviate that loss or wash away the heart-wrenching pain felt by these families. But if done right, reforms might help prevent another such tragedy from happening again.

That is why I would also offer a word of advice to the administration, to the officials who are eventually confirmed for these posts, and to those whose jobs will be to root out terrorists within our borders. The American people will be watching you, as will Congress. And together, we will make every effort to ensure that the process of reform continues and that Americans' constitutionally guaranteed rights are protected.

Mrs. CLINTON. Mr. President, today is a historic day. We are coming to the end of a process that began immediately after the September 11 attacks and is ending with a historic reorganization of the intelligence community. Today's vote, coming after months of testimony before the 9/11 Commission, weeks of hearings on Capitol Hill and tough negotiations in Congress, represents a signal accomplishment in reforming our government to protect our homeland and fighting the war on terror.

Today's accomplishment, the Intelligence Reform and Terrorism Prevention Act of 2004, would not have been possible without the courage, dedication and hard work of the families of the victims of September 11. It was the persistence and resilience of these brave family members who lost their loved ones on September 11 that led to the creation of the 9/11 Commission. And it was their continued resolve that helped to keep the heat on Congress to insure that those recommendations were put into law. While not every recommendation of the 9/11 Commission is included in this bill, the bill makes historic changes in the way our government will collect and analyze intelligence so that we hopefully never again have to live through a day like September 11.

In the aftermath of September 11, and as the 9/11 Commission report so aptly demonstrates, it is clear that our intelligence system is not working the way that it should. The Commission report, following on the work of prior commissions that have studied the

issue, details how we have 15 different intelligence agencies who are not sharing information, not communicating with one another and missing important linkages. This legislation, through the creation of a Director of National Intelligence, DNI, breaks down the artificial barriers in the intelligence community and insures that there is a high level official, answerable to the President, who is working to insure that our intelligence agencies are sharing information and communicating with one another.

This legislation gives the DNI budget authority over the intelligence community which will allow him or her to exercise proper control over the coordination among agencies. In Washington, budget authority means real authority and strengthening the DNI is a major accomplishment of this bill. He or she will also be responsible for budget execution and have the authority to reprogram funds and transfer personnel. These powers will allow the DNI to establish objectives and priorities for the intelligence community and manage and direct tasking of collection, analysis, production, and dissemination of national intelligence.

This legislation also establishes a Privacy and Civil Liberties Oversight Board, as the 9/11 Commission recommended. The creation of this Board is intended to ensure that at the same time we enhance our Nation's intelligence and homeland defense capabilities, we also remain vigilant in protecting the civil liberties of Americans. Our civil liberties define us as Americans. As the 9/11 Commission said, ''Our history has shown us that insecurity threatens liberty. Yet, if our liberties are curtailed, we lose the values that we are struggling to defend.'' The conference report being considered today essentially charges the Board with primary executive branch responsibility for ensuring that privacy and civil liberty concerns will be appropriately considered in the implementation of provisions designed to protect us against terrorism. While the legislation that initially passed the Senate explicitly provided the Board with subpoena powers, the conference report that we are voting on today does not. That omission is unfortunate, and I will work with my colleagues in Congress to address this issue and provide such powers in the future, so that the Board will have the tools it will need to help us maintain the proper balance between our Nation's security and our liberties.

The legislation calls for dramatic improvements in the security of our Nation's transportation infrastructure, including aviation security, air cargo security, and port security. Through this legislation, the security of the northern border will also be improved, a goal I have worked toward since 2001. Among many key provisions, the legislation calls for an increase of at least 10,000 border patrol agents from fiscal years 2006 through 2010, many of whom will be dedicated specifically to our northern border. There will also be an increase of at least 4,000 full-time immigration and Customs enforcement officers in the next 5 years.

While I look forward to a productive debate on immigration issues in the next Congress, I am pleased that there are a number of key immigration reform provisions in this legislation, including those addressing the process of obtaining U.S. visas.

I am also pleased that the legislation addresses the root causes of terrorism in a proactive manner. This is an issue that I have spent a good deal of time on in the past year because I believe so strongly that we are all more secure when children and adults around the world are taught math and science instead of hate. The bill we are voting on today includes authorization for an International Youth Opportunity Fund, which will provide resources to build schools in Muslim countries. The legislation also acknowledges that the U.S. has a vested interest in committing to a long-term, sustainable investment in education around the globe. Some of this language is modeled on legislation that I introduced in September, the Education for All Act of 2004, and I believe it takes us a small step towards eliminating madrassas and replacing them with schools that provide a real education to all children.

But we are being shortsighted if we limit our educational investments to countries with predominantly Muslim populations, and if we focus solely on expanding the number of U.S.-run schools in these areas, as the Intelligence Reform and Terrorism Prevention Act does. Instead, the U.S. should work with the global community to create strong incentives for developing countries to build universal, public education systems of their own. Only then will our investments have the maximum impact because only then will they result in systemic change.

We do not know where the next Afghanistan will spring up, but we do know that extremism will flourish where educational systems fail.

The 9/11 Commission, and the commissions before it, including the Homeland Security Independent Task Force of the Council on Foreign Relations, chaired by former Senators Warren Rudman and Gary Hart—Hart-Rudman Commission—and the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction, chaired by former Gov. James Gilmore III—Gilmore Commission—called for dramatic improvements in the sharing of intelligence information. In the immediate aftermath of the 9/11 terrorist attacks, I worked with a number of my colleagues bipartisan basis in focusing on the need for greater sharing of terrorist-related information between and among Federal, State and local government agencies. The sharing of critical intelligence information is vitally important if we are to win the war against terrorism. We need to ensure that our frontline solders in the war against terrorism here at home—our local communities and our first responders—are as informed as possible about any possible threat so that they can do the best job possible to protect all Americans. I am pleased that this legislation mandates major improvements in this regard.

Contained in title VII of the act are provisions from the 9/11 Commission Implementation Act of 2004, legislation introduced by Senators MCCAIN and LIEBERMAN and for which I am proud to have been an original cosponsor. Among its provisions are those that address homeland security preparedness, including a call for a unified incident command system and significantly enhancing interoperable communications between and among first responders and all levels of government. Title VII also speaks to the need for allocation of additional spectrum for first responder needs and to assess strategies that may be used to meet public safety telecommunication needs, an issue that I have focused on intensely as co-chair of the E–911 Caucus.

I am extremely disappointed, however, that this legislation does not specifically mandate an improvement in how the Federal Government allocates critical homeland security funds to States and local communities around the country. As many of my colleagues know, I have repeatedly called upon the administration and my colleagues to implement threatbased homeland security funding to ensure that the homeland security resources go to the States and areas where they are needed most. I have introduced legislation in this regard and even developed a specific homeland security formula for administration officials to consider.

But threat-based funding is not only important to me and to the New Yorkers whom I represent; it was also a primary recommendation of the 9/11 Commission. Specifically, in its report, the Commission stated:

> We understand the contention that every state and city needs to have some minimum infrastructure for emergency response. But federal homeland security assistance should not remain a program for general revenue sharing. It should supplement state and local resources based on the risks or vulnerability that merit additional support. Congress should not use this money as a pork barrel.

The 9/11 Commission also recommended that an advisory committee be established to advise the Secretary on any additional factors the Secretary should consider, such as benchmarks for evaluating community homeland security needs. As to these benchmarks, the Commission stated that ''the benchmarks will be imperfect and subjective, they will continually evolve. But hard choices must be made. Those who would allocate money on a different basis should then defend their view of the national interest.'' In short, the Commission made unequivocally clear that the current method of allocating the majority of federal homeland security resources, i.e., on a

per capita basis alone, must be changed.

Not only did the 9/11 Commission recommend that such changes be made in how Federal homeland security funds are allocated, but commissions before it, such as the Rudman Commission, have strongly recommended it as well. Indeed, the Rudman Commission stated more than a year and a half ago that ''Congress should establish a system for allocating scarce resources based less on dividing the spoils and more on addressing identified threats and vulnerabilities. . . . To do this, the federal government should consider such factors as population, population density, vulnerability assessment, and presence of critical infrastructure within each state.''

Both the Senate and House-passed intelligence reform bills that were reconciled in this conference report contained language that sought to effectuate this important recommendation but, unfortunately, such language was not included in the conference report. As the 9/11 Commission, Rudman Commission, many other homeland security experts, and I have repeatedly asserted, there are few issues more important to our nation's homeland defense than homeland security preparedness and the proper allocation of the resources to achieve that preparedness. Therefore, I will continue to work as hard as I can with my colleagues on a bi-partisan basis to make the 9/11 Commission's call for threat and risk-based funding a reality.

At the end of the day, this legislation has the capacity to improve our security and make us safer. I would especially like to note the dogged persistence of Senators COLLINS and LIEBERMAN, who were unflinching in their work on this important bill. However, passage of this legislation is just the beginning. We have now given our Government the tools to make a difference. But as with anything in our system, success depends on the independence and accountability of those appointed to carry out these reforms. It is critical that the American people, and we in Congress, insist upon accountability from those whom we are asking to implement these reforms. I look forward to working with my colleagues in the Senate in that effort.

Once again, thank you to the 9/11 families, the 9/11 Commission and all those who have worked to make this legislation a reality. Now the hard work of implementing these reforms begins.

Mr. KYL. Mr. President, today we vote on the conference report on the intelligence reform bill, S. 2845/H.R. 10. As did the House, we will approve it and send it on to the President for his signature.

I strongly believe that our intelligence community must be reformed and appreciate the hard work in support of that objective of those Senate and House Members who have worked on the problem.

Nonetheless, I have mixed feelings about this legislation. I am neither convinced that it will fix the core problems in our intelligence community, nor that it will do no harm. Particularly in time of war, prudence demands Congress fully understand the consequences, both positive and negative, of its actions, and be cautious about mandatory change. At the same time, there are some positive reforms that can be easily implemented. I note the inclusion in the conference report of a number of much-needed provisions, which will help to ensure we have the legal authorities and resources we need to effectively fight terror. In fact, title VI includes about half of the provisions of the Tools to Fight Terrorism Act, S. 2679, an omnibus antiterrorism bill that I introduced earlier this year with several other members of the Judiciary Committee and Senate leadership.

This is the second time the intelligence reform measure comes before the Senate. We previously considered the Senate version in October, prior to the Presidential election. I voted for it to ensure a modified version could be worked out in conference, and, in the interest of allowing it to move quickly, withdrew an amendment on privacy and civil liberties oversight about which I felt very strongly. I did so with great reservations because of the many deficiencies in the Senate bill, but was assured that my concerns would be addressed in the House-Senate conference. I know that a number of my Senate colleagues voted for the bill with a similar understanding.

Unfortunately, I don't believe that some of the commitments to address Members' concerns were fully honored, and I regret that our vote for the bill was used by Senate conferees to suggest almost unanimous Senate support in order to influence House conferees to support the Senate version. The Senator from Maine said the following on October 20: ''I'm very proud of the fact that the Senate produced a bill that passed with only two dissenting votes, and I hope that we can likewise produce a product from this conference that will be signed into law shortly.'' In retrospect, it would have been better to have voted against the flawed Senate bill so House conferees would have understood that it did not enjoy universal support.

Over the last 2 months, I pressed my case on privacy and civil liberties oversight and other issues with the Members of the conference committee, the White House, and others. I know that some of my colleagues have done the same. I have studied carefully the final product on which we will vote, and, though some changes have been made, I still have serious reservations that I will discuss today.

To summarize: Regarding the central thrust of the bill, reorganization does not necessarily equal reform. This bill does reorganize; but it remains to be seen whether this reorganization will improve or damage the system we currently have in place that gets timely intelligence to our warfighters on the ground. Second, though some changes have been made to the language originally adopted by the Senate, I continue to have serious concerns about the effect of the privacy and civil liberties oversight provisions on the ability of our intelligence officers to perform their missions. I am concerned that the manner in which this oversight will be conducted will exacerbate the problem of risk aversion identified by the 9/11 Commission and the Congressional inquiry on the 9/11 attacks. Third, while I am pleased that some House provisions to reform immigration, as well as a provision I offered as an amendment to the Senate bill, were included in the final conference report, I am very disappointed that we have passed up an opportunity to do more in this area to protect our country.

Fourth, while noting my concerns about the intelligence reorganization portion of this conference report, I do want to recognize the inclusion of some important provisions from my Tools to Fight Terrorism Act.

During the debate on the Senate version of the intelligence reform bill, I discussed in detail the shortcomings of the 9/11 Commission's recommendations, on which that bill and this conference report are based. Former Secretary of Defense James Schlesinger aptly summarized what I believe to be the key problem: ''[The Commission] has . . . proposed a substantial reorganization of the intelligence community—changes that do not logically flow from the problems that the Commission identified in its narrative.''

A number of former officials also cautioned Congress from acting hastily to pass legislation without a complete understanding of the problems. For example, the Center for Strategic and International Studies released a statement before the original Senate vote on S. 2845, which warned: ''Rushing in with solutions before we understand all of the problems is a recipe for failure.'' The statement was endorsed by: former Senators David Boren, Bill Bradley, Gary Hart, Sam Nunn, and Warren Rudman; former Secretaries of Defense Frank Carlucci and William Cohen; former Deputy Secretary of Defense John Hamre; former Director of Central Intelligence Robert Gates; former Secretary of State and National Security Advisor Henry Kissinger; and former Secretary of State George Shultz.

In recent weeks, the editorial pages of several major papers, while not necessarily sharing the same substantive positions, have strongly urged Congress to begin a new process next year to pursue intelligence reform, rather than rush to pass legislation this year. The Wall Street Journal in a November 22 editorial commented: ''If this reform is really so vital, it will get done, but better to do it in a more considered fashion next year.'' Similarly, in response to Congress not considering the

conference report before Thanksgiving, the Washington Post ran an editorial which stated: ''. . . the legislation's failure strikes us as a benefit. More time and more careful deliberation is needed before such sweeping changes are enacted.'' And the Washington Times ran an editorial on November 30 which advised: ''Intelligence reform is necessary, and reasonable people can disagree on what constitutes a good bill without being insulted. Rather than getting it now, we urge Congress to focus on getting it right.''

I don't believe we can say with reasonable certainty that we are getting it right. In large part, this conference report sets up a new bureaucratic structure. It does not, however, tackle the more difficult issue of resolving cultural problems within the intelligence community, including risk aversion, group think, and a failure of leadership. These problems, along with other matters, like immigration reform and legal tools and resources for fighting terror, all identified by the 9/11 Commission, must be addressed if we are to improve our ability to predict and prevent future terrorist attacks. Indeed, those who say that this bill is needed to prevent another 9/11 can no more guarantee that result than those who advocate the status quo, reason being that neither scenario really gets at the core issues.

Additionally, and as I already mentioned, we should be mindful of the fact that we are making drastic changes to the structure of our intelligence community and the process by which it operates, while our country is fighting a war. I discussed these concerns on the floor of the Senate during the floor debate on S. 2845, the Senate version of the intelligence bill, stating:

In his testimony, Secretary Rumsfeld discussed in detail his concerns about how intelligence community reorganization could potentially adversely affect the Defense Department. He expressed his strong reservations about the national collection agencies—the NSA, NGA, and NRO—being removed from the Defense Department (where they are now located) and aligned under the direct leadership of the National Intelligence Director. He stated:

''We wouldn't want to place new barriers or filters between the military Combatant Commanders and those agencies when they perform as combat support agencies. It would be a major step to separate these key agencies from the military Combatant Commanders, which are the major users of such capabilities.''

The Defense Department worked tirelessly in the decade after the first Gulf War to ensure that the speed and scope of intelligence support to military operations would be improved for future conflicts. It was General Schwartzkopf's view that the national intelligence support during Desert Storm was not adequate. Now, as we've seen from the success of our military operations in Afghanistan, Iraq, and the broader War on Terror, ''gaps and seams,'' as Secretary Rumsfeld refers to them, have been drastically reduced.

General Myers, Chairman of the Joint Chiefs of Staff, also expressed his concerns on the subject during his testimony to the Senate Armed Services Committee, stating:

''. . . for the warfighter, from the combatant commander down to the private on patrol, timely, accurate intelligence is literally a life and death matter every day. . . . As we move forward, we cannot create any institutional barriers between intelligence agencies—and of course that would include the National Security Agency, the National Geospacial-Intelligence Agency, and the National Reconnaissance office and the rest of the warfighting team.''

I am concerned that the reorganization package before the Senate places this effective system in jeopardy.

In S. 2485, the NSA, NGA, and NRO remain within DOD; but this is somewhat deceiving. These national collection agencies will also be within the newly defined ''National Intelligence Program.'' The Committee-reported bill would essentially remove the Secretary of Defense from any meaningful management role over these agencies.

First, the National Intelligence Director would have the authority to appoint the heads of these agencies, albeit with the concurrence of the Secretary of Defense. What makes this unusual and potentially problematic? Well, consider the fact that the Director of the National Security Agency, a General Officer, is dual-hatted as the Deputy Commander for Network Attack, Planning, and Integration at Strategic Command, or that the Director of the National Reconnaissance Office also serves as an Under Secretary of the Air Force. These positions truly support the mission of the Defense Department.

Second, the National Intelligence Director would have the authority to execute the budgets of these agencies. It is one thing to say that the NID should manage the entire budget for the National Intelligence Program, and, therefore, to help develop agencies' budgets and even receive their appropriation. It is quite another to altogether remove the Secretary of Defense from the loop by requiring that the NID suballocate funding directly back to the agencies. This effectively removes the Secretary from the management loop.

I have studied the Defense Secretary's testimony to the Senate Armed Services Committee, as well as the testimony of other experts. I am also aware that there were some good amendments in the Committee markup to help preserve the Defense Department's equities. But I am still not convinced that we are doing no harm. As General Myers commented during the course of the Senate Armed Services Committee's discussion on the subject, ''[T]he devil's in the details.''

The chairmen of the House and Senate Armed Services Committees, as well as other Members of the House and Senate, have played a vitally important role in conference negotiations to make sure that intelligence support to our combatant commanders will not be disrupted. They worked tirelessly to see that changes, some of which the Chairman of the Joint Chiefs of Staff said were needed, would be included in the conference report. I applaud their efforts, and appreciate the changes that conferees were willing to make.

Many of the potential defense-related pitfalls of the reorganization that I discussed in the context of the Senate bill have been improved upon. One crucial change is the following provision intended to ensure that the military chain of command is protected: ''The President shall issue guidelines to ensure the effective implementation and execution within the executive branch of the authorities granted to the Director of National Intelligence by this title and the amendments made by this title, in a manner that respects and does not abrogate the statutory responsibilities of the heads of the departments of the United States Government concerning such departments . . .''

Despite the improvements that have been made, and the protections that have been added, I still believe that we simply don't know for sure how the changes we are making will affect the system we currently have in place to support our men and women in uniform. For that reason, we must commit to carefully monitor this legislation's implementation, specifically, the DNI's authority to transfer military personnel within the National Intelligence Program, authority to reprogram and transfer funds, and the role of the DNI in intelligence acquisition programs managed largely by the Defense Department—and be prepared to make changes if necessary.

Perhaps the key concern I have with this conference report is its privacy and civil liberties oversight provisions, which are totally extraneous to any problem related to 9/11 and will exacerbate the cultural problems in the intelligence community, in particular, the problem of risk aversion.

Risk aversion, which plays out not only in the intelligence community, but also in foreign policy decisionmaking, economics, business investments, and so on, is the tendency to avoid action which might be criticized after the fact because of a poor outcome. There are many potential causes a particular action might have adverse, unintended consequences, might get one into trouble with one's superiors, or might simply draw unwanted attention. When an individual or a Government acts, there is always a calculation of risk; but some Governments and some individuals are more willing to take chances than others. This is a product of both leadership and environment. Risk aversion has contributed to numerous intelligence failures, including the September 11 attacks, according to the 9/11 Commission.

One contributor to risk aversion is the belief that third parties, including congressional committees, will challenge decisions after the fact. The Privacy and Civil Liberties Oversight Board included in the Senate bill is just such an institution.

I introduced an amendment to the Senate bill which would have modified the privacy and civil liberties oversight provisions because I strongly believed that the bill would have exacerbated the problem of risk aversion by creating a redundant oversight bureaucracy and an unaccountable oversight Board with inappropriate authority over Government officials and private individuals. The bill went far beyond the recommendation of the 9/11 Commission, which was to create an executive branch board to oversee privacy and civil liberties and advise the

President. The President created such a board through Executive order in August.

In summary, the Senate bill would have established: two officers within the National Intelligence Authority, one responsible for privacy, the other for civil rights and civil liberties; an inspector general within the National Intelligence Authority, who, in part, would monitor and inform the National Intelligence Director of any violations of civil liberties and privacy; an Ombudsman within the National Intelligence Authority to protect against so-called ''politicization'' of intelligence; a Privacy and Civil Liberties Oversight Board with extensive investigative authorities; and privacy and civil liberties officers within the Departments of Justice, Defense, State, Treasury, Health and Human Services, and Homeland Security, the National Intelligence Authority, the Central Intelligence Agency, and any other department, agency, or element of the Executive Branch designated by the Privacy and Civil Liberties Oversight Board to be appropriate for coverage.

While I believe that privacy and civil liberties should be protected, I do not believe that oversight should be conducted in a manner that causes intelligence officers to be more worried about getting into trouble than about performing their missions. The question is whose civil liberties are jeopardized by improvement of our intelligence capabilities? The Taliban? Al-Qaida? Saddam Hussein? Not American citizens. The attacks of 9/11 were not caused by civil liberty deprivation; but by inadequate intelligence and immigration law deficiencies. So why hobble intelligence capabilities because of a perceived problem that has never been identified and was in no way involved in the 9/11 attacks? To the extent there is concern about laws such as the Patriot Act, they can be dealt with in the reauthorization of that Act. Such concerns have nothing to do with intelligence reorganization.

My amendment would have eliminated some of the redundancy, for example, by paring back the number of officers within the office of the National Director of Intelligence responsible for privacy and civil liberties oversight, and altered the power of the Privacy and Civil Liberties Oversight Board by eliminating subpoena authority and the Board's authority to compel executive branch compliance with its requests.

In the interest of allowing the intelligence bill to move forward quickly through the Senate, and noting that the House bill's provisions on the subject were more reasonable, I withdrew this amendment with a verbal understanding that my concerns would be addressed in the House-Senate conference. I pressed my case firmly in writing with the conferees, outlining my concerns and suggesting various ''fixes.''

Some improvements have been made in the conference report. For example, the conference report consolidates the positions within the office of the National Director of Intelligence responsible for privacy and civil liberties oversight into one. But the authorities of the Privacy and Civil Liberties Oversight Board, which was contained in the Senate bill but not in the House bill, remain problematic. Subpoena authority over private individuals, which would have been entirely inappropriate, particularly given the location of the Board in the Executive Office of the President, was removed, and the Board will now be accountable to the President. But the authority to compel executive branch compliance with Board requests remains. And this is the real problem.

Departments and agencies are required to comply with any Board request unless a waiver is exercised by the National Director of Intelligence or the Attorney General. This places an additional burden on two key officials, whose attention should be directed toward other issues, including preventing a future terrorist attack. It also will likely foster an environment in which our intelligence officers are increasingly cautious, or risk averse, about completing the very tasks that are required to fulfill their missions. Just because a Board request to a Department-head does not necessarily rise to the level of reasonably exercising a waiver does not mean that it does not act as a deterrent or a distraction to those serving honorably in the intelligence community.

Consider this example: The International Red Cross complains that terrorists captured in Pakistan are treated poorly and convinces the Civil Liberties Board to investigate. The Board demands that our CIA station chief in Pakistan testify about what he knows. The DNI demurs on grounds of national security, or doesn't. The hue and cry about ''secrecy'' and ''cover-up'' cause the DNI to allow the Board to interrogate the CIA official. Can anyone deny the national security implications, let alone the resulting risk aversion that would settle into the entire intelligence community? It would be disastrous.

I intend to monitor closely the action of this Board once it is put into place to ensure that its investigations and public reporting requirements do not adversely affect our intelligence community, and will urge further limitations on its authority. Fighting terrorists abroad means spying, gathering intelligence. Civil liberties for terrorists should not be high on the list of U.S. reforms for intelligence collection. Again, 9/11 was caused by intelligence failures, not insufficient attention to terrorists' civil rights. A sense of perspective would have eliminated the most egregious features of the conference report.

With regard to the immigration provisions included, or not included, in the final bill, I am pleased that a provision I authored requiring mandatory interviews for non-immigrant visa applicants was retained. I am also pleased that some other immigration reform provisions were included in the conference report, including an authorization for an increase in Border Patrol agents by 2,000 in each of fiscal years 2006–2010; an increase of Immigration and Customs Enforcement agents by 800 in each of fiscal years 2006–2010; an increase in detention beds by 8,000 in each of fiscal years 2006–2010, with priority for the use of these beds to detain aliens charged with inadmissibility or deportability on security grounds.

I am also pleased that a requirement to develop and implement a plan to require a passport or other document, or combination of documents, sufficient to denote citizenship and identity for all travel into the U.S. by U.S. citizens and nationals from Western Hemisphere countries, for whom such requirements have previously been waived, is included in the conference report. And that a provision requiring a detailed plan from the Department of Homeland Security, within 180 days, about how to accelerate the full implementation of the biometric document requirement of the Border Security Act that Senators FEINSTEIN, KENNEDY, BROWNBACK, and I authored, will be included. There are other good provisions.

I am very troubled, however, that many of the important immigration reform provisions included in the House-passed bill were either altered significantly or left out of the conference report. I understand that Members have been assured that such provisions will be considered next year. As the chairman of the Senate Judiciary Subcommittee on Terrorism and a senior member of the Immigration Subcommittee, I have witnessed many times the opportunities for real immigration reform slip through our fingers. This conference measure represents one example.

There is no real substantive reason that these important provisions, which were described as immigration reforms but can also be accurately be described as counterterrorism measures, should not have been included in the final bill. The primary goal of this legislation, is to better enable the U.S. Government to prevent future terrorist attacks like that which occurred on 9/11. Many of the House-passed immigration provisions ultimately excluded from the final conference report would have enhanced the Government's ability to prevent entry of, and find, terrorists who wish harm to our country.

The public and media debate about immigration reform and the intelligence conference report has focused on driver's license standards and whether States should be prevented from issuing such documents to illegal aliens. The answer is unequivocally yes, and I will discuss this matter again. There are additional important immigration/terrorism reforms that the conference negotiators refused to

accept, and by doing so, I believe the bill was seriously, dangerously weakened. I will mention only a handful of them.

Importantly, the House-passed bill included a section that would have required aliens in the United States to use only a Department of Justice- or Department of Homeland Security-issued document, or a valid passport, to establish identity to a U.S. Governmental official or worker. This would have effectively prohibited the use of the matricula consular identification card for identification purposes for Federal identification. The conference measure eliminated this section of the bill, and instead provides only for a process for determining minimum standards that passengers will have to present to board a commercial aircraft in the United States.

Additionally, the House would have expanded the use of expedited removal by requiring its use in the U.S. as well as along the U.S. border, currently expedited removal is used only at U.S. ports of entry. The conference measure strikes this provision.

The House-passed bill would also have overturned a Ninth Circuit precedent that has effectively barred immigration judges from denying asylum claims on the basis of credibility. The Government is barred from asking foreign governments what evidence they have about the terrorist activities of asylum applicants. So the only evidence the Government can use in opposing an asylum request is to argue that the applicant is lying. The Ninth Circuit precedent barring immigration judges from denying asylum claims on the basis of credibility would have been overturned if the conference report retained the House-passed provision; but it was eliminated from the conference measure.

Additionally, the Ninth Circuit has been granting asylum to applicants on the basis that their government believes they are terrorists, and, therefore, they deserve asylum because they are being persecuted on account of the political beliefs of the relevant terrorist organization. The House-passed bill overturned this precedent and would have required aliens to show they qualify for asylum based upon the currently protected grounds for receiving such, but conference negotiators refused to accept this provision.

Instead, what the final version of the bill included is a Government Accountability Office, GAO, study on the weaknesses in the U.S. asylum system that have been exploited by aliens connected to terrorism.

The House version of the bill included a provision to close an existing loophole in immigration law that allows foreign nationals whose visas or other travel documents have been revoked by the State Department on terrorism grounds, to remain in the United States until their visa, or DHS-approved time here, expires, despite the revocation. The current conference report retains that provision, which makes revocation of a visa on terrorism grounds a legal ground for the deportation of the visa holder. However, the conferees created another loophole through which a potential terrorist could remain in the United States despite a visa revocation, by adding language that would allow judicial appeal of any visa revocation decision. Allowing judicial appeal of such decisions will only create another avenue through which a potential terrorist can legally remain in the United States for an undetermined amount of time. Currently all decisions regarding visa issuance by Consular Officers are final, they are not subject to judicial review. The same should be true of visa revocation decisions. A number of Senators, including Senators GRASSLEY, SESSIONS, CHAMBLISS, ENSIGN, and I fully supported this provision and contemplated offering as a similar amendment during Senate consideration of the bill. I am disappointed to learn that language was added to allow individuals whose visas have been revoked on terrorism grounds to appeal the State Department's decision.

Finally, while increasing the number of Customs and Immigration enforcement officers is important and is accomplished in the conference report, another important House-passed provision, requiring that half of any new immigration investigators be focused on enforcing restrictions on illegal immigrants in the workforce, was not included in the final version of the bill.

As I mentioned in the beginning of my comments about the immigration-related sections, an important provision dealing with identity standards in the Federal context was struck from the conference measure. While that measure wasn't necessarily perfect, it certainly represented a good beginning for development of a necessary standard of identification in this country. The House-passed driver's license standards section also represented a very good attempt at eliminating the opportunity for illegal immigrants to obtain driver's licenses, which we all know allows illegal immigrants to live as though they were here legally.

While I would very much like to discuss the negative ramifications on the workplace, and States generally, of the illegal immigrant population having such easy access to driver's licenses and other documents that allow them to live as though they are here legally, I will instead focus on how important documentary validity is to preventing terrorists from entering and living in the United States. Both the House and Senate, after reviewing the 9/11 Commission's recommendation, voted to apply some form of standardization to the driver's license. The question really is, Is the Congress willing to get to the root of the problem and prevent illegal immigrants from obtaining such licenses? True, most of the 9/11 hijackers had ''valid,'' but improperly issued, visas. Hopefully, now, the State Department is following the law and making it harder for individuals who shouldn't possess U.S. visas from obtaining them. But that still leaves millions of individuals who enter the country illegally, some of whom could be terrorists, able to obtain the document that will allow them to blend easily into our neighborhoods, workplaces, churches, and mosques, let alone board airplanes or otherwise gain access to sensitive areas. The conference report only requires that States include the following: the person's full legal name; the person's date of birth; the person's gender; the person's driver's license or identification number; a digital photograph; the person's address of principal residence; and the person's signature. And a carve-out was included for States in order that any documentary requirements ''may not infringe on a State's power to set criteria concerning what categories of individuals are eligible to obtain a driver's license or personal identification from that State.'' The driver's license provision included in the final bill will not do much to better secure the license, and will continue to allow illegal immigrants to obtain such documentation.

As I have said, there are a number of immigration-related provisions in the conference report that will make a difference, including the section of the bill that requires in-person interviews of non-immigrant visa applicants, an authorization for an increase in consular officer positions, and others. But we also had an opportunity to include other security-related immigration reforms, and we failed. I will work in the 109th Congress to ensure their consideration, and the consideration of other important immigration reform measures. Such consideration is important to the future of our country, from a security perspective and from an economic perspective, and the course we take over the next year or two will, in part, contribute to our success at preventing future terrorist attacks and shape the future of our Nation. I will work to get it right and look forward to working with my colleagues on all of these important issues.

As I mentioned, one bright spot in the bill before us today is title VI, which provides new tools to law enforcement to investigate and prosecute terrorist crimes. Title VI includes about half of the provisions of the Tools to Fight Terrorism Act, S. 2679, an omnibus antiterrorism bill that I introduced earlier this year with several other members of the Judiciary Committee and the Senate leadership. Obviously, I am pleased that these important provisions are included in the final legislation.

Subtitles A and F through K of title VI of the conference report mirror parallel provisions in the Tools to Fight Terrorism Act. And TFTA itself consists of all or part of 11 other bills that currently are pending in the House and Senate. Collectively, these other bills have been the subject of 9 separate

hearings before House and Senate committees and have been the subject of 4 separate committee reports. In addition, the entire TFTA was reviewed in a September 13 hearing before the Senate Subcommittee on Terrorism, which heard testimony from Justice Department witnesses Barry Sabin, Chief of the counterterrorism Section of the Criminal Division, and Dan Bryant, Assistant Attorney General for the Office of Legal Policy, as well as George Washington University law professor Jonathan Turley.

These hearings and reports provide a substantial legislative backdrop to title VI of the present bill. The statement that follows is my attempt to provide some guide to navigating this legislative thicket. Of course, one might well ask whether it is an inherent contradiction to rely on legislative history supplied by a judicial conservative, since judicial conservatives tend not to believe in legislative history. The short answer would be that in moments of litigation crisis, every lawyer tends to believe in whatever talismans are available. One might as well help him find them. With that disclaimer, I offer the following effort to illuminate the origins and objectives of the TFTA provisions in title VI.

Subtitle A, section 6001, Lone-Wolf FISA Authority ''Moussaoui Fix,'' this section amends FISA to allow orders for surveillance of foreign visitors to the U.S. who appear to be involved in international terrorism but are not affiliated with a known terror group. The need for this provision is explained in Senate Committee Report No. 108–40, which accompanies a bill that Senator SCHUMER and I introduced at the beginning of this Congress. I quote the relevant passages from that report at length:

The September 11, 2001 terrorist attacks on the people of the United States underscored the need for this legislation. Several weeks before those attacks, federal law enforcement agents identified one of the participants in that conspiracy as a suspected international terrorist. These agents sought to obtain a FISA warrant to search his belongings. One of the principal factors that prevented the issuance of such a warrant was FISA's requirement that the target be an agent of a foreign power. Even if federal agents had been able to demonstrate that this person was preparing to commit an act of international terrorism, based on the suspicious conduct that had first brought him to the attention of authorities, the agents would not have been able to obtain a warrant to search him absent a link to a foreign power. As a result, these federal agents spent three critical weeks before September 11 seeking to establish this terrorist's tenuous connection to groups of Chechen rebels—groups for whom we now know this terrorist was not working.

It is not certain that a search of this terrorist would necessarily have led to the discovery of the September 11 conspiracy. We do know, however, that information in this terrorist's effects would have linked him to two of the actual September 11 hijackers, and to a high-level organizer of the attacks who was captured in 2002 in Pakistan. And we do know that suspending the requirement of a foreign-power link for lone-wolf terrorists would have eliminated the major obstacle to federal agents' investigation of this terrorist—the need to fit this square peg into the round hole of the current FISA statute.

FISA allows a specially designated court to issue an order authorizing electronic surveillance or a physical search upon probable cause that the target of the warrant is ''a foreign power or an agent of a foreign power.'' 50 U.S.C. Sec. 1805(a)(3)(A), 1824(a)(3)(A). The words ''foreign power'' and ''agent of a foreign power'' are defined in 1801 of FISA. ''Foreign power'' includes ''a group engaged in international terrorism or activities in preparation therefor,'' 1801(a)(4), and ''agent of a foreign power'' includes any person who ''knowingly engages in sabotage or international terrorism, or activities that are in preparation therefor, for or on behalf of a foreign power.'' 1801(b)(2)(C).

Requiring that targets of a FISA warrant be linked to a foreign government or international terrorist organization may have made sense when FISA was enacted in 1978; in that year, the typical FISA target was a Soviet spy or a member of one of the hierarchical, military-style terror groups of that era. Today, however, the United States faces a much different threat. The United States is confronted not only by specific groups or governments, but by a movement of Islamist extremists. This movement does not maintain a fixed structure or membership list, and its adherents do not always advertise their affiliation with this cause. Moreover, in response to the United States' efforts to fight terrorism around the world, this movement increasingly has begun operating in a more decentralized manner.

The origins and evolution of the Islamist terrorist threat, and the difficulties posed by FISA's current framework, were described in detail by Spike Bowman, the Deputy General Counsel of the FBI, at a Senate Select Committee on Intelligence hearing on the predecessor to S. 113. Mr. Bowman testified:

''When FISA was enacted, terrorism was very different from what we see today. In the 1970s, terrorism more often targeted individuals, often carefully selected. This was the usual pattern of the Japanese Red Army, the Red Brigades and similar organizations listed by name in the legislative history of FISA. Today we see terrorism far more lethal and far more indiscriminate than could have been imagined in 1978. It takes only the events of September 11, 2001, to fully comprehend the difference of a couple of decades. But there is another difference as well. Where we once saw terrorism formed solely around organized groups, today we often see individuals willing to commit indiscriminate acts of terror. It may be that these individuals are affiliated with groups we do not see, but it may be that they are simply radicals who desire to bring about destruction.

''[W]e are increasingly seeing terrorist suspects who appear to operate at a distance from these [terrorists] organizations. In perhaps an oversimplification, but illustrative nevertheless, what we see today are (1) agents of foreign powers in the traditional sense who are associated with some organization or discernible group (2) individuals who appear to have connections with multiple terrorist organizations but who do not appear to owe allegiance to any one of them, but rather owe allegiance to the International Jihad movement and (3) individuals who appear to be personally oriented toward terrorism but with whom there is no known connection to a foreign power.

''This phenomenon, which we have seen . . . growing for the past two or three years, appears to stem from a social movement that began at some imprecise time, but certainly more than a decade ago. It is a global phenomenon which the FBI refers to as the International Jihad Movement. By way of background we believe we can see the contemporary development of this movement, and its focus on terrorism, rooted in the Soviet invasion of Afghanistan.

''During the decade-long Soviet/Afghan conflict, anywhere from 10,000 to 25,000 Muslim fighters representing some forty-three countries put aside substantial cultural differences to fight alongside each other in Afghanistan. The force drawing them together was the Islamic concept of 'umma' or Muslim community. In this concept, nationalism is secondary to the Muslim community as a whole. As a result, Muslims from disparate cultures trained together, formed relationships, sometimes assembled in groups that otherwise would have been at odds with one another[,] and acquired common ideologies.

''Following the withdrawal of the Soviet forces in Afghanistan, many of these fighters returned to their homelands, but they returned with new skills and dangerous ideas. They now had newly acquired terrorist training as guerrilla warfare [had been] the only way they could combat the more advanced Soviet forces.

''Information from a variety of sources repeatedly carries the theme from Islamic radicals that expresses the opinion that we just don't get it. Terrorists world-wide speak of jihad and wonder why the western world is focused on groups rather than on concepts that make them a community.

''The lesson to be taken from [how Islamist terrorists share information] is that al-Qaida is far less a large organization than a facilitator, sometimes orchestrator of Islamic militants around the globe. These militants are linked by ideas and goals, not by organizational structure.

''The United States and its allies, to include law enforcement and intelligence components worldwide[,] have had an impact on the terrorists, but [the terrorists] are adapting to changing circumstances. Speaking solely from an operational perspective, investigation of these individuals who have no clear connection to organized terrorism, or tenuous ties to multiple organizations, is becoming increasingly difficult.

''The current FISA statute has served the nation well, but the International Jihad Movement demonstrates the need to consider whether a different formulation is needed to address the contemporary terrorist problem.''

The Committee notes that when FISA was enacted in 1978, the Soviet invasion of Afghanistan had not yet occurred and both Iran and Iraq were considered allies of the United States. The world has changed. It is the responsibility of Congress to adapt our laws to these changes, and to ensure that law enforcement and intelligence agencies have at their disposal all of the tools they need to combat the terrorist threat currently facing the United States. The Committee concludes that enactment of S. 113's modification of FISA to facilitate surveillance of lone-wolf terrorists would further Congress's fulfillment of this responsibility.

[In a separate statement of additional views on S. 113, Senator Feingold expresses concerns about the constitutionality of allowing surveillance of lone-wolf terrorists pursuant to FISA. He suggests that by allowing searches of persons involved in international terrorism without regard to whether such persons are affiliated with foreign powers, S. 113 ''writes out of the statute a key requirement necessary to the lawfulness of such searches.'' In order to address Senator Feingold's concerns, the Committee attaches as Appendix E to this report a letter presenting the views of the U.S. Department of Justice on S. 2586, the predecessor bill to S. 113.

The Department of Justice's letter provides a detailed analysis of the relevant Fourth Amendment jurisprudence, concluding that the bill's authorization of lone-wolf surveillance would ''satisfy constitutional requirements.'' The Department emphasizes that anyone monitored pursuant to the lone-wolf authority would be someone who, at the very least, is involved in terrorist acts that ''transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the locale in which their perpetrators operate or seek asylum.'' (Quoting 50 U.S.C. Sec. 1801(c)(3).) Therefore, a FISA warrant obtained pursuant to this authority necessarily would ''be limited to collecting foreign intelligence for the international responsibilities of the United States, and the duties of the Federal Government to the States in matters involving foreign terrorism.'' (Quoting *United States* v. *Dugan*, 743 F.2d 59, 73 (2d Cir. 1984).) The Department concludes ''the same interests and considerations that support the constitutionality of FISA as it now stands would provide the constitutional justification for S. 2568.'' The Department additionally notes that when FISA was enacted it was understood to allow surveillance of groups as small as two or three persons. The Department concludes that ''[t]he interests that the courts have found to justify the procedures of FISA are not likely to differ appreciably as between a case involving such a group . . . and a case involving a single terrorist.'']

A provision substantially the same as section 6001 first was introduced as a bill, S. 2586, by Senators SCHUMER and me on June 5, 2002. The Senate Intelligence Committee held a hearing on S. 2586 on July 31, 2002. Witnesses included James Baker, Counsel for Intelligence Policy with the Office of Intelligence and Policy Review, Department of State; Marion ''Spike'' Bowman, Deputy General Counsel, National Security Law Unit, Office of the General Counsel, FBI; and Fred Manget, Deputy General Counsel, CIA.

The same provision was reintroduced in the 108th Congress by me and Senator SCHUMER as S. 113 on January 9, 2003. S. 113 was unanimously reported by the Judiciary Committee on March 11, 2003. The Committee issued Report No. 108–40 for S. 113 on April 29, 2003. S. 113 was approved by the Senate by 90–4 on May 8, 2003. The same provision also was included in H.R. 3179, which was introduced by House Judiciary Chairman SENSENBRENNER and House Intelligence Chairman Goss on September 25, 2003. The House Subcommittee on Crime, Terrorism, and Homeland Security held a hearing on H.R. 3179 on May 18, 2004. Witnesses at the hearing included Dan Bryant, Assistant Attorney General, Office of Legal Policy, Department of Justice; Thomas Harrington, Deputy Assistant Director, FBI; and Bob Barr, former Congressman. The same provision also was introduced as H.R. 3552 by Representative KING on November 20, 2003.

Subtitle F, section 6501, Sharing Grand-Jury Information With State and Local Governments, this section amends current law to authorize the sharing of grand-jury information with appropriate state and local authorities.

I do not think that one can overstate the importance of information sharing, of tearing down the walls that prevent different parts of the Government from exchanging intelligence and working together in the war on terror. A graphic illustration of the importance of streamlined information sharing is provided by another pre-September 11 investigation. Like the Moussaoui case, this investigation also came tantalizing close to substantially disrupting or even stopping the 9/11 plot, and also ultimately was blocked by a flaw in our antiterror laws. The investigation to which I refer involved Khalid Al Midhar, one of the suicide hijackers of American Airlines Flight 77, which was crashed into the Pentagon, killing 58 passengers and crew and 125 people on the ground.

An account of the investigation of Midhar is provided in the 9/11 Commission's staff Statement No. 10. That statement notes as follows:

> During the summer of 2001 [an FBI official] . . . found [a] cable reporting that Khalid Al Mihdhar had a visa to the United States. A week later she found the cable reporting that Mihdhar's visa application—what was later discovered to be his first application—listed New York as his destination. . . . The FBI official grasped the significance of this information.
>
> The FBI official and an FBI analyst working the case promptly met with an INS representative at FBI Headquarters. On August 22 INS told them that Mihdhar had entered the United States on January 15, 2000, and again on July 4, 2001. . . . The FBI agents decided that if Mihdhar was in the United States, he should be found.

These alert agents immediately grasped the danger that Khalid Al Midhar posed to the United States, and immediately initiated an effort to track him down. Unfortunately, at the time, the law was not on their side. The Joint Inquiry Report of the House and Senate Intelligence Committees describes what happened next:

> Even in late August 2001, when the CIA told the FBI, State, INS, and Customs that Khalid al-Mihdhar, Nawaf al-Hazmi, and two other ''Bin Laden-related individuals'' were in the United States, FBI Headquarters refused to accede to the New York field office recommendation that a criminal investigation be opened, which might allow greater resources to be dedicated to the search for the future hijackers. . . . FBI attorneys took the position that criminal investigators ''CAN NOT'' (emphasis original) be involved and that criminal information discovered in the intelligence case would be ''passed over the wall'' according to proper procedures. An agent in the FBI's New York field office responded by e-mail, saying: ''Whatever has happened to this, someday someone will die and, wall or not, the public will not understand why we were not more effective in throwing every resource we had at certain problems.''

The 9/11 Commission staff report assesses the ultimate impact of these legal barriers:

> Many witnesses have suggested that even if Mihdhar had been found, there was nothing the agents could have done except follow him onto the planes. We believe this is incorrect. Both Hazmi and Mihdhar could have been held for immigration violations or as material witnesses in the Cole bombing case. Investigation or interrogation of these individuals, and their travel and financial activities, also may have yielded evidence of connections to other participants in the 9/11 plot. In any case, the opportunity did not arise.

Congress must do what it can now to make sure that something like this does not happen again—that arbitrary, seemingly minor bureaucratic barriers are not allowed to undermine our best leads toward uncovering an attack on the United States. Section 6501 is a substantial step in that direction.

The change made be section 6501 previously was enacted by the Homeland Security Act, but that change never went into effect because the Federal Rule of Criminal Procedure amended by the HSA was revised by the Supreme Court shortly after the enactment of the HSA, and the amendment made by HSA presupposed the earlier text of the Federal rule. The same provisions were introduced as part of S. 2599 by Senators CHAMBLISS and me on June 24, 2004.

Subtitle G, sections 6602 and 6603, and section 5402, Receiving Military-Type Training from and Providing Material Support to Terrorists, section 6602 makes it a crime to receive military-type training from a foreign terrorist group, and section 5402 makes aliens who have received such training deportable from the United States. Section 6603 broadens the jurisdictional bases of the material-support statute. It also clarifies the definitions of the terms ''personnel,'' ''training,'' and ''expert advice or assistance'' in response to concerns expressed in recent court decisions. Furthermore, this section clarifies the knowledge required to violate the statute, and specifies that nothing contained in the statute shall be construed to abridge free-speech rights. All of these sections apply extraterritorially to U.S. nationals, permanent residents, stateless persons whose habitual residence is the United States, and persons who are brought into or found in the United States.

In the final version of this legislation, all immigration- and border-related provisions were placed in a new title V, and thus the part of the military-type-training provision making terror trainees deportable ended up in that title as well, as section 5402. The new 5402, rather than referencing the definition of military-type training in 6602, simply duplicates the key part of that definition, a precaution against the event that the now-distant 6602 be repealed or never enacted.

Nevertheless, despite their now far-flung nature, these sections still should be read together. Thus 2339D(c)'s definitions of ''serious bodily injury'' and ''critical infrastructure'' should guide the use of those terms in 5402, even though, unlike the definition of ''military type training,'' those definitions are not copied in the deportation section. The extraterritorial scope of 6602, as articulated in 2339D(b), also should

inform the application of 5402. The deportation provision is articulated in terms of conduct, which is the same thing everywhere—rather than offenses—which are a particular creature of each jurisdiction. And obviously, Congress is just as anxious to remove from this country those aliens who trained at an al-Qaida camp in Afghanistan as those who trained in the United States.

In two key respects, however, the deportation provision operates differently than the criminal provision. First, the knowledge requirement imposed by the second sentence of 2339D(a) was not imposed in 5402. While scienter is a traditional part of a criminal offense, it was not thought a necessary consideration in deciding which alien visitors should be allowed to remain in this country. If someone trained at a terrorist camp, they should be removed forthwith, regardless of what they claim to have known about their host terror group. Second, 5402 will apply immediately at the time that deportation proceedings are initiated, regardless of the date of the triggering training. As the Supreme Court has noted, deportation ''looks prospectively to the respondent's right to remain in this country in the future.'' *INS* v. *Lopez-Mendoza*, 468 U.S. at 1038. Under 5402, the only thing that need have occurred ''at the time the training was received'' is that the training or sponsoring organization have been defined as a terrorist organization. Since there is no reasonable ''reliance'' on any U.S. law whatsoever in attending an al-Qaida or other terrorist training camp, 5402 applies regardless of when the training was received, so long as the group was defined at that time as a terrorist organization.

The animating example behind this provision is the alien visitor in the United States who is discovered to have attended an al-Qaida camp in Afghanistan in the summer of 2001. In the judgment of Congress, such a person is a danger to the United States. And under 5402, that person, once discovered, will be immediately deportable.

The Justice Department testified in favor of a provision similar to section 6602 at the Terrorism Subcommittee's hearing on the TFTA earlier this year. The joint statement of Messrs. Sabin and Bryant notes that:

> It is critical that the United States stem the flow of recruits to terrorist training camps. A danger is posed to the vital foreign policy interests and national security of the United States whenever a person knowingly receives military-type training from a designated terrorist organization or persons acting on its behalf. Such an individual stands ready to further the malicious intent of the terrorist organization through terrorist activity that threatens the security of United States nationals or the national security of the United States. Moreover, a trainee's mere participation in a terrorist organization's training camp benefits the organization as a whole. For example, a trainee's participation in group drills at a training camp helps to improve both the skills of his fellow trainees and the efficacy of his instructors' training methods. Additionally, by attending a terrorist training camp, an individual lends critical moral support to other trainees and the organization as a whole, support that is essential to the health and vitality of the organization.

And George Washington University law professor Jonathan Turley had the following to say about TFTA's parallel provision to section 6602 in his testimony before the Terrorism Subcommittee:

> This proposal would fill a gap in our laws revealed by recent cases, like that of Jose Padilla, where citizens have trained at terrorist camps. . . . The proposed crime has been narrowly tailored to require a clear knowledge element as well as a reasonable definition of military-type training. The United States has an obvious interest in criminalizing such conduct and to deter citizens who are contemplating such training. In my view, it raises no legitimate issue of free association or free speech given the criminal nature of the organization. Most importantly, given the use of these camps to recruit and indoctrinate such citizens as Padilla and John Walker Lindh, this new criminal offense is responsive to a clear and present danger for the country.

With regard to section 6603, the Justice Department had the following to say about the parallel provision in TFTA at the Terrorism Subcommittee hearing earlier this year:

> The [provision] . . . improves current law by clarifying several aspects of the material support statutes. This is another key tool in preventing terrorism. As the Department of Justice has previously indicated, ''a key element of the Department's strategy for winning the war against terrorism has been to use the material support statutes to prosecute aggressively those individuals who supply terrorists with the support and resources they need to survive . . . . The Department seeks to identify and apprehend terrorists before they can carry out their plans, and the material support statutes are a valuable tool for prosecutors seeking to bring charges against and incapacitate terrorists before they are able to cause death and destruction.''

Professor Turley, in his Terrorism Subcommittee testimony on TFTA, said of the parallel section to 6603 that ''[t]his proposal would actually improve the current Federal law by correcting gaps and ambiguities that have led to recent judicial reversals. In that sense, the proposal can be viewed as a slight benefit to civil liberties by removing a dangerous level of ambiguity in the law.''

The need for a stronger material-support statute and its application to terrorist training camps were the subject of a hearing before the Senate Judiciary Committee on May 5, 2004. Witnesses included Chris Wray, Assistant Attorney General, Criminal Division, Department of Justice; Dan Bryant, Assistant Attorney General, Office of Legal Policy, Department of Justice; Gary Bald, Assistant Director, Counterterrorism Division, FBI; David Cole, law professor, Georgetown University Law Center; and Paul Rosenzweig, Senior Legal Research Fellow, Heritage Foundation.

Subtitle G, Section 6604, Concealment of Terrorist Financing, this section amends current law to prohibit concealing having provided financing while knowing that it has been or will be provided to terrorists. This provision first appeared as part of S. 1837, which was introduced by Senator GRASSLEY on November 6, 2003. The Senate Judiciary Committee held a hearing on the need to better combat terrorist financing on November 20, 2002. Witnesses included Robert J. Conrad, U.S. Attorney for the Western District of North Carolina; Jimmy Gurulé, Under Secretary for Enforcement, Department of Treasury; David Aufhauser, General Counsel, Department of Treasury; Nathan Lewin, Lewin & Lewin, LLP; Allan Gerson, Professorial Lecturer In Honors, George Washington University; Jonathan Winer, Alston & Bird, LLP, member, Council on Foreign Relations; and Salam Al-Marayati, Executive Director, Muslim Public Affairs Council.

Subtitle H, section 6702, Punishment for Hoaxes about Terrorism or Deaths of U.S. Soldiers, this section imposes criminal penalties for conveying false or misleading information, perpetrating hoaxes, about terrorist crimes or the death or injury of a U.S. soldier under circumstances where such information may reasonably be believed.

The Justice Department has commented on the harm caused by false information and terrorist hoaxes. In its TFTA testimony on a parallel provision to 6702 earlier this year, the Department noted:

> Since September 11, hoaxes have seriously disrupted people's lives and needlessly diverted law-enforcement and emergency-services resources. In the wake of the anthrax attacks in the fall of 2001, for example, a number of individuals mailed unidentified white powder, intending for the recipient to believe it was anthrax. Many people were inconvenienced, and emergency responders were forced to waste a great deal of time and effort. Similarly, in a time when those in uniform are making tremendous sacrifices for the country, several people have received hoax phone calls reporting the death of a loved one serving in Iraq or Afghanistan.

And Professor Turley, also at the Terrorism Subcommittee hearing on TFTA, commented on the provision similar to 6702:

> This new provision would create a serious deterrent to a type of misconduct that routinely places the lives of emergency personnel at risk and costs millions of dollars in unrecouped costs for the federal and state governments. Since a terrorist seeks first and foremost to terrorize, there is precious [little] difference between a hoaxster and a terrorist when the former seeks to shut down a business or a community with a fake threat. . . . This provision responds to the increase in this form of insidious misconduct and correctly defines it as criminal conduct.

The key elements of section 6702 were introduced as H.R. 3209 in the 107th Congress by Representative LAMAR SMITH on November 11, 2001. H.R. 3209 was the subject of a hearing before the House Subcommittee on Crime, Terrorism, and Homeland Security on November 7, 2001. Witnesses included

James Jarboe, Section Chief, Counterterrorism Division, Domestic Terrorism, FBI; and James Reynolds, Chief, Terrorism and Violent Crime Section, Criminal Division, Department of Justice. H.R. 3209 was reported by the House Judiciary Committee on November 29, 2001. The Judiciary Committee issued Report No. 107–306 for H.R. 3209 on the same day. H.R. 3209 was unanimously approved by the House of Representatives on December 12, 2001.

A provision similar to 6702 also was introduced as H.R. 1678 in the 108th Congress by Representative LAMAR SMITH on April 8, 2003. H.R. 1678 was the subject of a hearing before the House Subcommittee on Crime, Terrorism, and Homeland Security on July 10, 2003. Witnesses included Susan Brooks, the U.S. Attorney for the Souther District of Indiana; James McMahon, Superintendent, New York State Police; and Danny Hogg, a target of a war-time hoax about a family member serving in Iraq. H.R. 1678 was ordered reported by the House Judiciary Committee by voice vote on May 12, 2004. The Judiciary Committee issued Report No. 108–505 for H.R. 1678 on May 20, 2004. The key provisions of section 6702 also were introduced as S. 2204 by Senator HATCH on March 11, 2004.

Subtitle H, section 6703, Increased Penalties for Obstruction of Justice in Terrorism Cases, this section increases from 5 years to 8 years the penalty for obstruction of justice in terror investigations. It also instructs the Sentencing Commission to increase the guidelines range for making false statements in relation to a terrorism investigation. A provision similar to section 6703, albeit increasing the penalty to 10 years instead of just 8, has in the past been included as part of the above-described anti-hoax bills.

Subtitle I, sections 6802 and 6803, Expanded WMD Prohibitions, section 6802 expands the jurisdictional bases and scope of existing prohibitions on use of weapons of mass destruction, and includes chemical weapons within the prohibition for the first time. Section 6803 amends the Atomic Energy Act to more broadly prohibit directly and willfully participating in the development or production of any special nuclear material or atomic weapon outside of the United States. This section also makes it a crime to participate in or provide material support to a nuclear weapons program, or other weapons of mass destruction program, of a designated terrorist organization or state sponsor of terrorism. And the offense created by this provision applies extraterritorially.

In his TFTA testimony about parallel provisions to sections 6802 and 6803 before the Terrorism Subcommittee earlier this year, George Washington University law professor Jonathan Turley stated:

[Section 6802, the WMD-statute provision] would close current loopholes in the interest of national security and does not materially affect civil liberty interests.

[Section 6803] would criminalize the participation in programs involving special nuclear material, atomic weapons, or weapons of mass destruction outside of the United States. This new crime with extraterritorial jurisdiction is an obvious response to recent threats identified by this country and other allies like Pakistan. The obvious value of such a law would be hard to overstate. . . . It is important for the purposes of our extraterritorial enforcement efforts to have a specific crime on the books to address this form of misconduct.

These sections are substantially the same as H.R. 2939, which was introduced by Representative FORBES on July 25, 2003, and S. 2665, which was introduced by Senator CORNYN on July 15, 2004.

Subtitle J, sections 6901–11, Prevention of Terrorist Access to Special Weapons, this subtitle is designed to deter the unlawful possession and use of certain weapons, Man-Portable Air Defense Systems, MANPADS, atomic weapons, radiological dispersal devices, and the variola virus, smallpox, whose potential misuse are among the most serious threats to homeland security. MANPADS are portable, lightweight, surface-to-air missile systems designed to take down aircraft. Typically they are able to be carried and fired by a single individual. They are small and thus relatively easy to conceal and smuggle. A single attack could kill hundreds of persons in the air and many more on the ground. Atomic weapons or weapons designed to release radiation, ''dirty bombs,'' could be used by terrorists to inflict enormous loss of life and damage to property and the environment. Variola virus is the causative agent of smallpox, an extremely serious, contagious, and often fatal disease. Variola virus is classified by the CDC as one of the biological agents that poses the greatest potential threat for public-health impact and has a moderate to high potential for large-scale dissemination. There are no legitimate private uses for these weapons.

Current law allows a maximum penalty of only 10 years in prison for the unlawful possession of MANPADS or an atomic weapon. No statute criminalizes mere possession of dirty bombs. Knowing, unregistered possession of the variola virus is subject only to a maximum penalty of 5 years.

Sections 6903–06 make unlawful possession of MANPADS, atomic weapons, radiological devices, or variola virus a crime with a mandatory minimum sentence of 25 years to life. Use, attempts to use, or possession and threats to use these weapons are a crime with a mandatory minimum sentence of 30 years to life. Use of these weapons resulting in death is subject to a mandatory minimum sentence of life imprisonment. These penalties should especially help to deter middlemen and facilitators who are essential to the transfer of these weapons.

Section 6907 amends current law to add the criminal offenses created by this subtitle as federal wiretap predicates. Section 6908 amends current law to include these new offenses in the definition of ''Federal crime of terrorism.'' Section 6909 amends current law to include these new offenses in the definition of ''specified unlawful activity'' for purposes of the money laundering statute. And section 6910 amends the Arms Export Control Act by adding the offenses created by this subtitle to the provision specifying crimes for which a conviction or indictment is a ground for denying an arms-export application.

In his Terrorism Subcommittee testimony on TFTA earlier this year, Professor Turley said the following about a provision parallel to subtitle J:

Given the enormous threats to our country from such weapons, these increased penalties are manifestly reasonable. . . . While it is certainly possible that a defendant could be in possession of a MANPADS as part of arms trafficking or some other motive than terrorism, this is clearly one of the most likely forms of terrorist conduct.

Subtitle J is the same as S. 2664, which was introduced by Senator CORNYN on July 15, 2004.

Subtitle K, section 6952, Presumption of No Bail for Terrorists, this section would add terrorist offenses to the list of offenses, such as drug crimes, that are subject to the statutory presumption of pretrial detention. Under current law, a criminal suspect will be denied bail in Federal court if the Government shows that there is a serious risk that the suspect will flee, obstruct justice, or injure or threaten a witness or juror. The judge must presume this showing is present if the suspect is charged with a crime of violence, a drug crime carrying a potential sentence of 10 years or more, any crime that carries a potential sentence of life or the death penalty, or the suspect previously has been convicted of two or more such offenses. This section would add terrorist offenses that are subject to a maximum penalty of at least 10 years to this list, judges would be required to presume that facts requiring a denial of bail are present. This is only a presumption, the terror suspect still could attempt to show that he is not a flight risk or potential threat to jurors or witnesses.

The Justice Department testified as to the importance of this provision at the Terrorism Subcommittee hearing on TFTA:

Current law provides that federal defendants who are accused of serious crimes, including many drug offenses and violent crimes, are presumptively denied pretrial release under 18 U.S.C. §3142(e). But the law does not apply this presumption to those charged with many terrorism offenses. To presumptively detain suspected drug traffickers and violent criminals before trial, but not suspected terrorists, defies common sense.

This omission has presented authorities real obstacles to prosecuting the war on terrorism, as Michael Battle, U.S. Attorney for the Western District of New York, testified before this subcommittee on June 22. In the recent ''Lackawanna Six'' terrorism case in

his district, prosecutors moved for pre-trial detention of the defendants, most of whom were charged with (and ultimately pled guilty to) providing material support to al Qaeda. It was expected that the defendants would oppose the motion. What followed was not expected, however. Because the law does not allow presumptive pre-trial detention in terrorism cases, prosecutors had to participate and prevail in a nearly three-week hearing on the issue of detention, and were forced to disclose a substantial amount of their evidence against the defendants prematurely, at a time when the investigation was still ongoing. Moreover, the presiding magistrate judge did in fact authorize the release of one defendant, who, it was later learned, had lied to the FBI about the fact that he had met with Usama Bin Laden in Afghanistan. The Lackawanna Six case illustrates the real-life problems the absence of presumptive pre-trial detention has posed to law enforcement. But this shortcoming in the law has also enabled terrorists to flee from justice altogether. For example, a Hezbollah supporter was charged long ago with providing material support to that terrorist organization. Following his release on bail, he fled the country.

The suspect described above eventually was recaptured by the United States six years after his escape. During that time, he was not a participant in a terrorist attack against the United States, but he could have been.

Law Professor Jonathan Turley also commented on the legislative ancestor of section 6952 in his testimony at the Terrorism Subcommittee hearing on TFTA. He stated:

[Section 6952] would create a presumption against bail for accused terrorists. Under this amendment, such a presumption could be rebutted by the accused, but the court would begin with a presumption that the accused represents a risk of flight or danger to society. This has been opposed by various groups, who point to the various terrorist cases where charges were dismissed or rejected, including the recent Detroit scandal where prosecutorial abuse was strongly condemned by the Court. I do not share the opposition to this provision because I believe that, while there have been abuses in the investigation and prosecution of terrorism cases, the proposed change sought by the Justice Department is neither unconstitutional nor unreasonable.

This proposal would not impose a categorical denial of bail but a presumption against bail in terrorism cases. Congress has a clearly reasonable basis for distinguishing terrorism from other crimes in such a presumption. In my view, this would be clearly constitutional.

While I have been critical of the policies of Attorney General John Ashcroft, I do not share the view of some of my colleagues in the civil liberties community in opposition to this change. There is currently a presumption against pretrial release for a variety of crimes in 18 U.S.C. § 3142(e), including major drug crimes. It seems quite bizarre to have such a presumption in drug cases but not terrorism cases.

Section 6952 is substantially the same as the main provision of H.R. 3040, which was introduced by Representative GOODLATTE on September 9, 2003. I introduced the same bill as S. 1606 on September 10, 2003. S. 1606 was the subject a hearing before the Senate Subcommittee on Terrorism, Technology, and Homeland Security on June 22, 2004. Witnesses included Rachel Brand, Principal Deputy Assistant Attorney General, Office of Legal Policy, Department of Justice; Michael Battle, U.S. Attorney, Buffalo, NY; and James K. Robinson, former Assistant Attorney General, Criminal Division, Department of Justice.

I have spent considerable time reviewing this conference report and thoughtfully considering its provisions. I have serious reservations and agree with the many experts in this field who have urged a more thorough study of the intelligence community's problems and, likewise, a careful matching of those problems to solutions. Though I appreciate the hard work of the 9/11 Commission to help Americans understand how 9/11 happened, the Commission's recommendations—on which it spent far less time than on the narrative it took some 18 months to assemble—are not the final answer to the intelligence community's problems.

I intend to support this conference package, noting the improvements that have been made since Senate consideration, but I intend to closely monitor its implementation. I also strongly believe that Congress needs to focus its attention next year on resolving the more difficult problems in the intelligence community and, more broadly in the homeland security arena, like immigration, not addressed in this legislation. I will work with my colleagues in the House and Senate to ensure this happens.

Mr. CORNYN. Mr. President, I rise to express my support for the conference report accompanying S. 2845, the Intelligence Reform and Terrorism Prevention Act of 2004. I highlight three specific terrorism prevention provisions in the conference report, provisions on which I have worked particularly hard to incorporate into this new bill, provisions which I am pleased to see enacted into law. These provisions make important improvements to our Federal criminal law, improvements that are critical to strengthening our ability to fight and win the war against terrorism.

The first two provisions involve strengthening our efforts to ensure that weapons of mass destruction do not get into the hands of terrorists. Earlier this year, I introduced two bills, S. 2664 and S. 2665. I am pleased to see that both of those bills have now largely been adopted by the conference.

S. 2664, also known as the Prevention of Terrorist Access to Destructive Weapons Act, can be found at Title VI, Subtitle J of the new bill reported by the conference. This provision creates new federal prohibitions and strengthens current federal prohibitions against the possession of four categories of destructive items: (1) Man-Portable Air Defense Systems, known as ''MANPADS'', (2) atomic weapons, (3) radiological dispersal devices, known as ''dirty bombs'', and (4) the variola virus, the virus that causes smallpox. There is no legitimate private purpose for possessing these items. Moreover, the potential for terrorist use of these items is among the most serious threats to our homeland security. By prohibiting the unauthorized possession of these items, and by imposing strong penalties on violators, these provisions will play a major role in preventing and disrupting future terrorist attacks, by depriving terrorists of access to some of the most highly destructive and dangerous items civilized society has ever faced.

Specifically, these provisions would punish unlawful possession as well as unlawful production or transfer of these items, and includes attempts, threats, and conspiracies related to such acts. These provisions generally impose tough, mandatory minimum sentences of 25 years, and in some cases impose sentences up to and including life imprisonment. Tough penalties like these are appropriate for the most dangerous threats our nation faces, and that is exactly the kind of threat that these items pose. We may not be able to deter the most dedicated of our terrorist enemies around the world from wanting to harm us, but we can deter individuals who serve at lower levels in terrorist organizations, and we can deter those who might try to profit from terrorism by supplying terrorists with such items.

I would like to spend just a brief moment highlighting the particular problem of MANPADS. MANPADS are lightweight, surface-to-air missile systems designed to take down aircraft. MANPADS fire an explosive or incendiary rocket or missile equipped with a guidance system designed to target low-flying aircraft, typically around the time of landing or departure. They can be carried and fired by a single individual, from a distance. Because they are small, they are easy to conceal and smuggle. They are relatively cheap—ranging from $25,000 to $80,000 each—take only seconds to prepare, require minimal training, and have a flight time of just three to ten seconds.

By some estimates, there are at least 500,000 MANPADS in circulation around the globe. Although most MANPADS are thought to be under the control of an established military, as many as a thousand MANPADS are believed by some to be in the hands of al-Qaeida and other terrorist groups. Coalition forces reportedly captured nearly 5,600 missiles during the post–9/11 invasion of Afghanistan. Defense Secretary Donald Rumsfeld reported last year that MANPADS ''are widely available in the world and do have the ability to shoot down aircraft and helicopters, and from time to time it happens in various locations.'' He said there are ''enormous numbers'' of such weapons still in Iraq—''have to be more than hundreds. . . . There are weapon caches all over that country. They were using schools, hospitals, mosques to hide weapons.''

A 2000 State Department report stated that ''one of the leading causes of

loss of life in commercial aviation worldwide has been from MANPADS . . . attacks, with over 30 aircraft lost.'' According to a Congressional Research Service report issued last year, there have been at least 36 known missile attacks on commercial planes in the last 25 years; 35 of those incidents took place in war-torn areas, mainly in Africa. For example, in 1983 and 1984, Angolan rebels shot down two Boeing 737s. In the first incident, all 130 people on board died, but in the second attack, the plane managed to land without fatalities after being hit at an altitude of 8,000 feet. In 1998, a Boeing 727 was shot down in the Democratic Republic of Congo, killing 41. And in November 2002, in Mombasa, Kenya, two missiles were launched against a chartered Israeli Boeing 767 just after take off for Tel Aviv, Israel. The pilot reported spotting smoke trails near his plane, and some of the 261 passengers said they heard an explosion. The attempted attack has been linked to al-Qaida, and occurred on the same day as an al-Qaida-linked bombing of a nearby resort hotel. Shoulder-launched missiles also brought down several smaller aircraft during the invasion of Iraq, including a Chinook helicopter that crashed last November, killing 16. In January, an Air Force C–5 transport plane carrying 63 troops was struck by a surface-to-air missile as it left Baghdad Airport, but it landed safely.

Accordingly, MANPADS are widely recognized as one of the greatest threats to civil aviation today. And just last year, the President agreed with other world leaders at a G–8 conference to a series of controls on MANPADS. S. 2664 is a critical part of the President's effort to control and combat the proliferation of MANPADS, and I am pleased that the conference has seen fit to incorporate the provisions of that bill into its report.

In addition to MANPADS, S. 2664 also targets three other destructive devices. No one questions the obvious danger posed by allowing atomic weapons and radiological dispersion devices, or dirty bombs, to get into the hands of terrorists. In addition, the variola virus is the causative agent of smallpox—an extremely serious, contagious, and often fatal disease. In fact, the Centers for Disease Control has classified variola as one of the biological agents that poses the greatest threat for public health impact. It has a high potential for large-scale dissemination. Accordingly, it may be attractive to terrorists as a biological weapon. These provisions, I am pleased to see, have also been incorporated into the conference report.

I will just add a quick word about S. 2665, also known as the Weapons of Mass Destruction Prohibition Improvement Act. The provisions of S. 2665 can be found at Title VI, Subtitle I of the new bill. Those provisions generally expand current federal criminal prohibitions against the use and proliferation of WMD, both domestically and abroad, and fills a number of gaps in current law.

They amend the current federal weapons of mass destruction statute by criminalizing all WMD attacks on foreign government property in the United States, as well as U.S. government property, and expanding the current prohibition on the use of WMD to include any acts affecting interstate commerce in a variety of ways. They also amend the federal biological agents and toxins law by extending the prohibition to possession by agents of terrorist nations or terrorist organizations.

With respect to foreign WMD threats, the bill amends a provision of the Atomic Energy Act to prohibit participation outside of the United States in the unauthorized development as well as production of nuclear material, and creates a new criminal code section to forbid the provision of material support to, or any other participation in, any WMD program of a terrorist organization or terrorist nation.

The third and final provision I want to highlight involves the perpetration of cruel hoaxes against the families of military personnel and terrorism hoaxes generally. I am pleased to be an original co-sponsor of S. 2204, also known as the Stop Terrorist and Military Hoaxes Act, and pleased to see that provisions of those bills have been incorporated into the conference report.

It is disturbing to think that anyone would want to engage in the false impersonation of a military officer in order to harass, terrify, or otherwise cause mental distress to military families. I cannot fathom why a human being would want to conduct a crank call to the family of a member of the Armed Forces and falsely inform them that their loved one has been killed in the line of duty.

Yet during the recent war in Iraq, that is precisely what happened. Several families reportedly received hoax telephone calls informing them that a family member serving the military in Iraq had been killed or captured. Not surprisingly, the families who received these calls were terribly distressed. It must have been a cruel experience indeed to have to wait and work to confirm that their family member was actually alive and safe.

Hoaxes against military families and terrorism hoaxes must be punished, because they utilize scarce resources that need to be focused on combating terrorism, and distract the attention of our law enforcement and our military away from our terrorist enemies. But that's not the only reason. Hoaxes are cruel. They are mean-spirited. And they can be very dangerous. I want to read a portion of a letter from one dutiful U.S. serviceman to his uncle. The letter is dated April 18, 2003, and it reads: ''One guy died bringing me a sat. phone so I could call Dad to let him know I was alive. It made me think of 'Saving Private Ryan.' Was it worth his life and the risk of the others to bring me a phone? I know it was a relief to all of you to hear I was okay. Now I feel I must make my life worth his. I don't know if I can do that.'' No one should have to die in the line of duty in order to correct a hoax. And no one should have to live with the emotional pain that this serviceman so eloquently describes in this poignant letter.

Under current law, acts of impersonation are illegal only if the person demands or obtains something of value from the victim. That does not include military family hoaxes like the ones described here. In addition, many terrorism hoaxes fall outside the definitions of current law. S. 2204 fills these major gaps in the law, and I am pleased to see these provisions incorporated into the conference report.

Mr. LAUTENBERG. Mr. President, I rise to express my approval of this much-delayed 9/11 intelligence reform bill. As a conferee on this important legislation, I am proud of what we produced. The terrible consequences of the 9/11 attack will never be forgotten, but with the passage of this bill future generations will be safer from terrorist attack.

On a personal basis, I, like so many from my State of New Jersey and our region, knew people who perished, families who were torn apart, people who still feel the pain of their loss.

I want to thank Senators COLLINS and LIEBERMAN, and Representatives HOEKSTRA and HARMAN for their efforts to get a strong bill. This was a roller coaster conference, but well worth the effort.

The 9/11 Commissioners also deserve our appreciation for their steady leadership and thoughtful input during this process.

Last, and most importantly, I want to salute the 9/11 families for their dedication to getting this legislation done. I especially want to thank the Steering Committee of 9/11 Families and the so-called ''Jersey Girls.'' Had it not been for you 3 years ago, the 9/11 Commission would have never been established. And were it not for you now, this bill would have never passed.

Mr. President, we can finally look the 9/11 families in the eye and say: ''We have delivered.''

This 9/11 bill is the most significant piece of intelligence legislation we have passed in 50 years.

The last major reform was the National Security Act of 1947, signed into law by President Truman.

While the process of compromise resulted in a bill that did not adopt all of the recommendations of the 9/11 Commission, this new law will bring significant improvements in our intelligence system for the better.

Mr. President, the 9/11 Commission recognized a need to have one person in charge of our intelligence community, to prevent the kind of miscommunica-

tion that occurred before 9/11. This bill addresses this important issue by creating a Director of National Intelligence (DNI) with real authority over America's 15 intelligence-gathering agencies.

This bill gives this intelligence director principal authority over the estimated $40 billion intelligence budget and gives that person the power to establish clear priorities for the intelligence community. The bill makes clear: the buck stops with the DNI.

This bill also creates a National Counterterrorism Center that will lead our counterterrorism efforts. It will be staffed by terrorism experts from the CIA, FBI, and the Pentagon. The Center will coordinate terrorism intelligence from throughout the government, breaking down the walls that have too frequently prevented agencies from sharing important information in a timely manner.

The bill bolsters border security, particularly improving aviation, air cargo, and maritime security. It also strengthens border surveillance, increases the number of border patrol agents and immigration and customs enforcements investigators.

This bill also has some provisions to safeguard our civil liberties by establishing a ''Privacy and Civil Liberties Oversight Board.'' Although I do not believe that this board has quite the independence and power that I wanted, I am hopeful that the Board will help ensure that new regulations and policies do not violate privacy rights or civil liberties.

Mr. President, despite the bipartisan support for this bill, it has faced a difficult road. To be honest, we were ready for a vote on November 20. A strong majority of the conference committee approved this bill and we were ready to go. I signed my name to the conference report at that time.

But later that same day, we found out that the House Republican leadership would not move forward on the bill. The reason? Because two Republican Congressmen didn't like the conference report.

Mr. President, in my view, the delay in passing this bill was unnecessary and unwise. Every day this bill was dragged out was a day that made our communities less safe.

The House Republican leadership nearly snatched defeat from the jaws of victory. But thankfully, in the end the families and the 9/11 Commission made their voices heard, and we have reached this milestone today.

Mr. President, my home State, New Jersey, lost 700 of its citizens on 9/11. There is little we in Congress can do to heal their pain. But today, at least we can do something to help prevent such a tragedy in the future.

Mr. GRAHAM of Florida. Yesterday was the anniversary of Pearl Harbor, which is remembered as one of the greatest intelligence failures in our country's history. The desire to prevent future Pearl Harbors helped lead to the creation of our national intelligence community in 1947.

In the 15 years since the fall of the Berlin Wall, there has been a growing awareness that our national intelligence community is in need of serious reform. Despite frequent reviews of the intelligence community's failures and structural problems—including the Hart-Rudman Commission; the Gilmore Commission; the Bremer Commission; the Congressional Investigation of 9/11; and the 9/11—there has been continued reluctance and resistance to reform.

Recent intelligence failures—most notably the failure to detect the September 11 plot, and the massive intelligence failures that led us to war in Iraq—have given new exposure to the problem and new momentum to reform efforts. I am extremely pleased that we are now in a position to enact serious intelligence reform legislation for the first time in over 50 years. I consider this legislation to be one of the most important enactments of my 18 years in the U.S. Senate. There are several elements of this legislation which warrant more detailed comment.

One of the most important aspects of this legislation is the element that Senator ROBERTS was just discussing—the need to centralize the intelligence agencies is not an end in itself, but a platform from which we can move to decentralize.

As the United States military transformed itself from the military of San Juan Hill and the World Wars, it first needed to centralize, under the National Security Act of 1947, consolidating the secretaries of the Army and Navy into the Department of Defense, and then to decentralize, under the Goldwater-Nichols Act in 1986 into the joint commands of the modern military. Our intelligence community needs to transform itself and move from being designed around functions—such as electronic eavesdropping, or satellite surveillance—to a focus on missions, such as counterterrorism or counterproliferation.

This legislation makes the appropriate and necessary first step of centralizing the intelligence community under a Director of National Intelligence. It also lays the foundation for the next step, which is decentralizing the intelligence community through the establishment of mission-based intelligence centers. Two are established by statute—Counterterrorism and Counterproliferation—and the legislation gives the DNI the power to establish other centers, to focus on those current or emerging threats he or she deems to be of priority importance.

Among the shortcomings referred to earlier, one of the first and foremost is obviously an underdeveloped capacity for gathering human intelligence. Our intelligence community has come to rely too heavily on electronic eavesdropping and satellite surveillance, and human intelligence has been neglected. A case could be made that both the war in Afghanistan and the war in Iraq were the products of our inadequate human intelligence capabilities. We must make a major effort to rebuild our capabilities, and this legislation begins to address that problem.

One of the most important elements of a human intelligence program is a corps of skilled and dedicated linguists. Unfortunately, while our intelligence agencies still possess a more-than-adequate number of Russian speakers, they lack individuals proficient in the Middle Eastern and Central Asian languages that are of obvious current importance. This legislation, along with language in the Defense authorization bill that establishes a Reserve Officers Training Corps counterpart for the intelligence community, helps to address this problem as well.

The third intelligence-related item deserving particular attention is the issue of excessive classification. I want to comment senator WYDEN and Senator LOTT, who were very involved in this aspect of the legislation. Our intelligence community has developed an unhealthy obsession with secrecy, and this has often led to bad analysis and bad decisions. This obsession with secrecy prevented intelligence agencies that had knowledge of various elements of the 9/11 plot from ''connecting the dots'' and realizing that a major terrorist operation was being plotted on American soil. This obsession with secrecy contributed to inadequate scrutiny of intelligence relating to Iraq, and as a result we went to war because of weapons that did not exist, and terrorist connections that appear to have been imaginary.

This obsession with secrecy poses a serious and continuing threat to our national security. As the late Senator Daniel Patrick Moynihan said, ''Secrecy is for losers.'' If we do not want to lose in our struggle with the various threats we face today, we must abandon this unhealthy obsession. This legislation addresses this problem by directing that more rational guidelines for intelligence classification be established, and that an independent board be empowered to review these decisions. This is an important first step toward abandoning this dangerous obsession, and making sure that secrecy decisions are made for reasons of national security, rather than agencies trying to bury their mistakes.

Madam President, what we are doing today is an important step, but it is not by any means the last step. Some of these steps are rather tangential to the issue of intelligence reform. For example, this legislation includes a provision requiring face-to-face interviews with visa applicants. If we are to implement this provision effectively we must seriously consider increasing the capacity of our consular service. Currently, in Brazil, visa applicants must travel to one of three large cities in order to get a visa for travel to the United States.

Since Brazil is the size of the continental United States, and these three

cities are located close together, this is the equivalent of telling Americans who wish to secure a visa to Mexico that they must first travel to either Dallas, Chicago, or Cleveland. While it is probably not cost-effective to open new consulates in every city that might need visa services, we should at lest open more visa offices, so that these interviews can be conducted without unduly inconveniencing our foreign guests.

This legislation also includes a section addressing the United States' relationship with Saudi Arabia. It points out, and I quote, that ''the Government of Saudi Arabia has not always responded to promptly or fully to United States requests for assistance in the global war on Islamist terrorism,'' and particularly cities the Saudi government's inattention to the problem of terrorist financing. I would add that we have compelling evidence to believe that Saudi interests actually played a role in financing insurgents in Iraq and earlier the 9/11 hijackers. The extent of Saudi involvement in 9/11 was detailed in a twenty-seven page section of our 2002 joint House-Senate Intelligence Committees report on the attacks of September 11, 2001. Unfortunately, every one of those twenty-seven pages was classified. This means that the American people have, in that and other instances, been denied important information about our relationship with Saudi Arabia. I hope that this intelligence reform legislation calling for more dialogue on the U.S.-Saudi relationship is heeded, and that increased attention to this relationship will lead to greater transparency and candor.

Madam President, as I said in my farewell speech yesterday, in a quote from Winston Churchill, ''This is not the end, nor is it the beginning of the end, but it is perhaps the end of the beginning''. This Churchillian wisdom also applies to what we are accomplishing today. There is more that still needs to be done as we move beyond the end of the beginning of intelligence reform.

Let me start with the President's responsibilities. The President will have the responsibility for making a series of critical appointments, and he must appoint creative, dynamic and extremely hard-working people who can be effective in the challenging new roles that we are creating. He must also ensure that the people he appoints promote a value system that is conducive to open, honest and effective intelligence gathering and analysis. And he must also manage the relationships between the new DNI and existing department and agency heads—most notably the Secretary of Defense—in order to ensure that the goals of intelligence reform are realized.

The new DNI will also have tremendous responsibility. He or she will have to establish clear priorities for the intelligence community, and this will be reflected in the National Intelligence Centers that are created to work, alongside the National Counterterrorism and Counterproliferation Centers. The DNI must also revise current budget priorities, such as the research and development budgets, and establish community-wide personnel policies that support the recruitment, training and retention of effective intelligence community personnel.

Finally, there will be a responsibility here on the Congress. In the Senate we have taken steps to reform our oversight of intelligence. Terms limits on the Intelligence Committee have been removed. By creating a new appropriation subcommittee for intelligence we have freed the intelligence budget from its previously unbreakable link to the defense budget. These are good starts. But we will also have to look at the culture of the congressional oversight committees, and make sure that they direct their attention to the front windshield of the future, and the threats that are coming at us, and spend relatively less of their time on looking through the rear view mirror at accidents that have already occurred.

By its nature, the intelligence community is going to create accidents from time to time. They need to be reviewed. But we cannot afford for them to consume all of our oversight responsibility. It is in the future that new threats are to be found, and it is our responsibility to be able to assure the American people that our intelligence community is capable of identifying those threats, and of providing information to the appropriate decision makers, in order to prevent those threats from becoming the next Pearl Harbor, or the next 9/11.

Madam President, in conclusion, I would like to note that this bill would not have been possible without an extraordinary effort by dozens of members of Congress, the Joint House-Senate intelligence inquiry members and staff, the 9/11 Commission, and, particularly, the families of the victims of 9/11.

Today is a celebration of the success of urgently needed reform, finally overcoming the inertia of the status quo. But, this is only the end of the beginning. The President, the Congress, those Americans who do and will serve the intelligence community, bear the responsibility of ensuring that the promise of enhanced security through reformed intelligence is achieved. The fulfillment of this promise will be neither quick nor easy. The most important undertakings seldom are. But the goal is worthy of our most steadfast commitment to its attainment.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I ask unanimous consent that a list of my staff members who worked so hard on this bill over so many months be printed in the RECORD at this point.

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

Michael, Bopp, Jane Alonso, Deborah Barger, Don Bumgardner, Jen Burita, Elissa Davidson, Ann Fisher, Jason Foster, Jennifer Gagnon, Priscilla Hanley, Johanna Hardy, Jennifer Hemingway, Keith Janssen, David Kass, Bruce Kyle.

Gordon Lederman, Lesley Leger-Kelley, James McKay, Bill Murray, Jon Nass, Amy Newhouse, Bill Priestap, Alec Rogers, Kate Scontras, Amber Smith, Heather Smith, Cornelius Southall, Michael Stern, Sarah Taylor, Monica Wickey, and Keith Herrington.

Ms. COLLINS. Mr. President, I also want to list the conferees on this bill. Contrary, perhaps, to the implications of what we have just heard, this was an extraordinarily open conference, where Democrats and Republicans negotiated side by side in every single meeting. It was a bipartisan effort.

Senators LOTT, ROBERTS, VOINOVICH, COLEMAN, SUNUNU, DEWINE, LEVIN, ROCKEFELLER, DURBIN, GRAHAM of Florida, and Senator LAUTENBERG were the Senate conferees on this important bill. I thank each of them personally for how hard they worked. Each of them contributed greatly to the final product, and I am very grateful for their support.

I wish to also respond to the concept that somehow this issue was rushed. The fact is there have been numerous reports and commissions that have urged intelligence reform going back to 1954. Over and over again, problems were identified in our intelligence structure, even as our country became more vulnerable to asymmetric threats, such as terrorist groups.

The 9/11 Commission, which did, in my view, an outstanding job, reviewed more than 2.5 million pages of documents, interviewed more than 1,200 individuals, held 19 days of hearings, and took public testimony from 160 witnesses. Congress held 44 hearings on the 9/11 Commission's report and recommendations.

The Governmental Affairs Committee, which I am honored to chair, alone held 8 days of hearings and marked up this legislation for 2 full days. We were on the Senate floor for nearly 2 weeks. We considered hundreds of amendments to this bill. The conference on the bill lasted nearly 2 months and received a great deal of attention.

I note that we have made substantive changes to only two provisions in the conference report since November 20 when the conference agreement almost came to the Senate floor.

The November 20 language was widely circulated. It included being provided to the staff of the distinguished senior Senator from West Virginia.

I assert that this was an extraordinarily inclusive process, and all the Members of the Senate have had ample time to review the conference report since, with just two exceptions, which have been highly publicized. It is the same language, for the most part, except for technical changes, as we reported it on November 20.

I wanted to make those points. I know there are other Members desiring

to speak. I will yield the floor, but I reserve the remainder of my time.

Finally, Mr. President, I note that the Senator from New Hampshire, Mr. SUNUNU, wishes to speak in favor of the conference report. I am prepared to yield him some of my time, but I am not certain how much time I have remaining. If I could be informed by the Presiding Officer as to how much time I have remaining, that would be helpful.

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Ms. COLLINS. I will yield at the appropriate time 5 of my remaining minutes to the Senator from New Hampshire. I thank the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I yield myself 5 minutes of the time of the Senator from West Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, I rise to state that I enthusiastically support this legislation. If I had to sum up in one sentence what would be one of the most powerful statements as to why we need to pass this legislation, it would be from the television interview of Governor Kean, the Chairman of the 9/11 Commission, when he said: This bill will pass. It is just a question of will it pass now or will it pass after the next terrorist attack.

His statement was full of so much meaning because of all the deliberation and the factfinding that the 9/11 Commission had brought to the light of day in showing how the intelligence apparatus of this country had failed us in alerting that we were about to be attacked.

We do not have the luxury of two big oceans protecting us as we have had in the past, for we now have a new kind of enemy who deals with stealthiness. Our ability to protect ourselves is having the information ahead of time so we can thwart the attack.

It was also very revealing in the 9/11 Commission Report when they concluded that we are safer than September 11, but we are not safe.

I commend the chair of the committee and her ranking member, as they have done an extraordinary job in the crucible of legislative give and take to stand on their principles and to insist on those principles that a reorganization be done under which there would be accountability instead of the separate and multifaceted intelligence communities that we have seen in the past that do not talk to each other.

My hat is off to the chair of the committee and to the ranking member. My hat is also off to them because they have shown legislative dealmaking at its best. They have done it with aplomb, with respect, with bipartisanship, with dignity, and that is the standard that has been so much a part of the historical tradition of the Senate. And the two of them, Senator COLLINS and Senator LIEBERMAN, have shown us that standard. This Senator from Florida is very grateful.

There will be other issues that we have to address in the future. Some of these additional questions on immigration are absolutely critical to our future protection, and we can do that in the context of a big immigration bill. We simply cannot be safe if thousands of people continue to come across the Mexican border, as we have heard in testimony in our Commerce Committee—specifically with our chairman, JOHN MCCAIN—having witnesses telling us how many people are coming across the Mexico-Arizona border each week. It absolutely staggers the imagination how we can have this porous border and protect ourselves from this new threat of terrorism. So we have to deal with that issue.

In part, this committee has dealt with it in giving new border agents and Customs officials, and for that I am grateful. With more coastline than any other State, save for the State of Alaska, my State of Florida is a place that is ripe for infiltration, and we need that extra protection.

I am looking forward to the continuing debate and offering some observations from the perspective of the State of Florida as we get into that debate. But for the time being, the reorganization of the intelligence apparatus, where there will be accountability and where there will be a centralized budget, is very important for the future protection of this country. That is why I support this bill, and I will be voting for this bill when we vote on it today.

Mr. President, on behalf of Senator BYRD, I yield 5 minutes of his time to Senator LIEBERMAN, and I would then yield back Senator BYRD's time, except for 5 minutes under Senator BYRD's control.

The PRESIDING OFFICER (Mr. SUNUNU). Is there objection?

Mr. WARNER. Mr. President, I do not understand. I ask the Presiding Officer to advise the Senate with regard to the current parliamentary situation. When I left the floor earlier today, there was an informal arrangement that Senator STEVENS and Senator WARNER would follow Senator BYRD. That is my recollection. I yield to the managers.

Mr. NELSON of Florida. Mr. President, do I have the floor?

The PRESIDING OFFICER. The Chair can clarify. There is no specific order to that effect. Does the Senator from Florida wish to clarify his unanimous consent request?

Mr. NELSON of Florida. To my good friend, the chairman of the Armed Services Committee, I am yielding back Senator BYRD's time. He still has time left. I stated specific parameters, 5 minutes for Senator LIEBERMAN and the additional 5 minutes that I stated.

The PRESIDING OFFICER. Is there objection?

Ms. COLLINS. Mr. President, I do want to clarify apart from this issue that I believe there was an informal—I thought we had made it formal—understanding that Senator STEVENS would follow Senator BYRD's remarks, and Senator WARNER would follow Senator STEVENS' remarks. But all the Senator from Florida is trying to do—and I very much appreciate his endorsement of the bill—is to yield back the remainder of Senator BYRD's time at the request of Senator BYRD.

The PRESIDING OFFICER. Is there objection?

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Parliamentary inquiry: It is my understanding that part of the time was to be yielded to another Senator.

The PRESIDING OFFICER. The request was to allot Senator LIEBERMAN 5 minutes of the remaining time.

Mr. STEVENS. At this time?

Mr. NELSON of Florida. No. If the Chair will clarify my statement.

The PRESIDING OFFICER. I believe I just did. The request was to yield back the remainder of Senator BYRD's time with the exception of 5 minutes to be granted to Senator LIEBERMAN and 5 minutes retained by Senator BYRD. So there would be 10 minutes reserved on the minority's time.

Without objection, it is so ordered.

The Senator from Alaska.

Mr. STEVENS. Mr. President, I rise to discuss this national intelligence reform bill with some reluctance, because as a member of the Governmental Affairs Committee I was also involved, as the chairman of the Appropriations Committee, in the enormous omnibus bill and I have not been able to pay the attention to this bill that I should have. I regret that some of my feelings about the bill reflect the fact I was not there to participate in those meetings. I do commend my colleagues in both Houses of the Congress for their hard work in coming to an agreement on this bill. As with every conference, each voice is heard but none can dominate, and compromise is absolutely required.

I commend Senator COLLINS and Senator LIEBERMAN for their attention to the concerns of the people of this Nation and for this bill that addresses those concerns in the wake of September 11. I do not believe this bill fully resolved all of those concerns, but the American people should know that Congress has indeed passed a bill to reform our intelligence community.

This process has been a long and arduous one. I voted for the Senate version of this bill, when it passed the Senate, with reservations. I was concerned about the needs of the warfighters and the publication of the top line numbers of the intelligence community and the broad authorities granted to the Director of National Intelligence. It was my hope that these concerns would be addressed, and they have been partially met by this bill.

I still believe that some of the sections of the bill grant such authorities

to the Director of National Intelligence that place him or her above those of any member of the President's Cabinet, and by passing this bill we will have created an intelligence czar whose authorities will far exceed any governmental official other than the President himself. I believe this should be of some concern to every Member of the Senate, and Senator BYRD has outlined some of those concerns.

This Director of National Intelligence is not an elected official and is not directly accountable to the American people. The Director of National Intelligence will only be able to be reined in by the President himself, and that, I believe, puts an overwhelming burden on the President of overseeing this official and the actions of the Director of National Intelligence on a daily basis. No one else has any way to control this official.

The intelligence community has also provided support to the President, to the administration itself, and to the Congress. I fear this bill goes far beyond that role. When an individual or an organization is given such broad authorities, the lines between policymaking and information gathering become blurred. This is particularly true in the intelligence field, and I continue to have reservations as to how this new organization will integrate these duties with the overall governmental structure and particularly with those of the Secretaries of State, Defense, and Homeland Security.

These are extraordinary authorities that will be given to the Director of National Intelligence. That person will exercise power far beyond those I have seen even in wartime. In my years in the Senate, I have known 12 Directors of Central Intelligence. It has been my privilege to know each one of them personally. My roots in the intelligence community go back to World War II when I flew the OSS plane in China. Since then, I have had a great deal of interest in and contact with members of the intelligence community and continue to have a great interest in the operations of intelligence for our National Government.

Clearly, I believe I know a little history of intelligence. I challenge anyone to name any official of a friendly or adversarial intelligence service over the past century who has been granted the broad authority that this National Intelligence Director will have.

What this requires, in my judgment, is persistent oversight by the Congress. Each committee of the Congress with oversight of intelligence matters must scrutinize the actions of the intelligence community, and in particular this Director, to ensure there are checks and balances in this system that are required by our Constitution. We must aggressively remain attuned to assure that none of the freedoms we celebrate are hampered by this new entity or its Director.

Now, having said that, as I informed the President previously, I will vote for this bill, but it is my intention to ask that each general counsel in the intelligence community and the Department of Defense report to the next Congress, at least on a periodic basis, their interpretation and the subsequent implementation of this legislation in their Departments to ensure that these concerns of mine and those that have been expressed by other Senators on the floor do not come to fruition.

Again, this is a bill that is needed, authority that is needed in the post-9/11 period. I believe still, as I have stated repeatedly on the floor, there are many Members of the Senate who do not realize how much has been accomplished since 9/11, and I assume this bill will be interpreted in terms of the intelligence system as it exists today and not based upon the intelligence system that existed on September 11, 2001.

I thank the Chair.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Virginia.

Mr. WARNER. Mr. President, I ask the Presiding Officer to advise me when there is but 5 minutes remaining on my time such that I can allow that time to be used by another Senator, and I would hope the managers would yield to Senator CORNYN, if that is possible.

Before my distinguished colleague from Alaska departs the floor, I associate myself with his goals in this forthcoming legislation and would like to cosponsor that with him. I think that is very much needed. I do not join or do that in any criticism of the distinguished work done by the managers of this bill. They certainly were given a daunting challenge to perform in a very short period of time, but I hope the managers and others recognize the need for oversight, perhaps in some respect by my committee, the Intelligence Committee, and the Governmental Affairs Committee, because of the enormity of the power that this one individual has.

As it relates to my specific concerns, that is of the chain of command and the operation of the new Director to involve himself in some way in those decision processes, as that order comes down from the President through the JCS to the combatant commanders, we have to watch the execution of those powers very carefully.

So I commend my distinguished colleague, and I wish to thank our distinguished majority leader for the very openminded and fair manner in which he dealt with those of us who had some concerns about this throughout. He was joined, I think in some respects, by the Democratic leader. Together with Senator STEVENS, Senator BYRD, Senator SESSIONS, Senator KYL, Senator ALLARD, Senator CORNYN, and Senator BURNS, and I will let them speak for themselves, but I thought their contributions to this Senator, and I think from the conversations with the Senator from Alaska, were very helpful as I began to work my way through what I perceived as my responsibility with regard to this legislation in the capacity as chairman of the Senate Armed Services Committee.

On Monday this week, I joined, at his invitation, Chairman DUNCAN HUNTER of the House Armed Services Committee, indicating that I planned to support this conference report, and that was predicated largely on the achievements of Chairman HUNTER and, to some extent, myself and others working with the managers in providing a deletion of certain words in the conference report and in their place providing others that, in my judgment, give a greater degree of protection to the time-tested concept of chain of command within our military forces.

Again, I have been working, and I think it is important for the legislative history to set forth a chronology, on the chain of command language over several months. I am particularly grateful to the Vice President, with whom I had consultations, and his staff, with whom I had continued conversations, for their guidance and assistance on this vital issue as I worked with Chairman DUNCAN HUNTER. The issue was of great importance. I believe, as a matter of fact, it was critical that a clear record be laid out of the chronology of events that led to this new language.

Back in August and September of this year, when intelligence reform legislation was being developed, the White House, on September 16, provided draft legislation to the Congress. The process was somewhat informal. I mean some of the processes throughout this legislative consideration were somewhat unusual. But, anyway, they provided draft legislation. It suggested legislation contain—and I refer to section 6 on preservation of authority. That is another definition of chain of command. This legislation would ensure the protection of the chain of command as proposed by the President. The bottom line is Cabinet officers remain responsible for managing their departments and would remain accountable for the actions of their departments.

I was advised at that time that this preservation of authority section was drafted, indeed, with the personal involvement of the President and that he had expressed to his immediate associates the importance of this concept to the President.

Legislation reported to the Senate by the Government Affairs Committee did not include this section. That, of course, was the chronology that the managers can provide if they deem necessary.

The administration felt strongly enough to appeal for the inclusion of this provision of preservation of authority language during the Senate floor consideration of the bill. And in

the Statement of Administration Policy, dated September 28, 2004, the administration urged the Senate to include section 6 of their proposed legislation in the Senate bill.

On October 1, 2004, I introduced an amendment during the floor debate to accomplish this very purpose, as established by the administration in their communications. Unfortunately, after lengthy discussions with the floor managers and the administration, I was just not able to effect what I believed was a compromise that would meet the goals that I had set out and, if I may say, I felt the goals that the administration had set out. Consequently, the amendment was not considered and was withdrawn.

I remained concerned about preserving the authority of Cabinet officers to manage their departments and to remain accountable for the performance of their departments as well as protecting the integrity of the chain of command, from the President to the Secretary of Defense to battlefield commanders.

In a statement on the Senate floor on October 4, 2004, during the course of that debate, before final passage, I clearly indicated I would vote for the bill, but I had sufficient confidence that the process would once again take into consideration the positions of the Senate and the House on the position of chain of command, and that the conferees would see the wisdom of incorporating that provision as desired by the administration and along the lines of the amendment that I had considered.

Clearly, this chain of command issue has been of significant concern over the past few weeks. It was one of the reasons the House of Representatives was not able to reach a decision to proceed with a vote on this conference report prior to Thanksgiving. The record reflects with clarity that it was important that this issue should be resolved. It was not a trivial matter—I repeat, it was not a trivial matter, as has been suggested in press reports, attributing those quotes to others.

Each time our President sends the U.S. Armed Forces into harm's way to defend our Nation, a series of events happens, including specific orders to our combat support agencies, the Defense Intelligence Agency, the National Security Agency, the National Reconnaissance Office, and the National Geospatial-Intelligence Agency, to provide very specific supports to combatant commanders at specific times and places.

This support is critical to the success of virtually all military operations, and those decisions often have to be made on a real time, instantaneous basis. There can be no ambiguity in the statutory framework or regulations about these orders and the ability to execute them. And there can be no conflicting directions to the implementers of that intelligence to provide it and provide it expeditiously for the men and women of the Armed Forces. The lives of our uniformed personnel are at risk, and the success of our military efforts can often hang in the balance.

The language contained in the November 20 draft conference report potentially inserted the newly created Director of National Intelligence into this chain of command with the authority to direct military intelligence assets to what the DNI—that is the acronym for the Director of National Intelligence—considered higher priorities, thereby possibly putting him in conflict with the Secretary of Defense and the combatant commanders. Such a situation would clearly, I judged, violate the time-tested principle of continuity, of unity of command.

The new law, however, as now redrafted, will presumably go forward for many years. Although soldiers will come and go, personalities will be different. Consequently, these potential ambiguities are best removed now. I think the new language achieves, in large measure, that goal.

Our Armed Forces are the finest in the world and one of the reasons for their excellence is an unambiguous, time-tested chain of command. Consequently, I was very concerned, as was my friend and colleague DUNCAN HUNTER of the House Armed Services Committee, that the draft conference report, if it became law, would not be drafted in such a way as to disrupt the integrity of our chain of command, or even possibly have the ambiguity that gave rise to the ability for such disruption.

Chairman HUNTER exhibited strong, determined leadership as a House conferee on this issue, and I was privileged to work with him. We have shared such responsibilities, the two of us working together, over more than two decades of service in our respective memberships on the committees of the armed services of the Senate and the House.

On Monday this week, after consultations with the White House, the Chairman of the Joint Chiefs of Staff, Chairman HUNTER, and several conferees, an agreement was reached on the language that protects the integrity of this chain of command, in my estimate, and preserves the authority of heads of government departments to effectively manage their departments and remain accountable for the performance of all elements of their departments. The final language is a significant change, which allays concerns of the Members, which I expressed publicly on December 3 in a press statement.

Other colleagues had approached me with the same basic concerns. I think, and I have assured them in conversations, that they have largely been met and that this proposed conference report, which will eventually become statutory law, has been greatly improved.

Therefore, I ask unanimous consent that a copy of the preservation of authority provision for the November 20 draft conference report, as well as the final version be printed in the RECORD.

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

NOVEMBER 20, FINAL LANGUAGE PROPOSED BY CONFERENCE BIG 4

SEC. 1018. PRESERVATION OF AUTHORITY AND ACCOUNTABILITY.

Not later than 120 days after the date of the appointment of the first individual appointed as the Director of National Intelligence, the President shall, and on an ongoing basis, issue guidelines to ensure the effective implementation within the executive branch of the authorities granted to the Director of National Intelligence by this title and the amendments made to this in a manner that maintains, consistent with the provisions of this Act, the statutory responsibility of the head of the departments of the United States Government with respect to such departments, including, but not limited to:

(a) the authority of the Director of the Office of the Management and Budget, or

(b) the authority of the principal officers of the executive departments as heads of their respective departments, including, but not limited to, under—

(1) Section 199 of the Revised Statutes (22 USC 2651);

(2) Title II of the Department of Energy Organization Act (42 USC 7131);

(3) State Department Basic Authorities Act of 1956, as amended;

(4) Section 102(a) of the Homeland Security Act of 2002 (6 USC 112(a)); and

(5) Sections 301 of title 5, 113(b) and 162(b) or title 10, 503 of title 28, and 301(b) of title 31, United States Code.

INTELLIGENCE REFORM CONFERENCE

EVOLUTION OF CHAIN OF COMMAND ISSUE

Current law, as established by the Goldwater-Nichols Defense Reorganization Act of 1986, provides for a clear and unambiguous military chain of command. This was a key aspect of the reform legislation to ensure that combatant commanders were provided with the unity of command necessary for successful execution of military operations.

10 USC 162

SEC. 162. COMBATANT COMMANDS: ASSIGNED FORCES; CHAIN OF COMMAND.

(a) ASSIGNMENT OF FORCES.—

(4) Except as otherwise directed by the Secretary of Defense, all forces operating within the geographic area assigned to a unified combatant command shall be assigned to, and under the command of, the commander of that command. The preceding sentence applies to forces assigned to a specified combatant command only as prescribed by the Secretary of Defense.

(b) CHAIN OF COMMAND.—Unless otherwise directed by the President, the chain of command to a unified or specified combatant command runs—

(1) from the President to the Secretary of Defense; and

(2) from the Secretary of Defense to the commander of the combatant command.

10 USC 164

SEC. 164. COMMANDERS OF COMBATANT COMMANDS: ASSIGNMENT; POWERS AND DUTIES.

(c) COMMAND AUTHORITY OF COMBATANT COMMANDERS.

(1) Unless otherwise directed by the President or the Secretary of Defense, the authority, direction, and control of the commander of a combatant command with respect to the commands and forces assigned to that command include the command functions of—

(A) giving authoritative direction to subordinate commands and forces necessary to

carry out missions assigned to the command, including authoritative direction over all aspects of military operations, joint training, and logistics;

(B) prescribing the chain of command to the commands and forces within the command;

(C) organizing commands and forces within that command as he considers necessary to carry out missions assigned to the command;

(D) employing forces within that command as he considers necessary to carry out missions assigned to the command;

(E) assigning command functions to subordinate commanders; and

(F) coordinating and approving those aspects of administration and support (including control of resources and equipment, internal organization, and training) and discipline necessary to carry out missions assigned to the command.

In recognition of the possible conflict between the new authorities being provided to the National Intelligence Director and existing chain of command statutes, the Bush Administration's September 16 legislative proposal to implement the 9–11 Commission recommendations contained a specific provision to ensure protection of existing chain of command authorities.

SEC. 6. PRESERVATION OF AUTHORITY AND ACCOUNTABILITY.

Nothing in this Act or amendments made by this Act shall be construed to impair or otherwise affect the authority of: (1) the Director of the Office of Management and Budget; or (2) the principal officers of the executive departments as heads of their respective departments, including, but not limited to, under section 199 of the Revised Statutes (22 USC 2651), Title II of the Department of Energy Organization Act (42 USC 7131), the State Department Basic Authorities Act of 1956, as amended, section 102(a) of the Homeland Security Act of 12002 (6 USC 112(a)), and sections 301 of title 5, 113(b) and 162(b) of title 10, 503 of title 28, and 301(b) of title 31, United States Code.

The November 20 conference proposal contained inadequate protection of the chain of command provisions as it subordinated these sections of law to the new authorities vested in the Director of National Intelligence. This proposal was opposed by Chairman Duncan Hunter.

SEC. 1018. PRESERVATION OF AUTHORITY AND ACCOUNTABILITY.

Not later than 120 days after the date of the appointment of the first individual appointed as the Director of National Intelligence, the President shall, and on an ongoing basis, issue guidelines to ensure the effective implementation within the executive branch of the authorities granted to the Director of National Intelligence by this title and the amendments made to this title in a manner that maintains, consistent with the provisions of this Act, the statutory responsibility of the head of the departments of the United States Government with respect to such departments, including, but not limited to:

(a) the authority of the Director of the Office of the Management and Budget; or

(b) the authority of the principal officers of the executive departments as heads of their respective departments, including, but not limited to, under—

(1) Section 199 of the Revised Statutes (22 USC 2651);

(2) Title II of the Department of Energy Organization Act (42 USC 7131);

(3) State Department Basic Authorities Act of 1956, as amended;

(4) Section 102(a) of the Homeland Security Act of 2002 (6 USC 112(a)); and

(5) Sections 301 of title 5, 113(b) and 162(b) or title 10, 503 of title 28, and 301(b) of title 31, United States Code.

The proposed December 6 agreement between Senate conferees and Chairman Hunter provides necessary protection of chain of command statutes.

SEC. 1018. PRESIDENTIAL GUIDELINES ON IMPLEMENTATION AND PRESERVATION OF AUTHORITIES.

The President shall issue guidelines to ensure the effective implementation and execution with the executive branch of the authorities granted to the Director of National Intelligence by this title and the amendments made by this title, in a manner that respects and does not abrogate the statutory responsibilities of the heads of the departments of the United States Government concerning such departments, including, but not limited to:

(1) the authority of the Director of the Office of Managements and Budget; and

(2) the authority of the principal offices of the executive departments as heads of their respective departments, including, but not limited to, under—

(A) section 199 of the Revised Statutes (22 USC 2651);

(B) title II of the Department of Energy Organization Act (42 USC 7131 et seq.);

(C) the State Department Basic Authorities Act of 1956;

(D) section 102(a) of the Homeland Security Act of 2002 (6 USC 112(a)); and

(E) sections 301 of title 5, 113(b) and 162(b) of title 10, 503 of title 28, and 301(b) of title 31, United States Code.

Mr. WARNER. It has been clear, especially after the July report issued by the Senate Intelligence Committee under the leadership of Chairman ROBERTS and Chairman ROCKEFELLER, about weapons of mass destruction in Iraq and the valuable contribution of the 9/11 Commission and the comments and thoughts of many others, that led to the impetus for the United States to have had major reform of our national intelligence system. That was needed.

The Governmental Affairs Committee was given this challenge and accepted it. They have worked to the best of their ability, and their final work product brings us to this point today where I presume there will be a strong vote to endorse that workmanship.

It has been my position during this process, however, to ensure that we do no harm to the immeasurably improved intelligence system that has been built for our battlefield commanders over the past 15 years since shortcomings were identified during and after the Persian Gulf war. Senator STEVENS commented on that. That is one of the reasons we were associated in working on this language change. A much improved system exists today, and it will continually evolve in becoming more improved.

It has been the goal of the Senate Armed Services Committee, working with other committees of the Senate during this deliberative process on this intelligence reform, to ensure that intelligence support to the President, the Congress, senior policymakers, and tactical commanders is enhanced. The agreement we reached on Monday is crucial in accomplishing that goal.

The new language in the conference report before us today is a substantial improvement. President Bush, in his letter to the Congress on December 6, 2004, stated that it is his intention to develop guidelines and regulations using the statutory guidance provided in this provision ''to ensure that the principles of unity of command and authority are fully protected.''

With this agreement, it is now time to move forward to approval of this bill, and I shall vote for it. Earlier today, the distinguished majority leader made reference to this bill as ''not a perfect bill.'' I associate myself with his opinion because there are several issues about which I remain concerned; namely, the authorities of the Director of National Intelligence to establish personnel policy for military personnel and transfer them within the National Intelligence Program; the ability of the Director of National Intelligence to transfer and reprogram funds; the role of the Director of National Intelligence in major intelligence acquisition programs managed largely by the Department of Defense; and the relationship between the DNI and the Director of the CIA, and between the DNI and the Director of the National counterterrorism Center.

At this point, I say thanks to Senator STEVENS. I have worked closely with the Central Intelligence Agency and the Directors of that organization for these many years. The principal headquarters is in my State. I am privileged to have had a long series of close personal relationships with not only the Directors but many of the associate directors and others—indeed, the employees. I think overall they have stood the test of time and done their very best to provide America with the best intelligence, and most particularly the men and women of the Armed Forces.

Consequently, I will join others in this Chamber to carefully monitor oversight implementation of this legislation over the coming months, and will, if deemed necessary, offer such legislation, an example being what the distinguished Senator from Alaska just mentioned, when appropriate to further strengthen this law to alleviate any unintended consequences of this legislation.

Again, I congratulate the managers of this bill. I look forward to working with them as we implement these reforms and build an intelligence system that provides the best possible support for our national decisionmakers, and most particularly to those in uniform serving on the distant battlefields and ramparts of the world.

I ask unanimous consent to have printed in the RECORD a working document on the chain of command issue which Chairman HUNTER and I used during our deliberations on this issue, and in response to questions that were directed to us, as well as a chronology of events associated with consideration of chain of command language during deliberations of this bill.

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

CHRONOLOGY PRESERVATION OF AUTHORITY/ CHAIN OF COMMAND PROVISIONS IN THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004

July 22, 2004—9/11 Commission Report released.

August 2004—relevant committees of Congress conduct hearings.

September 16, 2004—White House provides suggested legislation on intelligence community reform to relevant committees of Congress, which includes a section 6 on ''Preservation of Authority'' for heads of executive departments to manage their departments and remain accountable for their performance.

September 23, 2004—Government Affairs Committee reports S. 2845 to the full Senate for consideration, without ''Preservation of Authority'' provision.

September 28, 2004—White House submits Statement of Administration Policy supporting S. 2845, but expressing concern about several issues including the lack of a ''Preservation of Authority'' provision stating, ''The Administration supports inclusion of this provision [Section 6, Preservation of Authority and Accountability, of the Administration's proposal] in the Senate bill.''

October 1, 2004—Senator Warner submits Amendment No. 3876 to S. 2845, to preserve the authority of heads of executive departments to manage and remain accountable for the performance of their departments.

October 4, 2004—Debate on Warner ''Preservation of Authority'' amendment ends with no agreement. Modified language jointly drafted by White House and Senator Warner is rejected. Amendment is withdrawn.

October 6, 2004—S. 2845 is passed by the Senate, but without a section on ''Preservation of Authority.'' Senator Warner voices support for the overall legislation but cites continuing concerns, including the lack of a ''Preservation of Authority'' clause, and indicates his intent to try to resolve these concerns during the conference process.

October 10, 2004—H.R. 10 is passed by the House.

October 16, 2004—Conference begins.

October 18, 2004—Director, OMB, and National Security Advisor send joint letter to conference chairmen expressing administration views on conference issues, including urging conferees to include section 6 of the original administration proposal on ''Preservation of Authority,'' and indicate this section is one of President Bush's three core principles for the bill.

October 20–November 19, 2004—Conferees exchange approximately 12 offers and counteroffers on ''Preservation of Authority'' language.

November 20, 2004—Conference managers propose final language. Chairman Hunter indicates his objection to the language believing it would potentially insert the DNI into the chain of command. Senate conferees approve draft conference report 13–2. House conferees defer action on conference report.

November 21, 2004—House and Senate adjourn without taking action on the conference report.

November 22–December 5, 2004—consultations between Chairman Hunter, Chairman Warner, Vice President Cheney, several conferees, and General Richard B. Myers, Chairman of the Joint Chiefs of Staff, on appropriate language to ensure the integrity of the chain of command.

December 6, 2004—Agreement is reached between administration, conference managers, Chairman Hunter, and other concerned Members of Congress, on revised ''Preservation of Authority'' language that directs the President to issue guidelines for implementation that, ''shall respect and not abrogate the statutory responsibilities of head of the departments of the United States Government. . . .''

Mr. WARNER. Madam President, I yield the floor. Again, I yield such time as I might have remaining to Senator CORNYN.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from New Hampshire is recognized.

Mr. SUNUNU. I thank the Chair.

It is a pleasure to stand in support of the intelligence reform bill.

In my remarks today in support of the bill, I want to first emphasize that there is no real way we can know exactly and precisely what all of the benefits might eventually occur due to the reforms made by this bill. I think both the House and Senate went through a good-faith effort to try to develop a better, a better intelligence organization, better rules for sharing information than we currently have, changes that conform in many ways to some of the difficulties identified, and recommendations made by the September 11 Commission. But the real motivator for reform I think began even prior to September 11.

I think the impetus for change in our intelligence organization begins with the fall of the Iron Curtain, the end of the Cold War, the disintegration of the Soviet Union, and the emergence of terrorism—now the greatest national security threat that faces America and our allies—and concerns over the proliferation of weapons technology to terrorists around the world. That was obviously brought to the forefront with the attacks of September 11. But the fact that we have a new set of threats and a new set of risks to American security is what calls on us to review the structure of our intelligence agencies and to make the recommendations for change that are embodied in this bill.

With this legislation, we will improve the budget process for intelligence agencies by giving more power and authority to the Director of National Intelligence, the DNI. The DNI will coordinate where the funds and resources should be allocated among the 15 various agencies that have responsibility for intelligence gathering in the United States and around the globe.

We reform the standard of accountability by having an independent Director of National Intelligence. I think there is, to borrow a phrase from the previous speaker, a clearer chain of command for responsibility and accountability in setting priorities and setting goals for the President of the United States and all of those in the Government who rely on our intelligence-gathering operation.

We reform the process of coordinating between these 15 agencies. We have a new counterterrorism Center that will be the central focus for gathering information threats from law enforcement and intelligence agencies around the country.

We now have a much better understanding of the degree with which critical pieces of information can come from local or State law enforcement, and not just from the sophisticated apparatus of a national intelligence organization.

We have to coordinate and collect that information and then disseminate it and do a better job of sharing that information.

A final area of reform I would underscore is that with this legislation we set clear guidelines, a clearer process, and in many ways an easier process, for getting key pieces of information to the decisionmakers that will act on that information.

We saw, unfortunately, time and again in the wake of September 11 moments where there existed important information, but for a variety of reasons that information wasn't placed in the right hands at the right time. So information sharing, as simple as it may sound, is a critical piece of the reform element in this bill.

For all of those reasons, I am very pleased to support the legislation because I think it will create a much better framework for understanding where we are successful and where we need to continue to improve our intelligence gathering. Not every objective, not every goal, will be attained in the next year or the next 2 years. But this organizational structure, the rules for intelligence sharing, this budget process, all will make our intelligence organization much more effective.

A lot of concerns have been raised about the legislation. A lot of people point out the obvious—that it is not a perfect piece of legislation. I don't think anyone has ever come to the floor of the Senate or the House of Representatives claiming they had finally written the perfect piece of legislation. But a lot of those criticisms as well are on a weak foundation; concerns, for example, about the process, the speed and the timing with which this legislation was written.

The suggestion was made earlier last month that the Senate had rushed through this piece of legislation, that we moved it through too quickly, that there was not enough time taken for deliberations and hearings. I think of all the criticisms, that is probably the weakest I have heard.

The Chair well knows through a number of hearings we collected information—not just from the September 11 Commission and all the work they did on these issues, not just from the families of those who were lost on September 11, but from intelligence-gathering organizations, from the FBI, from local law enforcement, information that was critical to developing legislation before the Senate today.

The criticism of the process that somehow the conference between the House and Senate was done in secret is simply without foundation. The conference negotiations were extremely inclusive. In many ways I argue they were inclusive because they included me. When the conference negotiations

and the discussion about the final legislative language is inclusive enough to make available a role for the 95th most senior Member of the Senate, it is a pretty inclusive process. There were Democrats in the room at the most sensitive times as well as Republicans. It was bipartisan discussion and negotiation.

Obviously, not everyone got everything they wanted in the final bill. When the process is criticized for being exclusive or it was rushed, that criticism is most often made by someone who just did not quite get everything they wanted in the bill.

There is a criticism that we should have included more immigration or law enforcement provisions. This bill does deal with immigration in a direct and substantive way: increasing customs agents and beds for detainees; better information sharing that will make a huge difference for the INS and for others engaged in securing our borders. But it does not have every provision recommended by the House of Representatives, so it should come as no surprise we will deal with many of these issues, perhaps with a more comprehensive immigration reform bill, in the next session of Congress.

What is in the bill improves the status quo, improves the current situation. That is something for which we can all be pleased.

We have a lot of work to do on oversight in the coming session. We have a lot of work to do to make sure this legislation does what we intended it to do. But it is an outstanding effort. I commend the work of the chairman and the ranking member on the Governmental Affairs Committee as well as the House conferees.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I thank the Chair. Senator MCCAIN is on the way.

While Senator SNOWE is in the Chamber and is the Presiding Officer, I thank the Senator from New Hampshire for the extraordinary contributions he made to this bill and to the conference both on what used to be the Governmental Affairs Committee—I suppose it still is—and now the Homeland Security and Governmental Affairs Committee, particularly on the conference.

Senator SUNUNU was an extraordinarily important member, very steadfast in support of genuine reform, and very skillful as a legislator, both within the Senate conference and without, on the occasional missions on which he would be dispatched to the other body where, I gather from the record, he previously served and still has some people listen to him when he goes over there. The Senator from New Hampshire should feel the great pride and gratitude of the Senator from Maine and this Senator for all he contributed to this historical decision.

I yield to Senator COLLINS.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Maine.

Ms. COLLINS. Mr. President, let me make a brief comment in response to the recent discussion on the chain of command language.

First, I am very pleased we were able to reach agreement with the chairman of the House and Senate Armed Services Committee on this language. Since I did not see the documents that the chairman put into the RECORD, I state very clearly for the record that nothing in the final language in this bill in any way weakened the authority of the new National Intelligence Director.

In fact, the Director of National Intelligence will have significant budgetary and other authorities and that makes sense. We do not want to create just another layer of bureaucracy. We do not want to create a figurehead. We want to empower this individual with the authority to be able to marshal the resources to counter the very serious threats we face both today and in the future.

In my judgment, nothing in this bill has ever hindered military operations or readiness, but I am pleased we were able to draft some additional language that has provided some comfort to those who were concerned.

All Members have our first priority to the brave men and women who are fighting on the front lines of freedom. That is why this bill was very carefully drafted to keep tactical and joint military intelligence programs under the exclusive control of the Pentagon but to make sure those national assets which serve multiple customers—including the President's National Security Council, our covert agents in the CIA, as well as our military—to ensure that those assets are controlled by the Director of National Intelligence just as today they are controlled by the Director of the CIA in his role as head of the intelligence community.

I am told by those who have worked entire careers with the CIA that the Department of Defense has always been very happy with the relationship that allows a priorities committee to work out and resolve any conflicts in the use of these national assets. Certainly, this language and this bill as a whole, the reorganization as a whole, will improve the quality of intelligence that is provided to our troops, as well as making civilians at home safer. That is our goal. That is what this legislation achieves.

Mr. President, the Senator from Arizona has arrived. He has been a stalwart proponent of reform. He has worked very closely with Senator LIEBERMAN and me. I am very grateful for his leadership and support.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I came here to applaud the enormous efforts of my two colleagues, Senator COLLINS and Senator LIEBERMAN. This has been a task that has been, in the view of many, insurmountable. This piece of legislation was declared dead on numerous occasions. It was through their tenacity, hard work, and willingness to compromise that we now have perhaps one of the most significant and important reorganizations of the Federal Government certainly since 1947 when we created the Department of Defense.

It is all very good news. No one could describe it better than my two colleagues who point out this is a law that has to be translated into action. We have to change the reorganization of the boxes, but we also have to change the culture, a culture that led the President of the United States to proceed to war on the assumption that Saddam Hussein had weapons of mass destruction, which apparently he did not; an assumption that caused our Secretary of State to testify before the U.N. Security Council that Saddam Hussein was amassing weapons of mass destruction, an assumption that, unfortunately, misled other intelligence agencies throughout the world, not only that of the United States of America. But, as always, America leads. So I applaud their outstanding work. As they said, this is the beginning of a beginning, but it is an important beginning. Without this legislation, I do not believe we could make significant progress.

I would like to thank the families of 9/11 who have steadfastly supported this legislation. Without their support, it would still be sitting at the desk as it was the day Senator LIEBERMAN and I proposed it. I think their work is not over as well, because one of the failures of this body has been a total lack of congressional oversight reorganization. Still, there are numerous committees of congressional oversight. There has been no coordination, there has been no consolidation, and in the words of my friend, John Lehman, a member of the 9/11 Commission, in his words: The old bulls are more interested in protecting their turf in Congress than they are in national security.

That is a tough indictment, but I think it is true; there is no meaningful congressional oversight because of our failure to implement even the most modest reforms of congressional oversight, with the exception of permanent membership on the Intelligence Committee.

I want to point out and just talk for a minute about what has caused the holdup here the last month or so; that is, the immigration issues.

First, I always believed this legislation was about reorganization of our intelligence capabilities and not about immigration. I think I can state with some confidence that the issue of illegal immigration is one of overwhelming importance.

My State has been devastated in a broad variety of ways by the effects of illegal immigration, ranging from people dying in the desert, to overwhelming our health care facilities, to shootouts on our freeways, to other terrible things that are happening all

across the State of Arizona. We passed a ballot initiative this last election which, although I opposed, was certainly an expression of the frustration that the people of my State feel. But I would also point out, if anyone believes that simply strengthening our borders is the answer to our Nation's illegal immigration problem, they do not understand the problem.

Fifteen years ago, we declared a war on drugs, and we decided we would stop the flow of drugs across our borders which was poisoning the bodies and minds of our young Americans. The fact is, the cost of an ounce of cocaine on the street in Phoenix today is less expensive than it was 15 years ago. Why? Because there was a demand, and where there is a demand, there is going to be a supply.

There is a demand for workers for jobs that Americans will not do. What we have to have is comprehensive immigration reform that certainly entails strengthening our borders, increasing Border Patrol, and having better laws and better enforcement.

The issue of driver's licenses has to be discussed and debated because we are heading down—in a little straight talk—we are heading down a path toward a national ID card. I think that is something we ought to discuss and debate at some length before we take that step as a necessary one, if it is, in the war on terrorism.

So we have to have a comprehensive approach to immigration reform, and I hope that will be a top priority agenda item.

I say again that I am committed, and I know the President of the United States is committed, to overall, comprehensive immigration reform. I look forward to working with my friends on the other side of the aisle. This has to be a bipartisan issue, but it must be addressed because we can never assure the American people that they are safe from terrorists if our borders are penetrated, as they are today, by people who can easily come across illegally. But, overall, we also owe it to all men and women who live and work in this Nation to have certain protections.

I look forward to working with my colleagues, and, again, my congratulations to them.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank my friend, the Senator from Arizona, for his kind words. I was just thinking, as I was listening to Senator MCCAIN, he is known as a straight talker, but he is also a great doer. When he sees something that is wrong, and nobody is doing anything about it, you are just not going to stop him until he gets it right. When he sees a need that is unmet, you are just not going to stop him until he figures out how to convince our Government to meet it.

In this case, within a month after September 11, 2001, JOHN MCCAIN and I were together somewhere and he raised the subject that there ought to be an independent, nonpartisan investigation of how this outrageous attack on the United States by Islamist terrorists could have happened and what we can do to make sure, to the best of our God-given ability, it never happens again.

We put the bill together in a commission. We had opposition. Every step was tough, but ultimately it was adopted and filled brilliantly by a group of citizens. Both parties rose to the occasion and presented a report that was a scathing indictment of the status quo, an intelligence community without anybody in charge, where people with information in the FBI, CIA, and other agencies were not sharing it with each other, and the gnawing conclusion that if the intelligence community had been better organized and the dots had been connected, we could have prevented September 11 from happening.

JOHN MCCAIN and I welcomed that report which came out at the end of July. We began to work together to draft into legislation all of the recommendations of the 9/11 Commission. He was persistent in driving to put those out there. His staff and mine worked very hard. We did so right after Labor Day. I am pleased to say, once again, as a result of the persistence and patriotism of the Senator from Arizona, most of the contents of that original legislation are in this conference report. Not just the establishment of the Director of National Intelligence and the counterterrorism Center but a remarkable host of constructive and progressive recommendations from the 9/11 Commission, which, frankly, most of the country does not even know about yet, which I believe and have confidence they will feel good about as they find out about them because they go not just to transportation security, not just for aviation, but for all modes, for border security, civil liberties, and privacy.

In an age of terrorism, when the Government will have to be more actively involved in our lives, we want to protect the freedom that defines us as Americans.

There is a very progressive, farsighted section which says ultimately we are going to do everything we can, hopefully with the assistance of a greatly improved and organized intelligence community—and do everything we can to capture and kill the terrorists themselves—but ultimately we are going to win this war on terrorism by draining the swamps of poverty and tyranny and totalitarianism in which the terrorism has grown. We recommend and now put, with the force of law, aggressive steps for outreach to the Muslim world. We call for economic development in the Muslim world, for the extension of freedom's range in the Muslim world, for the increase of exchange programs—students, faculties, others—between the United States and predominantly Muslim countries, which is the ultimate hope for a secure future.

So I thank the Senator from Arizona for his kind words, and I return them to him. I hope it does not hurt his reputation, but in addition to being a straight talker, he is a great doer as well.

Mr. President, as the Senate stands poised now to adopt this 9/11 Commission recommendation bill, I believe we are at the brink of a turning point in our governmental history. It reflects the turning point that occurred, tragically, outrageously, on September 11, when we were attacked by 19 Islamist terrorists who, as someone else has said, hated us more than they loved their own lives, and so they killed themselves to express that hatred and took with them 3,000 innocent Americans.

With this vote, we in Congress are saying that one era in our history, in our national security history, has ended and another one has begun when we search for better and different ways to protect ourselves from our sworn enemies. We are changing from one national security strategy to another, from a Cold-War strategy to a strategy fit to bring us to victory in a war against terrorism.

Our purpose in this legislation all along, from its drafting through its hearings, through the extensive negotiations and now with its passage, was to advance a new vision of how to protect the American people in an unfortunately new world with different dangers, where our enemies don't distinguish between soldiers and citizens or foreign and domestic military targets. The brilliant work of the 9/11 Commission informed us that a lack of what they called the unity of effort, strong leadership, accountable leadership, allowed good intelligence to slip through our grasp, enabling the terrorists of September 11 to evade our defenses.

I have said before and I will say it again—it is a homely analogy or metaphor—the American intelligence community today is like a very good football team with great players but no quarterback. This bipartisan proposal we are about to vote on will create a quarterback, a strong quarterback. It will upend the status quo which failed us on September 11 and on other occasions in our recent history by reorganizing many of our intelligence agencies to create a unified command and control structure so that one person, the new Director of National Intelligence, will be in charge and accountable for the Nation's intelligence operations.

When somebody asks in the future, ''Who is in charge?'' the question will not be met with the same blank stares and nonanswers that greeted the 9/11 Commission when they asked that question. The answer will be, ''the DNI is in charge,'' the Director of National Intelligence, is in charge and responsible. That, we are confident, will make this Nation and its people safer.

The urgency of our times has demanded prompt action, but it has not been so prompt as to negate thoughtful consideration of just about every sentence and word in this conference report; prompt because we are, after all, a nation at war. A war like none other we have ever fought, a war in which we must maximize our resources, begin anew to meet our enemy and defeat them and find better ways to utilize the enormously capable human intelligence assets we have and the extraordinary technological assets we have as well to transform our ability to defend ourselves.

It never hurts to quote Sun Tzu, the classic Chinese strategist of war, who said:

> If you know yourself but not the enemy, for every victory gained you will also suffer a defeat. If you know neither the enemy nor yourself, you will succumb in every battle . . . but if you know the enemy and know yourself, you need not fear the result of a hundred battles.

The American people know themselves. We know our strengths. We know our purpose. We know our principles. As a result of this bill, I am confident we will better know our enemy and, therefore, have much less cause for fear.

I want to say a final word about the families, the survivors of September 11, because they truly were our inspiration throughout this journey to reform. They insisted on the creation of a 9/11 commission and they insisted that its recommendations be acted upon by Congress and supported by the President. That is exactly what has happened, across party lines, across Chambers, the executive branch and legislative branch, working together. This is an accomplishment which everyone here involved, and those involved at the White House, can celebrate. But ultimately it is a victory for the American people and particularly for these survivors of 9/11. Their self-sacrificing courage brings us to this historic moment of reform.

I said before, the American people know themselves. If you want to know the American people, meet the families and friends of those we lost on September 11. They represent the best of our country. They reflect our strength, our resilience, our values, our patriotism, our sense of purpose, our commitment and optimism. No matter what the obstacles, America and the American people will go on and will prevail. We will prevail because we represent a cause, the cause of freedom, the cause of opportunity. I hope and pray the passage of this legislation will help the families of 9/11 find some peace, as I am confident it will help all Americans find cause for greater confidence in our Nation's future security.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, we are on the verge of voting on historic legislation, landmark legislation that will reform our intelligence structure to allow us to better fight the war against terrorism and to counter future security threats. We will be taking a structure that is characterized by stovepipes, by a lack of sharing of information, that was so indicated in the 9/11 Commission Report as being a major cause of intelligence failures. The 9/11 Commission, over and over again, described the good people in our Government straining against structures that did not allow them to communicate effectively vital information; thus, no one assembled the pieces of the puzzle that might have allowed us to detect the hijackers' plot against our country.

We have reorganized the intelligence agencies into a new structure where one person clearly will be accountable and responsible. The new Director of National Intelligence will be able to marshall the resources we need to counter the threat to our citizens. We have a National Counterterrorism Center, a National Counterproliferation Center designed to bring together analysts from all the agencies so they can pool their talents, analyze the intelligence, and produce better informed reports.

This legislation will help make America more secure, and that is what this entire debate is all about. As my colleague, Senator LIEBERMAN, has eloquently stated: The status quo failed us. Our bill may not be perfect. As the Presiding Officer indicated, no bill is. But it represents an enormous improvement over the status quo.

We cannot turn away from the intelligence failures that have cost the lives of thousands of American citizens. We have to act. I am very proud that the Senate today will approve historic legislation that will make our country more secure.

Mr. President, I know Senator FRIST plans to come down and speak right before the vote, and he has arrived on cue. I do want to take this opportunity to request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Ms. COLLINS. I thank all of my colleagues for their help and support.

Mr. FRIST. Mr. President, as we approach this truly historic vote, I want to once again thank those who have labored so hard to get to this point over the last days, weeks, and literally months.

Senators COLLINS and LIEBERMAN, the chair and ranking member, deserve our highest praise—we oftentimes say that, but I mean it literally—for their professionalism, dedication, persistence, and bipartisanship, which is something that we stressed up front from day one, when Senator DASCHLE and I first talked after the 9/11 Commission recommendations came. It has been there throughout. I say thank you.

JOHN MCCAIN also stands out as someone who endeavored to give the 9/11 Commission life and to add many key elements to the Senate bill, many of which are in this legislation, all of which work toward the implementation of those 9/11 Commission recommendations. Senator WARNER and Senator STEVENS both labored to make sure we got the intelligence support to the military right, to make sure we did this in the correct way. JON KYL, part of our leadership team, worked hard on issues. I thank PAT ROBERTS for his diligent and persistent efforts. A whole host of Members on both sides of the aisle have participated.

I want to mention DENNY HASTERT, who played a critical role in bringing this legislation to fruition, which played out before the American people over the last several weeks. We would not be here right now without the unflagging leadership of President Bush to fight the war on terror and to meet the greatest challenge of our time. His commitment has been steady. It has involved direct participation. He made it clear to me from day one that it is his highest priority to make America safer.

This bill moves America into a position where we can say—once he signs the bill—that America will be safer.

Lastly, I thank the 9/11 families, without whom much of the momentum simply would not have been there to see this bill all the way through. They inspired us, they turned their personal tragedies into action, and it is manifested in the bill.

In the 3 years since the 9/11 attacks, we learned a lot about our Nation's vulnerabilities, our strengths, and the steps that we must take, many of which we are taking today in this bill. The bill will certainly make our Nation safer. Much more needs to be done, and we all recognize that; but this is a major leap forward.

As I said earlier, strengthening America at home and abroad, moving America forward in the pursuit of freedom and prosperity, and protecting the American people in our homeland have been the driving motivations of the 108th Congress, and they are captured in this bill.

Mr. President, I believe we are ready to proceed to a vote. At this juncture, I will yield back all time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the conference report to accompany S. 2845, the Intelligence Reform and Terrorism Prevention Act of 2004.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent, the Senator from Missouri, Mr. BOND, the Senator from Colorado, Mr. CAMPBELL, the Senator from Utah, Mr. HATCH, the Senator from Mississippi, Mr. LOTT, the Senator from Oklahoma, Mr. NICKLES, and the Senator from Oregon, Mr. SMITH.

Further, if present and voting, the Senator from Utah, Mr. HATCH, would have voted ''yea.''

Mr. REID. I announce that the Senator from Iowa (Mr. HARKIN), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. HARKIN) would vote ''aye.''

The PRESIDING OFFICER (Mr. COLEMAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 89, nays 2, as follows:

[Rollcall Vote No. 216 Leg.]

YEAS—89

Akaka	Dodd	Lugar
Alexander	Dole	McCain
Allard	Domenici	McConnell
Allen	Dorgan	Mikulski
Baucus	Durbin	Miller
Bayh	Edwards	Murkowski
Bennett	Ensign	Murray
Biden	Enzi	Nelson (FL)
Bingaman	Feingold	Nelson (NE)
Boxer	Feinstein	Pryor
Breaux	Fitzgerald	Reed
Brownback	Frist	Reid
Bunning	Graham (FL)	Roberts
Burns	Graham (SC)	Rockefeller
Cantwell	Grassley	Santorum
Carper	Gregg	Sarbanes
Chafee	Hagel	Schumer
Chambliss	Hutchison	Sessions
Clinton	Jeffords	Shelby
Cochran	Johnson	Snowe
Coleman	Kennedy	Specter
Collins	Kerry	Stabenow
Conrad	Kohl	Stevens
Cornyn	Kyl	Sununu
Corzine	Landrieu	Talent
Craig	Lautenberg	Thomas
Crapo	Leahy	Voinovich
Daschle	Levin	Warner
Dayton	Lieberman	Wyden
DeWine	Lincoln	

NAYS—2

Byrd	Inhofe

NOT VOTING—9

Bond	Hatch	Lott
Campbell	Hollings	Nickles
Harkin	Inouye	Smith

The conference report was agreed to.

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COLEMAN). Without objection, it is so ordered.

E-RATE PROGRAM

Mr. NELSON of Florida. Mr. President, as we are awaiting the final moments of this session of Congress, there are deliberations going on in the Capitol about an agreement to come forth with legislation—my understanding, already passed by the House—that will allow Internet service to be provided to schools and libraries. This is the very popular and widely acclaimed E-Rate Program that had been set up back in the nineties. The idea was that we lower the cost of providing Internet to schools and libraries so that students who would not otherwise have an opportunity of experience on the Internet would be able to get it at school.

I visited such a school last week in Tallahassee, FL. It is a school that is state of the art in all of the electronic provisions but yet, as part of the school system of that county, Leon County, is able to afford it because virtually all of their schools do have the Internet provided. This particular school, Roberts Elementary, in a rural section outside of Tallahassee in Leon County, has a diverse student population. It spans the socioeconomic spectrum and, indeed, there are a number of students at this school who, if they did not have Internet experience at school, would not have the opportunity to learn how to use the Internet and have available to them the services on the Internet.

The long and short of it is we would be depriving, because of socioeconomic status, a significant part of our student population an equal opportunity to an education, and that is a standard we all hold up as something that is worthwhile to strive for.

It all comes down to tonight. The E-Rate Program is going to stop, not because there is any diabolical movement here to take it away, because there certainly is not—it is widely acclaimed and widely popular—but because of a new accounting glitch in one of our agencies. I won't go into the details of this new method of accounting. It is, in essence, saying you are going to have to take away the fund that would supply the Internet to schools at a reduced rate. The alternative to that is—and this is not a very palatable alternative—that telephone rates for the Universal Service Program are going to go up to provide this money to continue to provide Internet service to schools and libraries.

It can all be taken care of so easily—and I do not know of any disagreement on the substance of the issue—if we pass this bill tonight. It is my understanding there are a couple of Senators who have a hold on this for completely different reasons unrelated to any of this subject matter. There are discussions going on in this U.S. Capitol Building right now over the lifting of those objections so at the last few minutes, the clock is showing, of this session of the Senate, we can take up the House bill and pass it. That is all we have to do and do it by unanimous consent with no objections.

If we do not do this tonight, then we are going to have to come back and go through the whole process again—pass it in the House, pass it in the Senate—and in the meantime have schools such as Roberts Elementary in Tallahassee, FL, be concerned whether they are going to have an e-rate, at the same time threatening telephone subscribers by thinking their bills are going to go up in order to pay for this worthwhile program, and none of that is necessary.

I call on cooler heads to prevail and allow this program that is so necessary for the education of so many of our children to achieve that objective we all embrace, which is an equal opportunity for an education for all children.

Before I yield the floor, Mr. President, I see the Senator from Montana has just come in. Just so I may inform him, I have just given this Senator's impassioned plea for the E-Rate Program and why we need to pass this bill tonight. I have laid out the reasons, and I want the Senator from Montana to know a specific example of a school I visited last Friday, Roberts Elementary in Tallahassee, FL.

The Senator well knows not only universal service and the importance of universal service to the rural areas of his State, as I do with mine—no matter how long the lines are that have to be run out there—but that in that Universal Service Program is this funding mechanism for providing Internet service to schools and libraries.

The final point I wish to make for the Senator, who missed my remarks earlier, is that this is so important because there are many students whose families cannot afford Internet at home, and, therefore, their only experience of this is going to be getting it at school. That was clearly evident to me at Roberts Elementary in Tallahassee, FL.

It is my hope that now with the mellifluous and golden tones coming forth from the Senator from Montana, that he would bring us some good news about the negotiations of passing this bill tonight.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. I appreciate what Senator NELSON had to say, also, on this legislation. This Congress should not go sine die without passing these three pieces of legislation. All three of them are very important. In fact, I would say the E–911, the enhanced 911 bill, is probably the most glaring public safety legislation we have worked on in many years. One would think this legislation that says we are going to take the money that is collected and it has to be spent in our PSAPS—in other words, our communications centers—to upgrade their technology, so that when a 9–1–1 call comes in from a cell phone we can locate the caller. We have that in wired lines, but we do not have it so much in wireless phones. I think it is time that we do that.

This is a great piece of public safety legislation, and we have been working on it for about 4 years. One would think that would be a no-brainer. It took us long enough to pass legislation to make a 9–1–1 call go into the nearest first responder. It used to be if one was out of their home territory and their phone was in roam, they could dial 9–1–1 and they were apt to get the 600 Cafe in Miles City, MT. That does not do one a lot of good when they are on the outskirts of Tallahassee, FL. It did not know where to go, and now it does.

So we think this is very important legislation. The E–911 caucus was established by folks who work in public safety and public communications every day. We keep hearing what we

should be doing about our communications systems in our cities, but how does a fire department communicate with the police department, with the highway patrol, and with the Federal agencies? Well, not very good. We have the technology there for them to do it, and folks want to do it. The only thing we lack is the funds.

This says take those funds that are collected—when we all pay our phone bill, there is a little checkoff there around 50 cents that goes to emergency telephone technologies. Well, guess what. We sent the money to the States. The States balanced their budgets, but they did not spend the money upgrading their communications centers. We think that is just terrible. That is why this legislation needs passing. There is no objection to it. It has passed this body. It has passed the House of Representatives.

Now, for those who do not think they have a dog in this fight and they live in a rural area, take a look at another part of it, which is the Universal Service and Anti-Deficiency Act exemption. This money was collected in universal service for a specific purpose, and it should be used for a specific purpose. It is very simple to do the right thing and do it right now. What has happened is they have found some abuse, a little fraud, so across the country they shut down making their payments to every school and library on the E-rate. It affects over 70 cities and schools in my State alone.

I come from Montana, and in eastern Montana we have a lot of dirt between light bulbs. It is expensive trying to bring the new technologies to smaller schools to upgrade their technologies to take advantage of distance learning. Sometimes it is telemedicine. We know that we have an aging population, a rural population. They are getting older every day. We have to administer our health care in a different way. This also affects that.

Again, for this body and this Congress, this is an absolute no-brainer. I realize that these are not issues that are great, sexy issues that one will find above the fold in their newspaper, but this is very important at the community level and to the folks who have kids in schools in rural areas. It is important to the infrastructure from which they learn and receive goods, and most of all health care.

Also, the spectrum relocation bill is in here, too—again, a no-brainer. What do we want? What do we hear from our first responders? We need spectrum. We need emergency spectrum. We need that spectrum so that we can deploy new technologies as broadband.

Years ago, we used to hear a signal and we knew it was either television, a picture, a voice, or data. We could differentiate from the signal what it was.

We are in a different kind of a world now. It does not make any difference if it is data, audio, video, whatever. It is all ones and zeros. It is all digital. So now we do not talk about what kind of a signal. We talk about bandwidth, bytes, megabytes, gigabytes. We talk about this ability to move information, no matter what it is, at the speed of light through fiberoptics and even our new wireless technologies.

What do they say? We have to have spectrum. Even in my State of Montana, we can now take the computers that we see used by the clerk in this body, and with a little card in there, get on the Internet driving down the highway. It is not the fastest right now. It is around 56K, but these are the first steps to broadband wireless services that will be deployed in areas where it is very expensive to string a line.

All three of these issues are wrapped together in this package that should be passed, and there is no issue that is important enough that can even stand up to the importance of these issues at the closing of or the eleventh hour of this Congress. Not one I can think of. And it is needed.

Enhanced 911 services—we have already gone over that.

Mr. NELSON of Florida. Will the Senator yield?

Mr. BURNS. I will yield.

Mr. NELSON of Florida. I commend the Senator for his leadership on this issue. Just to back up, about what the Senator was saying, I have a letter to the leadership of both the House and Senate signed by 34 Senators, bipartisan, pleading that we pass these items.

So I ask the Senator, with this kind of broad support—there is really no opposition to the substance of this—what is holding it up, and what are the prospects in these final few minutes of this session of Congress that we are going to be able to disgorge this tonight?

Mr. BURNS. I say to the Senator, I don't know exactly what is going on. We know some of the things, but I do not think that is material here. I am just pleading that it gets done. Let's look at the importance of this and our priorities and let's finish our work and go home. To my knowledge, there is not anything any more important than that we finish this, for the simple reason we have schools and libraries now that are receiving no payments. There are no payments until we pass this legislation. With the support of the administration we should be moving this legislation.

There are some who think it should be an appropriated account. It was never in an appropriated account. This money was not collected as taxes. It was collected for a particular purpose.

So I say, they signed the letter. My colleague from Florida is exactly right, and the Senators who signed the letter are exactly right.

Mr. NELSON of Florida. Will the Senator further yield for a question?

Mr. BURNS. I am happy to yield.

Mr. NELSON of Florida. Mr. President, I thank the Senator. I ask the Senator regarding the objection that is being raised, what is the chance that that objection will be lifted and that we will be able tonight to pass this legislation that is so needed?

Mr. BURNS. I tell my good friend from Florida that negotiations are currently underway.

Mr. NELSON of Florida. Very good.

Mr. BURNS. We are talking. I think we are going to get this resolved.

Mr. NELSON of Florida. Then, I say to the Senator, Godspeed.

Mr. BURNS. I want to say something. The Senator from Florida has been working with my cochair. The cochair on the Internet caucus is Senator CLINTON from New York. I will tell the Senator, the Senator from New York has just been an absolute champion on this because she understands upstate New York and she understands her rural areas. She doesn't just understand downtown New York. That might be the political base but, nonetheless, when she was elected as a Senator she all at once realized, and came to me and said: I have a rural area that I have to serve.

She has been very diligent. She has worked very hard, especially on the other side of the aisle.

I appreciate the contribution of the Senator from Florida, and I thank Senator CLINTON for her cosponsorship and her work, as well as many other colleagues who have worked with me—Senator LOTT, Senator FRIST, Senator SUNUNU, and many others who worked to improve this legislation. They, too, place it very high on the priority list of items that should be passed before we go home. The cochairs of the E–911 caucus, Representative SHIMKUS and Representative ESHOO in the House, who have been tireless advocates, along with Representative CHIP PICKERING and many other Representatives—JOE BARTON has been a champion on this issue. We have been working on E–911 issues for many years now, and we all agree this is a good product and the final product we can have this year.

Mr. President, E–911 services are about as clear an example as you can get of Congress acting in the public interest and in the interest of public safety as we could possibly have. If someone dials 9–1–1 from a cell phone, that person's location should be transmitted to a public safety answering point so the police, fire, or rescue first responders can know exactly not only what to do—they already know what to do—and where to go. How do we find this dialer of 9–1–1?

When we first started to look at emergency services, we found out that 9–1–1 was not the national norm for an emergency number. We found many numbers, in many different areas. Basically, what we did was we nationalized 9–1–1. We said no matter where you are and what your circumstances are, 9–1–1 will be the national emergency number. So when we take a look at this, this technology will save lives. It is already saving lives. E–911 services are already being rolled out in this country, and this bill authorizes some more

money, about $250 a year for 5 years in matching grants made to appropriate entities so that progress will occur more rapidly in the next phase of implementation of those two technologies.

So I ask my colleagues to not only help us but to take these three essential parts of this piece of legislation and pass it, and let's send it to the President for his signature. I think that is about the best Christmas gift we could give to people who rely on emergency services.

RETIREMENT OF BOB GRAHAM

Mr. BURNS. Mr. President, I appreciate the good works of my good friend from Florida. I see both Florida Senators are in the Chamber. Of course, Senator GRAHAM is just about to close out his career in this Senate, and he will be missed. He was one of my neighbors when I first came here some 16 years ago, when they were living just not too far down the street. So I appreciate him and all the talents and the contributions he has made to this body and to the country.

I hope he is successful in the Black Angus business in Florida. He will be going back to his beloved ranch and probably do a little writing, get a little philosophical. I know he has done that at times. He can do it in an environment that is befitting a retired Senator. We appreciate him.

We do not say goodbye in our part of the country. We just say so long. Our trails will cross one of these days.

The PRESIDING OFFICER. The Senator from New Jersey.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CORNYN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CORNYN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURNS). Without objection, it is so ordered.

INTELLIGENCE REFORM BILL AND COMPREHENSIVE IMMIGRATION REFORM

Mr. CORNYN. Mr. President, I want to say a few words about what we have done here today in passing the intelligence reform bill and say that I support this effort. It was a difficult but necessary step to making America safer.

I do not believe we should fool ourselves to think we have actually finished the job. By that I mean I think some of the objections that had been made to this legislation or I should say some of the proposals for additional measures that were excluded from this bill, I believe, were well taken. Specifically, what I am talking about is some of the security challenges relative to our immigration system, our broken immigration system.

I know many Americans would be shocked to learn that the 19 9/11 hijackers had a total of 63 validly-issued U.S. driver's licenses. Because of this astounding fact, the 9/11 Commission recommended, on page 390:

> The federal government should set standards for the issuance of birth certificates and sources of identification, such as driver's licenses. Fraud in identification documents is no longer just a problem of theft.

The Commissioners aptly pointed out that ''For terrorists, travel documents [can be just] as important as weapons.''

I am pleased the conference report that we have voted on today and passed overwhelmingly includes some needed enforcement measures. But, as I say, I do not believe we should stop there. I strongly believe that issuing driver's licenses to individuals who are not lawfully present in our country has the potential of posing a national security risk in a post-9/11 world.

The example I just mentioned about the 9/11 terrorists: It is well documented that Mohamed Atta had a driver's license that was valid beyond the date of the expiration of his visa. Inasmuch as he had been stopped for an ordinary traffic violation, a lapsed driver's license, if its lapse was concurrent with the end of his visa, would perhaps have raised a signal which would have caused some additional questions to be answered. Of course, I do not want to speculate what the outcome of that would be, but it makes sense to me, and I think it makes sense to most people, that why in the world would you issue a driver's license to someone who is not lawfully present or allow that driver's license to extend beyond the date of their visa?

Driver's licenses, after all, are used for access to airplanes all across this Nation; therefore, invalid driver's licenses held by someone not lawfully present, or perhaps even fraudulent documentation, pose a potential terrorist threat. We know that documents like a driver's license also function as a breeder document that is used to obtain other official documents, blurring the line between those who are in the United States legally and those who are not lawfully present. Without strong standards for driver's licenses, we ignore the clear security threat of fraudulent documents.

For all these reasons, I submit that our work here is not yet finished until we begin to address this potential threat.

We are a nation of immigrants, but we are, at the same time, a nation of laws, or at least we claim to be. But when America fails to enforce its own laws, it becomes more and more difficult to claim, with a straight face, that we are indeed a nation of laws.

We should have no qualms and make no excuses to anyone about enforcing our laws in pursuit of our Nation's security, and as the Commissioners of the 9/11 Commission pointed out, immigration reform goes hand in hand with protecting our security. We should not allow ourselves to be distracted or our attention to be diverted from these critical issues. No, Mr. President, border security is not anti-immigrant. As Speaker HASTERT has said:

> Immigrants to America are as victimized by terrorists as American citizens.

I hope we will work promptly next year to carefully reconsider the enforcement measures included in the House bill that are not included in today's conference report.

Let me mention some of those provisions in the bill that was passed by the House but which are not included in the conference agreement that we have passed.

No. 1, the House required, but this bill does not include, a requirement that applicants for driver's licenses show proof of legal status in the United States. It does not contain the House requirement that temporary licenses should include a requirement that a license term should expire on the same date as a visa or other temporary lawful presence authorizing document and that the face of the card should show the expiration date.

This bill does not require, but we should require in future legislation, that the Department of Homeland Security certify that States have met minimum driver's license issuance and document standards.

This bill does not contain, but should contain, or at least future legislation should contain, provisions providing for the electronic confirmation by State motor vehicle departments of the validity of other States' driver's licenses and information.

This conference report does not contain but should contain and I hope future legislation will require that half of our new immigration investigators should focus on enforcing our existing immigration laws and requiring that each State receive at least three of the new State immigration investigators.

We should also require limits on judicial review of visa revocations. We should make it more difficult for terrorists and foreign criminals to win delays of their removal from the United States. We should explicitly require verification of certain information—such as identity, mother's maiden name, or other information—for the issuance of birth certificates accepted by a Federal agency. And we should require that the States adopt standardized practices for how they secure vital records offices.

Mr. President, I believe that common sense tells us that each of these provisions should be the law of the land, and I regret they were not able to be included in this legislation. But certainly all that means is that our work is not yet done, and we have much left to do.

I support the measures in the House bill that I have mentioned that were not included in this conference report. But the truth is, we need comprehensive immigration reform. I come from a border State, one with a 1,200-mile border with Mexico, and we know that

Mexico's back door is the front door to Central America and beyond into South America, and that many of our immigration challenges come from south of the Texas border, which is, of course, an international border between the United States and our neighbor Mexico. It is well documented that we have approximately 10 million people who are illegally in this country who have come from south of the border and other places around the world.

Here again, I don't know how we can say with a straight face that we are a nation of laws while at the same time ignoring this fact. I know it won't be easy. Indeed, like so many other challenges that face our Nation, few of these issues are easy.

I know next year we will be dealing with things such as Social Security reform, tax simplification, and winning the war on terrorism. None of those issues are easy, but we don't give that as an excuse for failing to do our duty as Senators. I hope we will not make weak and empty excuses for failing to do our duty when it comes to immigration reform.

The need for immigration reform is apparent when we look at the challenges we confront in a post-9/11 world. There are some who say: We can solve our immigration problems by building a wall between the United States and Mexico or we could do it by deploying troops along our border.

That is a vain hope and expectation, if indeed people are truly serious about that. The fact is, when you have one of the poorer nations of the world right next door to the richest nation, people who have no hope and no opportunity where they live will do whatever it takes to provide hope and opportunity to their families. You cannot build a wall high enough or wide enough to keep people out of this country who know only despair and who have no opportunity where they live.

I believe we need to deal comprehensively with this issue in a pragmatic way, a way that allows us to call ourselves a nation of laws, and create a legal framework that allows us to deal with the present reality of our reliance on immigrant labor, some 6 million in the workforce in America doing jobs in many instances that American citizens would not want to do.

All you have to do is travel to construction sites all across the country. Go to the hotels, the restaurants, to the lawn service companies, whatever the nature of the business may be, you will find—and we know they are there—immigrants who have come from other countries who ask for nothing more than the opportunity to work. We need and rely on that labor.

At the same time the demands of homeland security cry out for an accounting of who is in our country and why they are here. While I suspect—indeed I believe—the vast majority of these people who have come here illegally are here because they want nothing more than to work and the opportunity to provide for their families, what we need to do is account for everyone who is here, why they are here, what their intentions are, and to make sure that those who are a threat to our country are deported or not allowed to come into our country in the first place.

In order to deal with this issue—both our homeland security, our border security, and our economic reliance on the contributions that immigrant labor provides and that are important to our economy—we need to approach this entire question with a dose of common sense and pragmatism that unfortunately has been missing for so long.

Most of the people who talk about immigration today, I am afraid to say, are special interest groups that try to scare the American people or, frankly, misrepresent the facts about this important issue. Comprehensive immigration reform will allow our law enforcement officials to concentrate on those who are indeed a threat while acknowledging the contributions that immigrants make to our economy, but under a lawful framework which allows us to regain our status as a nation of laws.

To that end, last summer, I introduced the Border Security and Immigration Reform Act that would create a temporary worker program, allowing immigrants to work in the United States for a limited time, then return to their home country with the skills and the savings that they have earned. The most important aspect of that bill is that it is a work and return program. It is not a pathway to legal permanent residency in the United States, nor is it a pathway to citizenship.

It is not amnesty. I would not support a bill that provides amnesty for those who are not lawfully present in the United States. I believe what this does is address both the reality on the ground in places such as my State and even the great State of Montana, represented by the current occupant of the chair. Immigrants make a tremendous contribution to the workforce and the economy of all of our States.

I also believe that the work and return component is important because the fact is, if we are ever going to do anything about the root causes of immigration, we are going to have to support the efforts of the nations that supply these immigrants to help build their own economy and to create opportunity and jobs. If we don't do that, then the drain of the risk takers, the young and able-bodied, the people every economy depends upon in order to do the work and to help boost the economy and create opportunity, will continue, and we will never be successful.

I believe both for our purposes and for the purposes of those countries that supply immigrant labor to the United States, it is important that we have a work and return requirement. I plan on reintroducing this measure when we return in January. I believe this proposal will enhance America's border security and homeland security by allowing law enforcement to focus on the true threats to America and those who intend to do us real harm.

There are as many as 10 million individuals already present in this country illegally. Our homeland security demands an accounting of the identity of these individuals and their reason for being here and a judgment as to whether they pose a danger to our citizens.

While I believe we have done a good thing here today and that we have met the request of the 9/11 families and the 9/11 Commission to deal with their concerns in this bill, we have not yet finished the job. Indeed, I don't believe we can claim we have finished the job until we deal comprehensively with immigration reform. I know it is going to take a lot of discussion. This is a controversial area, but I know the American people will benefit from a discussion in Congress and from our understanding of what their concerns are so we can try to achieve a national consensus to deal with this issue which we have neglected for far too long. It is because we have neglected it that we are not as safe as we should be; nor can we justly claim to be a nation of laws while we ignore this present violation, and ignoring those laws when it has to do with the immigrants in our country.

Mr. President, I will talk more about this in January when we return but I did not want the occasion to pass without making these few comments.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. CORNYN). In my capacity as a Senator from the State of Texas, I ask unanimous consent that the order for the quorum call be rescinded.

Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

The PRESIDING OFFICER. In my capacity as a Senator from the State of Texas, I ask unanimous consent that the Senate recess subject to the call of the Chair.

There being no objection, the Senate, at 7:36 p.m., recessed subject to the call of the Chair and reassembled at 8:05 p.m. when called to order by the Presiding Officer (Mr. BURNS).

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, so our colleagues will know the plans for the next few minutes or next hour or so, we will be going sine die later this evening. There is still some business we are conducting and wrapping up. For the next few minutes, we will have some unanimous consent requests. We

will deal with that, after which I will make a statement or two while that pending business is being wrapped up.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations on the calendar: Calendar Nos. 588 and 865.

I further ask that the following nominations be discharged from the respective committees and they be considered en bloc: From the Foreign Relations Committee, PN–2052 and PN–2053, which are two lists of Foreign Service officers, for a total of 309 nominations; from the HELP Committee, PN–1675, Veronica Stidvent, Assistant Secretary of Labor; from the Energy Committee, PN–1839, Karen Harbert, Assistant Secretary of Energy; PN–1851, John Shaw, Assistant Secretary of Energy.

I further ask consent that the nominations be confirmed en bloc, the motion to reconsider be laid upon the table, that the President be immediately notified of the Senate's action, and the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF ENERGY

Susan Johnson Grant, of Virginia, to be Chief Financial Officer, Department of Energy.

DEPARTMENT OF JUSTICE

William Sanchez, of Florida, to be Special Counsel for Immigration-Related Unfair Employment Practices for a term of four years.

DEPARTMENT OF STATE

Donna Lurline Woolf, of the District of Columbia

For appointment as Foreign Service Officers of Class Four, Consular Officer and Secretary in the Diplomatic Service of the United States of America:

DEPARTMENT OF STATE

Nancy E. Abella, of Connecticut
John Aloia, of New Jersey
Alexander Neville Ave Lallemant, of Texas
Kay Gilbrech Barton, of Texas
Dena D. Brownlow, of the District of Columbia
Cathleen Elizabeth Carothers, of Kansas
Charles Gardner Chandler IV, of Texas
Peter Thompson Chisholm, of Florida
Derek Shane Christensen, of California
Amanda Beth Cronkhite, of New York
Monica Lyn Cummings, of California
Evan Tait Felsing, of California
Li Gong, of Virginia
Glenn James Guimond, of California
Kent C. Healy, of Connecticut
Nicholas J. Hilgert III, of Virginia
John J. Hillmeyer, of Missouri
Charles David Hillon, of Virginia
Darren William Hultman, of California
Debra Irene Johnson, of Virginia
Dana Michele Linnet, of California
Stella C. Lutter, of Florida
Darren A. Martin, of Virginia
Katherine Marie McGowen, of Alaska
Randall Todd Merideth, of Minnesota
Susan Michelle Meyer, of Nebraska
Sara Lilli Michael, of California
Matthew Christian Miller, of Virginia
Kimberly A. Murphy, of Florida
Hector Nava, of Texas
Heather Lynn Noss, of California
Matthew E. O'Connor, of Texas
Christopher James Panico, of Connecticut
John Benton Parker, of Florida
Scott R. Riedmann, of Ohio
Hugo F. Rodriguez Jr., of Virginia
Stephen I. Ruken, of Texas
Edwin S. Saeger, of Maryland
Nomi E. Seltzer, of New York
Matthew David Smith, of New Hampshire
Julie A. Stinehart, of Wyoming
Michael D. Sweeney, of California
Catherine Elizabeth Sweet, of Washington
Michael David Toyryla, of California
Nikolas Michael Trendowski, of Michigan
Seth H. Vaughn, of New York
Lucia Clelia Verrier, of New Hampshire

The following-named Members of the Foreign Service to be Consular Officers and/or Secretaries in the Diplomatic Service of the United States of America, as indicated:

Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

DEPARTMENT OF COMMERCE

Brent E. Omdahl, of Texas

DEPARTMENT OF STATE

Ralph C. Ahlers, of the District of Columbia
Jacob F. Appleton, of the District of Columbia
Daniel Vartan Arakelian, of Michigan
Tammy McQuilkin Baker, of Florida
Regina Anne Bateson, of California
Jeffrey A. Beals, of New York
Keith B. Bean, of New Jersey
Philip M. Beekman, of Michigan
Mieczyslaw P. Boduszynski, of California
James Michael Bonikowski, of Virginia
Katherine Anne Branding, of Virginia
Jamar Phillip Broussard, of California
Maria Del Rosario Rodriguez-Diaz Butcher, of West Virginia
Andrea Michelle Cameron, of Virginia
Ryan T. Campbell, of California
Vincent M. Campos, of California
John L. Canady, of Florida
Laura Anne Cansicio, of California
Jared S. Caplan, of Florida
Kenneth Patrick Chavez, of Texas
Matt Butler Chessen, of California
Grace H. Choi, of California
John Choi, of California
Ryan P. Cooper, of Virginia
Robert J. Dahlke, of Maryland
Daniel A. Davila, of Texas
Daniel Kenneth Delk Jr., of Georgia
David S. Feldmann, of Maryland
Kara Van de Carr French, of Louisiana
Brian Michael Frere, of Florida
Daniel C. Gedacht, of Massachusetts
Leon W. Gendin, of Florida
Tonya Woytowich Gendin, of Florida
Kevin Edward Gonzales, of Maryland
Nathan S. Halat, of New York
Stephanie Lynne Hallett, of Florida
Thomas Edward Hammang Jr., of Texas
Michelle F. Hams, of Puerto Rico
Brian B. Himmelsteib, of New Jersey
Ariel N. Howard, of Louisiana
Douglas M. Hoyt, of the District of Columbia
Margaret E. Hsiang, of New Jersey
Bonnie Lee Hunter, of Virginia
Antoinette Christine Hurtado, of California
Anna Sunshine Ison, of North Carolina
Mary Beth Keane, of Virginia
Teri L. Keas, of Kansas
Rebecca N. Kinyon, of New York
Holly Ann Kirking, of Wisconsin
Payton Lucas Knopf, of the District of Columbia
Tomika Konditi, of Maryland
Rachna Sachdeva Korhonen, of New Jersey
Molly Rutledge Koscina, of Washington
Jon A. Larsen, of Oregon
Elizabeth M. Lawrence, of Illinois
Annie S. Lee, of California
Theresa Loong, of New York
Anita Lyssikatos, of New Hampshire
Patrick M. Mackin, of Virginia
Michael A. Mazzocco, of Virginia
Timothy Ray McGowan, of Virginia
Sean J. McIntosh, of New York
Daniel L. McManus, of Florida
Lioudmila Millman, of Virginia
Molly C. Montgomery, of Oregon
Jessica Nicole Munson, of Minnesota
Chad R. Norberg, of Florida
Mary Jane O'Brien, of Virginia
Sadie Marie Okoko, of Maryland
Angela P. Pan, of California
Seth L.P. Patch, of Massachusetts
Charlotte Audrey Poloncsik, of Virginia
Shannon D. Quinn, of Florida
T. Clifford Reed, of Texas
Kyle Richardson, of Iowa
Susan Jean Riggs, of Virginia
John Thomas Rivera-Dirks, of New Mexico
Gregg Allen Roberts, of Virginia
Brenda C. Ruth, of Colorado
Stetson A. Sanders, of the District of Columbia
Shigh Luke Sapp, of California
Caroline Savage, of Wisconsin
Addie B. Schroeder, of Kansas
Jeffrey A. Shelstad, of Virginia
Daniel E. Slusher, of Kansas
Brian T. Smith, of Indiana
Deborah Buddington Smith, of Connecticut
Tashawna S. Smith, of New Jersey
Alys Louise Spensley, of Minnesota
Anne Marie Staszecki, of Virginia
Michael Anthony Stevens, of Florida
Terrence Clare Stevens, of Virginia
Michael Stewart, of Oregon
Nancy Elizabeth Talbot, of New York
Mark Hamilton Thornburg, of the District of Columbia
Elaine H. Tiangco, of Nevada
Dennis Dean Tidwell, of Tennessee
Kevin J. Tierney, of Virginia
Michael J. Tran, of Kansas
Tina Tran, of Oklahoma
Ian Adam Turner, of Maryland
Linnisa Joya Wahid, of Maryland
Susan F. Walke, of Virginia
Mark Allen Weed, of Virginia
Tonia N. Weik, of Texas
April S. Wells, of Alabama
Russell J. Westergard, of Utah
David L. Wyche, of Pennsylvania

The following-named Career Member of the Foreign Service of the Department of State for promotion in the Senior Foreign Service to the Class indicated:

Career Member of the Senior Foreign Service, Class of Counselor, in the Diplomatic Service of the United States of America:

Lisa Bobbie Schreiber-Hughes, of Pennsylvania

DEPARTMENT OF STATE

Cynthia A. Haley, of Maryland

For appointment as Foreign Service Officers of Class Four, Consular Officer and Secretary in the Diplomatic Service of the United States of America:

DEPARTMENT OF STATE

Diana J. Haberlack, of Washington
Micah L. Watson, of Maryland

The following-named Members of the Foreign Service to be Consular Officers and/or Secretaries in the Diplomatic Service of the United States of America, as indicated:

Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

DEPARTMENT OF COMMERCE

John F. Coronado, of California

Mark C. O'Grady, of Maryland

DEPARTMENT OF STATE

Sarah Ahmed, of New York
John Stanley Anthony, of Virginia
Mara Sunshine Andersen, of Colorado
Karen Andrus, of Texas
Miriam Laila Awad, of Texas
Cynthia Balazs, of the District of Columbia
Jared Banks, of Maryland
Anne W. Benjaminson, of California
John Charles Bergemann, of Virginia
Oni Kay Blair, of Texas
Douglas E. Blandford, of Maryland
Cecily R. Brewster, of California
Kelly W. Brimhall, of Utah
Russell Kenneth Brooks, of New Jersey
Frederick E.N. Brust, of New York
Andrew A. Buntrock, of the District of Columbia
Ania Burczynska, of Washington
Brent Burkman, of Virginia
Benjamin Cade Canavan, of Florida
Donald Leroy Carroll, of Idaho
Marcus Evan Cary, of Washington
Anamika Chakravorty, of California
Akunna E. Cook, of New Jersey
Kimberly Coulter, of the District of Columbia
Christopher J. Cova, of Virginia
Mario Crifo, of Texas
Nigel A. De Coster, of Virginia
Jacqueline S. Deley, of California
Brian E. Denver, of Virginia
Vito DiPaola, of Georgia
Robert F. Doughten, of Montana
Caroline Grace Dow, of Pennsylvania
Timothy W. DuBoff, of Virginia
Rochelle C. East, of California
Linda A. Fenton, of Kansas
Andrea R. Ford, of Virginia
Kevin M. Ford, of Virginia
Scott Freeman, of Virginia
Andrew S. Gralnek, of Virginia
Elaine M. French, of New York
David Hardt Gamble Jr., of Virginia
Alexander C. Gazis, of New York
Suzanne L. Gordon, of Michigan
Katherine Anne Greeley, of California
Mary Katherine Harding, of the District of Columbia
Scott M. Harney, of Virginia
Christopher James Harris, of Virginia
Barbara Ann Harrison, of Arizona
Holly M. Harvey, of Virginia
Robert H. Helton III, of Virginia
Gary A. Herman, of Virginia
Marla J. Hexter, of Massachusetts
Patrick J. Hickey, of Virginia
Brian R. Hillberry, of West Virginia
Marcus A. Hirsch, of Virginia
Phuong Thao Thanh Hong, of Washington
Christopher Drew Hoster, of Oregon
Karen W. Hsiao, of Utah
Rodney M. Hunter, of Indiana
Heather Lynn Jambrosic, of Virginia
Donald S. Jones, of Virginia
Paul Ivan Jukic, of Ohio
Heather E. Kalmbach, of Pennsylvania
Sean Peter Kanuck, of Virginia
Ashish Katkar, of Virginia
Yolanda V. Kerney, of the District of Columbia
Sharon S. Ketchum, of Arizona
Ann Moonju Kim, of California
Kristin Louise Kneedler, of Maryland
Daniel David Koski, of Illinois
Kenneth A. Kresse, of Virginia
Bonnie Dee Langendorff, of Virginia
Brian E. Kressin, of the District of Columbia
L. Dale Lawton, of Nevada
Andrew T. Lee, of California
Benjamin A. Le Roy, of California
John Lombard, of Virginia
Bryan P. Lopez, of Virginia
Edward Paul Luchessi, of California
Todd Harry Lundgren, of Washington
Kimberly A. Ly, of California
Matthew M. Marlowe, of Virginia
La Tranda Shontell Martin, of Georgia
Lisa R. McCumber, of Texas
Stacey Dawn McDonald, of West Virginia
Colin C. McDuffie, of Virginia
Amy Medeiros, of Virginia
Jessica Megill, of California
David C. Metzler, of Virginia
John C. Moor, of Texas
Gregory L. Naarden, of Texas
Cheryl L. Neely, of Tennessee
Michael Thomas Nestor, of Virginia
Long Thuy Nguyen, of California
Martha A. Nicholson, of Virginia
Liam J. O'Flanagan, of New York
Melinda M. Pavek, of Minnesota
Raimonds Pavlovskis, of New York
John C. Pernick, of Virginia
Paul W. Piatkowski, of Pennsylvania
Wynn S. Pinkston, of Virginia
Francisco Pinol, of Virginia
Kristyna L. Rabassa, of Michigan
Anna Radivilova, of California
Brian A. Raymond, of Maryland
Christian W. Redmer, of Tennessee
Zeba Reyazuddin, of the District of Columbia
Corrie H. Robb, of California
Randall Arthur Robinson, of Florida
Sabah Roth, of Virginia
Laura Kay Rugg, of Virginia
Kimberly A. Russell, of Pennsylvania
Dovas Algis Saulys, of Illinois
Leah F. Schandlbauer, of Virginia
Jody K. Schauer, of Texas
Susan K. Silvers, of Virginia
Mordica M. Simpson, of Virginia
Siri Lynn Sitton, of Florida
David R. Smith, of Virginia
Dee Anna Smith, of the District of Columbia
Robin Diane Solomon, of Texas
Erica Leigh Stillwell, of Florida
M. Victoria Sturdivant, of Georgia
Krista D. Tacey, of Texas
James D. Telfer, of Virginia
Yodchiwan Dew Tiantawach, of Oregon
Matthew A. Tolliver, of Florida
Jessica Marie Torres, of Florida
Eric Turner, of Virginia
Richard J. Tyler, of Virginia
Andrew Vaden, of Texas
Jennifer R. Van Trump, of California
Rajeev M. Wadhvani, of the District of Columbia
Peter G. Warmka, of Florida
Carl Thomas Watson, of New York
Gina M. Werth, of Nevada
Dianne Kaye West, of South Dakota
Alexander E. L. Whittington, of Texas
Scott R. Williams, of Virginia
Allison Yezril, of the District of Columbia
Christine M. York, of Virginia
Jonathan E. Young, of Virginia
Sara Shirley Yun, of Virginia
Elisabeth F. Zentos, of Ohio

The following-named Career Member of the Foreign Service of the International Broadcasting Bureau for promotion in the Senior Foreign Service to the class indicated:

Career Member of the Senior Foreign Service, Class of Counselor, in the Diplomatic Service of the United States of America:

Wilford H. Cooper, of Virginia
Walter D. Patterson, of South Carolina

DEPARTMENT OF LABOR

Veronica Vargas Stidvent, of Texas, to be an Assistant Secretary of Labor, vice Chris Spear, resigned.

DEPARTMENT OF ENERGY

Karen Alderman Harbert, of the District of Columbia, to be an Assistant Secretary of Energy (International Affairs and Domestic Policy), vice Vickey A. Bailey.

John S. Shaw, of the District of Columbia, to be an Assistant Secretary of Energy (Environment, Safety and Health), vice Beverly Cook, resigned.

NOMINATION OF WILLIAM SANCHEZ

Mr. DURBIN. Today the Senate confirmed William Sanchez to be the Special Counsel for Immigration-Related Unfair Employment Practices in the Civil Rights Division of the U.S. Department of Justice. I do not oppose his confirmation, but I have serious concerns about the Justice Department's decision in September to postpone an important, statutorily-authorized grant program until Mr. Sanchez's confirmation. Now that Mr. Sanchez has been confirmed, I urge the Justice Department to reinstate the grant program at once.

This Civil Rights Division grant program plays a critical role in protecting the rights of immigrant workers. Every year since 1991, nonprofit organizations throughout the Nation have received these grants to educate workers about their rights to a workplace free of discrimination and abuse. These organizations play a vital role in educating employers and the public about the civil rights and immigration laws Congress has passed to protect U.S. citizens, lawful permanent residents, refugees, and asylees.

In July, the Justice Department publicly announced that 13 organizations from around the country would receive a grant in 2004. Several of the intended grantees, including Chicago-based Heartland Alliance for Human Needs & Human Rights, acted in good faith reliance on the Justice Department's grant announcement and made hiring and resource allocation decisions accordingly.

In September, however, the Justice Department announced that it had decided to postpone the grant program without explanation. Senator LEAHY, Senator KENNEDY, and I wrote to the Justice Department seeking an explanation for their decision and requesting that they reconsider it.

In October, the Justice Department responded with a letter indicating that the grant program would be reinstated once the Senate confirmed Mr. Sanchez, who would head the Civil Rights Division office that administers the grant program. Although I disagree with this decision to delay the grant program until Mr. Sanchez's confirmation, I was pleased by the Justice Department's assurance that they intended to continue the program once Mr. Sanchez assumes his office.

Today, in the wake of Mr. Sanchez's confirmation, Senator LEAHY, Senator KENNEDY, and I wrote again to the Justice Department, urging Mr. Sanchez and the Civil Rights Division to follow through with the commitment made to the 13 intended grantees in July. We requested that the grants be issued by the end of the calendar year.

I ask unanimous consent to have printed in the RECORD the letter regarding this important grant program that Senator LEAHY, Senator KENNEDY, and I sent to the Justice Department today, as well as the other correspondence to which I have referred.

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

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, December 7, 2004.

Hon. R. ALEXANDER ACOSTA,
Assistant Attorney General, Civil Rights Division, U.S. Department of Justice, 950 Pennsylvania Ave., NW., Washington, DC.

DEAR MR. ACOSTA: We are in receipt of a letter dated October 13, 2004 from Assistant Attorney General William Moschella addressing our concerns about the postponement of the Civil Rights Division's public education grant program administered by the Office of Special Counsel for Immigration-Related Unfair Employment Practices.

We are encouraged by the Justice Department's commitment to this important, statutorily-created grant program and by Mr. Moschella's representation that the close of the fiscal year does not affect the Civil Rights Division's ability to award these grants. Although we disagree with your decision to delay the grant program until confirmation of William Sanchez, we are pleased by your assurance that you intend to continue this program once Mr. Sanchez assumes his office.

We write to urge you and Mr. Sanchez to dispense $745,000 by the end of this calendar year to the 13 nonprofit organizations who reasonably believed they had been promised this grant money in July. As we indicated in our letter of September 29, 2004, these 13 organizations had strong reason to believe that they would receive a grant by the end of the fiscal year. Many of them made resource allocation decisions in good faith reliance on the Department's July announcement.

Please provide assurance that the 13 organizations promised 2004 grant money will receive their grants by the end of the calendar year, and that the grant program will be administered in 2005 without delay or postponement.

Sincerely,

DICK DURBIN,
United States Senator.
PATRICK LEAHY,
United States Senator.
TED KENNEDY,
United States Senator.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, October 13, 2004.

Hon. RICHARD J. DURBIN,
Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR DURBIN: This is in response to your letter of September 29, 2004, inquiring into the status of the public education grant program operated by the Civil Rights Division's Office of Special Counsel for Immigration-Related Unfair Employment Practices (''OSC''). We are sending a similar response to the co-signatories of your letter.

The Department shares your view as to the importance of this program. Our outreach and training program is an important component of our overall effort to address the serious problem of immigration-related employment discrimination. We intend to continue this program when the President's nominee for Special Counsel, William Sanchez, assumes his office. Once confirmed, Mr. Sanchez will have discretion with regard to when and whom to award grant monies.

Your letter specifically asked whether funding for the grants would be available after September 30, 2004. As you are aware, although OSC's authorizing statute includes an authorization for up to $10,000,000 per fiscal year to implement and operate the public education program, no appropriation has been made for the program. Nonetheless, the Department believes that this program is important, and each year has used funds appropriated for salaries and expenses for the Department's legal activities (e.g., Supreme Court proceedings, tax and criminal matters, etc.) to support a public outreach campaign to disseminate information respecting the rights and remedies available to workers under OSC's statutes. As a result, the close of a fiscal year does not affect the Division's ability to award grants.

Your letter notes with just concern that some of the grant recipients may have relied on the Department's July 15, 2004, press release. As is the case with all such decisions, the Department took steps to make sure that no group improperly relied on such a preliminary announcement. Enclosed with this letter please find correspondence directed to each of the groups named in that press release. As you will see, the award announcements at that time were ''provisional'' only, and remained ''conditioned on the successful completion of a general background and financial review to be conducted by the Office of the Comptroller, Office of Justice Programs (OJP).''

If we can be of assistance in other matters, please do not hesitate to contact the Department.

Sincerely,

WILLIAM E. MOSCHELLA,
Assistant Attorney General.

Enclosure.

U.S. DEPARTMENT OF JUSTICE,
CIVIL RIGHTS DIVISION,
Washington, DC, September 16, 2004.

Ms. VANNA SLAUGHTER,
Catholic Charities of Dallas, Immigration Counseling Services, 5415 Maple Avenue, Suite 200, Dallas, TX.

DEAR MS. SLAUGHTER: I write to inform you that Office of Special Counsel's public education grant program and the grantee training conference scheduled for September 29–30, is being postponed until later in the year.

If your organization was awarded a grant by the Office of Special Counsel in 2003 that has remaining funds, please immediately request from us a ''no cost extension through December 31, 2004.'' This extension will permit your organization to have continued use of those funds through December 31 of this year. Please send your request via e-mail to krupakar.revanna@usdoj.gov no later than September 20, 2004.

We appreciate your cooperation and understanding.

Sincerely,

LORETTA KING,
Deputy Assistant Attorney General.

U.S. DEPARTMENT OF JUSTICE,
CIVIL RIGHTS DIVISION,
Washington, DC 20530, June 30, 2004.

Re Grant Award for Antidiscrimination Outreach Public Education Campaign

MS. SONIA HARB,
Director, Arab Community Center for Economic & Social Services, 2651 Saulino Ct., Dearborn, MI.

DEAR MS. SONIA HARB: thank you for your proposal to conduct a public education program on the antidiscrimination provisions of the Immigration and Nationality Act. I am pleased to inform you that your organization has been provisionally selected as a recipient of a grant in the amount of $60,000. Final acceptance of your proposal will be conditioned on the successful completion of a general background and financial review to be conducted by the Office of the Comptroller, Office of Justice Programs (OJP). You will soon be contacted by officials from that office. The grant award may also be conditioned on your acceptance of any additional modifications of your proposal that prove necessary. We expect the final processing to be completed promptly. Please respond quickly to any questions that OJP may have.

You will hear from us again shortly with more details about the grant. The training seminar for grantees is tentatively scheduled for September 29–30, 2004, in Washington, D.C. We will get back to you with more information about that as soon as arrangements are finalized.

Grantees play a major role in accomplishing the mission of the Office of Special Counsel. We value our grantee partnerships greatly and look forward to working with you. If you have any immediate questions, please feel free to call Lilia Irizarry, our Acting Public Affairs Specialist, at 202–616–5594 or toll-free at 1–800–255–7688.

Sincerely,

KATHERINE A. BALDWIN,
Deputy Special Counsel.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, September 29, 2004.

Hon. R. ALEXANDER ACOSTA,
Assistant Attorney General, Civil Rights Division, U.S. Department of Justice, 950 Pennsylvania Ave., NW, Washington, DC.

DEAR MR. ACOSTA, we recently learned that the Civil Rights Division has decided to postpone indefinitely the public education grant program administered by the Division's Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC), which plays a critical role in protecting the rights of immigrant workers. Staff has contacted the Office of Legislative Affairs about this matter in recent days but has not received an explanation for the decision to postpone this important program. We are very concerned about this decision and are writing to urge you to reverse it immediately. If the grants are not provided to the intended recipients before September 30, 2004—the end of fiscal year 2004—the grant funding may no longer be available.

The OSC grant program is statutorily created, and we understand that Congress has appropriated funding for the grant program since 1991. To our knowledge, this is the first time the grant program has ever been postponed. Furthermore, we are not aware that the Justice Department advised Congress about its intention to postpone this important grant program, prior to its recent decision to do so. Accordingly, we request that you advise us about the authority you relied upon to postpone this statutorily authorized and Congressionally appropriated grant program.

As the attached press release indicates, the Civil Rights Division announced on July 15, 2004 that 13 nonprofit organizations in regions throughout the country would receive a total of $745,000 in OSC grants. These 13 selected grant recipients—ranging from Catholic Charities of St. Petersburg, Florida, to the Arab Community Center for Economic and Social Services in Dearborn, Michigan, to the Central American Resource Center in Los Angeles, to Legal Aid Services of Oregon—have acted in good faith reliance on this announcement and made hiring and resource allocation decisions accordingly.

For example, one selected grant recipient based in Chicago—Heartland Alliance for Human Needs & Human Rights (in partnership with the Chicago Interfaith Committee on Workers Issues)—has indicated that it may have to lay off an employee who was hired in reliance on your grant announcement.

Not only would the 13 organizations be harmed by the loss of this promised grant money, so too would the immigrant communities and employers they serve. Every year for the past decade and a half, nonprofit

groups throughout the nation have received OSC grants to educate workers about their rights to a workplace free of discrimination and abuse. These groups have a vital role in educating employers and the public about the civil rights and immigration laws Congress has passed to protect U.S. citizens, lawful permanent residents, refugees, and asylees. Postponement of the OSC grant program will jeopardize the public's knowledge of their rights, remedies, and responsibilities.

Moreover, it is vital to OSC's mission to continue the grant program. As stated in a June 30, 2004 letter from OSC to intended grant recipients: ''Grantees play a major role in accomplishing the mission of the Office of Special Counsel.'' OSC cannot be as effective if the public does not know about its existence and its role in combating national origin and citizenship discrimination, as well as document abuse and retaliation.

Please respond to our concerns as soon as possible.

Sincerely,

DICK DURBIN,
United States Senator.
PATRICK LEAHY,
United States Senator.
TED KENNEDY
United States Senator.

U.S. DEPARTMENT OF JUSTICE,
CIVIL RIGHTS DIVISION,
July 15, 2004.

JUSTICE DEPARTMENT ANNOUNCES GRANTS FOR TRAINING ON THE PREVENTION OF IMMIGRATION-RELATED EMPLOYMENT DISCRIMINATION

WASHINGTON, DC.—The Justice Department today announced the award of $745,000 in grants to 13 nonprofit groups throughout the country for the purpose of conducting public education programs for workers and employers on the topic of immigration-related job discrimination.

The grants, which range from $35,000 to $80,000, are being awarded by the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) of the Civil Rights Division. Recipients will assist discrimination victims; conduct seminars for workers, employers and immigration service providers; distribute educational materials in various languages; and place advertisements in local communities through both mainstream and ethnic media.

The grant recipients are: Asian Pacific American Legal Center of Southern California in partnership with the Asian Law Caucus, Central American Resource Center (CARECEN), James Madison University, Catholic Charities of St. Petersburg, Florida, Heartland Alliance for Human Needs and Human Rights, in partnership with the Chicago Interfaith Committee on Workers Issues, New York City Commission on Human Rights, in partnership with the New York Immigration Coalition, Legal Aid Society of Mid-New York, Legal Aid Services of Oregon, in partnership with the Oregon Legal Center, Catholic Charities of Dallas, Catholic Charities of Houston, Arab Community Center for Economic and Social Services (ACCESS), AFL–CIO Working for America Institute, National Immigration Legal Support Center.

For more information about protections against employment discrimination based upon citizenship, immigration status, and national origin: call the Office of Special Counsel toll-free at 1–800–255–8155 (employers), 1–800–362–2735 (TDD for hearing impaired); 1–800–255–7688 (workers), 1–800–237–2515 (TDD for hearing impaired); visit the Office of Special Counsel's web site at www.usdoj.gov/crt/osc; or write to:

Office of Special Counsel for Immigration, Related Unfair Employment Practices, Civil Rights Division, U.S. Department of Justice, 950 Pennsylvania Ave. NW, Washington, DC 20038–7728.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

RELATIVE TO THE DEATH OF J. STANLEY KIMMITT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 486, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 486) relative to the death of J. Stanley Kimmitt, Former Secretary of the Senate.

There being no objection, the Senate proceeded to consider the resolution.

STAN KIMMIT

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, I rise to inform our Senate colleagues of the very unfortunate, untimely, and unexpected death of a person last evening who was truly a part of the family of the Senate. Although he was never elected to this body, he served this body with great distinction over a very long period of time and truly was part of the family of this distinguished body. I speak of Joseph Stanley Kimmit, Stan Kimmit, who served this body as Secretary of the Senate with great distinction from 1977 to 1981. Members who served during that period of time know how much he meant to the family of the Senate through his services, through his respect for this institution, for his understanding of the history of how important this institution is to our Nation and to the world.

Prior to that, Stan Kimmit served as Secretary for the majority, as principal floor assistant to Majority Leader Senator Mike Mansfield from the State of Montana from 1966 to 1977. Prior to that, he was the administrative assistant or chief of staff to Senator Mike Mansfield.

Before he served the Senate, he served his country with great distinction in the U.S. Army during World War II. As a captain in the U.S. Army, he was selected to receive the Silver Star medal, the Legion of Merit, the Bronze Star medal and a number of other awards recognizing his service to our great Nation.

It was unfortunate that this man, who had seven wonderful children and a beautiful wife, passed away in a very untimely fashion, and I would just share it with the Senate family this afternoon. He was at a function where I happened to be receiving an acknowledgment of my service to the Senate, and Stan wanted to be there. He wanted to participate. After the principal person who was responsible for the function, the chairman of the Democratic Leadership Council, Al From, made his remarks, Stan stood up and said: May I say something? Of course, the answer was: Absolutely.

He said some very kind things about me, and he said some very kind things about the Senate and this institution and how important it had been in his life. He quoted my predecessor in this body, Russell Long, as saying: When I have a friend, I have a friend, and I will fight for him or her until hell freezes over, and then I will fight on the ice.

That was the kind of friend that Stan Kimmit was. He pointed out that he had to correct Russell Long because Russell Long, when he originally made that quote, I say to my colleagues, did not have the words ''or her.'' It was just ''I will fight for him until hell freezes over,'' and Stan had the duty of saying to Senator Long, You should say him or her, and Russell Long certainly followed his advice.

What I will mention in closing is that last night he spent almost a half hour talking to a young staff person who worked for me, a young lady by the name of Jodi Bannerman, and he sat there and talked about his days in the Senate and what this institution had meant to him and some of the things he has seen in this institution and how it has changed over the years.

He said last night that when he was here, the Senate was truly one big family. It was not segregated. When I say segregated, he was referring to the interaction between the two parties, that it was not two armed camps he was talking about last night, that it was one big family. We had our differences. We fought hard. We stood up for the principles of the party, but it was one big family that he was honored to have been able to serve in the capacity of Secretary of the Senate.

He was telling my young staff person he was very concerned about how he has seen things change, and that was unfortunate, in his mind. He told her there were three principles, three truths he knew to be true, and she wrote this down after she spoke to him: Never sacrifice your principles, never ask for more than you deserve, and never quit one thing until you have something better.

He said that twice in her conversation with him last night. Stan quoted to her the Hamlet quote, ''To thine own self be true,'' as advice that he was giving this young person about her own life.

He did not mention any regrets, only great memories of this great institution, and I think anyone who has had the privilege of either working here or serving here and working as a Member, as I have and as we all have, understands what a great honor this has been. Stan Kimmit personalized that last night.

After he made those remarks, he sat down and never got up. We know that he is happy where he is, and I think part of that happiness is the knowledge that he had the great honor and privilege of serving his country and this great institution.

Mr. COCHRAN. Mr. President, I am deeply saddened by the news of the death of former Secretary of the Senate Stan Kimmitt.

It was just a few weeks ago when I was with him on a trip to Montana and enjoyed swapping stories about his early days as a staff member in the Senate. He was a protege of Senator Mike Mansfield and served for 11 years as Secretary for the majority. Even though he was employed by the Democratic majority at the time, he enjoyed the friendship of Republican Senators, including this Senator.

Stan Kimmitt loved the Senate, and he respected its traditions and its role in our government. He was totally trustworthy.

I extend to his fine family my sincere condolences. His son Jay served for several years as a member of the staff of the Senate Appropriations Committee, and I enjoyed working with him in that capacity. It was also my good fortune to get to be with another son, Bob, when he was our Ambassador to Germany. His other son, Mark, was recently served as the spokesman for our Armed Forces in Iraq.

Stan was very proud of his family, and he had every right to be.

Stan Kimmitt was a wonderful person who reflected credit on the Senate by his dependable, conscientious devotion to his duties and his warm affection for those who served in this body.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 486) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 486

Whereas Stan Kimmitt served with distinction in the United States Army for 25 years, served in combat during World War II in Europe and later in Korea, received the Silver Star, the Legion of Merit, and the Bronze Star for Valor with Three Oak Leaf Clusters, and retired with the rank of Colonel;

Whereas Stan Kimmitt began his service to the United States Senate in 1965 as administrative assistant to Majority Leader Mike Mansfield;

Whereas Stan Kimmitt served as Secretary for the Majority of the Senate from 1966 until 1977;

Whereas Stan Kimmitt served as Secretary of the Senate from 1977 until 1981;

Whereas after a distinguished career in the United States Army, Stan Kimmitt served as an employee of the Senate of the United States and ably and faithfully upheld the high standards and traditions of the staff of the Senate from 1965 until 1981;

Whereas Stan Kimmitt faithfully discharged the difficult duties and responsibilities of a wide variety of important and demanding positions in public life with honesty, integrity, loyalty and humility; and

Whereas Stan Kimmitt's clear understanding and appreciation of the challenges facing the Nation has left his mark on those many areas of public life: Now, therefore, be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of Stan Kimmitt.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of Stan Kimmitt.

MICROENTERPRISE RESULTS AND ACCOUNTABILITY ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3818, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3818) to amend the Foreign Assistance Act of 1961 to improve the results and accountability of microenterprise development assistance programs, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H. R. 3818) was read the third time and passed.

RELIEF OF SUSAN OVERTON HUEY

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3034, introduced earlier today by Senator PRYOR.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3034) for the relief of Susan Overton Huey.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, without intervening action or debate, and any statement relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 3034) was read the third time and passed, as follows:

S. 3034

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

SECTION 1. RELIEF OF SUSAN OVERTON HUEY.

Effective as of October 20, 1990, paragraph (2) of section 376(h) of title 28, United States Code, shall be deemed not to apply to Susan Overton Huey of Little Rock, Arkansas, and the annuity otherwise payable to Susan Overton Huey as specified in such section (but for the operation of that paragraph) shall be deemed to be payable.

COMMEMORATING THE 40TH ANNIVERSARY OF THE WILDERNESS ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Energy and Natural Resources Committee be discharged from further consideration of S. Res. 387 and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 387) commemorating the 40th anniversary of the Wilderness Act.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution and the amendment to the preamble be considered and agreed to, the preamble, as amended, be agreed to, the motion to reconsider be laid upon the table, and any statement relating to the resolution be printed in the RECORD, with the above occurring with no intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 387) was agreed to.

The amendment (No. 4087) was agreed to, as follows:

AMENDMENT NO. 4087

(Purpose: To add additional history relating to the wilderness)

Strike the preamble and insert the following:

Whereas September 3, 2004, marked the 40th Anniversary of the enactment of the Wilderness Act (16 U.S.C. 1131 et seq.), which gave to the people of the United States an enduring resource of natural heritage as part of the National Wilderness Preservation System;

Whereas American explorers Meriwether Lewis, William Clark, and Sergeant York, and Native American guide Sacajawea helped the United States recognize the expanse of American wilderness;

Whereas Native American leaders such as Kiowa Chief Santanta, Chief Luther Standing Bear, and Chief Seattle recognized that the land involved was not in fact ''wild'', but existed as the land should be;

Whereas great American writers such as Ralph Waldo Emerson, Mary Austin, Henry David Thoreau, George Perkins Marsh, Isabella L. Bird, and John Muir joined poets like William Cullen Bryant, and painters such as Thomas Cole, Frederic Church, Frederic Remington, Albert Bierstadt, Georgia O'Keefe, and Thomas Moran to define the United States' distinct cultural value of wild nature and unique concept of wilderness;

Whereas national leaders such as President Theodore Roosevelt reveled in outdoor pursuits and sought diligently to preserve those opportunities for molding individual character, shaping a nation's destiny, striving for balance, and ensuring the wisest use of natural resources, to provide the greatest good for the greatest many;

Whereas luminaries in the conservation movement, such as scientist Aldo Leopold, forester Bob Marshall, writer Howard Zahniser, teacher Sigurd Olson, biologists Olaus, Margaret (Mardy), and Adolph Murie, conservation leader Celia Hunter, and conservationist David Brower believed that the people of the United States could have the boldness to project into the eternity of the future some of the wilderness that has come from the eternity of the past;

Whereas Senator Hubert H. Humphrey, a Democrat from Minnesota, and Representative John Saylor, a Republican from Pennsylvania, originally introduced the legislation with strong bipartisan support in both bodies of Congress;

Whereas with the help of their colleagues, including cosponsors Gaylord Nelson, William Proxmire, Clinton P. Anderson, and Henry ''Scoop'' M. Jackson, and other conservation allies, including Secretary of the Interior Stewart L. Udall and Representative Morris K. Udall, Senator Humphrey and Representative Saylor toiled 8 years to secure nearly unanimous passage of the legislation, 78 to 8 in the Senate, and 373 to 1 in the House of Representatives;

Whereas critical support in the Senate for the Wilderness Act came from 3 Senators who still serve in the Senate as of 2004: Senator Robert C. Byrd, Senator Daniel Inouye, and Senator Edward M. Kennedy;

Whereas President John F. Kennedy, who came into office in 1961 with enactment of wilderness legislation part of his administration's agenda, was assassinated before he could sign a bill into law;

Whereas 4 wilderness champions, Aldo Leopold, Olaus Murie, Bob Marshall, and Howard Zahniser, sadly, also passed away before seeing the fruits of their labors ratified by Congress and sent to the President;

Whereas President Lyndon B. Johnson signed into law the Wilderness Act in the Rose Garden on September 3, 1964, establishing a system of wilderness heritage as President Kennedy and the conservation community had so ardently envisioned and eloquently articulated;

Whereas now, as a consequence of wide popular support, the people of the United States have a system of places wild and free for the permanent good of the whole people of this great Nation;

Whereas over the past 40 years the system for protecting an enduring resource of wilderness has been built upon by subsequent Presidents, successive leaders of Congress, and experts in the land managing agencies within the Departments of the Interior and Agriculture;

Whereas today that system is 10 times larger than when first established;

Whereas the Wilderness Act instituted an unambiguous national policy to recognize the natural heritage of the United States as a resource of value and to protect that wilderness for future generations to use and enjoy as previous and current generations have had the opportunity to do;

Whereas since 1964, when the first 9,000,000 acres of wilderness were included by Congress, more than 110 additional laws have been passed to build the National Wilderness Preservation System to its current size of 106,000,000 acres;

Whereas wild places protected in perpetuity can currently be found and enjoyed in 44 of the Nation's 50 States;

Whereas this wealth of the heritage of the United States can be seen today from Alaska to Florida in over 650 units, from Fire Island in New York's Long Island South Shore and Ohio's West Sister Island in Lake Erie, to far larger Mojave in eastern California and Idaho's River of No Return;

Whereas President Gerald R. Ford stated that the National Wilderness Preservation System ''serves a basic need of all Americans, even those who may never visit a wilderness area—the preservation of a vital element of our natural heritage'' and that, ''wilderness preservation ensures that a central facet of our Nation can still be realized, not just remembered''; and

Whereas President Gerald R. Ford has joined with President Jimmy Carter and more than 100 other prominent United States citizens as honored members of Americans for Wilderness, a committee formed to celebrate this national achievement: Now, therefore, be it

The preamble, as amended, was agreed to.

The resolution, with its preamble, reads as follows:

(The resolution will be printed in a future edition of the RECORD.)

ROLE OF ATOMIC ENERGY ACT IN PEACEFUL USES OF ATOMIC ENERGY

Mr. FRIST. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further action on S. Con. Res. 151, and the Senate now proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 151) recognizing the essential role that the Atomic Energy Act of 1954 has played in development of peaceful uses of atomic energy.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 151) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 151

Whereas the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) followed and sought to implement the Atoms for Peace speech of President Dwight David Eisenhower in December 1953, which provided the United States and the world with a blueprint for commercial development of atomic energy to the benefit of humanity;

Whereas the Atomic Energy Act of 1954 defined mechanisms for the production, control, and use of nuclear materials;

Whereas the Atomic Energy Act of 1954 provided the initial framework for regulation of nuclear material and facilities and provided recognition that such control is necessary in the national interest to ensure the common defense and security and to protect the health and safety of the public;

Whereas the Atomic Energy Act of 1954 recognized the need for development and use of atomic energy under conditions to promote the general welfare;

Whereas the Atomic Energy Act of 1954 recognized that it was in the national interest to conduct a comprehensive program of research and development to optimize the benefits of nuclear technologies for humanity;

Whereas the Atomic Energy Act of 1954 set forth the necessity to control certain types of information, material, and facilities for security purposes, while ensuring unclassified dissemination of appropriate scientific and technical information;

Whereas the Atomic Energy Act of 1954 provided the initial framework for international cooperation in nuclear technologies, under suitable controls to ensure common defense and security, to provide cooperating nations with the benefits of peaceful uses of atomic energy; and

Whereas the legacy of the Atomic Energy Act of 1954, with 103 operating nuclear power plants in the United States providing 20 percent of the electricity supply of the United States, is invaluable in providing clean, emission-free, reliable power to the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes that the enactment of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) was an essential step in the development and use of a range of civilian nuclear technologies to the benefit of humanity;

(2) commends and remembers the authors of the original Atomic Energy Act of 1954 for their foresight and leadership; and

(3) commemorates the role played by President Dwight David Eisenhower in his historic Atoms for Peace speech and the leadership he demonstrated in recognizing 50 years ago that the benefits of nuclear technologies would be realized only through a careful national and international system of control, regulation, and use.

KILAUEA POINT NATIONAL WILDLIFE REFUGE EXPANSION ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of H.R. 2619, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2619) to provide for the expansion of Kilauea Point National Wildlife Refuge.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2619) was read the third time and passed.

AMENDING SECTION 227 OF COMMUNICATIONS ACT OF 1934 RELATING TO JUNK FAX TRANSMISSIONS

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 741, S. 2603.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2603) to amend section 227 of the Communications Act of 1934 (47 U.S.C. 227) relating to the prohibition on junk fax transmissions.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the McCain amendment at the desk be agreed to, the bill, as amended, be read a third time, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4086) in the nature of a substitute was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The bill (S. 2603), as amended, was read the third time and passed.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2005

Mr. FRIST. I ask unanimous consent that the Senate now proceed to the conference report to accompany H.R. 4548, the intelligence reauthorization bill, provided that the conference report be adopted, the motion to reconsider be laid upon the table, and that any statements relating to the conference report be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The conference report was agreed to.

CASTILLO DE SAN MARCOS NATIONAL MONUMENT PRESERVATION AND EDUCATION ACT

LAND EXCHANGE IN EVERGLADES NATIONAL PARK

Mr. FRIST. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of H.R. 2457 and the Senate proceed to its consideration in conjunction with Calendar No. 653, H.R. 3785, en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bills by title.

The legislative clerk read as follows:

A bill (H.R. 2457) to authorize funds for an educational center for the Castillo de San Marcos National Monument, and for other purposes.

A bill (H.R. 3785) to authorize the exchange of certain land in Everglades National Park.

There being no objection, the Senate proceeded to consider the bills en bloc.

Mr. FRIST. I ask unanimous consent that the bills be read a third time, passed en bloc, the motions to reconsider be laid upon the table, and that any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2457) was read the third time and passed.

The bill (H.R. 3785) was read the third time and passed.

AUTHORIZING SALARY ADJUSTMENTS FOR JUSTICES AND JUDGES OF THE UNITED STATES FOR FISCAL YEAR 2005

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5363, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5363) to authorize salary adjustments for Justices and judges of the United States for fiscal year 2005.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid on the table without any intervening action or debate, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5363) was read the third time and passed.

AMERICAN BALD EAGLE RECOVERY AND NATIONAL EMBLEM COMMEMORATIVE COIN ACT

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4116, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4116) to require the Secretary of the Treasury to mint coins celebrating the recovery and restoration of the American bald eagle, the national symbol of the United States, to America's lands, waterways, and skies and the great importance of the designation of the American bald eagle as an ''endangered'' species under the Endangered Species Act of 1973, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I do want to say a word about H.R. 4116, a bill requiring the U.S. Mint to produce coins celebrating the recovery and restoration of America's greatest symbol; that is, the American bald eagle. The proceeds from these coin sales will be used to establish the American Eagle Fund, which is a special endowment to assure the ongoing care and protection of this symbol of our freedom.

As many of our colleagues know, in 1782 our Nation's Founding Fathers established the bald eagle as the national emblem of the United States. Since that point in time, the bald eagle has represented the spirit of America: our liberty, our freedom, our democracy, and our strength.

I mention consideration of this bill in part to give tribute to the extraordinary dedication and work of Al Cecere, who is president of the American Eagle Foundation, and his colleagues. The foundation is located in Pigeon Forge, TN. It is a remarkable foundation that cares for and studies and shares with the public several nonreleasable eagles at Dollywood's Eagle Mountain Sanctuary, which is a very large aviary there.

Many Americans have seen this specific symbol as they watched the Foundation's most famous member, a beautiful bald eagle called Challenger, a truly majestic bird, because it makes regular appearances all over this country, at the U.S. Capitol and most of the major sporting events and other large indoor and outdoor gatherings throughout this country, all of which are celebrating the various aspects of American life.

I want to pay tribute to my colleague, Tennessee Senator LAMAR ALEXANDER, for his dedicated and diligent work of signing up 70 of our colleagues in support of the bill, and Senator LANDRIEU for being an original cosponsor of the Senate bill. I want to thank our House colleague, BILL JENKINS, for his extraordinary leadership on the issue. He took the lead there in signing up over 300 House cosponsors of the bill, assisted by several of his House colleagues, most particularly Congressman HAROLD FORD.

Again, a majestic bird, a majestic symbol of so much of what we do on the floor of the Senate, was honored through this bill, the American Bald Eagle Recovery and National Emblem Commemorative Coin Recovery Act.

Mr. ALEXANDER. Mr. President, I rise today to commend and thank my colleagues in the Congress for considering H.R. 4116, the American Bald Eagle Recovery and National Emblem Commemorative Coin Act. I was proud to sponsor the companion bill in the Senate.

The act authorizes the U.S. Mint to issue commemorative coins ''celebrating the recovery and restoration of the American bald eagle, the national symbol of the United States, to America's lands, waterways, and skies'' in 2008. The proceeds from these coins, which are expected to exceed $1 million, will go to the American Eagle Foundation of Pigeon Forge, TN. The foundation intends to use these funds for a national competitive grant program to support eagle recovery, education, and other related conservation efforts.

The American bald eagle is not just another bird. It is one of the most recognized symbols of our Nation. Since the Second Continental Congress selected the bald eagle as our national emblem in 1782, the image of the bald eagle has come to represent two core

values for all Americans: freedom and democracy.

Like the bald eagle, the American Eagle Foundation is not just a Tennessee treasure, but a national one. The work done by the American Eagle Foundation has been critical to helping bring the American bald eagle back from the brink of extinction. The bald eagle now soars above every State except Hawaii. With the continued success of programs and efforts of the American Eagle Foundation and other groups, the American bald eagle may soon be ''de-listed'' from the Endangered Species Act.

Senator LANDRIEU and I have worked hard to pass this bill in the Senate, and Tennessee Congressmen BILL JENKINS and HAROLD FORD led the bipartisan effort in the House of Representatives. Al Cecere, President of the American Eagle Foundation, worked tirelessly to assemble a national coalition of eagle supporters, and his face has been a welcome sight in the halls of Congress over the last year.

Al was regularly accompanied by Challenger, a 16-year-old American bald eagle that has brought this campaign to life. Many Americans have seen Challenger perform, flying into the World Series, professional and college football games, and other events. Now many Congressmen and Senators have met Challenger, too.

We should all be proud to have taken this step, today, to commemorate and support our national symbol, the American bald eagle.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4116) was read the third time and passed.

PRESIDENTIAL RUNOFF ELECTION IN UKRAINE

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 487 which was submitted earlier today.

The PRESIDING OFFICER (Mr. WARNER). The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 487) expressing the sense of the Senate regarding the November 21, 2004, Presidential runoff election in Ukraine.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, over the last 17 days we have all watched with interest as the human yearning for freedom surged through the streets of Ukraine.

After an election marred by vast fraud and corruption, hundreds of thousands of supporters of the opposition candidate, Mr. Yushchenko, have raised their voices for democracy, legitimacy and fairness.

The Senate has condemned the widespread fraud in the November 21 runoff between Mr. Yushchenko and Prime Minister Yanukovych, and called for a peaceful resolution to the political situation in Ukraine.

The rule of law must prevail. Fair and free elections are what the hundreds of thousands of Ukrainian demonstrators have been demanding. I am pleased that the Senate is going to pass this resolution expressing support for a peaceful and legal outcome that represents the will of the Ukrainian people.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 487) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 487

Whereas on November 21, 2004, Ukraine held a presidential runoff election between former Prime Minister and opposition candidate Victor Yushchenko and current Prime Minister Victor Yanukovych;

Whereas the Ukrainian Central Election Commission reported that Mr. Yanukovych won 49.42 percent of the vote and Mr. Yushchenko won 46.7 percent of the vote in the runoff election, despite the fact that several exit polls indicated that Mr. Yushchenko secured significantly more votes than Mr. Yanukovych;

Whereas the International Election Observation Mission from the Organization for Security and Cooperation in Europe (OSCE) determined that the runoff election did not meet international standards for democratic elections, and specifically declared that state resources were abused to support the candidacy of Prime Minister Yanukovych;

Whereas the Committee of Voters of Ukraine, a nongovernmental electoral organization in Ukraine, reported on illegal voting by absentee ballot, multiple voting, assaults on electoral observers, journalists and the use of counterfeit ballots;

Whereas such reports of fraud were also echoed by Senator Richard Lugar of Indiana, Chairman of the Committee on Foreign Relations of the Senate, an observer to the runoff election designated by President George W. Bush;

Whereas since November 22, 2004, tens of thousands of people have engaged in peaceful demonstrations in Kiev, Ukraine, to protest the declaration by the Central Election Commission of Mr. Yanukovych as the winner of the runoff election;

Whereas antigovernment protests in support of opposition candidate Mr. Yushchenko took place in cities throughout Ukraine, and several city councils adopted resolutions that declared Mr. Yushchenko as the legally elected president;

Whereas on November 23, 2004, opposition candidate Mr. Yushchenko declared victory in the runoff election;

Whereas the United States has called for a complete and immediate investigation into the conduct of the runoff election to examine fully the reports of fraud and corruption;

Whereas the European Union has also stated that authorities in Ukraine must redress election irregularities and that the reported results do not reflect the will of the people of Ukraine;

Whereas the Ukrainian Supreme Court blocked the publication of the official runoff election results stating that Mr. Yanukovych was the winner, thus preventing his inauguration as President of Ukraine until the court examined the reports of voter fraud;

Whereas on November 27, 2004, the Parliament of Ukraine passed a resolution declaring that there were violations of law during the runoff election but on November 30, 2004, with support from progovernment and communist parties, canceled the resolution;

Whereas 15 eastern and southern regions in Ukraine that supported the candidacy of Mr. Yanukovych threatened to split off from the country if an illegitimate president were to come to power;

Whereas on December 1, 2004, the Parliament of Ukraine passed a no confidence motion in the cabinet of Prime Minister Yanukovych as approximately 100,000 supporters of Mr. Yushchenko demonstrated in front of the parliament building;

Whereas Mr. Yanukovych and Mr. Yushchenko, along with European mediators and current Ukraine President Leonid Kuchma, began discussions on December 1, 2004, to attempt to work out a resolution to the standoff;

Whereas on December 3, 2004, the Ukrainian Supreme Court ruled that the November 21, 2004, runoff election was invalid and ordered a new vote on December 26, 2004;

Whereas on December 8, 2004, the Parliament of Ukraine passed electoral changes to reform the Central Election Commission and close loopholes for fraud, as well as constitutional changes to reduce the power of the President of Ukraine; and

Whereas the manner in which this crisis is resolved will have significant implications for the perceptions of the democratic institutions of Ukraine by the international community: Now, therefore, be it

Resolved, That the Senate—

(1) condemns the widespread fraud in the November 21, 2004, runoff presidential election in Ukraine; and

(2) supports a peaceful political and legal settlement in Ukraine that is based on the principles of democracy and reflects the will of the people of Ukraine.

RELIEF OF TANYA ANDREA GOUDEAU

Mr. FRIST. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 530 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 530) for the relief of Tanya Andrea Goudeau.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent the bill be a third read time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 530) was read a third time and passed.

AUTHORIZATION TO MAKE APPOINTMENTS

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the upcoming adjournment of the Senate, the President of the Senate, the President pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

SIGNING AUTHORIZATION

Mr. FRIST. Mr. President, I ask unanimous consent that during this adjournment of the Senate, the majority leader be authorized to sign duly enrolled bills or joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE EXPLANATION

Mr. FRIST. Mr. President, due to an unfortunate family health situation, Senator HATCH was unable to be present on the floor of the Senate today. If he had been able to attend today's vote on the conference report to accompany S. 2845, the intelligence reform bill, he would have voted for passage of the report.

THE 108TH CONGRESS

Mr. FRIST. Mr. President, as I mentioned earlier, we will shortly be closing the Senate. But while we are waiting to process some of the paperwork, I would like to make several brief statements, the first of which looks back at what has truly been an extraordinary period of legislative progress during this 108th Congress. From tax cuts to intelligence reform, we took on the big issues, and we made great strides for the American people.

One major reform bill over a congressional term is remarkable. Two makes this Congress truly unique. In both cases, efforts at reform have been stymied for decades. The 108th Congress finally broke through the logjam and delivered for the American people.

Our mission in the 108th Congress was clear—to expand freedom and opportunities, and to strengthen America's security. As we return to our home States over the course of the afternoon and tonight and over the next several days, we can all be proud of what we have accomplished.

As majority leader, most of the time I spend on the floor focuses on floor activity and events that are important to the entire country.

What I would like to do for several minutes is to speak directly to my fellow Tennesseans who see me many times working for the large domestic issues and sometimes do not hear me talk directly about how that affects them in their everyday lives in Tennessee. Thus, I would like to take these moments to speak directly to my fellow Tennesseans about how what we have accomplished here in Washington will benefit the States.

It begins with that first reform bill, a bill that strengthened and improved Medicare for the first time in 40 years—really since the inception of that program. Medicare will offer a reform which allows the provision of affordable health care for prescription drugs. It is truly remarkable looking back. We have a health care plan, a health care program that focuses on our seniors' security, the health security for our seniors, and it has been without prescription drugs. Up until passage of this bill, the seniors have been denied coverage under Medicare for outpatient prescription drugs. Yet today—very different than even 20 or even 10 years ago—we know that prescription drugs are the most powerful tool in the arsenal of modern medicine in order to treat illness and to prevent illness.

Under the new Medicare law, seniors will now have access to a prescription drug benefit that will begin in January of 2006.

Over 40 million seniors and individuals with disabilities will soon enjoy true health care security. Without including prescription drugs, there is no way we can look a senior in the eye—it might be your mom, your dad, your grandparents—and say: Our government is going to help you with health care security. It is impossible because up until now prescription drugs simply were not included. But they are today because of the leadership, the efforts, and hard work of my colleagues in the Senate.

How many Tennesseans does that affect? There are 40 million seniors and individuals with disabilities nationwide affected by this legislation. In Tennessee, there are 870,000 Tennessee seniors who will benefit from this provision we passed in this Senate.

In October, I joined my staff as we crisscrossed the great State of Tennessee, describing to and helping people enroll in the prescription card drug program we passed. We wanted to let seniors know in these town meetings, seniors at retirement homes and retirement centers who are currently eligible for a Medicare-approved discount card which offers them savings of anywhere from 10 percent of what they are paying today to 20 percent, 25 percent on average, and sometimes as high as 50, 60, and 70 percent. We realized the impact of this legislation when we witnessed how much they were paying for their prescription drugs when we contrast it—it is all on the Internet today—with what they can save by having that prescription drug card which seniors are eligible for today.

In addition to that average 10 to 25 percent average discount, and sometimes 50, 60, 70 percent discounts, low-income seniors will receive a $600 annual subsidy in extra assistance to help pay for their prescription drugs. I mention it now because if low-income seniors apply for the card, they get $600 over the next 30 days and then another $600 after January 1 for next year. If you do not apply for the card today and wait until after January 1, you only have that $600. I encourage seniors, especially low-income seniors who have not applied for that card, to do so today.

As I have said many times in the Senate, if you are listening to me now through our radio or C–SPAN, I encourage you, if you do not have the card, call 1–800–Medicare tomorrow and ask what that card can do for you. The benefits are huge. I encourage seniors to take advantage of it.

In addition to that major reform of Medicare, we passed $350 billion in tax relief, which is the third largest tax cut in history. We have cut taxes across the board for 136 million hard-working, tax-paying Americans. For Tennessee, that includes 1.7 million who saw their tax bills go down in the year 2003 because of this legislation. It comes down to the philosophy, the belief we have that taxes are the people's money, not the Government's money. We think Americans simply pay too much, and thus this Senate acted, and people's taxes have all gone down.

Our goal is straightforward: To put more money back into the pockets of hard-working Americans, thereby giving those Americans the opportunity to save for the future, to invest, to spend on their children, their children's education or school books or school supplies, buying that computer or being able to go on the Internet—those tangible items, those real advantages that were made possible because of action in this Congress.

That is the same reason we acted to extend key parts of the President's tax relief plan for middle-class families. What does that mean? It means the marriage penalty. We acted to give true marriage penalty relief, and we acted to extend that key part of the President's plan. The $1,000-per-child tax credit we acted to extend through the year 2010. We made sure low-income Americans will continue to benefit from that very low 10-percent tax bracket, benefiting in a direct fashion.

The Jobs and Growth Act of 2003, which we passed and was signed by the President, also provided Federal funds for States to carry out essential government services and to pay for Federal mandates, mandates passed on to the States. How much does that mean? We are always talking about such big dollars. For the State of Tennessee that provision of funds amounted to $97 million for 2003 and another $97 million for 2004.

Regarding Medicaid, an issue that is receiving a lot of focus in my own State of Tennessee—how best to reform Medicare so that it can be sustained

over a period of time—Tennessee received $264 million for Medicaid for 2003 and received $193 million for 2004.

An area that does directly affect Tennesseans—did not affect all States but did affect about one out of five States in this country—that was part of tax reform we addressed in this Congress and that we passed in this Congress is the sales tax deductibility. Tennessee is one of a small number of States which does not impose State income tax. We do not have a State income tax in Tennessee. In the past, when tax time arrived, that fact put Tennesseans at an unfair disadvantage. But that is no longer the case because of action in the Senate. Because of the action we took in the 108th Congress, sales taxes can now be deducted in States that do not impose a State income tax. As a result, about a quarter of Tennesseans filing their taxes for 2004 will save an average of $470 on their taxes.

In addition to making the tax system more equitable for Tennesseans, there is another provision passed in this Senate that very directly impacted farmers in Tennessee and the farming families in Tennessee. That is the quota system that had previously applied to tobacco. Quota owners and growers will now receive their fair compensation. In total, the tobacco buyout was $767 million to Tennessee's tobacco communities over the next 10 years. Farmers will get a fair deal, and the State will reap the economic rewards.

Another area where we tackled real reform for Tennessee, really for the whole Tennessee Valley, focused on the Tennessee Valley Authority Board bill this Senate passed. This legislation expands and restructures the board of directors for the Tennessee Valley Authority, or TVA, and brings it in line and modernizes it, brings it up to date with the management structure of corporations of similar size and scope.

The TVA for too long had a board structure that was aligned into a framework of about 70 years ago and that inhibited its ability to react, to be flexible, to be nimble, to be responsive, and, I argue, to be fully accountable—all of which is absolutely necessary to this changing environment we have as we look at our energy needs all over the great State of Tennessee and throughout the valley.

It is interesting to me because I first introduced that bill in 1997. Nothing moves quickly in the Senate. Indeed, it took 7 years for that bill, introduced in 1997, to pass, which it did about 3 weeks ago. It was endorsed by the Tennessee Valley Public Power Association, which is the organization representing TVA's power distributors. We passed the bill, a real accomplishment in the 108th Congress.

Another local issue but an issue that as a physician is very important for me to address with my colleagues—and again, all of these accomplishments, I should say up front, we were working hand in hand with Senator ALEXANDER, my colleague in the Senate, as well as our congressional colleagues in the House of Representatives.

One cannot go to Tennessee without hearing—and it does not apply just to Tennessee—about the growing problems of methamphetamines. Methamphetamines are sometimes called the poor man's cocaine. Meth is highly addictive, and it is an extremely dangerous drug. You see the ravages in rural communities and in the urban areas throughout Tennessee. Communities are being torn apart. Crime is being driven up. Drug addiction is on the rise, as is the cost of methamphetamines. Tennessee has been hit hard. Our State is now one of the top five methamphetamine-producing States in the Nation. It has to stop. We will stop it.

In response to this rising problem, we passed the Methamphetamine Task Force Act. States will get extra help to specifically tackle meth. In Tennessee, we will receive an additional $2 million for the East Tennessee Methamphetamine Task Force. I am hopeful that, coupled with tough law enforcement, we will bring down the sales and methamphetamine use and will help shut down those labs and lock up the dealers who are peddling this poison.

There is a whole range of other programs that are critically important to Tennesseans that we addressed in the 108th Congress. The omnibus bill, which we just passed in the Senate, now several weeks ago, the bill that was sent to the House just 2 days ago and will be signed by the President within a few days, was a remarkable bill. Yes, it was a large number of appropriations bills.

In the next Congress we are going to do better. We are going to systematically, through the budgeting process and through the appropriations process, with full transparency and with the appropriate time, address the budgeting and spending mechanisms and process in the Senate. But although the press has talked about this bill and the way it came through, I am very proud of the bill.

Why do I say that? Because if we look at what we accomplished, we accomplished slowing spending to a level, for nonsecurity, nonhomeland security, and nondefense—which we all understand we are going to have to invest in heavily now and heavily in the future, given the war on terrorism and the importance of homeland security and establishing a strong structure; we know we are going to have to continue to invest there heavily—but if you set that aside and you look at all other what is called discretionary spending, all spending other than for security and homeland security, and defense, the overall growth was essentially zero in this spending bill. It comes out to about .8 percent or .83 percent but less than 1 percent, which is less than half of inflation.

So as we passed this huge bill coming through, we were fiscally responsible, fiscally responsible to the point that programs, if you put them all together, essentially did not grow with inflation at all. It is that sort of fiscal discipline we are going to have to engage in and reflect again and again in the next year, in the next Congress, in the next several Congresses, as we address the deficit, which is one of our greatest challenges today, and the debt that this country has.

So as I read through some of these projects, I want to preface it by saying these projects and the projects of all the other Members on the floor of this Senate and the House of Representatives, if you put them together, do not grow the Government. In fact, in inflation-adjusted dollars actually they are being cut. So our Government is being fiscally responsible. Again, to me that is remarkable, and the press really has not talked much about that.

There are several things I want to mention that really do show we are focusing on Tennessee and are things that are a benefit to Tennessee. One is the Chickamauga Lock in east Tennessee, with $18 million in total funding.

I have to congratulate my colleague, Congressman ZACH WAMP, who has worked so hard on this particular lock over the years.

We focused on funding the construction of critical facilities and infrastructure at Fort Campbell, where the 101st Airborne is. It is on the border of Tennessee and Kentucky.

We focused on the Clarksville-Montgomery County School System with $4 million because there are an additional 1,000 students who will come through that school system because of the turnover of soldiers at Fort Campbell. About 850 soldiers will be coming in, and we need to match that infusion of soldiers with an infusion of funds for their children.

In Jackson, TN, an appropriation was given to rebuild public housing due to the tremendous loss suffered by area residents in that region with the 2003 tornadoes.

Over in west Tennessee, the Memphis Biotech Foundation had an initiative that will establish Memphis and that whole midsouth region as one of the national leaders and eventually the world leader in the biomedical industry.

We focused on science and technology. We do not talk as much about science and technology on this floor as I would like. We had a huge focus in Tennessee at Oak Ridge National Labs. There are some major projects there, about $296 million worth in this particular bill that focused on things such as the Advanced Scientific Computing Research, ASCR, program there, which has great implications as its computing power can be used by other laboratories and scientists and people interested in technology and students and academicians in private industry and our military all over the world.

There is the University of Tennessee designation for the Southeastern Regional Sun Grant Center, looking at

energy and biobased energy to help solve the energy problems that we all know must be addressed by this country when we have 60-percent dependence on foreign sources of oil in this country.

There is a $3.5 million appropriation in this 2005 appropriations conference report for the acquisition of the Walls of Jericho, which is located on the South Cumberland Plateau along the Tennessee border with Alabama. The Walls of Jericho is considered one of the most unique and biologically diverse areas in the Southeast United States.

We focused on the 164th Airlift Wing and the National Guard in Memphis, TN, and in west Tennessee, where, at the Memphis-Shelby County Airport, there was a land exchange agreement, with the tremendous help of a great corporation, FedEx, which is based in Tennessee. It involved the airport authority, FedEx, and the National Guard, and it allowed the 164th Airlift Wing to build its new facilities and allowed FedEx to expand its operations at the Memphis hub—a real win-win for our military, a real win-win for the region, and a real win-win for a tremendous company there that is serving us every day with our FedEx packages that we so vitally depend on today.

Education, I need to not be remiss by mentioning No Child Left Behind. It continues to provide historic new funding for Tennessee schools. We all saw recently where our math standings internationally in the United States are dismal. I will say something about that a little bit later if we have not completed our business here shortly. But if you look at one of the things we are doing, or you look at really any State—I use Tennessee as an example—Tennessee, for 2003, received $3.4 million; and for 2004, $3.68 million in Federal support.

People say the Federal Government is not doing enough in supporting education. The amount that Tennessee—Tennessee is a good example of a State—that is a 64-percent increase in K–12 education funds just from 2002. Just over that 2-year period, there was an increase in Federal funding for education of 64 percent.

With this increased funding, and the new high accountability standards with No Child Left Behind, Tennessee will be on the path of achieving academic excellence.

In closing, I do wish to express my gratitude to my fellow Tennesseans for allowing me the real honor to serve them as one of their two Senators here in Washington, DC. As I look back over the 108th Congress, I really do see a historic period in our legislative history. I look forward to continuing to work hard on the issues that matter most to Tennessee and that keep us moving this great Nation forward.

EDUCATION

Mr. FRIST. Mr. President, I will take this opportunity, while we are waiting for paperwork, to follow up on something I just mentioned; and it is on the subject of education. It has to do with an announcement that most of us saw in the newspaper a couple days ago. The report came out last week. It is this: The United States, when you compare us to 28 other industrialized countries, and you look at math literacy for 15-year-olds, you would guess that we might be at the top. No. You would guess we might be No. 5. No. You would say: Well, the United States of America, we have to be No. 10. No. You would say, we have to be 15th out of those 29 when you compare us to other countries. The answer is no. Well, then you may say: Out of 29 countries surely we are 20th, being the most powerful Nation in the world and the most affluent Nation in the world. And the answer is no.

Out of 29 industrialized countries, for 15-year-olds—my youngest son is 17 years old, so he is 2 years older—we are 24th. I did not believe it when I first saw it, and I called my statistician friends, and they said: Yes, it is true. In fact, everybody agrees it is true. In its most recent round of testing, the Program for International Student Assessment finds that the United States falls behind—again, we are 24th out of 29—such countries as Finland, Korea, Canada, the Czech Republic, Ireland, Luxembourg, Poland, Hungary, Spain, and, yes, France.

Even more depressing than that, these dismal results are consistent with all the international comparisons. It is not just this one study, but it is consistent with all other international studies. American students lag far behind their industrialized counterparts in math, reading, and in science across the board. Contrary to the clamor of the education lobby, it is not money. We are spending the money. We are spending more money than any other country on education. In fact, we spend 30 to 80 percent more per pupil than any other industrialized nation.

Since 1960, the U.S. has spent nearly a trillion dollars on K–12 public education. The result, according to the report, current U.S. math scores fall below Latvia. Then we look to the future. We know, as we look to the future, it is going to be based on the information foundation of our economy today. And if we are going to be competitive, it is clear we are going to have to start, because if it is true for the eighth grade, it is true for the 15-year-olds, it is true for the twelfth grade. In all of these we are failing.

If we look to the future, when we talk about outsourcing jobs, when we talk about global competitiveness and our efficiency, none of that matters very much unless we have appropriate training and education for our young people today who are the workforce of tomorrow. It is an economic reality, and we are failing.

Although we just got through the campaign season, we are looking ahead. Fortunately, President Bush said 4 years ago: My No. 1 priority is going to be education. Sure enough, working in a bipartisan way in this body, we passed a huge reform, No Child Left Behind. This Republican-led Congress, the President of the United States were absolutely committed to saying: The status quo is unsatisfactory. We believed that every single child has that right to learn. And it is our obligation, our responsibility—a lot of people say: No, it is not a Federal responsibility, it is everybody's responsibility—to support the reforms that help meet that goal of giving every child that opportunity to and the right to learn.

Three years ago we passed No Child Left Behind. It was landmark legislation. For the first time it holds America's public schools accountable for results. Students in grades 3 to 8 are now tested every year on basic reading and math skills. We have to be able to measure progress over time. Otherwise we will not know whether what we are doing in terms of getting better teachers, giving teachers better supplies and a better opportunity to teach, we are not going to know whether anything works unless we can measure—and the measurement is under way—and to get parents involved.

Now we are able, by holding both the schools and parents accountable. They are going to get more involved and they are more involved today. We have given them specific tools to be able to measure their own child's progress and their own child's school and, if necessary, to use public funds to secure additional tutoring, public funds that weren't there before, but to use those public funds if you need that additional tutoring.

We introduced that whole concept that if the school is failing, thus your child is going to fail; if the whole school is failing, to give that opportunity to maybe send your child, if that school is failing, to a better school. Maybe it is a school down the road. That is just 3 years ago. In 3 short years, these straightforward accountability measures are getting results.

According to a March study by the Council of Great Schools, the achievement gap in both math and reading between African Americans and Whites and Hispanics and Whites is getting narrower in both categories. The National Assessment of Education Progress reports that since 2000, math scores have increased nine points among fourth graders and five points among eighth graders. Math scores for low-income fourth graders have improved even more dramatically, showing a 14-point gain. Simply by raising those education standards, public schools are striving to reach them and are making progress.

The nonpartisan, Denver-based Education Commission of the States finds that not since the 1970s have States been so responsive to Federal education reform. One might say better

late than never, but that would fail to give proper credit where it is due. The President deserves great praise for his determination to put America's public schools back on track. After three decades of stalled progress, we are turning finally to fact-based scientific solutions so that all of America's children can learn and will learn.

There is a lot more to do. And as with our intelligence reform bill today, this is not the end. This is a start. We are going to continue to have appropriate reforms, strengthening programs that we act on here in this body.

In the next Congress, when it comes to education, we will do more to strengthen our schools and our school systems so every child has that opportunity to learn. As the President has set out, since we have already focused on K–12, we will begin to look at the college level and further at that secondary school level. We are committed to expanding opportunities for every American to acquire the education and skills they need to compete and succeed in an ever expanding and dynamic economy.

Our Founding Fathers, who are cited so frequently and appropriately on this floor, believed deeply that a successful democracy and a viable democracy requires an educated and engaged citizenry. I am confident that by adhering to high standards of achievement and accountability, we will produce an education system worthy of their great hopes.

DARFUR

Mr. FRIST. Mr. President, I want to comment on one last issue. It is an issue I have brought to the floor many times. The issue I speak of is the issue of the crisis a long way away from Tennessee which I just spoke to, a long way away from Washington, DC where we are tonight, and a long way away from education which I just spoke to and which affects our future so much. I want to speak to an issue that focuses on the continent of Africa and a region called Darfur.

A few weeks ago the Sudanese Government agreed once more to make peace with its southern region. While this is encouraging news, and the international community is hopeful, we must not overlook the crisis that is raging right now, as we speak, in Darfur.

Last night I had the opportunity, with several others, in a very casual environment to be with His Majesty the King of Jordan. And it was interesting. He had met with the President. And this was an informal gathering over dinner last night.

The very first issue he brought up to me was, are we making progress in Darfur, which is a part of Sudan. And my response was: Not as much as we need to.

He said: I agree.

He told me the story of how his country, Jordan, is addressing it in many ways. And they have been so beneficial throughout the entire Middle East, whether it is in Iraq or all the way across to the country of Africa. He told me the story of a field hospital that his Government and his military have put in that region of Darfur.

Darfur is a region about the size of France which is in this country with Sudan, the western part of the country of Sudan. But just the Darfur region is about the size of France so it is a big area. He told me the story of a hospital he has put there and the trust that hospital is building.

For nearly 2 years now the Sudanese Government has waged war against the people of the Darfur region. Despite two United Nations Security Council resolutions, pressure from the international community and neighboring countries, the Government of Khartoum continues its genocidal campaign. In mid-November Khartoum ostensibly agreed to stop the attacks, but within hours of their agreement, the Sudanese police raided a camp in southern Darfur, destroying homes and driving out civilians. Such attacks still continue. Tens of thousands of innocent victims have died as a result of this government-condoned and, worse than that, government-sponsored violence. Eight million more have been displaced, have been moved out of their homes, have been moved out of their villages, have been transported miles and miles from home, family, and security. Entire villages have been burned to the ground. Women raped, children abducted, executed.

Special U.N. Envoy Jan Pronk warns that Darfur is on the brink of anarchy. We can't stand by as the people of Darfur suffer. We cannot allow another Rwanda. They are calling out to us. They are pleading for our help. The international community has a responsibility, a moral obligation to act, to respond, to act with solution.

In August, I had the opportunity to travel to Africa which I do at least once a year. I usually go to the southern Sudan, but on this trip I chose to go to that western region of Sudan, the Darfur region. But because of difficulties with getting into that country and the inability to get a visa, I started over in the country of Chad which is west of Sudan. And it is at that Chad-Sudanese border that refugees by the thousands are fleeing to get out of the crisis and these vicious attacks in the Darfur region.

What a wonderful opportunity it was for me to see refugee camps which had sprung up to give support to these refugees whose families have been fractured. They didn't know where their spouses were. They had lost their kids. Refugee camps where 5,000, 10,000, 15,000 or 20,000 refugees would come together in miserable conditions, but still people coming together, supported by outside groups.

One of the refugee camps we visited was in Touloum in Chad, and that is several hours northeast from the capital there in N'Djamena.

I was on the ground and met with the refugees and met with the community leaders. What I saw there was fairly appalling. Thousands of refugees are housed in dust-covered tents. Many more live in makeshift shelters of gathered wood and plastic sheeting.

I spoke with a gentleman named Asman Adam Abdallah. In Darfur, he had been a man of prominence, an officer of his tribe and a government official. He was from a small village in the Darfur region. It was a village called Jemeza, just north of the regional capital of El Fasher.

During the attack on his village he became separated from his family. He didn't know if they were still alive. I asked about his family and he said, ''I don't know.'' He didn't know what would happen the next week. If you asked, Are you going to be able to go back to your village, he says, I don't know. I don't know about my wife. I don't know about my children.

He recounted witnessing 15 men of his village summarily murdered. It took him 18 days to travel from that Darfur region across the border into Chad and to reach the refugee camp of Touloum. Sudanese Government planes bombarded Asman and his fellow survivors as they trekked first to Tine, a town right at the border of the Sudan and Chad.

I talked to many refugees, and another one in the Touloum camp described how during a raid on her village, several soldiers grabbed a baby and they wanted to see what gender or sex the baby was. The soldiers began to argue back and forth, with the mother watching, whether to kill the baby boy. She overheard one soldier remarking, ''But this child is so young.'' It appeared that the soldiers were under orders to kill all male children.

I heard another story of a mentally disabled 15-year-old boy who was thrown into a burning house, and these houses are really huts. He was thrown into that house to perish. I heard another story of a paralyzed man being burned alive in his hut. I heard stories of women who were raped in front of their own children.

I asked one refugee in Touloum what it would take for him to go home. He said to me, ''I will go if you''—pointing to me—''will go with me and stay with me.''

The Janjaweed attacks described to me were so vividly disturbing. You go from one camp to another camp, one little tent village to another one. The stories were exactly the same. You know it is not isolated. It is occurring all over the region. You know it is organized and it is purposeful. The Janjaweed are preceded by aerial attacks by the militia. It is preceded by aircraft flying over; they are government aircraft. In some cases, soldiers in government uniforms participate on the ground and make references to ''orders from Khartoum.'' Survivors tell of racial slurs being hurled at them as the Janjaweed sweep through the villages

and kill the men and boys and raze their homes.

The dictatorship in Khartoum says they are not responsible for the Janjaweed. They tell us officially: We cannot control what goes on with the Janjaweed. To me, that is hard to believe. I believe otherwise. I believe if they were sincere in their efforts to make peace, peace would be at hand. The direct line between the government of Sudan, the Janjaweed, and the raping and pillaging and burning is so direct that I am convinced there has to be some sort of order coming from the top. But if that same order was reversed, coming from the top, the crisis would end. That is what I am so hopeful about. That is why at 9 o'clock on the Senate floor it is important for our voice to be heard. If we don't recognize or shine light on that, if we don't call the international community to act, that order from the government in Khartoum simply will not come, this crisis will not stop, and this genocide will continue.

The regime in Khartoum has cynically concluded that it can survive a moderate amount of diplomatic pressure and that it can continue the genocide. I say cynical because it is wrong. When I say it, I am sure people think it is wrong, but it is still occurring. Therefore, we have to shine more light and put on more pressure, and we need to go not just before the Senate, but we need to have our media across the country focus on what is going on with the genocide in the Sudan and this Darfur region.

The government in Khartoum believes it can ignore what is mostly rhetorical pressure that has been brought to bear by the international community to date. Lip service is being given, but that is just about it. Khartoum believes that the threat of a Chinese veto in the U.N. Security Council will protect it from more serious sanctions. We must prove them wrong. I am convinced we can prove them wrong. It is going to take our collective wisdom, but our collective action.

For nearly 7 years, I have had the opportunity to travel to Sudan and to neighboring countries more in my capacity as a doctor, as medical mission work, than as a Senator. My first visits there were in 1998. I had the opportunity to help and participate with a wonderful group called Well Medical Mission, establishing a hospital in this region called Lui. I have had the opportunity to go back many times to that southern part of Sudan.

I remember in the year of 2000 going into the middle part of Sudan, into a region called the Nuba Mountains, a village called Kuada. We delivered 35 tons of seed and farm tools for about 8,000 families. That was back in 2000. Since then, that area has opened up to relief. We were one of the first relief airplanes in that region. The Nuba Mountains are a wonderful part of the Sudan that has a history rich in tradition of great Nuba wrestlers—glorious men—really boys—who were powerful, big, strong. When I went there, I heard about the 2,000 years of this history of wrestling. When I went—and we were the first relief efforts in there in 15, 20 years—I found sick people—no wrestlers but thin, emaciated kids, with stunted growth from conditions imposed on them by the government.

I mentioned to others there is another part of the Sudan called Bapong in the oil region, in the Upper West Nile area. There the government was targeting civilians and denying them basic medical needs. Since that time, a hospital has been put in that region. I had the opportunity to go back this past year.

Sudan does need to be a focus. A lot is going on that we can participate in reversing. This fall, the Senate and House unanimously passed resolutions pressing for the immediate suspension of Sudan's membership on the U.N. Commission on Human Rights. Isn't it ironic that you have Sudan in this body of the U.N., after everything that I have just said, participating on that Commission on Human Rights? Something is not right. It is hypocritical—even worse than that.

The House and the Senate acted several months ago. All 535 Members agreed that Sudan's membership on the U.N. commission to protect human rights is a travesty. It is a cruel trick. It defies all decency that a nation actively engaged in genocide against its own people could occupy a position of honor and authority, a commission in the United Nations supposedly devoted to human rights.

Mr. President, I do want to applaud the President of the United States and Secretary Colin Powell for their efforts to bring accountability to the Khartoum Government. This administration has shown immense leadership in addressing the crisis in Darfur. In fact, we can even be proud. The United States is providing over 80 percent of all the supplies from around the world going into Darfur and going into Chad in these refugee camps—more than 80 percent.

Since February of 2003, we have provided $219 million for Sudan. The appropriations bill we just passed provides over $300 million for Sudan in additional support for the African Union peacekeeping activities. It is going to take Africans to solve this problem, but it is going to take our support and our authority to help them solve that problem.

In September of this year, Secretary Powell came before the Senate Foreign Relations Committee and unflinchingly declared the situation in Darfur to be government-sponsored genocide. That showed leadership in the same way this body showed leadership when it, through a resolution, called it genocide.

In October, the President of the United States authorized the use of three C–130 transport planes to convey 3,300 Rwandan and Nigerian peacekeeping troops into Darfur. Last month, the U.N. Secretary Council held a 2-day meeting in Nairobi, Kenya. At that meeting, council members discussed carrot-and-stick approaches to bringing Khartoum into compliance with international human rights standards. U.N. Ambassador Jack Danforth has worked hard to press the U.N. to take concrete action, and I support him in this difficult and critical work.

I am deeply committed to the future of the Sudanese people. Their plight calls out to all freedom-loving nations. As a human being, as a doctor, as a Senator who cherishes life, I believe it is our duty to answer that call.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUDDEN OAK DEATH

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4569, which is at desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4569) to provide for the development of a national plan for the control and management of Sudden Oak Death, a tree disease caused by the fungus-like pathogen Phytophthora ramorum, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4569) was read the third time and passed.

SUDDEN OAK DEATH SYNDROME CONTROL ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of S. 2575 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2575) to direct the Secretary of Agriculture to conduct research, monitoring, management, treatment, and outreach activities relating to sudden oak death syndrome and to convene regular meetings of, or conduct regular consultations with, Federal, State, tribal, and local government officials to provide recommendations on how to carry out those activities.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2575) was read the third time and passed, as follows:

S. 2575

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 ''Sudden Oak Death Syndrome Control Act of 2004''.

SEC. 2. FINDINGS.

Congress finds that—

(1) tan oak, coast live oak, Shreve's oak, and black oak trees are among the most beloved features of the topography of California and the Pacific Northwest and efforts should be made to protect those trees from disease;

(2) the die-off of those trees, as a result of the exotic fungal pathogen Phytophthora ramorum, is approaching epidemic proportions;

(3) native plants and forests must be protected from Phytophthora ramorum;

(4) more information is needed on—

(A) Phytophthora ramorum, including the existence of Phytophthora ramorum throughout the United States; and

(B) sudden oak death syndrome, including—

(i) the causes;

(ii) the methods of transmittal; and

(iii) the best methods of treatment;

(5) the host list for Phytophthora ramorum includes 60 plant species in 32 genera, including—

(A) some of the most popular and economically important landscape and garden plants in the United States; and

(B) wild huckleberry plants, potentially endangering the commercial blueberry and cranberry industries;

(6) sudden oak death syndrome threatens to create major economic and environmental problems in California, the Pacific Northwest, and other regions, including—

(A) the increased threat of fire and fallen trees;

(B) the cost of tree removal and a reduction in property values; and

(C) loss of revenue due to—

(i) restrictions on the movement of forest products and nursery stock; and

(ii) the impact on the commercial nursery and small fruit industries;

(7) in 2002, the Secretary of Agriculture imposed a quarantine on the exportation from 10 counties in northern California and Curry County, Oregon, of oak trees and nursery plants that serve as hosts for Phytophthora ramorum;

(8) on April 9, 2004, after the discovery of Phytophthora ramorum in 2 nurseries in southern California—

(A) restrictions were placed on the interstate movement of species that could potentially serve as hosts to Phytophthora ramorum; and

(B) new restrictions were implemented on the interstate movement of host plants and potential host plants from all commercial nurseries in the State of California that are outside the 10 quarantined counties;

(9) on April 22, 2004, the restrictions referred to in paragraph (8)(B) were expanded to include—

(A) all plants in the same genus as host and potential host plants; and

(B) plants growing within 10 meters of a host or potential host plant; and

(10) several States and Canada have placed restrictions on the importation of nursery plants from California.

SEC. 3. RESEARCH, MONITORING, AND REGULATION OF SUDDEN OAK DEATH SYNDROME.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall carry out a sudden oak death syndrome research, monitoring, and regulation program to develop methods to control, manage, or eradicate sudden oak death syndrome from—

(1) trees and shrubs on both public and private land; and

(2) host plants and potential host plants from commercial nurseries.

(b) RESEARCH, MONITORING, AND REGULATION ACTIVITIES.—In carrying out the program under subsection (a), the Secretary may—

(1) conduct open space, roadside, and aerial surveys;

(2) provide monitoring technique workshops with respect to—

(A) Phytophthora ramorum in wildland and urban areas; and

(B) Phytophthora ramorum infestations in nurseries;

(3) conduct a comprehensive and biologically sound national survey of forests, plant nurseries, and landscapes that may have been exposed to Phytophthora ramorum, with priority given to surveying and inspecting plants at commercial nurseries and adjacent wildlands throughout the United States;

(4) develop a comprehensive risk assessment of the threat posed by Phytophthora ramorum to natural and managed plant resources in the United States, including modes of transmission and the risk of infestation;

(5) conduct a study of a representative sample of nursery plants imported into the United States from Europe, where Phytophthora ramorum is known to be found;

(6) develop baseline information on the distribution, condition, and mortality rates of oaks with Phytophthora ramorum infestation;

(7) maintain a geographic information system database of Phytophthora ramorum occurrences;

(8) conduct research on Phytophthora ramorum ecology, pathology, and management in wildland, urban, and nursery settings;

(9) evaluate the susceptibility of oak and other vulnerable species in the United States, with priority given to evaluating the susceptibility of commercially important nursery species;

(10) conduct assessments of trees that could pose a hazard due to infestation of Phytophthora ramorum; and

(11) provide diagnostic services.

SEC. 4. MANAGEMENT, TREATMENT, AND FIRE PREVENTION.

(a) IN GENERAL.—The Secretary shall conduct sudden oak death syndrome management, treatment, and fire prevention activities.

(b) MANAGEMENT, TREATMENT, AND FIRE PREVENTION ACTIVITIES.—In carrying out subsection (a), the Secretary shall—

(1) carry out activities to reduce the threat of fire and fallen trees killed by sudden oak death syndrome;

(2) increase and improve firefighting and emergency response capabilities in areas where fire hazard has increased due to tree die-off;

(3) treat vegetation to prevent fire in areas heavily infected with sudden oak death syndrome; and

(4) provide grants to local units of government for hazard tree removal, disposal and recycling, assessment and management of restoration and mitigation projects, green waste treatment facilities, reforestation, and resistant tree breeding.

SEC. 5. EDUCATION AND OUTREACH.

(a) IN GENERAL.—The Secretary shall conduct education and outreach activities to make information available to the public on sudden death oak syndrome.

(b) EDUCATION AND OUTREACH ACTIVITIES.—In carrying out subsection (a), the Secretary may—

(1) develop and distribute educational materials for homeowners, arborists, urban foresters, park managers, public works personnel, recreationists, nursery workers, landscapers, naturists, firefighting personnel, and other individuals, as the Secretary determines appropriate;

(2) design and maintain a website to provide information on sudden oak death syndrome; and

(3) provide financial and technical support to States, local governments, and nonprofit organizations providing information on sudden oak death syndrome.

SEC. 6. INTERGOVERNMENTAL COMMUNICATION.

(a) SENSE OF CONGRESS.—It is the sense of Congress that close communication between the affected agencies at all levels of government is required for the programs authorized under this Act to be effective.

(b) REGULAR MEETINGS OR CONSULTATIONS.—

(1) IN GENERAL.—In accordance with section 204(a) of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1534(a)), the Secretary shall convene regular meetings of, or conduct regular consultations with, Federal, State, tribal, and local government officials for the purpose of providing a means of exchanging information and recommendations on how to carry out this Act effectively.

(2) REQUIREMENTS.—Meetings or consultations conducted under paragraph (1) shall—

(A) be conducted in a manner that ensures that the various regions of the United States are represented; and

(B) include—

(i) representatives from the Animal and Plant Health Inspection Service;

(ii) representatives from the Agriculture Research Service;

(iii) representatives from the Cooperative State Research, Education, and Extension Service;

(iv) representatives from the Forest Service;

(v) representatives from State forester offices; and

(vi) State representatives from the National Plant Board.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each of fiscal years 2005 through 2009—

(1) to carry out section 3, $25,000,000;

(2) to carry out section 4, $18,500,000; and

(3) to carry out section 5, $700,000.

DISTRICT OF COLUMBIA RETIREMENT PROTECTION IMPROVEMENT ACT OF 2004

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4657, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4657) to amend the Balanced Budget Act of 1997 to improve the administration of Federal pension benefit payments for District of Columbia teachers, police officers, and fire fighters, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4657) was read the third time and passed.

ANTICOUNTERFEITING ACT OF 2004

ANTICOUNTERFEITING AMENDMENTS ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged and the Senate proceed to the immediate consideration of S. 2227 and H.R. 3632, en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bills by title.

The legislative clerk read as follows:

A bill (S. 2227) to prevent and punish counterfeiting and copyright piracy, and for other purposes.

A bill (H.R. 3632) to prevent and punish counterfeiting of copyrighted copies and phonorecords, and for other purposes.

There being no objection, the Senate proceeded to consider the bills, en bloc.

Mr. FRIST. I ask unanimous consent that the bills be read a third time and passed and the motions to reconsider be laid upon the table, en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2227) was read the third time and passed, as follows:

S. 2227

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 ''Anticounterfeiting Act of 2004''.

SEC. 2. FINDINGS.

Congress finds that—

(1) American innovation, and the protection of that innovation by the government, has been a critical component of the economic growth of this Nation throughout the history of the Nation;

(2) copyright-based industries represent one of the most valuable economic assets of this country, contributing over 5 percent of the gross domestic product of the United States and creating significant job growth and tax revenues;

(3) the American intellectual property sector employs approximately 4,300,000 people, representing over 3 percent of total United States employment;

(4) the proliferation of organized criminal counterfeiting enterprises threatens the economic growth of United States copyright industries;

(5) the American intellectual property sector has invested millions of dollars to develop highly sophisticated authentication features that assist consumers and law enforcement in distinguishing genuine intellectual property products and packaging from counterfeits;

(6) in order to thwart these industry efforts, counterfeiters traffic in, and tamper with, genuine authentication features, for example, by obtaining genuine authentication features through illicit means and then commingling these features with counterfeit software or packaging;

(7) Federal law does not provide adequate civil and criminal remedies to combat tampering activities that directly facilitate counterfeiting crimes; and

(8) in order to strengthen Federal enforcement against counterfeiting of copyrighted works, Congress must enact legislation that—

(A) prohibits trafficking in, and tampering with, authentication features of copyrighted works; and

(B) permits aggrieved parties an appropriate civil cause of action.

SEC. 3. PROHIBITION AGAINST TRAFFICKING IN ILLICIT AUTHENTICATION FEATURES.

(a) IN GENERAL.—Section 2318 of title 18, United States Code, is amended—

(1) by striking the heading and inserting ''**Trafficking in counterfeit labels, illicit authentication features, or counterfeit documentation or packaging**'';

(2) by striking subsection (a) and inserting the following:

''(a) Whoever, in any of the circumstances described in subsection (c), knowingly traffics in—

''(1) a counterfeit label affixed to, or designed to be affixed to—

''(A) a phonorecord;

''(B) a copy of a computer program;

''(C) a copy of a motion picture or other audiovisual work; or

''(D) documentation or packaging;

''(2) an illicit authentication feature affixed to or embedded in, or designed to be affixed to or embedded in—

''(A) a phonorecord;

''(B) a copy of a computer program;

''(C) a copy of a motion picture or other audiovisual work; or

''(D) documentation or packaging; or

''(3) counterfeit documentation or packaging, shall be fined under this title or imprisoned for not more than 5 years, or both.'';

(3) in subsection (b)—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3)—

(i) by striking ''and 'audiovisual work' have'' and inserting the following: '', 'audiovisual work', and 'copyright owner' have''; and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(4) the term 'authentication feature' means any hologram, watermark, certification, symbol, code, image, sequence of numbers or letters, or other physical feature that either individually or in combination with another feature is used by the respective copyright owner to verify that a phonorecord, a copy of a computer program, a copy of a motion picture or other audiovisual work, or documentation or packaging is not counterfeit or otherwise infringing of any copyright;

''(5) the term 'documentation or packaging' means documentation or packaging for a phonorecord, copy of a computer program, or copy of a motion picture or other audiovisual work; and

''(6) the term 'illicit authentication feature' means an authentication feature, that—

''(A) without the authorization of the respective copyright owner has been tampered with or altered so as to facilitate the reproduction or distribution of—

''(i) a phonorecord;

''(ii) a copy of a computer program;

''(iii) a copy of a motion picture or other audiovisual work; or

''(iv) documentation or packaging;

in violation of the rights of the copyright owner under title 17;

''(B) is genuine, but has been distributed, or is intended for distribution, without the authorization of the respective copyright owner; or

''(C) appears to be genuine, but is not.'';

(4) in subsection (c)—

(A) by striking paragraph (3) and inserting the following:

''(3) the counterfeit label or illicit authentication feature is affixed to, is embedded in, or encloses, or is designed to be affixed to, to be embedded in, or to enclose—

''(A) a phonorecord of a copyrighted sound recording;

''(B) a copy of a copyrighted computer program;

''(C) a copy of a copyrighted motion picture or other audiovisual work; or

''(D) documentation or packaging; or''; and

(B) in paragraph (4), by striking ''for a computer program'';

(5) in subsection (d)—

(A) by inserting ''or illicit authentication features'' after ''counterfeit labels'' each place it appears;

(B) by inserting ''or illicit authentication features'' after ''such labels''; and

(C) by inserting before the period at the end the following: '', and of any equipment, device, or materials used to manufacture, reproduce, or assemble the counterfeit labels or illicit authentication features''; and

(6) by adding at the end the following:

''(f) CIVIL REMEDIES FOR VIOLATION.—

''(1) IN GENERAL.—Any copyright owner who is injured by a violation of this section or is threatened with injury, may bring a civil action in an appropriate United States district court.

''(2) DISCRETION OF COURT.—In any action brought under paragraph (1), the court—

''(A) may grant 1 or more temporary or permanent injunctions on such terms as the court determines to be reasonable to prevent or restrain violations of this section;

''(B) at any time while the action is pending, may order the impounding, on such terms as the court determines to be reasonable, of any article that is in the custody or control of the alleged violator and that the court has reasonable cause to believe was involved in a violation of this section; and

''(C) may award to the injured party—

''(i) reasonable attorney fees and costs; and

''(ii)(I) actual damages and any additional profits of the violator, as provided by paragraph (3); or

''(II) statutory damages, as provided by paragraph (4).

''(3) ACTUAL DAMAGES AND PROFITS.—

''(A) IN GENERAL.—The injured party is entitled to recover—

''(i) the actual damages suffered by the injured party as a result of a violation of this section, as provided by subparagraph (B); and

''(ii) any profits of the violator that are attributable to a violation of this section and are not taken into account in computing the actual damages.

''(B) CALCULATION OF DAMAGES.—The court shall calculate actual damages by multiplying—

''(i) the value of the phonorecords or copies to which counterfeit labels, illicit authentication features, or counterfeit documentation or packaging were affixed or embedded, or designed to be affixed or embedded; by

''(ii) the number of phonorecords or copies to which counterfeit labels, illicit authentication features, or counterfeit documentation or packaging were affixed or embedded, or designed to be affixed or embedded, unless such calculation would underestimate the actual harm suffered by the copyright owner.

''(C) DEFINITION.—For purposes of this paragraph, the term 'value of the phonorecord or copy' means—

''(i) the retail value of an authorized phonorecord of a copyrighted sound recording;

''(ii) the retail value of an authorized copy of a copyrighted computer program; or

''(iii) the retail value of a copy of a copyrighted motion picture or other audiovisual work.

''(4) STATUTORY DAMAGES.—The injured party may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages for each violation of this section in a sum of not less than $2,500 or more than $25,000, as the court considers appropriate.

''(5) SUBSEQUENT VIOLATION.—The court may increase an award of damages under this subsection by 3 times the amount that would otherwise be awarded, as the court considers appropriate, if the court finds that a person has subsequently violated this section within 3 years after a final judgment was entered against that person for a violation of this section.

''(6) LIMITATION ON ACTIONS.—A civil action may not be commenced under this section unless it is commenced within 3 years after the date on which the claimant discovers the violation.

''(g) OTHER RIGHTS NOT AFFECTED.—Nothing in this section shall enlarge, diminish, or otherwise affect liability under section 1201 or 1202 of title 17.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The item relating to section 2318 in the table of sections at the beginning of chapter 113 of title 18, United States Code, is amended by inserting ''or illicit authentication features'' after ''counterfeit labels''.

The bill (H.R. 3632) was read the third time and passed.

EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND ENHANCEMENT ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of H.R. 2121, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2121) to amend the Eisenhower Exchange Fellowship Act of 1990 to authorize additional appropriations for the Eisenhower Exchange Fellowship Program Trust Fund, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the Roberts amendment be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and any statement relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4088) was agreed to, as follows:

(Purpose: To remove a fiscal year limitation from an authorization of appropriations)

On page 4, on lines 5 and 6, strike ''for fiscal year 2004''.

The bill (H.R. 2121), as amended, was read the third time and passed.

AMENDING THE INTERNAL REVENUE CODE OF 1986

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5394, which is at the desk.

The PRESIDING OFFICER (Mr. BURNS). The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5394) to amend the Internal Revenue Code of 1986 to modify the taxation of arrow components.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5394) was read the third time and passed.

AMENDING THE PUBLIC HEALTH SERVICE ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5204 received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5204) to amend section 340E of the Public Health Service Act (relating to children's hospitals) to modify provisions regarding the determination of the amount of payments for indirect expenses associated with operating approved graduate medical residency training programs.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, and that any statement relating to the bill be printed in the RECORD as if read, with no intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5204) was read the third time and passed.

AUTHORIZING THE SECRETARY OF COMMERCE TO MAKE AVAILABLE CERTAIN PROPERTY

Mr. FRIST. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 4027 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4027) to authorize the Secretary of Commerce to make available to the University of Miami property under the administrative jurisdiction of the National Oceanic and Atmospheric Administration on Virginia Key, Florida, for use by the University for a Marine Life Science Center.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4027) was read the third time and passed.

COMMERCIAL SPACE LAUNCH AMENDMENTS ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 5382, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5382) to promote the development of the emerging commercial human space flight industry, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5382) was read the third time and passed.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 10:27 p.m., recessed subject to the call of the Chair, and reassembled at 10:45 p.m. when called to order by the Presiding Officer (Mr. BURNS).

The PRESIDING OFFICER. The Senator from Tennessee.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a

period for morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

FISCAL YEAR 2005 OMNIBUS APPROPRIATIONS ACT

Mr. STEVENS. Mr. President, I am pleased to report that the House just passed the joint House-Senate Conference Report on the Foreign Operations Appropriations bill for fiscal year 2005. That Omnibus appropriations bill included the Agriculture Appropriations bill; the Commerce, Justice, State Appropriations bill; the Energy and Water Appropriations bill; the Foreign Operations Appropriations bill; the Interior Appropriations bill; the Labor, Health, and Human Services bill; the Legislative Branch Appropriations bill; the Transportation Appropriations bill; and the VA–HUD Appropriations bill.

I would like to take this opportunity to clarify a few points in the bill to provide guidance to those who will implement it.

Denali Commission: The conferees provided $67,000,000 for the Denali Commission. In addition to the allocations outlined in the bill itself, there are a number of other projects to which the Denali Commission should give priority consideration: $2,000,000 for the Tok/Chistochina Intertie project; $500,000 for the Fire Island extension; $146,000 for Chenega Bay Utilities, $1,000,000 for Bristol Bay power generation; $2,000,000 for a Low Rank Fuel Demonstration project, and $1,500,000 for Cape Fox corporation for economic development. The commission is also encouraged to give the following projects priority consideration: the Petersburg Diesel Power Generation Facility project, the Valdez Electric project and funding for elder housing in Maniliq.

Corps of Engineers: Given tough budgetary constraints, Congress was unable to fund the full amount necessary to address the impending disaster that Hubbard Glacier poses to the community of Yakutat, AK. It is my expectation that the Army Corps of Engineers, the Forest Service, the Natural Resource Conservation Service, and the Federal Emergency Management Agency will, through available funds, provide the resources necessary to immediately address this situation. The conferees have included authorization for the Secretary of Army to undertake this task.

Energy projects: This year, the omnibus bill includes $5,000,000 to be used to support a solicitation for solid oxide fuel cell research to look at the application of solid oxide electrochemical technology for the co-production of hydrogen and electricity. The research will also focus on the storage of electricity through closed and open system regenerative fuel cells. This funding is intended to create a pilot project in Alaska to develop solid oxide fuel cell technology. The conferees are disappointed that the funds previously provided for this purpose were diverted by the Office of Energy Efficiency and Renewable Energy.

There are a couple of matters I want to clarify to provide guidance to the agencies who will administer the bill.

Food Safety: The conferees have provided funds for a National Animal Identification System to monitor cattle to prevent mad cow disease, but did not specify the technology or means to accomplish that end. It has come to my attention that a chain traceable model could track cattle through private sector mechanisms at very little cost to the Government. I hope the new Secretary of Agriculture will look at a range of means to prevent mad cow disease from infiltrating into our food supply including market driven solutions.

In addition, it is my understanding that a new technology has been developed that can detect food borne pathogens like salmonella. A film covering food, similar to plastic wrap, turns color if the food has become contaminated. This technology offers exciting opportunities for the seafood industry in particular, and I urge the new Secretary to take whatever steps possible to bring this new technology to market.

The conferees expect USDA to pursue efforts to expeditiously reopen the border between Alaska and Canada. This border closure has devastated farmers in Alaska. USDA currently has a proposal to accomplish this task and they are urged to carefully evaluate its merits.

Rural Development Administration: Within the funds that are provided to the Rural Development Administration, the Alaska Region should give priority consideration to a grant for the Ketchikan Arts facility. I visited with the developers of that project and believe it would be an excellent community facility.

Likewise, last month after we had already marked up the bill, I was able to meet with leaders in Homer, AK concerning the need for a new library. That, too, is a meritorious project and the Alaska Region should give priority consideration to a grant application for that project.

Lastly, peat is a major commodity in the lower 48 States, especially organic peat which can be sold for huge profits. But, in Alaska peat is often considered a nuisance, since it has to be dug out before construction can go forward in many areas of the State. One way to offset that costly excavation while creating new economic opportunity is to develop peat as a saleable commodity. The conferees urge the Alaska Region to consider a grant to develop peat fields in Alaska as an emerging new industry.

High Cost Energy Program: The bill provides $28,000,000 for the high cost energy program to reduce the cost of energy for consumers paying about 20 cents a kilowatt hour or more. The underlying authorization allows most of those funds to flow to the Denali Commission in Alaska which serves the largest segment of high cost energy users in the country. Energy costs in rural Alaska are the highest in the Nation. To reduce those costs, within the funds provide to the High Cost Energy program, the conferees expect that $2,000,000 be provided to the Arctic Energy Office for research into energy and electric issues in remote and rural communities. These funds are critical to identifying ways of reducing costs in rural Alaska communities and Native villages.

City of Marshall water hook-ups: The measure includes $26,000,000 for rural water and sewer program in rural Alaska. The conferees note that Marshall, AK has Indian housing built through HUD, but no money to link the houses to water and sewer. Within the funds provided in this account, the Committee expects the Alaska Village Safe Water Program to fund the Marshall water hook-ups.

Pribilof Island clean-up: The conferees agree to provide $7,000,000 which may be used by NOAA for both clean-up of the Pribilof Islands and economic development activities. In consulting with the people of St. Paul and St. George, it is their preference that $6,500,000 of the funds be available for economic development and $500,000 be used to continue NOAA's clean-up activities. Congress passed the Pribilof Islands Transition Act, which among other things authorized funding for economic development on the islands. During the drafting of that legislation, it was agreed the funds would be split between the various entities according to specific ratios, which were then used in the Act to allocate the authorizations stated at 16 USC §1166(c)(1). The conferees support that allocation, and I have consulted with Congressman Young, the author of those bills, who agrees as well. The agency is urged to comply with the islanders' wishes.

Alaska Ocean Observing System: Due to a clerical error in the bill, Alaska Ocean Observing System is titled, ''Alaska Gulf Ecosystem Monitoring.'' It is the intent of the conferees that the $2,000,000 provided for this project shall be for the Alaska Ocean Observing System and not the Alaska Gulf Ecosystem Monitoring.

Economic Development Administration: The bill also provides funds for the Economic Development Administration, $15,000,000 of which is to assist coastal communities in Alaska pursuant to an agreement the Alaska delegation made with Secretary Evans when the Trade Act was considered. Within these funds, EDA should make $1,500,000 available to Cape Fox Corporation for economic development activities.

Office of Arctic Energy: Within the amounts provided for the Arctic Energy Office, it is the conferees expectation that $2,000,000 will be made available for shallow gas exploration and development in Ft. Yukon, AL, to assist

that community and address its energy needs; and $3,000,000 will be made available for work on the gas pipeline spur to Cook Inlet.

Fish and Wildlife Service: As part of the fiscal year 2005 Consolidated Appropriations Conference Report, Section 126 of Division E requires a comprehensive program for mass marking of hatchery produced salmon stocks originating from the Pacific Northwest. The State of Alaska currently conducts an extensive salmon stock identification program based on visual identification of fin clipped hatchery salmon that have been implanted with coded wire tags.

The additional requirements imposed by Section 126, which provides for the implementation of ''a system of mass marking of salmonid stocks, intended for harvest, that are released from Federally operated or Federally financed hatcheries . . .'' could have significant financial implications on both the State of Alaska and on the Alaska commercial fishing industry. The Alaska Department of Fish and Game has serious concerns about the impact of mass marking requirements of this section on its ongoing salmon stock sampling program.

The Alaska Department of Fish and Game determined that if far-north-migrating chinook salmon are mass marked by clipping the adipose fin, the State will have two options: 1, continue with visual identification of marked fish, or, 2, convert to electronic sampling. Either option will cause the State's salmon stock sampling program to be far more costly. The conferees recommend that if mass marking is implemented, it should be done for Puget Sound and Columbia River Tule Chinook and not implemented for Columbia Upriver Bright or Washington Coastal Chinook salmon. These stocks of salmon represent a significant portion of the Alaska salmon fisheries and mass marking of these stocks will incur a high cost on the Alaskan fishing industry and the state's fisheries management program.

Further, the conferees recommend that mass marking of chinook salmon should not be implemented without the concurrence of state and federal agencies on an effective means of stock identification that will support the implementation of the Pacific Salmon Treaty and other state and federal laws and regulations. In addition, the conferees recommend that the U.S. Fish and Wildlife Service work with the State of Alaska and the United States Section of the Pacific Salmon Commission to ensure that the system of mass marking does not interfere significantly with data collection, salmon management programs, or the implementation of abundance-based management under the treaty. The conferees direct the U.S. Fish and Wildlife Service to ensure that changes in fishery and stock assessment programs needed to maintain the reliability of those programs are identified and that funding is secured for implementation of the changes made by this section.

Kenai Fjords National Park: The conferees have included bill language requiring the National Park Service to acquire land to construct a multi-agency visitor center that has been under discussion for nearly a decade notwithstanding any other provision of law. That means the Service will acquire the land at a negotiated price notwithstanding any other issues or obstacles. No more delays. It is time to get this project done. The conferees urge the service to expedite construction of the project as well. It should consider utilizing Section 1307 of the Alaska National Interest Lands Conservation Act for the project if it will speed up the process. It should also consider a build-lease option which it used to acquire a new Alaska Region headquarters in Anchorage. The conferees note that this project has already been delayed and as a result missed Seward's centennial celebration. The authority we have provided will ensure that the project can now be completed with dispatch.

Lake Clark National Park: I am aware that the National Park Service and Cook Inlet Region Inc. are currently discussing options for the disposition of the Silver Salmon Camp. Until these issues are resolved, it is the expectation of the conferees that the National Park Service will issue a long term recreational permit to Cook Inlet Region Inc. or a related non-profit for the continued operation of the camp.

Denali Commission: The committee has provided $40,000,000 for the Denali Commission for health and social service construction projects. Within the funds made available for clinics, the conferees expect the Commission to provide the necessary funds for a joint clinic-library-community center in Girdwood, AK. It may use health funds for the clinic portion of the project and its general funds provided through the Energy and Water bill for the community center and library.

Special Education: The conferees have agreed to over $11,000,000,000 for special education. The Department of Education should consider making funds available to conduct a pilot program in Anchorage, AK to treat children suffering from attention deficit or hyperactivity disorder or FAS/FAE through biofeedback to determine whether this might be a useful alternative to drug therapy.

Section 115: The conferees have agreed to a provision to correct a drafting error that caused the earmarks provided to Alaska in the Fiscal Year 2004 Transportation bill to come out of the State of Alaska's mandatory formula funds under the highway bill instead of discretionary funds. This amendment clarifies that Alaska's earmarks are to be allocated out of discretionary funds and have no impact on highway funds Alaska receives through the formula.

Rural Air Service Improvement Act of 2004: Title J includes another provision called the Rural Air Service Improvement Act of 2004. This is an amendment worked on by the House Transportation Committee chairman, Don Young, and I. The State of Alaska has a very limited system of roads to connect communities. Most communities can only be reached by air. In order to connect the communities within the State, the Inter-Alaska bypass mail system was created to support affordable, safe air travel and establish a system where the Postal Service can meet its obligation to deliver mail to every house. The provisions within the appropriations bill refine the Inter-Alaska bypass mail system by eliminating unnecessary flights flown by mainline air carriers, by reducing the requirement to two schedule flights per week. The section also grants the United States Postal Service the discretion to increase the number of scheduled flights to a maximum of three in instances where there are not three consecutive scheduled flights in a week. This will allow the Postal Service to meet their service requirements to the communities within Alaska, while decreasing the unnecessary expenses associated with excessive scheduled flights.

The language included within the appropriations bill will give flexibility to the carriers and the Postal Service by allowing existing mainline carriers to temporarily subcontract mail shipments to another existing mainline carrier when additional or substitute aircraft are needed to meet the service needs of the Postal Service or the carrier's operating requirements. However, the providing carrier will still remain responsible for the mail from the origin to the destination.

Clarification of the definition of Existing Mainline Carrier is also provided in order to close a loophole that may have allowed carriers who are not qualified as existing mainline carriers to become one because they operated under a codeshare with an existing mainline carrier. Air Carriers who were not, on January 1, 2001, a Part 121 carrier qualified to provide mainline non-priority bypass mail service and actually engaged in the carriage of non-priority bypass mail tendered to it under its own designator code should not be defined as an existing mainline carrier.

Finally, the provision specifically exempts non-bypass mail from the dispatch requirements of the non-priority bypass mail system. It is intended to give the Postal Service the ability to dispatch postal products, other than non-priority bypass mail, as their service needs require.

Alaska Trails: The bill includes $4 million for the State of Alaska to develop statewide trails initiative. The funds are available to issue grants, on a competitive basis, for the development and reconstruction of trails within Alaska. The State of Alaska should take no more than one percent of the funds to cover any overhead costs. The eligible trails include: Arctic Valley

trails, Chugach Forest Russian River, Girdwood trails, Hatcher Pass trails, Iditarod trail, Juneau Nordic trails, Juneau Thunder Trail, Ketchikan Lewis Reef Road, Kodiak trails, Matanuska Susitna Gorsuch trails, Perseverance trail repairs, Russian River access road, Sitka Trailworks, Sitka World War II causeway, State of Alaska wildlife trails, Wrangell St. Elias Trails.

Transportation and Community and System Preservation Pilot Program: The conferees have agreed to provide $6,000,000 to the Matanuska Susitna Borough. Within the amounts made available to the Matanuska Susitna Borough, the conferees expect that $2,000,000 will be made available to Matanuska Susitna Gorsuch trails.

Denali Docks: I am pleased the Transportation/Treasury subsection of the omnibus bill authorizes and appropriates $10 million to a new program for the Denali Commission which focuses on docks and the development of waterfront projects. There is no Federal Government program which funds docks for communities without roads. Through the newly authorized program within the Denali Commission, the rural communities of Alaska will be able to create, replace or repair the damaged docks within the following locations: Homer, Ugashik, Hoonah, Bristol Bay Borough, Old Harbor, Sitka, Coffman Cove, Perryville, Illiamna Lake, Auk Bay, Seldovia, Whittier, Cordova, Gustavus, and Kenai Peninsula Borough.

General Service Administration: I am pleased the conferees once again included money for the University of Alaska to continue planning for the State's 50th anniversary celebration including preserving pioneer papers throughout the state.

On another matter, the conferees urge the Service to work with the Alaska Railroad to effect a land transfer that will be mutually beneficial to both parties, and hope the national office will make the resources available for that purpose.

National Science Foundation: The conferees agreed to retain report language urging the administration to request funds to replace the Alpha Helix, one of its premier research vessels that has seen better days. But this is not the first year such language has been included. Some believe the Service has no intention of ever seeking the necessary funds. As I assume the role as chairman of the Senate Commerce Committee overseeing NSF, I want to put the agency on notice that Congress expects the administration to begin seeking the necessary funds to replace the vessel. If funds are provided and the vessel is built, it should be homeported in Seward, AK, its current home. But if the administration fails to request the necessary funds when the fiscal year 2006 budget is submitted, Congress expects the agency to develop an interim solution by leasing a research vessel that can operate out of Seward to conduct research in Alaska.

TAPS Quality Bank: As part of the fiscal year 2005 Consolidated Appropriations conference report I included legislative language that expresses Congress' concerns over a long standing regulatory and judicial dispute concerning the Trans Alaska Pipeline, TAPS. This report language is intended to provide guidance to the Federal Energy Regulatory Commission as it evaluates the August 31, 2004 Initial Decision by the Administrative Law Judge, ALJ. This language does not have any effect on agreements reached between the parties. It is solely intended to address those issues still in dispute. Nor does this language have any effect on any other regulatory or judicial proceeding currently pending before the ALJ or the Commission, and should not be considered in evaluating any future rate cases.

Congress expects the Commission to carefully consider the specific equities of this case to prevent special hardship, inequity, or an unfair distribution of burdens to any party, evaluate all of the administrative law judge's decisions regarding the retroactive application of the modified Resid valuation, and to assess the equity of assigning retroactivity. The issue of retroactivity and its application in this case is problematic given the lack of clear Congressional action on the subject and the negative impacts an eleven year retroactive period will have on domestic refiners in the State of Alaska.

In addition, it is the expectation of Congress that this matter will be resolved in a fair and equitable manner which is necessary to limit business uncertainty associated with the use of the Trans Alaska Pipeline System, and to ensure continued domestic refinery activity in order to protect national fuel supplies. Ultimately, it is my hope that the parties in this case will be able to reach a settlement and finally end 15 years of litigation, and we appeal to the parties to work towards this end.

HONORING OUR ARMED FORCES

CORPORAL LANCE M. THOMPSON AND LANCE CORPORAL JAMES ERIC SWAIN

Mr. LUGAR. Mr. President, as a nation, we must always keep in mind that our military successes come at a high cost in the loss of promising young human lives. I rise today to pay tribute to two Hoosier marines who made the ultimate sacrifice for their country.

Cpl Lance M. Thompson, 21, of Upland, IN, was killed in action while conducting combat operations in Al Anbar Province, Iraq. Corporal Thompson graduated from Eastbrook High School in 2001 and married Dawn Case, of Van Buren, Indiana, in 2002. He was on his second tour of duty in Iraq. Corporal Thompson was an outstanding marine. He will be missed.

LCpl James Eric Swain, 20, of Kokomo, IN, was killed in action while conducting combat operations in Al Anbar Province, Iraq. Lance Corporal Swain, a member of the National Honor Society, graduated from Kokomo High School in 2002. He was involved in numerous church and community projects in Kokomo. Lance Corporal Swain was an outstanding marine. He will be missed.

My thoughts and prayers are with both of these families as they remember and celebrate the lives and dedicated service of these marines.

MICHIGAN'S FALLEN HEROES

Ms. STABENOW. Mr. President, I rise today to pay tribute to the brave men and women of the U.S. armed forces who have given their lives during the military operations in Iraq. Of the over 1,270 casualties to date in Operation Iraqi Freedom, 42 of these fallen heroes are from or have family in my home state of Michigan. My heartfelt sympathies go out to the families and friends of these great Americans. On behalf of the State of Michigan, I offer my deepest gratitude for the service, sacrifice, and commitment of these men and women in upholding the ideals of this Nation.

These men and women represent the finest of our citizens. They have revealed their unyielding courage, sense of duty, and patriotism. For this, their service to this Nation will never be forgotten.

I would like to honor the following men and women of the U.S. Armed Forces that have Michigan ties and have bravely made the ultimate sacrifice while serving in Iraq:

Army PVT Brandon Sloan, 19, of Bedford Heights, OH, was killed when his unit, the 507th Maintenance Co., was ambushed near Nasiriyah on March 23, 2003. Sloan's mother, Kimberly, lives in Fraser.

Marine MAJ Kevin Nave, 36, formerly of Oakland County's White Lake Township, was killed when he was run over by a military vehicle on March 26, 2003. Nave was a veteran of the 1991 Persian Gulf War and lived in Oceanside, CA. He is survived by his wife and two children.

Army SGT Todd James Robbins, 33, formerly of Pentwater, died after the Bradley fighting vehicle he manned with eight other soldiers was bombed on April 2, 2003, possibly by friendly fire. Robbins, a veteran of the first gulf war, was stationed at Fort Sill, OK. He is survived by a wife and a 13-year-old son.

Army SGT Michael Pedersen, 26, formerly of Flint, was one of six soldiers killed in the crash of an Army Black Hawk helicopter on April 2, 2003, during a fire fight in Iraq. He served as a helicopter crew chief with the Army's 3rd Infantry Division based in Fort Stewart, GA.

Army PFC Jason Meyer, 23, was killed on April 7, 2003, when his personnel carrier came under fire. He graduated from Howell High School in 1999 and joined the Army in 2001. Meyer was based in Fort Stewart, GA, and had celebrated his first wedding anniversary 2 weeks before his death.

Marine PFC Juan Garza, 20, of Temperance was killed by sniper fire on April 8, 2003. Garza graduated from Summerfield High School in 2002 and was married the day after Christmas.

Air Force SSGT Scott Sather, 29, of Clio was killed in action in Iraq on April 8, 2003. He was assigned to the 24th Special Tactics Squadron, based out of Pope Air Force Base, NC.

Army SPC Richard A. Goward, 32, of Midland was killed on April 14, 2003, when his truck entered a dust cloud and collided with another truck in Iraq. Goward was assigned to the Midland-based 1460th Transportation Company of the Michigan Army National Guard. The father of two daughters served on active duty with the Army from 1990 to 1996, then joined the Michigan Guard after the Sept. 11 terror attacks.

Army SGT Sean Reynolds, 25, was killed on May 3, 2003, in an apparent accident involving his own weapon in northern Iraq. He grew up in Detroit and graduated from East Lansing High School in 1995. Reynolds was assigned to the Army's 173rd Airborne Brigade, deployed near Kirkuk. The 173rd is based in Vicenza, Italy.

Army MSG William Lee Payne, 46, who joined the Army shortly after graduating from Otsego High School in 1975, died on May 16, 2003, in Haswah, Iraq. He was killed in an explosion. Payne was an intelligence officer for the 2nd Battalion, 70th Armor Regiment of the 3rd Brigade, 1st Armored Division.

Army SSG Brett J. Petriken, 30, of Flint, a military police officer, was one of two soldiers killed on May 26, 2003, when a heavy equipment transporter crossed a median and struck his vehicle in Samawah, Iraq. He was part of the 501st Military Police Unit of the 1st Armored Division.

Army CPT Paul J. Cassidy, 36, of Laingsburg died in Camp Babylon as a result of non-combat injuries on July 13, 2003. He was part of the 432nd Civil Affairs Battalion based in Ashwaubenon, WI, a suburb of Green Bay. Cassidy, a reservist, was in Iraq performing humanitarian services. He also served as department secretary for the Meridian Township clerk's office.

Army SGT Trevor A. Blumberg, 22, of Wayne County's Canton Township, a paratrooper, died on Sept. 14, 2003, when a roadside bomb hit a convoy and destroyed his Humvee in Fallujah, Iraq. Blumberg was an 82nd Airborne paratrooper with the 1st Battalion of the 504th Parachute Infantry Regiment.

Army SPC Donald L. Wheeler, 22, of Concord died as a result of the injuries he sustained on October 13, 2003, in Tikrit, Iraq, when his unit came under attack from insurgent forces. Wheeler was assigned to A Company, 1st Battalion, 22nd Infantry Regiment, 4th Infantry Division, Fort Hood, TX.

Army SSG Paul J. Johnson, 29, of Calumet was killed when Iraqi fighters ambushed his patrol in Fallujah, Iraq, on October 20, 2003. Johnson served in the 82nd Airborne Division, based at Fort Bragg, NC. He was a member of the 1st Battalion, 505th Parachute Infantry Regiment.

Army SPC Artimus D. Brassfield, 22, of Flint was killed in a mortar attack while he played basketball at an outpost on October 24, 2003.

Army SSG Mark D. Vasquez, 35, of Port Huron was killed when the Bradley Fighting Vehicle in which he was riding was struck by an improvised explosive device on November 8, 2003. Vasquez was assigned to the 1st Battalion, 16th Infantry Regiment, 1st Infantry Division based in Fort Riley, KS.

U.S. Army SSG Paul Neff II, 30, of Fort Mill, SC, on November 7, 2003, in Tikrit. The Black Hawk was shot down by unknown enemy ordnance. Neff was assigned to 5th Battalion, 101st Aviation Regiment, 101st Airborne Division based in Fort Campbell, KY. He is survived by his father in West Branch.

Army PFC Damian S. Bushart, 22, of Oakland County's Waterford Township was killed on November 22, 2004, when a tank collided with his vehicle in Baghdad. Bushart was assigned to A Troop, 1st Squadron, 1st Cavalry Regiment, 1st Armored Division; Armstrong Barracks, Germany.

Army PFC Jason G. Wright, 19, of Luzerne was killed on December 8, 2003, when his vehicle came under fire while he was providing security at a gas station in northern Iraq. Wright was a mortarman assigned to Headquarters Company, 1st Battalion, 502nd Infantry Regiment. He entered the Army in June 2002, and arrived at Fort Campbell, KY, the following December.

Army SSG Thomas W. Christensen, 42, of Atlantic Mine was killed on December 25, 2003, when his living quarters in Baqouba, Iraq, came under mortar attack. Christensen was assigned to the 652nd Engineer Battalion, U.S. Army Reserve, a bridge-building unit based in Harvey. The detachment is a multi-role bridge-building outfit with administrative ties to Ellsworth, WI.

Army SSG Stephen C. Hattamer, 43, of Gwinn was killed on December 25, 2003, when his living quarters in Baqouba, Iraq, came under mortar attack. Hattamer was assigned to the 652nd Engineer Battalion, U.S. Army Reserve, a bridge-building unit based in Harvey. The detachment is a multi-role bridge-building outfit with administrative ties to Ellsworth, WI.

Army PFC Holly J. McGeogh, 19, of Taylor was among three soldiers killed when a homemade bomb exploded on January 31, 2004, along a road near Kirkuk, Iraq, as their convoy passed by. She was assigned to Company A, 4th Forward Support Battalion, 4th Infantry Division, from Fort Hood, TX.

Army SPC Richard K. Trevithick, 20, of Gaines was killed on April 14, 2004, when an improvised explosive device exploded near his convoy vehicle in Balad, Iraq. He was part of the 9th Engineer Battalion, 2nd Brigade Combat Team, 1st Infantry Division out of Schweinfurt, Germany.

Army SFC Bradley C. Fox, 34, who grew up in Adrian, died on April 20, 2004, of wounds suffered March 14 when a roadside bomb detonated near his vehicle. He was serving with the 1st Armored Division.

Army PFC Richard H. Rosas, 21, of St. Louis was one of two soldiers killed on May 25, 2004, when their patrol was hit by an improvised explosive device in Fallujah, Iraq. He was serving with the 3rd Battalion, 62nd Air Defense Artillery, 10th Mountain Division, Light Infantry, based in Fort Drum, NY.

Army SGT Aaron Elandt, 23, of Port Hope died on May 30, 2004, when the Humvee he was in struck a land mine while responding to a mortar attack. Elandt was a cavalry scout with the 1st Armored Division and had been in Iraq for about 14 months.

Army SPC Craig S. Frank, 24, of Lincoln Park, a Michigan National Guard military police officer, died on July 17, 2004, after his vehicle was hit by an improvised explosive device near Baghdad. Frank was serving with the 1775th Military Police Company out of Pontiac. He was studying education at Eastern Michigan University before his call-up.

Army SFC David A. Hartman, 41, of Akron died on July 17, 2004, in Beiji after the vehicle he was driving was hit by an improvised explosive device. Hartman was assigned to the Army Reserve's 401st Transportation Company out of Battle Creek.

Army PFC Nicholas H. Blodgett, 21, of Wyoming died on July 21, 2004, in Abdalluyah, Iraq. He was killed when his patrol vehicle hit an improvised explosive device. He was assigned to the 4th Cavalry Regiment of the Army's 1st Squadron and stationed in Schweinfurt, Germany.

Army SPC Donald R. McCune, 20, of Ypsilanti died on August 5, 2004, in Landstuhl, Germany, of injuries he received when an improvised explosive device detonated near his patrol in Balad. McCune was assigned to the Army National Guard's 1st Battalion, 161st Infantry Regiment, 81st Brigade Combat Team and stationed in Moses Lake, WA.

Army SPC Dana Wilson, Hudsonville, 26, of Fountain, CO, died on July 11, 2004, near Al Hillah when the vehicle Wilson was riding in was involved in a head-on collision with another vehicle. Wilson was assigned to the 1st Battalion, 94th Field Artillery Brigade in Baumholder, Germany. Wilson's mother lives in Hudsonville.

Army SSG Donald N. Davis, 42, of Saginaw died on August 24, 2004, when a tractor and a tanker trailer rolled over an embankment in Fallujah, Iraq. Davis was assigned to the U.S. Army Reserve's 660th Transportation Company in Zanesville, OH.

Army SGT Carl Thomas, 29, a native of Detroit who lived in Phoenix before being stationed at Fort Hood, TX, died on September 13, 2004, when a homemade explosive detonated near his

Army observation post in Baghdad. Thomas was assigned to the 1st Battalion, 12th Cavalry Regiment.

Army PVT Mark Barbret, 22, of Macomb County's Shelby Township died on October 14, 2004, when the Humvee he was riding in hit a roadside bomb near Ramadi, Iraq. Barbret was an Army mechanic with the 2nd Infantry Division.

Army SPC Don A. Clary, of Troy, Kansas died on November 8, 2004, in Baghdad when a vehicle-borne improvised explosive device detonated near his convoy. He was assigned to the 2nd Battalion, 130th Field Artillery, Kansas National Guard in Horton, KS. Clary's mother resides in Flint.

Army PFC Dennis Miller Jr., 21, of La Salle died on November 10, 2004, after his unit came under attack and a rocket-propelled grenade struck his tank in Ramadi, Iraq. Miller was assigned to the 2nd Battalion, 72nd Armor Regiment, 2nd Infantry Division.

Marine LCpl Justin D. Reppuhn, 20, of Hemlock died on November 11, 2004, as a result of enemy action in Al Anbar Province. Reppuhn was assigned to motor transport duties with the 3rd Light Armored Reconnaissance Battalion, 1st Marine Division.

Marine LCpl Justin M. Ellsworth, 20, of Mount Pleasant died on November 14, 2004, while on reconnaissance during the U.S. assault on Fallujah. He was assigned to a Combat Service Support Battalion 1 in the First Marine Expeditionary Force in Camp Pendleton, CA.

Marine LCpl Michael Wayne Hanks, 22, of Gregory, died on November 17, 2004, as a result of enemy action in Al Anbar Province. He was assigned to 3rd Battalion, 1st Marine Regiment, 1st Marine Division, in the First Marine Expeditionary Force. The Marines issued him a formal commendation on May 11, 2003, for saving the life of an Iraqi civilian in Ash Shatra, 170 miles south of Baghdad.

Marine Cpl Gentian Marku, 22, of Warren, died on November 25, 2004, as a result of enemy action in Al Anbar Province. Marku was assigned to 1st Battallion, 8th Marine Regiment, 2nd Marine Division, II Marine Expeditionary Force and stationed at Camp Lejeune, NC. He was awarded medals for good conduct, humanitarian service, combat action, and other activities. Marku moved to the United States from Albania when he was 14.

Army SPC Corey Hubbell, Holly, 20, of Urbana, Illinois died on June 26, 2004, in Camden Yards, Kuwait, in support of Operation Iraqi Freedom. Hubbell died from a non-combat related cause. Hubbell was assigned to Company B, 46th Engineer Battalion, Fort Rucker, AL. Hubbell's father resides in Holly.

This list was provided by the Detroit Free Press on December 1, 2004.

CALIFORNIA'S FALLEN HEROES

Mrs. BOXER. Mr. President, I rise to pay tribute to 66 young Americans who have been killed in Iraq since October 7. All of them were from California or were based in California.

SPC Morgen N. Jacobs, age 20, died October 7 in Tikrit, of injuries sustained in Aaliyah on October 6, when an improvised explosive device detonated near his patrol vehicle. He was assigned to the 1st Battalion, 18th Infantry Regiment, 1st Infantry Division, Schweinfurt, Germany. He was from Santa Cruz, CA.

PFC First Class Andrew Halverson, age 19, died October 9 as result of enemy action in Al Anbar Province. He was assigned to 2nd Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

CPL Ian T. Zook, age 24, died October 12 as a result of enemy action in Al Anbar Province. He was assigned to 1st Battalion, 7th Marine Regiment, 1st Marine Division, Marine Corps Air Ground Combat Center, Twentynine Palms, CA.

PFC Oscar A. Martinez, age 19, died October 12 as result of enemy action in Al Anbar Province. He was assigned to I Marine Expeditionary Force Headquarters Group, Camp Pendleton, CA.

Lance CPL Victor A. Gonzalez, age 19, was killed in action October 13 from an explosion while conducting combat operations in the Al Anbar Province. He was assigned to 2nd Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. He was from Watsonville, CA.

2LT Lt. Paul M. Felsbert, age 27, died October 13 as result of enemy action in Al Anbar Province. He was assigned to 2nd Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

MAJ Charles R. Soltes, Jr., age 36, died October 13 in Mosul when an improvised explosive device detonated near his convoy vehicle. He was assigned to the Army Reserve's 426th Civil Affairs Battalion, Upland, CA. He was from Irvine, CA.

PVT David L. Waters, age 19, died October 14 in Baghdad when an improvised explosive device detonated near his convoy vehicle. He was assigned to the Army's 2nd Battalion, 14th Infantry Regiment, 10th Mountain Division (Light Infantry), Fort Drum, NY. He was from Auburn, CA.

CPL William I. Salazar, age 26, died October 15 from wounds received as result of enemy action in Al Anbar Province. He was assigned to Headquarters Battalion, 1st Marine Division, Camp Pendleton, CA.

SGT Douglas E. Bascom, age 25, died October 20 as result of enemy action in Al Anbar Province. He was a member of the Individual Ready Reserves who was mobilized and assigned to 2nd Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

LCpl Jonathan E. Gadsden, age 21, died October 22 at the James A. Haley Veterans' Hospital in Tampa, Florida, from injuries received during enemy action in Al Anbar Province on August 21. He was assigned to 1st Combat Engineer Battalion, 1st Marine Division, Camp Pendleton, CA.

LCpl Richard P. Slocum, age 19, died October 24 due to a non-combat related vehicle accident near Abu Ghraib, Iraq. He was assigned to 1st Battalion, 3rd Marine Regiment, 1st Marine Division, Camp Pendleton, CA. He was from Saugus, CA.

CPL Brian Oliveira, age 22, died October 25 from injuries received from enemy action in Al Anbar Province. He was assigned to 3rd Battalion, 1st Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

LCpl Jeremy D. Bow, age 20, died October 30 due to enemy action in Al Anbar Province. He was assigned to 1st Battalion, 3rd Marine Regiment, 3rd Marine Division, Marine Corps Base Hawaii. He was from Lemoore, CA.

1LT Matthew D. Lynch, age 25, died October 31 from enemy action in Al Anbar Province. He was assigned to 2nd Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

LCpl Jared P. Hubbard, age 22, died November 4 when he sustained fatal wounds from an explosion while conducting combat operations in the Al Anbar Province. He was assigned to 2nd Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. He was from Clovis, CA.

CPL Jeremiah A. Baro, age 21, died November 4 when he sustained fatal shrapnel wounds from an explosion while conducting combat operations in the Al Anbar Province. He was assigned to 2nd Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. He was from Fresno, CA.

LCpl Sean M. Langley, age 20, died November 7 from injuries received as a result of enemy action in Al Anbar Province. He was assigned to 2nd Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

SPC Quoc Binh Tran, age 26, died November 7 in Baghdad from wounds sustained when an improvised explosive device detonated near his military vehicle. He was assigned to the Army National Guard's 181st Support Battalion, San Bernardino, CA. He was from Mission Viejo, CA.

LCpl Thomas J. Zapp, age 20, died November 8 as a result of enemy action in Al Anbar Province. He was assigned to Combat Service Support Battalion 1, Combat Service Support Group 11, 1st Force Service Support Group, Camp Pendleton, CA.

LCpl Juan E. Segura, age 26, died November 9 as a result of enemy action in Al Anbar Province. He was assigned to 3rd Battalion, 1st Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

CPL William C. James, age 24, died November 9 as a result of enemy action in Al Anbar Province. He was assigned to 3rd Battalion, 1st Marine Regiment, 1st Marine Division, Camp Pendleton, CA. He was from Huntington Beach, CA.

LCpl Nicholas D. Larson, age 19, died November 9 as a result of enemy action in Al Anbar Province. He was assigned to 3rd Battalion, 1st Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

LCpl Nathan R. Wood, age 19, died November 9 as a result of enemy action in Al Anbar Province. He was assigned to 3rd Battalion, 1st Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

LCpl Abraham Simpson, age 19, died November 9 as a result of enemy action in Al Anbar Province. He was assigned to 3rd Battalion, 1st Marine Regiment, 1st Marine Division, Camp Pendleton, CA. He was from Chino, CA.

LCpl Erick J. Hodges, age 21, died November 10 as a result of enemy action in Al Anbar Province. He was assigned to 3rd Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. He was from Bay Point, CA.

SSG Gene Ramirez, age 28, died November 10 as a result of enemy action in Al Anbar Province. He was assigned to 3rd Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

SSG Michael C. Ottolini, age 45, died November 10 in Balad, Iraq when an improvised explosive device detonated near his up-armored HMMWV. He was assigned to the Army National Guard's 579th Engineer Battalion, Petaluma, CA. He was from Sebastopol, CA.

LCpl Justin D. Reppuhn, age 20, died November 11 as a result of enemy action in Al Anbar Province. He was assigned to 3rd Light Armored Reconnaissance Battalion, 1st Marine Division, Camp Pendleton, CA.

CPL Theodore A. Bowling, age 25, died November 11 as a result of enemy action in Al Anbar Province. He was assigned to 3rd Battalion, 1st Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

SSG Theodore S. Holder, II, age 27, died November 11 as a result of enemy action in Al Anbar Province. He was assigned to 1st Battalion, 3rd Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

2LT James P. Blecksmith, age 24, died November 11 as a result of enemy action in Al Anbar Province. He was assigned to 3rd Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. He was from San Marino, CA.

LCpl Kyle W. Burns, age 20, died November 11 as a result of enemy action in Al Anbar Province. He was assigned to 1st Light Armored Reconnaissance Battalion, 1st Marine Division, Camp Pendleton, CA.

CPL Jarrod L. Maher, age 21, died November 12 as result of a non-hostile gunshot wound at Abu Ghraib. His death is under investigation. He was assigned to 1st Battalion, 4th Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

SGT Morgan W. Strader, age 23, died November 12 as result of enemy action in Al Anbar Province. He was assigned to 3rd Battalion, 1st Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

LCpl Nicholas H. Anderson, age 19, died November 12 in a vehicle incident while conducting combat operations in Al Anbar Province. He was assigned to 1st Battalion, 4th Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

LCpl Justin M. Ellsworth, age 20, died November 13 as a result of enemy action in Al Anbar Province. He was assigned to Combat Service Support Battalion 1, Combat Service Support Group 11, 1st Force Service Support Group, Camp Pendleton, CA.

SGT Byron W. Norwood, age 25, died November 13 as result of enemy action in Al Anbar Province. He was assigned to 3rd Battalion, 1st Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

LCpl Benjamin S. Bryan, age 23, died November 13 as result of enemy action in Al Anbar Province. He was assigned to 3rd Battalion, 1st Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

LCpl Victor R. Lu, age 22, was killed in action November 13 from small arms fire while conducting combat operation in the Al Anbar Province. He was assigned to 3rd Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. He was from Los Angeles, CA.

LCpl Justin D. McLeese, age 19, died November 14 as result of enemy action in Al Anbar Province. He was assigned to 3rd Battalion, 1st Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

CPL Dale A. Burger, age 21, died November 14 as result of enemy action in Al Anbar Province. He was assigned to 3rd Battalion, 1st Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

CPL Andres H. Perez, age 21, was killed in action November 14 from an explosion while conducting combat operation in the Al Anbar Province. He was assigned to 3rd Battalion, 1st Marine Regiment, 1st Marine Division, Camp Pendleton, CA. He was from Santa Cruz, CA.

LCpl Jeramy A. Ailes, age 22, was killed in action November 15 from small arms fire while conducting combat operation in the Al Anbar Province. He was assigned to 3rd Battalion, 1st Marine Regiment, 1st Marine Division, Camp Pendleton, CA. He was from Gilroy, CA.

LCpl George J. Payton, age 20, died November 14 after sustaining fatal injuries while conducting combat operations in the Al Anbar Province. He was assigned to 3rd Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. He was from Culver City, CA.

SGT Rafael Peralta, age 25, died November 15 as result of enemy action in Al Anbar Province. He was assigned to 1st Battalion, 3rd Marine Regiment, 3rd Marine Division, Marine Corps Base Hawaii. He was from San Diego, CA.

CPL Marc T. Ryan, age 25, died November 15 as result of enemy action in Al Anbar Province. He was assigned to 2nd Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

LCpl James E. Swain, age 20, died November 15 as result of enemy action in Al Anbar Province. He was assigned to Headquarters Battalion, 1st Marine Division, Camp Pendleton, CA.

LCpl Shane E. Kielion, age 23, died November 15 as result of enemy action in Al Anbar Province. He was assigned to 3rd Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

CPT Patrick Marc M. Rapicault, age 34, died November 15 as result of enemy action in Al Anbar Province. He was assigned to 3rd Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

LCpl Antoine D. Smith, age 22, died November 15 as result of enemy action in Al Anbar Province. He was assigned to 3rd Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

PFC Cole W. Larsen, age 19, died November 13 in Baghdad when a civilian vehicle struck his military vehicle causing it to roll over. He was assigned to the 272nd Military Police Company, 21st Theater Support Command, Mannheim, Germany. He was from Canyon Country, CA.

CPL Lance M. Thompson, age 21, died November 15 as result of enemy action in Al Anbar Province. He was assigned to 2nd Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

PFC Jose Ricardo Flores-Mejia, age 21, died November 16 in Mosul when an improvised explosive device hit his convoy. He was assigned to the 25th Transportation Company, Schofield Barracks, HI. He was from Santa Clarita, CA.

SGT Christopher T. Heflin, age 26, died November 16 as result of enemy action in Al Anbar Province. He was assigned to 3rd Battalion, 1st Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

LCpl Luis A. Figueroa, age 21, was killed in action November 18 from small arms fire while conducting combat operations in the Al Anbar Province. He was assigned to 3rd Battalion, 1st Marine Regiment, 1st Marine Division, Camp Pendleton, CA. He was from Los Angeles, CA.

LCpl Michael W. Hanks, age 22, died November 17 as result of enemy action in Al Anbar Province. He was assigned to 3rd Battalion, 1st Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

LCpl Phillip G. West, age 19, died November 19 after sustaining fatal bilateral shrapnel wounds to his legs from an explosion while conducting combat operations in the Al Anbar Province. He was assigned to 3rd Battalion, 1st Marine Regiment, 1st Marine Division, Camp Pendleton, CA. He was from American Canyon, CA.

CPL Joseph J. Heredia, age 22, died November 20 in Landstuhl, Germany from wounds received as result of enemy action on November 10 in Al Anbar Province. He was assigned to 3rd Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. He was from Santa Maria, CA.

LCpl Joseph T. Welke, age 20, died November 20 in Landstuhl, Germany from wounds received as result of enemy action on November 19 in Al Anbar Province. He was assigned to 3rd Battalion, 1st Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

CPL Kirk J. Bosselmann, age 21, died November 27 as a result of enemy action in Al Anbar Province. He was assigned to 1st Battalion, 8th Marine Regiment, 2nd Marine Division, Camp Lejune, NC. He was from Napa, CA.

LCpl Jordan D. Winkler, age 19, died November 26 due to a non-combat related incident at Camp Fallujah. The incident is under investigation. He was assigned to Combat Service Support Battalion 1, Combat Service Support Group 11, 1st Force Service Support Group, Camp Pendleton, CA.

SGT Trinidad R. Martinezluis, age 22, died November 28 in Baqubah when his 5-ton vehicle rolled over and pinned him underwater. He was assigned to the Army's 201st Forward Support Battalion, 1st Infantry Division, Vilseck, Germany. He was from Los Angeles, CA.

LCpl Blake A. Magaoay, age 20, died November 29 as a result of enemy action in Al Anbar Province. He was assigned to 1st Light Armored Reconnaissance Battalion, 1st Marine Division, Camp Pendleton, CA.

SPC Sergio R. Diazvarela, age 21, died November 24 in Ar Ramadi when an improvised explosive device detonated near his dismounted patrol.

He was assigned to 1st Battalion, 503rd Infantry Regiment, 2nd Brigade Combat Team, Camp Howze, Korea. He was from Lomita, CA.

CPL Bryan S. Wilson, age 22, died December 1 as result of a non-hostile vehicle incident in Al Anbar Province. He was assigned to 2nd Battalion, 11th Marine Regiment, 1st Marine Division, Camp Pendleton, CA.

Mr. President, 349 soldiers who were either from California or based in California have been killed while serving our country in Iraq. I pray for these young Americans and their families.

I would also like to pay tribute to the 25 soldiers from or based in California who have died while serving our country in Operation Enduring Freedom.

SSG Brian C. Prosser, age 28, was killed December 5, 2001 by ordnance from a B–52 aircraft north of Kandahar, Afghanistan.

He was assigned to the 3rd Battalion, 5th Special Forces Group, Fort Campbell, KY. He was from Panorama City, CA.

SGT Jeannette L. Winters, age 25, was killed January 9, 2002 as result of a KC–130/R aircraft crash in Pakistan.

She was assigned to Marine Aerial Refueler Transport Squadron 352, whose home base is the Marine Corps Air Station at Miramar, CA.

LCpl Bryan P. Bertrand, age 23, was killed January 9, 2002 as result of a KC–130/R aircraft crash in Pakistan.

He was assigned to Marine Aerial Refueler Transport Squadron 352, whose home base is the Marine Corps Air Station at Miramar, CA.

SGT Nathan P. Hays, age 21, was killed January 9, 2002 as result of a KC–130/R aircraft crash in Pakistan.

He was assigned to Marine Aerial Refueler Transport Squadron 352, whose home base is the Marine Corps Air Station at Miramar, CA.

SSG Scott N. Germosen, age 37, was killed January 9, 2002 as result of a KC–130/R aircraft crash in Pakistan.

He was assigned to Marine Aerial Refueler Transport Squadron 352, whose home base is the Marine Corps Air Station at Miramar, CA.

GySgt Stephen L. Bryson, age 35, was killed January 9, 2002 as result of a KC–130/R aircraft crash in Pakistan.

He was assigned to Marine Aerial Refueler Transport Squadron 352, whose home base is the Marine Corps Air Station at Miramar, CA.

CPT Daniel G. McCollum, age 29, was killed January 9, 2002 as result of a KC–130/R aircraft crash in Pakistan.

He was assigned to Marine Aerial Refueler Transport Squadron 352, whose home base is the Marine Corps Air Station at Miramar, CA.

CPT Matthew W. Bancroft, age 29, was killed January 9, 2002 as result of a KC–130/R aircraft crash in Pakistan.

He was assigned to Marine Aerial Refueler Transport Squadron 352, whose home base is the Marine Corps Air Station at Miramar, CA. He was from Shasta, CA.

SSG Dwight J. Morgan, age 24, was killed January 20, 2002 when a Marine CH–53E crashed in a remote region south of Bagram in Northern Afghanistan.

He was assigned to Marine Heavy Helicopter Squadron 361, 3rd Marine Aircraft Wing, Marine Corps Air Station, Miramar, CA. He was from Mendocino, CA.

SSG Walter F. Cohee, III, age 26, was killed January 20, 2002 when a Marine CH–53E crashed in a remote region south of Bagram in Northern Afghanistan. He was assigned to Marine Heavy Helicopter Squadron 361, 3rd Marine Aircraft Wing, Marine Corps Air Station, Miramar, CA.

SrA Jason D. Cunningham, age 26, was killed in action March 4, 2002 in eastern Afghanistan during Operation Anaconda. He was assigned to 38th Rescue Squadron, Moody Air Force Base, GA. He was from Camarillo, CA.

Petty Officer 1st Class Neil C. Roberts, age 32, was killed in action March 4, 2002 in eastern Afghanistan during Operation Anaconda.

He was assigned to the Navy SEALs, Little Creek Naval Amphibious Base, Norfolk-Virginia Beach. He was from Woodland, CA.

SGT Jamie O. Maugans, age 27, was killed April 15, 2002 in Qandahar, Afghanistan as the result of an explosion during explosive clearing operations. He was assigned to the 710th Explosive Ordnance Detachment, San Diego, CA.

SSG Justin J. Galewski, age 28, was killed April 15, 2002 in Qandahar, Afghanistan as the result of an explosion during explosive clearing operations. He was assigned to the 710th Explosive Ordnance Detachment, San Diego, CA.

SSG Brian T. Craig, age 27, was killed April 15, 2002 in Qandahar, Afghanistan as the result of an explosion during explosive clearing operations. He was assigned to the 710th Explosive Ordnance Detachment, San Diego, CA.

TSSgt Sean M. Corlew, age 37, was killed June 12, 2002 in the crash of a U.S. Air Force MC–130H in the Paktika province of Afghanistan. He was assigned to the Air Force's 16th Special Operations Wing at Hurlburt Field, FL. He was from Thousand Oaks, CA.

LCpl Antonio J. Sledd, age 20, was killed October 8, 2002 in Kuwait. He died from wounds received in action while participating in an urban exercise as part of Exercise Eager Mace.

He was assigned to Lima Company, 3rd Battalion, 1st Marines, 11th Marine Expeditionary Unit, Camp Pendleton, CA.

SGT Gregory M. Frampton, age 37, died January 30, 2003 when a MH–60L Black Hawk helicopter crashed during a training mission in Bagram.

He was assigned to 1st Battalion, 160th Special Operations Aviation Regiment, Fort Campbell, KY. He was from Fresno, CA.

PFC James R. Dillon, Jr., age 19, died March 13, 2003 in Kuwait as the result of a gunshot wound. He was assigned to 3rd Light Armored Reconnaissance Battalion, 1st Marine Division, Marine Corps Air-Ground Combat Center, Twentynine Palms, CA.

1st Class Petty Officer Thomas E. Retzer, age 30, died of wounds received in action June 25, 2003 in Afghanistan. He was assigned to the Navy SEALs at Virginia Beach, VA. He was from San Diego, CA.

SFC Mitchell A. Lane, age 34, died August 29, 2003 of injuries received from a fall while conducting a fast rope infiltration into a known enemy cave complex in Afghanistan. He was assigned to 2nd Battalion, 3rd Special Forces Group, Fort Bragg, NC. He was from Lompoc, CA.

Petty Officer 2nd Class Darrell Jones, age 22, died October 8, 2003 of non-combat related injuries in the United Arab Emirates. He was assigned to the USS Higgins, San Diego, CA.

SPC Adam G. Kinser, age 21, was killed January 29, 2004, west of Ghazni, Afghanistan when he was working around a weapons cache and there was an explosion.

He was assigned to the 304th Psychological Operations Company, U.S. Army Reserve, Sacramento, CA. He was from Rio Vista, CA.

CPL Billy Gomez, age 25, died October 27, 2004 in Landstuhl, Germany

from injuries sustained when his vehicle struck an improvised explosive device in Naka, Afghanistan on October 20.

He was assigned to the 2nd Battalion, 27th Infantry Regiment, 25th Infantry Division (Light), Schofield Barracks, HA. He was from Perris, CA.

CPL Dale E. Fracker, Jr., age 23, died on November 24 in Deh Rawod, Afghanistan, when an improvised explosive device detonated near his unit.

He was assigned to the Army's 2nd Battalion, 5th Infantry Regiment, 25th Light Infantry Division, Schofield Barracks, HA. He was from Apple Valley, CA.

Mr. President, 25 soldiers who were either from California or based in California have been killed while serving our country in Operation Enduring Freedom. I pray for these Americans and their families.

FOREIGN AFFAIRS COUNCIL TASK FORCE REPORT

Mr. LUGAR. Mr. President, I commend to my colleagues the November 2004 Task Force Report of the Foreign Affairs Council entitled ''Secretary Colin Powell's State Department: An Independent Assessment.''

This nonpartisan report prepared under of the sponsorship of the Council and on behalf of the 11 organizations that comprise the Council represents the work of some of the most distinguished leaders in our Nation's foreign policy establishment.

The report chronicles the impressive achievements of Secretary Powell and Deputy Secretary Armitage and their team over the last 4 years.

One of Secretary Powell's greatest achievements was his effort to reform the leadership culture of the State Department. Through an increased focus on the management, training and empowerment of the Department's Foreign Service officers and civil servants, the Secretary strengthened the team of individuals who execute our Nation's foreign policy. Secretary Powell complemented these management changes with key steps to raise morale and foster team spirit.

The Secretary has been personally committed to working with interested Members of Congress to strengthen the Department over the past 4 years. He most notably worked to improve diplomatic readiness including: the hiring of new officers, a commitment to long-term training, especially language training; and significant improvements in information technology infrastructure. He addressed staff shortages stemming from budget cuts in the Nineties by recruiting and hiring more Foreign Service officers, consular officers, and diplomatic security personnel. In the area of information technology, Secretary Powell provided desktop access to the Internet for all State Department employees worldwide and developed a state-of-the-art messaging system to replace the current World War II telegram system. Most recently, he decided to strengthen the Department's capacity to play a major role in planning, organizing and leading the civilian component of stabilization and reconstruction operations.

Secretary Powell worked to overcome a crisis in embassy construction and security in which only one new safe and functional embassy was being built each year. The State Department is currently managing $4 billion in construction projects in comparison to the $700 million when Secretary Powell took office. Committed to improvements in embassy security, the Secretary has overseen the construction of 13 embassies in 2-year period—completing these projects on time and under budget. Twenty-six additional embassy projects are currently underway. With Congressional support for full funding, this building program can be completed and all our departments and agencies operating overseas will enjoy safer and more functional work environments as soon as possible.

The foreign policy achievements of Secretary Powell are many. Soon after assuming his post, the Secretary adeptly managed the crisis over the shoot down of an American P–3 aircraft over China. He has worked tirelessly to achieve United States objectives in the war on terrorism. He has sought to strengthen important relationships with Russia, China, India, Pakistan, and has provided critical support for further expansion of NATO. The Secretary has exhibited distinguished leadership promoting United States interests around the globe. He has represented our country honorably and ably overseas and is widely known and admired on every continent.

Secretary Powell has also worked to strengthen relations on the domestic front. Upon assuming his position, the Secretary committed to improving relations between the State Department and the Congress. I think many who have worked with the Secretary during his tenure would attest to the achievement of this goal.

I ask my colleagues to join me in commending Secretary Powell on his success and in wishing him well in any future endeavor he undertakes.

I ask unanimous consent that the executive summary of this report be printed in the RECORD.

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

SECRETARY COLIN POWELL'S STATE DEPARTMENT: AN INDEPENDENT ASSESSMENT—NOVEMBER 2004

EXECUTIVE SUMMARY

In the summer of 2000 some 1,400 Foreign Service personnel, a quarter of the officer corps, attached their names to an Internet protest of their working conditions. In early 2004 the State Department had 200 Civil and Foreign Service volunteers, more than it could handle, for the 146 positions it was opening in Baghdad. The difference was Colin Powell and the gifted team of senior managers he assembled at the State Department.

Secretary Powell arrived at the State Department determined to fix a broken institution. He launched a two-pronged strategy. First, change the leadership culture so that managers at all levels focus on training, empowering and taking care of their people. Second, remedy critical management deficiencies: (1) restore diplomatic readiness by rebuilding State's staff; (2) give State modern information technology (IT); (3) focus on security of the nation (visas and passports), of information and of Americans abroad, including U.S. government employees (also involves holding overseas staffs to the minimum necessary—right-sizing); (4) assure safe, healthy and secure facilities, especially overseas buildings; and (5) relate budgets to agreed strategies, policies and priorities. Visa and passport security required reshaping consular affairs to deal with the post–9/11 world. Secretary Powell also had to address two other major management issues: improving State's congressional relations and overhauling public diplomacy following the 1999 merger of USIA into State.

The accomplishments are extraordinary:

Employees at all levels, Foreign Service and Civil Service alike, feel empowered and respected. Morale is robust. ''One Mission, One Team'' has taken root as a value.

Leadership and management training are now mandatory for all mid-level and senior officers. Career candidates for Ambassador or Deputy Chief of Mission (DCM) appointments have the inside track if they have demonstrated leadership qualities. The Foreign Service employee representative, the American Foreign Service Association (AFSA), wants to write this practice into the permanent rulebook.

Congress has given State virtually all of the resources Secretary Powell requested. Congress understands that the increases for diplomatic readiness, information technology, overseas buildings and diplomatic security are permanent parts of the budget, not one-time catch-up costs.

State has achieved most of its Diplomatic Readiness Initiative (DRI) staffing goals. With its new, first-rate recruitment and marketing program, State has redressed in three years almost the entire personnel deficit of the 1990s (some 2,000 employees hired above attrition) and increased the diversity and quality of Foreign Service officers and specialists.

All the hardware for modern IT is now installed and on a four-year replacement cycle. All desks are finally linked worldwide. Information security is greatly enhanced. A new, robust, state-of-the-art message and archiving system (SMART) is being tested to do away with yesteryear's inadequate telegrams and their risky distribution and storage.

The new Overseas Buildings Office (OBO) has completed 13 safe, secure, functional buildings in two years and under budget. Twenty-six more are on the way. This contrasts with the pre–2002 rate of about one building per year. Congress and OMB have praised OBO effusively. Security upgrades have thwarted terrorist attacks at several posts.

The Deputy Secretary personally chairs the senior reviews of the Bureaus' Performance Plans (BPPs—policy-related budgets) and the bureaus in turn hold ambassadors accountable for their Mission Performance Plans (MPPs).

The senior reviews include USAID. There is a first-ever five-year Joint State-USAID Strategic Plan. And the new State-USAID Joint Management Councils, one for policy and one for management operations, are running effectively.

There are experiments with ''virtual posts'' which aid ''right-sizing'' and public

diplomacy (15 of them as of October 2004—see p. 6).

Administrative operations at six embassies have qualified for ISO 9000 certification (p. 12), a point of pride, efficiency and service. The goal is to certify for ISO 9000 all administrative functions at all posts, meaning that all administrative functions at all posts meet ISO (International Organization for Standardization) criteria for certification for administrative excellence.

Visa operations use new IT systems and rigorously carry out post–9/11 security requirements—sometimes to the detriment of other U.S. programs and interests, despite energetic leadership efforts to maintain ''open doors'' along with ''secure borders.''

Many of the management improvements are institutionally well-rooted, partly because the new Foreign Service cohorts will demand that they stay. But many are vulnerable in a budget crisis, and others require more work. Key tasks:

1. State must maintain its partnership with Congress. Secretary Powell has been the critical actor in this regard, but he also has enabled his senior and mid-level subordinates to carry much of the load. This practice must continue.

2. Integration of public diplomacy into the policy process is still deficient. Experimentation on multiple fronts is needed to make the public diplomacy function more effective. Ideas include training, expansion of the ways public diplomacy officers relate to the Under Secretary for Public Diplomacy, and aggressive action to make public diplomacy a part of all policy development.

3. State's public affairs efforts need to go beyond explaining current policies to the public. They need to engage the public on a sustained basis regarding what the Department of State is and what its people do, especially overseas, as a way to build public confidence in the institution and confidence in the policies it is explaining and carrying out.

4. Diplomatic readiness is incomplete, budget outlooks are grim, and there are new needs: positions to replace those reprogrammed from diplomatic readiness to cover Iraq and Afghanistan; positions to provide surge capacity for crises; and positions to staff the new, congressionally-proposed Coordinator for Stabilization and Reconstruction. State should develop a ready reserve of active-duty personnel who have strong secondary skills in critical fields, plus a select cadre of recallable retirees with like skills (see Appendix A). Continuous attention to the recruitment system is needed to remain competitive. And State must protect its training resources, including those for hard language and leadership/management training, from raids to cover operational emergencies. Sending people abroad without the requisite training is like deploying soldiers without weapons.

5. State must update its overseas consular staffing model to account for post–9/11 changes in workloads and procedures, so that the U.S. can truly have both ''safe borders and open doors''.

6. State has to find a way to staff hardship posts adequately, using directed assignments if necessary in order to assure Service discipline.

7. State has some distance to go before it reaps the full benefit of its new IT systems. The SMART system is almost a year behind schedule, albeit for good reasons. More formal training of users is needed and a cadre of IT coaches (today's secretaries?) should be developed to help overseas users. A common computerized accounting and control application is still being developed: the Joint [State-USAID] Financial Management System (JFMS). It is overdue.

8. ''Right-sizing''—aligning the U.S. government presence abroad to reflect our national priorities and to attain policy objectives as efficiently as possible—has barely begun. It should be pursued in multiple venues: interagency capital cost-sharing for overseas buildings; wider use of ''virtual posts'' (see p. 6); conscious use of MPPs and, with White House support, the BPP senior reviews to manage the overseas presence of all U.S. agencies; completion of State's regional support center program; and ISO 9000 certification for all overseas administrative operations that have ''critical mass.''

9. Future Secretaries, Deputy Secretaries, Under Secretaries and Assistant Secretaries must engage fully in management and leadership processes as well as in congressional relations.

10. Finally, Congress and the executive branch have a series of management issues they need to examine together, including: the long-term relationship between State, USAID and other U.S. assistance vehicles (e.g., Millennium Challenge, U.S. Global AIDS program), and where in the budget and the appropriations structure it is most appropriate to fund State and USAID (perhaps merged under a separate ''national security account'').

JUSTICE FOR ALL ACT

Mr. CORNYN. Mr. President, almost 2 months ago, we passed H.R. 5107, the Justice for All Act. That bill was the product of months, even years, of hard work and dedication of many on both sides of the aisle. The final product includes a number of important provisions and badly needed funding for State criminal justice systems and, for that, I am happy to see it pass. However, in order to gain my support, as well as that of a number of my colleagues, a number of compromises were made with respect to certain aspects of the Innocence Protection Act section of the bill.

Specifically, the House majority leader, Mr. DELAY, and other members of the Texas delegation in the House inserted into the bill a provision designed to protect the capital representation system that is in place in Texas. Section 421(d)(1)(C) was added specifically to ensure that Texas or any State with a similarly structured system would qualify as an ''effective system'' under the statute.

My support of the bill depended entirely on that provision and on the generally agreed-upon understanding of what that provision accomplishes. As made clear in a colloquy given on this floor at the time of the bill's passage, on October 9, 2004, between myself, Senator SESSIONS and the chairman of the authorizing committee, Senator HATCH, who also happened to be the author and sponsor of the legislation, ''it is this system [in Texas] or any future version of it that specifically is intended to be protected by this language.'' Further, we agreed that ''Texas will not have to change a thing in order to receive grants under this bill—it is automatically pre-qualified.'' Mr. HATCH also noted that it was his understanding that ''at least half a dozen other States also will automatically pre-qualify for funding under this proviso.''

Typically, I would not take the floor to make this point so long after the date of passage.

But with regard to the Justice for All Act, I do feel compelled to respond to a statement the senior Senator from Vermont made on the floor on November 19, 2004—a full 41 days after the passage of H.R. 5107 on October 9, 2004, indicating a different view of the meaning of this provision and others. The final bill was the product of careful negotiations that sought to protect many different States' interests. It does not represent the wish-list of the Senator from Vermont. Suffice to say that the bill likely would not even have been enacted had the interests of the different States, interests such as those protected by the revised section 421, been adequately protected. Indeed, I would further note that views of the senior Senator from Vermont are hardly authoritative with regard to this bill. It is the senior Senator from Utah that is the author and lead sponsor of the bill and the chairman of the committee that reported the bill. And as the senior Senator from Utah made clear at the time that the bill was enacted, actual legislative history, he and I understood the bill to carve out a State such as Texas that had preexisting capital appointment systems.

The senior Senator from Vermont also attempts to take some liberties with the meaning of other parts of the Justice for All Act's capital-counsel subtitle. He alleges that its grant provisions should be ''strictly interpreted by grant administrators''; that a $125-an-hour rate for defense attorneys is what is ''reasonable''; that defense attorneys' pay should be pegged to prosecutors' pay, and should include geographic cost-of-living adjustments; that the capital-counsel entity may not delegate some of its functions to individual trial judges; and that capital-improvement grants may not be used to higher prosecutors.

None of these ambitions for the Justice for All Act has support in the actual text of the law. Indeed, some of these assertions directly contradict the understanding of the law at the time that it was enacted. For example, as the senior Senator from Utah made clear to the Senator from Alabama at the time that the bill passed the Senate, and well before House passage of the accompanying enrolling resolution made Senate passage final, nothing in section 421 precludes a State from structuring the capital-counsel entity so that general rules and rosters are set by a larger group of qualified judges, and application of those rules in individual cases, selection of counsel from the roster and approval of fees and expenses, is made by a qualified trial judge presiding over the case.

Further, I would like to include the attached letter from the Texas Task Force on Indigent Defense regarding H.R. 5107, the Justice for All Act (P.L. 108–405), into the CONGRESSIONAL RECORD. This letter responds directly

to the statement by Mr. LEAHY found on page S 11609 of the November 19, 2004 CONGRESSIONAL RECORD.

I know that my friend, the House Majority Leader, included in the House record this same letter, but I want to ensure that the record is clear. As he pointed out on the House floor, the mission of the Texas Task Force on Indigent Defense is to promote justice and fairness to all indigent persons accused of criminal conduct. The Task Force was created by State law, the Fair Defense Act of 2001, and took effect on January 1, 2002. Since its implementation, the Task Force has awarded over $28 million to 250 counties in Texas in furtherance of its mission to improve legal representation for indigent persons accused of crimes.

I believe this letter responds in full and shows exactly the kind of system that H.R. 5107 envisions as effective, and I ask unanimous consent that it be printed in the RECORD.

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

TEXAS TASK FORCE
ON INDIGENT DEFENSE,

Re H.R. 5107, the ''Justice For All Act''—Congressional Record page S11613.

Austin, TX, December 1, 2004.

Hon. TOM DELAY,
House Majority Leader,
The Capitol, Washington, DC.
Hon. LAMAR SMITH,
Rayburn House Office Building,
Washington, DC.
Hon. JOHN CARTER,
Cannon House Office Building,
Washington, DC.

DEAR REPRESENTATIVES DELAY, SMITH, AND CARTER: In response to an inquiry last week regarding the statements made by Mr. Leahy in his statement on November 19, 2004, I am offering the following for clarification of what I believe is the current state of indigent defense in Texas.

I commend the goals of this bill and the willingness of Congress to provide States much needed money in the criminal justice arena. Since the reforms to Texas indigent defense laws known as the Texas Fair Defense Act were originally enacted in 2001, the Task Force on Indigent Defense, the Texas judiciary, and local government have worked diligently to meet and exceed the mandates of this reform. This reform was haled by Robert Spangenberg, a leading national expert on indigent defense as, ''the most significant piece of indigent defense legislation passed by any state in the last twenty years.''

Nevertheless, the key to meaningful reform lies in implementation. In that regard, Mr. Bill Beardall, Director of the Equal Justice Center, and leading advocate of indigent reform in Texas recently said that, ''[S]ignificant indigent defense improvements were implemented both at the state level and in most of Texas's 254 counties in response to the new law.''

Worth noting is that Mr. Spangenberg served as the primary author of the Fair Defense Report, which influenced the passage of the Fair Defense Act. In response to the progress made by Texas, he states: ''In three short years, the Task Force has used the limited funding provided to mandate that each county has an indigent defense plan on file. Moreover, these plans are posted electronically and viewable by anyone. This in itself is significant in that what was formerly a closed process is now open to public scrutiny. Also significant is the fact that these are county-wide plans, thus providing greater uniformity than before when practices varied from judge to judge. From what I've seen, the Task Force has successfully built bridges with county government and leading advocate and public interest groups for meaningful collaboration and significant reform.''

The following are some of the highlights of what Texas's courts, counties, and Task Force have accomplished.

More Indigent Defendants Receiving Court Appointed Counsel—In 2002, 278,479 persons received court appointed counsel. In 2004, 371,167 persons received court appointed counsel. This represents a 33% increase while all criminal case filings are up only 8%. Courts and local government are taking their responsibilities seriously.

Public Access—Every indigent defense plan (adult and juvenile) and every county's indigent defense expenditures are posted electronically and available to anyone with access to the Internet. In addition, all model forms, procedures, and rules promulgated by the Task Force are available online at www.courts. state.tx.us/tfid.

In response to Task Force recommendations, judges across the state have submitted amendments to bring indigent defense plans into compliance with the law. Also, every indigent defense plan has been reviewed by the Task Force and is in accordance with the law.

Accountability—Because of centralized oversight of plan submission, the judiciary is accountable to the Task Force. County officials are accountable to the Task Force through expenditure reporting and because of receipt of state grants. Prior to this act each county and court in Texas was left to its own means on how to provide these services.

Training and Outreach—Each year since 2001, the Task Force and staff have provided presentations across the state to 1,200 or more judges, county commissioners, defense attorneys, county employees, and other criminal justice stakeholders on their responsibilities and on the responsibilities of the State regarding effective indigent defense representation. One program of particular interest was designed specifically for State district trial judges who hear capital offenses. This program was sponsored by the Center for American and International Law in Plano, Texas on August 19–20, 2004.

Spending Up Almost 50% Since 2001—The State and counties have significantly increased expenditures for indigent defense services statewide to improve the quality of counsel appointed to represent the poor.

In 2001, counties expended approximately $92 million on indigent defense services without any state assistance. In 2002, county and state spending together reached approximately $107 million—$15 million more than was spent in 2001. In 2003, county and state spending together amounted to approximately $130—$38 million more than was spent in 2001. And, the most recent reports for FY04 reveal county and state spending together totaled approximately $137 million—$45 million more than 2001. All in all since the Fair Defense Act passed the State and counties are expending almost 50% more than they did prior to the Fair Defense Act. Neither the State nor the counties are abdicating their responsibilities—to the contrary, the State and counties are providing their best efforts to secure additional revenue sources as well as implementing process changes to ensure tax payers receive the most value possible for their tax dollars.

Nine Administrative Judicial Regions Working Collaboratively with Task Force—The Nine Administrative Judicial Regions are responsible for the development of qualifications and standards for counsel in death penalty cases. Notwithstanding the Texas Defender Service report referenced by Mr. Leahy in his testimony, the nine administrative presiding judges take very seriously their responsibilities under Texas law. Through officially published standards and qualifications and a thorough screening process, they ensure that only the most capable and competent attorneys are appointed in death penalty cases.

The report that Mr. Leahy relies on was criticized by many criminal justice stakeholders in Texas. I was disappointed with the secretive and surprise tactics utilized by the authors in its preparation. No Task Force members or staff were consulted prior to the report's publication. More significantly, the nine administrative judges were not consulted regarding its preparation or its findings prior to its release. For a Dallas Morning News article regarding this report, I noted the report's lack of methodology and stated that the report's conclusions ''may be a matter more of form over substance.'' John Dahill, general counsel for the Texas Conference of Urban Counties and a former Dallas County prosecutor, was more blunt. ''It just riles me to no end that the Texas Defender Service and the Equal Justice Center didn't bother to inquire of people with knowledge in each of these counties,'' he said. Counties generally follow the regional plan for appointment of counsel in capital cases, he said, and Dallas County follows the plan of the first administrative judicial region. That region covers 34 counties in northeast Texas.

Judge John Ovard of Dallas, who presides over the 1st administrative region, said he had not had a chance to read the report but said the county's failing grade surprised him. ''We're in compliance with the task force . . . which is the primary state agency we report to,'' he said. ''I certainly am interested in looking at it and see why they came to those conclusions.''

Task Force staff meets quarterly with the 9 Administrative Presiding judges. The Task Force provides administrative assistance to the 9 Administrative Judicial Regions in posting the lists of standards and attorneys qualified for appointments in electronic format readily available to anyone in Texas. This collaborative effort is not mandated by State law but is being done at the request of the 9 Administrative Presiding judges to ensure that this process is open to the public and administered consistently across the State.

Summary—For the first time in Texas history the State is providing oversight, fiscal assistance, and technical support to local government and courts to improve the delivery of indigent defense services. All 254 counties in Texas are in compliance with the state reporting requirements. Each indigent defense plan in Texas has been reviewed by the Task Force to ensure it provides for prompt appointment of qualified counsel and reasonable compensation for appointed counsel. Since the passage of the Fair Defense Act, staff has provided presentations across the state to more than 4000 judges, county commissioners, defense attorneys, county employees, and other criminal justice stakeholders on their responsibilities and the responsibilities of State regarding effective indigent defense representation. The key criminal justice stakeholders in Texas are being trained and the Texas system has improved dramatically since the passage of this law. Furthermore, in what may be its greatest achievement, the Task Force has created an efficient and collaborative infrastructure for continuing implementation of the Fair

Defense Act and for future improvements to indigent defense procedures statewide.

Thank you for considering my views. If you need any further information, feel free to contact me or any member of the Task Force. We are at your disposal to build on the successes all Texans have experienced since the passage of the Fair Defense Act.

Sincerely,

JAMES D. BETHKE,
Director, Task Force on Indigent Defense.

THE COURAGEOUS TUSKEGEE AIRMEN

Mr. LEVIN. Mr. President, today I would like to make my colleagues aware of my intention, when the 109th Congress convenes in January, 2005, to introduce bipartisan legislation, to authorize the awarding of the Congressional Gold Medal, collectively, to the Tuskegee Airmen.

The Tuskegee Airmen were not only unique in their military record, but they inspired revolutionary reform in the Armed Forces, paving the way for integration of the Armed Services in the U.S. The largely college-educated Tuskegee Airmen overcame the enormous challenges of prejudice and discrimination, succeeding, despite obstacles that threatened failure. What made these men exceptional was their willingness to leave their families and put their lives on the line to defend rights that were denied them here at home. Former Senator Bill Cohen, in remarks on the floor of the Senate in July of 1995 summed it up this way:

> . . . I listened to the stories of the Tuskegee airmen and . . . the turmoil they experienced fighting in World War II, feeling they had to fight two enemies: one called Hitler, the other called racism in this country.

Prior to the 1940s, many in the military held the notion that black servicemen were unfit for most leadership roles and mentally incapable of combat aviation. Between 1924 and 1939, the Army War College commissioned a number of studies aimed at increasing the military role of blacks. According to the Journal of the Air Force Magazine, Journal of the Air Force Association, March 1996:

> . . . these studies asserted that blacks possessed brains significantly smaller than those of white troops and were predisposed to lack physical courage. The reports maintained that the Army should increase opportunities for blacks to help meet manpower requirements but claimed that they should always be commanded by whites and should always serve in segregated units.

Overruling his top generals and to his credit, President Roosevelt in 1941 ordered the creation of an all black flight training program at Tuskegee Institute. He did so one day after Howard University student Yancy Williams filed suit in Federal Court to force the Department of Defense to accept black pilot trainees. Yancy Williams had a civilian pilot's license and received an engineering degree. Years later, ''Lt. Col. Yancy Williams'' participated in an air surveillance project created by President Eisenhower.

''We proved that the antidote to racism is excellence in performance,'' said retired Lt. Col. Herbert Carter, who started his military career as a pilot and maintenance officer with the 99th Fighter Squadron. ''Can you imagine . . . with the war clouds as heavy as they were over Europe, a citizen of the United States having to sue his government to be accepted to training so he could fly and fight and die for his country?'' The government expected the experiment to fail and end the issue, said Carter. ''The mistake they made was that they forgot to tell us . . .''.

The first class of cadets began in July of 1941 with 13 men, all of whom had college degrees, some with PhD's and all had pilot's licenses. From all accounts, the training of the Tuskegee Airmen was an experiment established to prove that ''coloreds'' were incapable of operating expensive and complex combat aircraft. Stationed in the segregated South, the black cadets were denied rifles.

Months passed with no call-up from the government. However, by 1943, the first contingent of black airmen were sent to North Africa, Sicily, and Europe. Their performance far exceeded anyone's expectation. They shot down six German aircrafts on their first mission, and were also the first squad to sink a battleship with only machine guns. Overall, nearly 1,000 black pilots graduated from Tuskegee, with the last class finishing in June of 1946, 450 of whom served in combat. Sixty-six of the aviators died in combat, while another 33 were shot down and captured as prisoners of war. The Tuskegee Airmen were credited with 261 aircraft destroyed, 148 aircraft damaged, 15,553 combat sorties and 1,578 missions over Italy and North Africa. They destroyed or damaged over 950 units of ground transportation and escorted more than 200 bombing missions. Clearly, the experiment, as it was called, was an unqualified success. Black men could not only fly, they excelled at it, and were equal partners in America's victory.

A number of Tuskegee Airmen have lived in Michigan, including Alexander Jefferson, Washington Ross, Wardell Polk, and Walter Downs, among others. Tuskegee Airmen also trained at Michigan's Selfridge and Oscoda air fields in the early 40s. In the early 1970s, the Airmen established their first chapter in Detroit. Today there are 42 chapters located in major cities of the U.S. The chapters support young people through scholarships, sponsorships to the military academies, and flight training programs. Detroit is also the location of the Tuskegee Airmen National Museum, which is on the grounds of historic Fort Wayne. The late Coleman Young, former mayor of the city of Detroit, was trained as a navigator bombardier for the 477th bombardment group of the Tuskegee Airmen. This group was still in training when WWII ended so they never saw combat. However, the important fact is that all of those receiving flight-related training—nearly 1,000—were instrumental in breaking the segregation barrier. They all had a willingness to see combat, and committed themselves to the segregated training with a purpose to defend their country.

The Tuskegee Airmen were awarded three Presidential Unit Citations, 150 Distinguished Flying Crosses and Legions of Merit, along with The Red Star of Yugoslavia, 9 Purple Hearts, 14 Bronze Stars and more than 700 Air medals and clusters. It goes without question that the Tuskegee Airmen are deserving of the Congressional Gold Medal.

According to existing records, a total of 155 Tuskegee Airmen originated from Michigan, I wish to recognize each one of them. I ask unanimous consent that their names be included for the RECORD. They are as follows:

Kermit Bailer; Clarence Banton; James Barksdale of Detroit; Hugh Barrington of Farmington Hills; Naomi Bell; Thomas Billingslea; Lee Blackmon; Charles Blakely of Detroit, Robert Bowers of Detroit; James Brown of Ypsilanti; Willor Brown of Ypsilanti; Ernest Browne of Detroit; Archibald Browning; Otis Bryant; Joseph Bryant, Jr. of Dowagiac; Charles Byous; Ernest Cabule of Detroit; Waldo Cain; Clinton Canady of Lansing; Carl Carey of Detroit; Gilbert Cargil; Nathaniel Carr of Detroit; Donald Carter of Detroit; Clifton Casey; David Cason, Jr; Peter Cassey of Detroit; Robert Chandler of Allegan; Pembleton Cochran of Detroit; Alfred Cole of Southfield; James Coleman of Detroit; William Coleman of Detroit; Eugene Coleman; Matthew Corbin of Detroit; Charles Craig of Detroit; Herbert Crushshon; John Cunningham of Romulus; and John Curtis of Detroit. Donald Davis of Detroit; Cornelius Davis of Detroit; Eugene Derricotte of Detroit; Taremund Dickerson of Detroit; Walter Downs of Southfield; John Egan; Leavie Farro, Jr.; Howard Ferguson; Thomas Flake of Detroit; Harry Ford, Jr. of Detroit; Luther Friday; Alfonso Fuller of Detroit; William Fuller of West Bloomfield; Frank Gardner; Robert Garrison of Muskegon; Thomas Gay of Detroit; Charles Goldsby of Detroit; Ollie Goodall, Jr. of Detroit; Quintus Green, Sr.; Mitchell Greene; James Greer of Detroit; Alphonso Harper of Detroit; Bernard Harris of Detroit; Denzal Harvey; James Hayes of Detroit; Ernest Haywood of Detroit; Minus Heath; Milton Henry of Bloomfield Hills; Mary Hill; Charles Hill, Jr. of Detroit; Lorenzo Holloway of Detroit; Lynn Hooe of Farmington Hills; Heber Houston of Detroit; Ted Hunt; and Hansen Hunter, Jr. Leonard Isabelle Sr., Leonard Jackson; Lawrence Jefferson of Grand Rapids; Alexander Jefferson of Detroit; Silas Jenkins of Lansing; Richard Jennings of Detroit; Louie Johnson of Farmington; Ralph Jones; William Keene of Detroit; Laurel Keith of Cassopolis; Hezekiah Lacy of River Rouge; Richard Macon of Detroit; Albert Mallory; Thomas Malone;

Ralph Mason of Detroit; J. Caulton Mays of Detroit; William McClenic; Arthur Middlebrooks; Oliver Miller of Battle Creek; Vincent Mitchell of Mt. Clemens; Wilbur Moffett of Detroit; Dempsey Morgan of Detroit; Russell Nalle, Jr. of Detroit; Robert O'Neil of Detroit; Frederick Parker; Robert Pitts of Detroit; Wardell Polk of Detroit; Walter Poole; Calvin Porter of Detroit; Calvin Porter; Leonard Proctor; Della Rainey; Sandy Reid of Southfield; Edward Rembert; Harry Riggs of Bloomfield Hills; Walter Robinson of Detroit; Major Ross of Oak Park; Washington Ross of Detroit; John Roundtree of Westland; Calude Rowe of Detroit; William Ruben; William Rucker; Jesse Rutledge of Detroit; and Issac Rutledge. Calvin Sharp; Albert Simeon, Jr. of Detroit; Paul Simmons, Jr. of Detroit; Leon Smith; Chauncey Spencer; William Stevenson; Chester Stewart of Detroit; Harry Stewart of Bloomfield Hills; Roosevelt Stiger of Jackson; Howard Storey; Willie Sykes of Detroit; Willis Tabor; Kenneth Taitt of Detroit; William Taylor, Jr. of Inkster; Lucius Theus of Bloomfield Hills; Donald Thomas of Detroit; Austin Thomas; Wm. Horton Thompson of Detroit; Jordan Tiller; Paul Tucker of Detroit; Edward Tunstall of Detroit; Allen Turner of Ann Arbor; Cleophus Valentine of Detroit; Charles Walker of Jackson; Robert Walker; Roderick Warren of Detroit; Theodore Washington of Detroit; Richard Weatherford of Aibion; Jimmie Wheeler of Detroit; William Wheeler of Detroit; Cohen White of Detroit; Harold White of Detroit; Paul White; Peter Whittaker of Detroit; Leonard Wiggins of Detroit; David Williams of Bloomfield Hills; Willie Williamson of Detroit; Robert Wolfe; William Womack; and Coleman Young.

SIDETRACKING OF INTELLECTUAL PROPERTY AND TELECOMMUNICATIONS LEGISLATION

Mr. LEAHY. Mr. President, during the final days of this session, which have stretched over weeks and months, we have been struggling to pass a number of important and uncontroversial bills, but we have met with what some would call obstructionism from the Republican side of the aisle. Enactment of legislation needed for e-911 provisions to provide critical resources to our first responders, the Universal Service Administrative Corporation, a spectrum relocation trust fund, junk fax legislation, as well as the Family Entertainment and Copyright Act, anticounterfeiting legislation, film preservation legislation and many other measures have been sidetracked and hijacked.

The Federal Communications Commission Chairman Michael Powell has spoken out urging enactment of these needed telecommunications bills. The telecommunications package contains critically important provisions that will enhance 911 service, allow spectrum relocation, and preserve the ability of the universal service fund to do its important work. These are not controversial or partisan provisions. We should do all we can to ensure that first responders can provide their essential public services and that includes e-911. The spectrum relocation trust fund will free more space for wireless broadband services. This will help the American economy by promoting jobs and education. The Universal Service Fund provision will fix an accounting glitch that if left unattended will seriously impede the USF as it goes about its critical work. If we do not make this fix, rural communities and schools will suffer, and in the end everyone will pay, with higher fees. I echo the FCC's concern and add my own with respect to the intellectual property legislation.

Thanks to the ingenuity, the inspiration and the hard work of America's creators, the United States is the world leader in the creation of intellectual property. Protecting intellectual property matters. It matters to our creators, to our economy and to our future. Affording intellectual property straightforward and reasonable protections, and giving law enforcement officials the resources to give those protections genuine power should be bipartisan, noncontroversial goals. In the United States, copyright industries account for at least 12 percent of our gross domestic product and employ more than 11 million people. Copyright industries have been adding workers at an annual rate that exceeds that of the economy as a whole by 27 percent, and those industries have achieved annual foreign sales and exports of almost $90 billion. Republican objection has prevented the Senate from passing important intellectual property legislation, in an apparent effort to pressure the House to accept unrelated legislation.

Along with Senator HATCH, Senator CORNYN, Senator BIDEN, Senator FEINSTEIN, and many others, I have been working on a package of key intellectual property legislation for some time. Our staffs have worked late into the night and through weekends to accomplish all that we can this year. We have a package of strong and significant measures that would bolster protection of the intellectual property that helps drive our Nation's economy and that would ensure that law enforcement has the tools it needs to do its job in this regard. There was no good reason not to have sent this package to the House so that it could be enacted without delay. Instead, it has been blocked and the reason has nothing to do with the merits of the bill. It is merely being misused as leverage in an attempt to pass unrelated legislation that the Senate has already sent to the House and that the House finds objectionable. Apparently some are willing to sacrifice important intellectual property legislation for their own narrow purposes. That is unfortunate.

Our economy loses billions of dollars every year to various forms of piracy. Instead of making inroads in this fight, we face a Republican roadblock. It is a barrier that stands in the way of the ART Act, a bill that passed the Judiciary Committee and then the full Senate by unanimous consent. Senators CORNYN and FEINSTEIN introduced the bill, and I was pleased to work with them on it and to include it in our intellectual property legislation. These provisions would provide new tools in the fight against bootleg copies of movies snatched from the big screen by camcorders smuggled into theaters. Our bill would adopt a creative solution developed by the Copyright Office to address the growing problem of piracy of pre-release works. Republican obstruction is ensuring that these problems will be left unaddressed by this Senate and this Congress.

Our anticounterfeiting legislation would mark a step forward in the fight against software piracy. I was glad to work with Senator BIDEN on this provision, which we included in the intellectual property package. The Republican-led Congress can tell our software companies that they will have to wait at least another year for the remedies promised by this legislation. The Business Software Alliance tells us that $29 billion in software was stolen in 2003 alone. We are risking a higher number and more harm as we proceed into 2005.

There are other noncontroversial provisions in this legislation, as well, such as language that would help ensure that the Library of Congress is able to continue its important work in archiving our Nation's fading film heritage. Some of America's oldest films—works that document who we were as a people in the beginning of the 20th Century—are literally disintegrating faster than they can be saved.

It now appears an expanse of important, bipartisan legislation may fall victim to yet another Republican roadblock. Our copyright holders will suffer, our patent holders will suffer, our economy will suffer, emergency services and broadband deployment will suffer, our rural communities and rural schools will suffer. The Senate will have failed to respond to the needs of the American people. That is a shame.

ART ACT

Mr. CORNYN. Mr. President, I note that Senator LEAHY today made a floor statement referencing important Intellectual Property legislation that unfortunately will not pass in the 108th Congress.

I agree completely with the Senior Senator from Vermont's view of the importance of these matters and I share his frustration that the bills are not moving forward because of matters not related to the substance of the legislation.

I joined with Senator FEINSTEIN to introduce the ART Act, S. 1932, just over a year ago to help curtail the problem of piracy of films in movie theaters and to help stop the illegal distribution of pre-released copyrighted works. It is a good bill, but it will not become law despite having passed the Senate twice this year and enjoying overwhelming bipartisan support in the House.

Along with the ART Act, other valuable legislation such as the Family Movie Act, a bill that will help parents control the content of films and other entertainment their children see is

being held up. Good legislation, such as anti-counterfeiting and film preservation, is also not moving forward again, for reasons completely unrelated to the substance of the bills.

As disappointed as I am about this, I am encouraged by the good faith bipartisan work that has occurred among my staff and the staffs of my colleagues. I want to thank Senators FEINSTEIN, LEAHY, HATCH and BIDEN for their assistance and support, and mostly, I want to thank their staffs for their dedication, hard work and long hours devoted to this effort.

I especially would like to note Senator LEAHY's diligence and dedication to this cause, and willingness to pass over legislation he introduced and believes to be important in deference to the greater cause of passing a larger bipartisan package that would have protected copyrighted works, but for the senseless and unneeded obstacles placed before it.

I am confident that when we take this legislation up in the 109th Congress, we will pass it and I look forward to working with these Senators and others to accomplish that goal.

ELECTION REFORM

Mr. DODD. Mr. President, yesterday the Leadership Conference on Civil Rights, along with Common Cause and the Century Foundation, sponsored the first comprehensive public review of election day issues, including a review of the implementation of certain provisions of the Help America Vote Act, HAVA, bipartisan legislation I was pleased to coauthor in the 107th Congress. Numerous other organizations are also planning similar reviews, including the distinguished ranking member of the House Judiciary Committee, Congressman JOHN CONYERS, who is hosting a forum on election day issues today on the House side. As the primary Senate author of HAVA, I welcome these reviews and believe that Congress can learn much from them in terms of whether HAVA is working as intended.

Following the debacle of the 2000 Presidential election, I sought the input and counsel of the Leadership Conference and countless other civil rights, disability, language minority, and voting rights groups to fashion legislation which would ensure that every eligible American voter would have an equal opportunity to cast a vote and have that vote counted. Our efforts, and the efforts of others, produced the Help America Vote Act. HAVA has been hailed as the first civil rights law of the 21st century, and I am committed to ensuring that it is fully implemented as such.

The results of the 2004 Presidential election have not been contested in the same manner as those of the 2000 election. However, the jury is still out on whether HAVA successfully addressed the problems that arose in the 2000 election. While I believe there is still much work to do to ensure the franchise for all Americans, I am confident that without HAVA, thousands of eligible American voters would not have been able to cast a vote, nor have their vote counted, in the November 2004 Presidential election.

It is important to remember that HAVA is not yet fully implemented. In some respects, the most important reforms have yet to be implemented by the States. These reforms include mandatory uniform and nondiscriminatory requirements that all voting systems provide second-chance voting for voters, be fully accessible to the disabled, provide for a permanent paper record for manual audits, and establish standards for what constitutes a vote and how such a vote will be counted for each type of voting system used by a State.

Additional reforms, which must be implemented by 2006, include the establishment of a computerized statewide voter registration list which must contain the name and registration information for every eligible voter in a State. Most importantly, the statewide database must be available electronically to every State and local election official, ensuring access to voter information at the polling place on election day. Had these additional reforms been in place this November, many of the election day problems that arose across the country could have been avoided or resolved at the polling place.

But what we do know is that HAVA's requirement that all States shall provide a provisional ballot to voters who are challenged at the polls, for any reason, ensured the franchise for thousands of Americans on November 2 this year. Although many States had forms of provisional ballots, HAVA requires that any voter who is willing to affirm that he or she is registered in the jurisdiction where they want to vote, and are eligible to vote in that election, must be allowed to cast a provisional ballot for the Federal offices in that jurisdiction. In Ohio alone, 155,000 voters cast provisional ballots, of which an estimated 77 percent were counted. That represents over 119,000 thousand American voters who otherwise might not have been able to cast a vote or have their vote counted, but for HAVA.

Some States, including Ohio, attempted to restrict the right to a provisional ballot, but were ultimately unsuccessful. The Federal Court of Appeals for the 6th Circuit of the United States affirmed the absolute right to receive a provisional ballot, without any additional requirements, in the decision of Sandusky vs. Blackwell decided on October 26, just one week prior to the election. That decision upheld the right of an individual voter to seek judicial redress of the rights conferred by HAVA and confirmed the absolute right of a challenged voter to receive a provisional ballot. I was pleased to file an amici curiae brief, along with my distinguished colleague, Congressman STENY HOYER, in this case in which we urged the court to affirm and enforce these rights.

As with any comprehensive civil rights legislation, HAVA's reach and effectiveness will have to be hammered out by the courts. As that process plays out, coupled with the States' implementation of the remaining HAVA reforms, we will be in a better position to assess whether this landmark legislation hit the mark or needs further reform.

In order to assist Congress in assessing the effectiveness of HAVA, specifically with regard to the implementation of the provisional ballot requirement, I have requested that the GAO conduct and compile a nationwide review of state implementation of this provision. In particular, I have asked the GAO to compile data on the number of provisional ballots cast in the 2004 election, the number of provisional ballots counted, the number not counted and the reasons such provisional ballots were not counted. While it is already clear that the States are implementing this provision in significantly differing manners, it is troublesome that whether a Federal ballot is counted or not depends upon State law.

Efforts such as the conference and forum this week, and others to occur in the coming weeks, are vital to understanding the full impact of HAVA and its limitations. Although some weaknesses in HAVA are already apparent, and it would be my intent to introduce legislation early in the 109th Congress to address these weaknesses to better ensure HAVA's effectiveness, it is through conferences and forums such as these that Congress can assess what further reforms are needed.

At some point, we must ask ourselves whether we can ever truly ensure an equal opportunity to cast a vote and have our votes counted for all Americans when our elections are administered by 55 different State and territorial governments through over 10,000 local jurisdictions in a decentralized manner. Even in light of HAVA's farreaching reforms, this Nation is almost unique in its administration of Federal elections at the local level. Even under HAVA, States and localities have broad, but not absolute, discretion in how they implement HAVA. Similarly, the voting system standards which the Federal Election Assistance Commission will issue, pursuant to HAVA, remain voluntary only.

This discretion played out quite differently across this Nation with respect to whether provisional ballots, once cast, were actually counted. It is time to consider whether, for Federal elections, there is a national responsibility to ensure that no matter where and how a ballot is cast for the Office of the President of the United States, all Americans will have confidence that their vote was cast and counted in a uniform and nondiscriminatory way.

The Help America Vote Act is historic landmark legislation that comprehensively defines, for the first time

in this Nation's history, the role of the Federal Government in the conduct of Federal elections. It was an important first step. I look forward to working with my colleagues and the civil rights, disability, language minority, and voting rights communities, as well as State and local election officials, to continue our work to ensure that all Americans have access to the most fundamental right in a representative democracy: the right to cast a vote and have that vote counted.

RETIREMENT OF SENATOR ERNEST F. HOLLINGS

Mr. INOUYE. Mr. President, I rise to join my colleagues in tribute to Senator ERNEST ''FRITZ'' HOLLINGS. I will miss my good friend from South Carolina, who in 2003, at the age of 81, finally became his State's senior senator—after 36 years as a junior Senator.

In addition to being remembered as a coauthor of the Gramm-Rudman-Hollings legislation that cut tens of billions of dollars from the Federal budget deficit, FRITZ HOLLINGS has left an indelible mark on our nation in the areas of health care, environmental protection, resource conservation, technology development, job creation, transportation security, and law enforcement, to name a few.

Immediately after the September 11, 2001, terrorist attacks on America, Senator HOLLINGS worked to protect the safety of our traveling public by authoring the Aviation Security Act which created the Transportation Security Administration. Similarly, recognizing that America's ports and borders were our Nation's weak security links, Senator HOLLINGS championed legislation to increase security at America's ports.

As the father of the National Oceanic and Atmospheric Administration, Senator HOLLINGS recognized the extent to which the ocean environment sustains us—from human uses in commerce and recreation to being the original cradle of life on our planet. He knew the importance of taking appropriate steps to be responsible stewards of this rich, yet fragile resource.

His oceans legacy includes authorship of the National Coastal Zone Management Act of 1972, which established Federal policy for protecting coastal areas, and the Marine Mammal Protection Act, which also became the model for other countries, for the protection of dolphins, sea otters and other mammals. In a continuing effort to do what is best for our ocean environment, Senator HOLLINGS created the U.S. Commission on Ocean Policy in 2000, to review the accomplishments of the last 30 years, and recommend actions for the future. Upon the issuance of the report, Senator HOLLINGS laid the groundwork for legislation to adopt the recommendations of the Ocean Commission. I am the proud cosponsor of two of those measures, S. 2647, the Fritz Hollings National Ocean Policy and Leadership Act, and S. 2648, the Ocean Research Coordination and Advancement Act.

Beyond the oceans, Senator HOLLINGS worked to make our communities and schools safer, through programs such as Community Oriented Policing Services, COPS, that put more than 100,000 police officers on the streets in 13,000 communities across the country. The COPS program is also the largest source of dedicated funding for interoperable communications for public safety officers.

Senator HOLLINGS brought competition to the telecommunications arena which resulted in new services to consumers at affordable rates.

I will miss Senator HOLLINGS' wisdom, vision, and wit, but mostly his friendship.

I wish FRITZ and his wife Peatsy a fond aloha.

Mr. DODD. Mr. President, I rise to discuss the FY 2005 omnibus appropriations bill, which the Senate passed late last month and the President signed into law earlier today.

When this legislation was considered by the Senate, I cast my vote in opposition. At that time, I stated several reasons for my vote. I rise today to state several additional reasons for my vote—reasons which have come to light only upon a more thorough examination of this legislation.

First, the omnibus appropriations bill underfunds educational activities in the No Child Left Behind Act by approximately $8 billion relative to authorized funding levels. It underfunds activities under Title I—which assist low-income school districts—by over $7.7 billion. The bill also underfunds activities authorized in the Individuals with Disabilities Education Act by over $10 billion. By denying localities adequate Federal support with which to raise school standards, student achievement, and infrastructure standards, we are denying millions of children and their families across the country the educational resources they need to succeed in a competitive world. We are denying them teachers. We are denying them tutors. We are denying them important components of the academic curricula—components that include art, foreign language, physical education, and music. Without these resources, our children are going to continue to struggle to keep up with children of other nations in educational achievement and proficiency.

Moreover, this legislation freezes the maximum Pell grant for low-income students who plan to attend college to $4,050 for the third year in a row. It also does not include a necessary recalculation of eligibility requirements—an oversight that will cause up to 90,000 low-income students across this country to lose this vital resource for paying tuition costs. That oversight will also reduce the amount of a Pell Grant by an average of $300 for about one million students. The Pell Grant is the cornerstone of the Federal financial aid system that provides affordable college access for thousands of American students who otherwise could not advance their education. In an era of growing inflation and skyrocketing tuition costs, we should be encouraging and not denying our students' chances of achieving the American dream through education and hard work.

Second, the bill does a poor job of making the needs of disadvantaged children and families a priority. Head Start, for example, has received $6.9 billion—a slight increase over the previous year, but only enough to reach and meet the needs of 60 percent of eligible young children. Inadequate investment levels have also been provided for important initiatives, such as the Child Care Development Block Grant and Community Health Centers, both of which provide vital services that ensure the health and well-being of disadvantaged families and their children. We all know that high-quality child care and health services for the poor continue to be in scarce supply or simply unavailable, unaffordable, and of dubious quality. Instead of trying to rectify these growing challenges, we are only exacerbating the problems faced by millions of Americans in urban, suburban, and rural areas.

Third, the omnibus bill severely cuts important housing and community development services—particularly those services that assist low-income and elderly individuals. While the Department of Housing and Urban Development has received a meager 2 percent increase, the Section 8 voucher initiative has received inadequate investment, the Fund for Elderly Housing has been cut by $30 million over last year's funding level, Housing for People with AIDS has been cut by $11 million over last year's funding level, and the Community Development Block Grant—an important initiative that has assisted dozens of distressed municipalities in my State—has been slashed by $212 million over the fiscal year 2004 level. In addition, the HOPE VI initiative, which has assisted in the redevelopment of public housing complexes across the country, has been cut by 75 percent over the past 4 years. Many municipalities in my State, including Danbury, Hartford, Middletown, New Haven, and Stamford have benefitted from HOPE VI resources totaling over $142 million to demolish deficient facilities and build quality affordable housing. Without this vital support, many of my constituents would have been denied the opportunity to live in decent and safe housing. I find it shameful that this bill fails to provide the resources that help Americans fulfill one of their most basic needs: a decent shelter over their heads.

Fourth, the omnibus bill, in my view, discourages positive job growth and business expansion. This administration and Congress have talked endlessly about helping people find work

and encouraging small businesses to grow. Unfortunately, the actions of this bill sadly contradicts their words. Aside from the fact that this bill allows up to 425,000 Federal jobs to be outsourced and up to 8 million private workers to be denied overtime compensation—two issues about which I spoke in my previous statement—it also cuts funds to the Small Business Administration by almost 19 percent and reduces initiatives that encourage small business growth in rural America by 77 percent. Instead of working towards creating new jobs and helping working families and individuals, the legislation creates yet another obstacle for millions of Americans to provide for themselves and their families.

Beyond these four points, the omnibus bill provides inadequate investment levels for a variety of other services and initiatives that are vital to our country. The bill cuts the Environmental Protection Agency budget by 3 percent over the fiscal year 2004 level and cuts conservation programs run by the Department of Agriculture by 4 percent; it provides inadequate resources to the National Institutes of Health and beneficial research projects undertaken by that agency; it provides inadequate resources to the COPS initiatives, reduces support available to law enforcement agencies, and virtually eliminates a successful grant initiative to assist those agencies in hiring more personnel; it cuts the National Science Foundation's budget by $105 million over fiscal year 2004 levels and cuts $38 million from important arts initiatives run by the Smithsonian, the National Endowment for the Arts, and the National Endowment for the Humanities; and it freezes funding for Amtrak for the third year in a row—essentially negating any chance for our country to invest in new modes of regional rail transportation. Furthermore, every initiative in the bill suffers a further 0.8 percent reduction in support so that the strict budgetary restrictions imposed by the Bush administration would be met.

It is worth to note this bill is not completely without merit. There are increased investment in child nutrition assistance, food stamps, local transportation initiatives, and global HIV/AIDS prevention. There is also much-needed support for several important initiatives in my home State of Connecticut. Unfortunately, these positive provisions do not outshine the legislation's numerous shortcomings.

The President and several of our Republican colleagues have said repeatedly that the inadequate investment levels in this bill are designed to reduce the soaring deficits plaguing our country today. They go on to say that domestic initiatives are primarily responsible for the increasing deficits. Unfortunately, the facts before us today belie these assertions. According to a Congressional Budget Office report from September 7, 2004, it is not domestic investments but the grossly imbalanced tax cuts imposed by this administration that have chiefly caused our current deficit predicament—a predicament that promises to have long-term ramifications for the economic health of our country. According to CBO projections, the Bush tax cuts account for the majority of an expected $5.5 trillion deficit increase over the next 7 years. They are projected to increase the deficit more than all domestic investment combined.

In short, this legislation, in my view, reflects a continuing failure to invest in the productive potential of our children, workers, and small businesses. I sincerely hope that the Senate will do better in the 109th Congress.

PROTECTING AMERICAN AGRICULTURE

Mr. AKAKA. Mr. President, last Friday, December 3, 2004, Secretary of Health and Human Services Tommy Thompson, in his resignation speech, stated, ''For the life of me, I cannot understand why the terrorists have not attacked our food supply because it is so easy to do so.'' These are strong words coming from the man charged with protecting the Nation's food supply. Yet this sort of warning is not news to those of us who follow this issue.

The security of our Nation's food supply is of great concern to me. Over the past year, the United States has been reminded repeatedly of the vulnerable nature of the American agriculture system and the ease with which terrorists could manipulate that vulnerability. In 2003, mad cow disease surfaced for the first time in Washington State and various strains of the avian influenza began cropping up across Asia and in the United States. I have come to the floor repeatedly over the past few years to call attention to this growing problem. I also introduced legislation to strengthen prevention and response efforts as early as 2002.

At a November 2003 Governmental Affairs Committee hearing, ''Agroterrorism: The Threat to America's Breadbasket,'' Dr. Peter Chalk, a RAND policy analyst, testified that an attack on American livestock could be extremely attractive to a terrorist for the following four reasons: one, a low level of technology is needed to do considerable damage; two, at least 15 pathogens have the capability of severely harming the agriculture industry; three, a terrorist would not need to be at great personal risk in order to carry out a successful attack; and four, a disease could spread quickly throughout a city, State, or even the country.

Dr. Tom McGinn, formerly of the North Carolina Department of Agriculture, demonstrated a computer-simulated attack of foot-and-mouth, or FMD, disease at our hearing where FMD was introduced in five States. According to Dr. McGinn's simulation, after five days 23 States would be infected; after 30 days 40 States would be infected. In this scenario, it would be likely that the disease would not be detected until the fifth day and a national order to stop the interstate movement of livestock would take place a few days later. Using Dr. McGinn's assumptions, over 23 million animals would die from illness or need to be destroyed. It is horrifying that such a massive blow could strike one of the United States' largest markets by simply coordinating the infection of five animals.

As a senior member of the Governmental Affairs Committee, one of my greatest concerns is the lack of governmental organization—Federal, State, and local—to address this problem. Over 30 Federal agencies have jurisdiction over some part of the response process in the event of a breach of agricultural security.

In a report on the country's preparedness for responding to animalbourne diseases issued in August 2003, Trust for America's Health, a nonprofit, nonpartisan organization founded to raise the profile of public health issues, stated:

> The U.S. is left with a myriad of bureaucratic jurisdictions that respond to various aspects of the diseases, with little coordination and no clear plan for communicating with the public about the health threats posed by animal-borne diseases.

Protecting America's agriculture and its citizens requires Federal agencies to have clear areas of responsibility that leave no ground uncovered and open lines of communication, both between agencies and with the public.

State and local officials, and the communities they serve, are the front lines of defense for American agriculture. Without adequate resources, both in terms of funding and advice, these defenses will fail. Yet agriculture and food security have not been given the national attention necessary to prevent this failure.

On December 7, 2001, I stood on the floor of the Senate and warned of the vulnerability of American agriculture. To address my concerns, I introduced S. 2767, the Agriculture Security Preparedness Act, on July 22, 2002. My bill was not acted upon in the 107th Congress, so I continued my efforts in the 108th Congress with the introduction of S. 427, the Agriculture Security Assistance Act, and S. 430, the Agriculture Security Preparedness Act.

The Agriculture Security Assistance Act would assist States and communities in responding to threats to the agriculture industry by authorizing funds for: animal health professionals to participate in community emergency planning activities to assist farmers in strengthening their defenses against a terrorist threat; a biosecurity grant program for farmers and ranchers to provide needed funding to better secure their properties; and the use of sophisticated remote sensing and computer modeling approaches to agricultural diseases.

The Agriculture Security Preparedness Act would enable better interagency coordination within the Federal

Government by: establishing senior level liaisons in the Departments of Homeland Security, or DHS, and Health and Human Services to coordinate with the Department of Agriculture and all other relevant agencies on agricultural disease emergency management and response; requiring DHS and USDA to work with the Department of Transportation to address the risks associated with transporting animals, plants, and people between and around farms; requiring the Attorney General to conduct a review of relevant Federal, State, and local laws to determine if they facilitate or impede agricultural security; and directing the State Department to enter into mutual assistance agreements with foreign governments to facilitate the sharing of resources and knowledge of foreign animal diseases.

While some in the administration will say the situation is under control and there is no need for legislation from Congress, I would point to the failure of the Food and Drug Administration to comply with the basic food safety requirements in the Bioterrorism Act of 2002 in a timely manner. On Monday, the FDA published regulations requiring all companies involved in food production, processing, manufacturing, and transportation to keep detailed records identifying the source from which a food product was received and/or the recipient to whom a product was sent.

The Bioterrorism Act required that these regulations be issued by December 2003—a full 12 months ago. The administration will continue to drag its feet on this issue if we in the Congress are not attentive.

In the wake of Secretary Thompson's remarks, there has been much national attention given to the vulnerability of the American food supply. Some who had not focused on this issue in the past are publicly expressing concern about the safety of American food, and the national media is broadcasting special investigative reports on agroterrorism. President Bush was questioned about the issue during his press briefing with President Musharraf on Saturday.

The spotlight is being focused on this glaring weakness in U.S. security. We must do more to protect the American public from what experts describe as an obvious and vulnerable target. The real, and perceived, security of the Nation's food supply is critical to the continued prosperity of the United States. I will reintroduce S. 427 and S. 430 in the 109th Congress, and I urge my colleagues to cosponsor my bills. Together we can move this legislation forward and demonstrate that Congress is protecting our food supply.

SPEECH BY PRIME MINISTER TONY BLAIR

Mr. MCCAIN. Mr. President, I would like to call to the attention of my colleagues a speech given by British Prime Minister Tony Blair on September 14, 2004 at a dinner to mark the 10th Anniversary of his Royal Highness' Business and Environmental Programme. Prime Minister Blair states that he believes that climate change is the world's greatest environmental challenge. In the speech, Prime Minister Blair outlined his plans to have the G8 countries take action to address the causes and effects of climate change by reaching three basic agreements. The prime minister hopes to reach agreements on the basic science on climate change and the threat it poses; a process to speed up the research and deployment of technologies to meet the threat posed by climate change; and ways to meet the growing energy needs around the world without further impacting the world's climate.

I ask unanimous consent that the prime minister's speech on climate change be printed in the RECORD.

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

PRIME MINISTER TONY BLAIR SPEECH ON CLIMATE CHANGE

The 10th anniversary of His Royal Highness' Business and the Environment Programme marks what is now recognised as the premier international forum for exploring sustainable development in the context of business.

1. Over the coming months we will take forward the wider sustainable development and environment agenda. Margaret Beckett is working on a comprehensive DEFRA 5 year programme to be released this year and a new sustainable development strategy for early next year. This will deal with, amongst other matters, issues of waste, recycling, sustainable agriculture, all aspects of biodiversity; and fishing, and will set out policies in each key area. For example, on the marine environment, I believe there are strong arguments for a new approach to managing our seas, including a new Marine Bill.

But tonight I want to concentrate on what I believe to be the world's greatest environmental challenge: climate change.

Our effect on the environment, and in particular on climate change, is large and growing.

To summarise my argument at the outset:

From the start of the industrial revolution more than 200 years ago, developed nations have achieved ever greater prosperity and higher living standards. But through this period our activities have come to affect our atmosphere, oceans, geology, chemistry and biodiversity.

What is now plain is that the emission of greenhouse gases, associated with industrialisation and strong economic growth from a world population that has increased sixfold in 200 years, is causing global warming at a rate that began as significant, has become alarming and is simply unsustainable in the long-term. And by long-term I do not mean centuries ahead. I mean within the lifetime of my children certainly; and possibly within my own. And by unsustainable, I do not mean a phenomenon causing problems of adjustment. I mean a challenge so far-reaching in its impact and irreversible in its destructive power, that it alters radically human existence.

The problem and let me state it frankly at the outset—is that the challenge is complicated politically by two factors. First, its likely effect will not be felt to its full extent until after the time for the political decisions that need to be taken, has passed. In other words, there is a mismatch in timing between the environmental and electoral impact. Secondly, no one nation alone can resolve it. It has no definable boundaries. Short of international action commonly agreed and commonly followed through, it is hard even for a large country to make a difference on its own.

But there is no doubt that the time to act is now. It is now that timely action can avert disaster. It is now that with foresight and will such action can be taken without disturbing the essence of our way of life, by adjusting behaviour not altering it entirely.

There is one further preliminary point. Just as science and technology has given us the evidence to measure the danger of climate change, so it can help us find safety from it. The potential for innovation, for scientific discovery and hence, of course for business investment and growth, is enormous. With the right framework for action, the very act of solving it can unleash a new and benign commercial force to take the action forward, providing jobs, technology spin-offs and new business opportunities as well as protecting the world we live in.

But the issue is urgent. If there is one message I would leave with you and with the British people today it is one of urgency.

Let me turn now to the evidence itself. The scientific evidence of global warming and climate change: UK leadership in environmental science.

Apart from a diminishing handful of sceptics, there is a virtual worldwide scientific consensus on the scope of the problem. As long ago as 1988 concerned scientists set up an unprecedented intergovernmental panel to ensure that advice to the world's decision-makers was sound and reliable.

Literally thousands of scientists are now engaged in this work. They have scrutinised the data and developed some of the world's most powerful computer models to describe and predict our climate.

UK excellence in science is well documented: we are second only to the US in our share of the world's most cited publications.

And amongst our particular strengths are the environmental sciences, lead by the world-renowned Hadley and Tyndall centres for climate change research.

And from Arnold Schwarzenegger's California to Ningxia Province in China, the problem is being recognised.

Let me summarise the evidence:

The 10 warmest years on record have all been since 1990. Over the last century average global temperatures have risen by 0.6 degrees Celsius: the most drastic temperature rise for over 1,000 years in the northern hemisphere.

Extreme events are becoming more frequent. Glaciers are melting. Sea ice and snow cover is declining. Animals and plants are responding to an earlier spring. Sea levels are rising and are forecast to rise another 88cm by 2100 threatening 100m people globally who currently live below this level.

The number of people affected by floods worldwide has already risen from 7 million in the 1960s to 150 million today.

In Europe alone, the severe floods in 2002 had an estimated cost of $16 billion.

This summer we have seen violent weather extremes in parts of the UK.

These environmental changes and severe weather events are already affecting the world insurance industry. Swiss Re, the world's second largest insurer, has estimated that the economic costs of global warming could double to $150 billion each year in the next 10 years, hitting insurers with $30–40 billion in claims.

By the middle of this century, temperatures could have risen enough to trigger irreversible melting of the Greenland ice-cap—

eventually increasing sea levels by around seven metres.

There is good evidence that last year's European heat wave was influenced by global warming. It resulted in 26,000 premature deaths and cost $13.5 billion.

It is calculated that such a summer is a one in about 800 year event. On the latest modelling climate change means that as soon as the 2040s at least one year in two is likely to be even warmer than 2003.

That is the evidence. There is one overriding positive: through the science we are aware of the problem and, with the necessary political and collective will, have the ability to address it effectively.

The public, in my view, do understand this. The news of severe weather abroad is an almost weekly occurrence. A recent opinion survey by Greenpeace showed that 78 percent of people are concerned about climate change.

But people are confused about what they can do. It is individuals as well as Governments and corporations who can make a real difference. The environmental impacts from business are themselves driven by the choices we make each day.

To make serious headway towards smarter lifestyles, we need to start with clear and consistent policy and messages, championed both by government and by those outside government. Telling people what they can do that would make a difference.

UK ACTION

I said earlier it needed global leadership to tackle the issue. But we cannot aspire to such leadership unless we are seen to be following our own advice.

So, what is the UK Government doing? We have led the world in setting a bold plan and targets for reducing greenhouse gas emissions.

We are on track to meet our Kyoto target. The latest estimates suggest that greenhouse gas emissions in 2003 were about 14 percent below 1990 levels. But we have to do more to achieve our commitment to reduce carbon dioxide emissions by 20 percent by 2010.

Our targets are ambitious and we must continually review and refine how we can meet them. In 2000, we published our Climate Change Programme, which set out a comprehensive range of policies aimed at reducing our greenhouse gas emissions. Tomorrow, we'll be setting out the details of this review to see if it is achieving the necessary progress towards our short-term and long-term emissions targets, and if not, to see how we can do better.

In the longer term, The Royal Commission on Environmental Pollution's seminal report on energy concluded that to make its contribution towards tackling climate change, the UK needed to reduce our carbon dioxide emissions by 60 percent by 2050. This implies a massive change in the way this country produces and uses energy. We are committed to this change.

There are immense business opportunities in sustainable growth and moving to a low carbon economy.

The UK has already shown that it can have a strongly growing economy while addressing environmental issues. Between 1990 and 2002 the UK economy grew by 36 percent, while greenhouse gas emissions fell by around 15 percent.

But business itself must seize the opportunities: it is those hi-tech, entrepreneurial businesses with the foresight and capability to tap into the UK's excellent science base that will succeed. Tackling climate change will take leadership, dynamism and commitment—qualities that I know are abundantly represented in this room.

As part of next year's G8 process I want to advance work on promoting the development and uptake of cleaner energy technologies begun under the French Presidency in 2003 and continued by the US this year.

We need both to invest on a large scale in existing technologies and to stimulate innovation into new low carbon technologies for deployment in the longer term. There is huge scope for improving energy efficiency and promoting the uptake of existing low carbon technologies like PV, fuel cells and carbon sequestration.

This technology is coming out of the laboratory and becoming reality in new fuel cell cars, combined heat and power generators and in new low carbon fuels. The next generation of photovoltaics are unlikely to need the now familiar panels: smart windows could generate the power required for new buildings. And carbon sequestration: literally capturing carbon and storing it in the ground, also has real potential. BP are already involved in an Algerian project which aims to store 17 million tonnes of CO2.

What we need to do is build an international consensus on how we can speed up the introduction of these technologies.

And there are already many great examples of companies here in the UK showing the way:

Ceres Power based in Crawley and utilising technology developed at Imperial College have developed a new fuel cell that has unique properties and is a world leader, and

Just a few weeks ago Ocean Power Delivery transmitted the first offshore wave energy from the seas off Orkney to the UK grid.

And these are not isolated examples.

Understandably, climate change focuses minds on big, industrial, energy users. But retailers are also working with suppliers to reduce the impacts of goods and services that they sell. I want to see the day when consumers can expect that environmental responsibility is as fundamental to the products they buy as health and safety is now.

Government has to work with business to move forward, faster. For example, we will help business cut waste and improve resource efficiency and competitiveness through a programme of new measures funded through landfill tax receipts. We will follow up the report of the Sustainable Buildings Task Group to raise environmental standards in construction.

The Carbon Trust is helping business to address their energy use and encourage low-carbon innovation. In total, efficiency measures are expected to save almost 8 million tonnes of carbon from business by 2010, more than 10 percent of their emissions in 2000.

Our renewables obligation has provided a major stimulus for the development of renewable energy in the UK. It has been extended to achieve a 15.4 percent contribution from renewables to the UK's electricity needs by 2015, on a path to our aspiration of a 20 percent contribution by 2020. In the short term, wind energy—in future increasingly offshore—is expected to be the primary source of smart, renewable power.

Our position on nuclear energy has not changed. And as we made clear in our Energy White Paper last year, the government does ''not rule out the possibility that at some point in the future new nuclear build might be necessary if we are to meet our carbon targets.''

In short, we need to develop the new green industrial revolution that develops the new technologies that can confront and overcome the challenge of climate change; and that above all can show us not that we can avoid changing our behaviour but we can change it in a way that is environmentally sustainable.

Just as British know-how brought the railways and mass production to the world, so British scientists, innovators and business people can lead the world in ways to grow and develop sustainably.

I am confident business will seize this opportunity. Cutting waste and saving energy could save billions of pounds each year. With about 90 percent of production materials never part of the final product and 80 percent of products discarded after single use, the opportunities are clear.

Local, practical sustainability: new schools, new housing and re-invigorating 'Agenda 21'.

But Government can give a lead in its own procurement policy.

NEW SUSTAINABLE SCHOOLS

There is a huge school building programme underway. All new schools and City Academies should be models for sustainable development: showing every child in the classroom and the playground how smart building and energy use can help tackle global warming.

The government is now developing a school specific method of environmental assessment that will apply to all new school buildings. Sustainable development will not just be a subject in the classroom: it will be in its bricks and mortar and the way the school uses and even generates its own power.

Our students won't just be told about sustainable development, they will see and work within it: a living, learning, place in which to explore what a sustainable lifestyle means.

HOUSING

The economic and social case for new housing is compelling. But we must also ensure that our approach is environmentally sustainable. This means action at both the national and local level. Heating, lighting and cooling buildings produces about half of total UK carbon emissions.

In 2002 we raised the minimum standard for the energy performance of new buildings by 25 percent. And next year we'll raise it by another 25 percent. The challenge now is to work with the building industry to encourage sustainability to be part of all new housing through a new flexible Code for Sustainable Buildings.

The new developments proposed in specific parts of the south east including the Thames Gateway represent a huge opportunity for us to show what can be achieved in terms of modern, smart, 21st century, sustainable living: not just in terms of reduced energy use, but also through better waste management, sustainable transport and availability of quality local parks and amenities.

RE-INVIGORATING AGENDA 21

Many local communities understand the links between the need to tackle national and global environmental challenges and everyday actions to improve our neighbourhoods and create better places to live.

In 1997, I encouraged all local authorities to work with their communities and produce Local Agenda 21 plans by 2000.

There was an overwhelming response: from County Durham to Wiltshire and from Redbridge to Cheshire, local people showed what could be done. Next year, as a key part of our new Sustainable Development Strategy, I want to reinvigorate community action on sustainable development.

ACTION IN THE EU

From this base of domestic action we move out to action Europe-wide.

We believe, as I know many of you do, that trading is the most cost effective way to reduce emissions. The emissions trading scheme which we have advocated and pushed

in Europe is of great importance to our goals, and to those of Europe. The establishment of a carbon trading market throughout the world's most important economic area next year will be an enormous achievement, and will change the way thousands of businesses think about their energy use. Cutting carbon emissions is the way the future will be, and we have repeatedly said that there are advantages to British industry from early action.

In Britain and throughout the world, the expected rapid growth in demand for transport, including aviation, means that we must develop far cleaner and more efficient aircraft and cars.

I am advised that by 2030, emissions from aircraft could represent a quarter of the UK's total contribution to global warning. A big step in the right direction would be to see aviation brought into the EU emissions trading scheme in the next phase of its development. During our EU Presidency we will argue strongly for this.

And the UK is taking a strong lead globally.

From Europe, we need then to secure action world-wide. Here it is important to stress the scale of the implications for the developing world. It is far more than an environmental one, massive though that is. It needs little imagination to appreciate the security, stability and health problems that will arise in a world in which there is increasing pressure on water availability; where there is a major loss of arable land for many; and in which there are large-scale displacements of population due to flooding and other climate change effects.

It is the poorest countries in the world that will suffer most from severe weather events, longer and hotter droughts and rising oceans. Yet it is they who have contributed least to the problem. That is why the world's richest nations in the G8 have a responsibility to lead the way: for the strong nations to better help the weak.

Such issues can only be properly addressed through international agreements. Domestic action is important, but a problem that is global in cause and scope can only be fully addressed through international agreement. Recent history teaches us such agreements can achieve results.

The 1987 Montreal Protocol—addressing the challenge posed by the discovery of the hole in the ozone layer—has shown how quickly a global environmental problem can be reversed once targets are agreed.

However, our efforts to stabilise the climate will need, over time, to become far more ambitious than the Kyoto Protocol. Kyoto is only the first step but provides a solid foundation for the next stage of climate diplomacy. If Russia were to ratify that would bring it into effect.

We know there is disagreement with the US over this issue. In 1997 the US Senate voted 95–0 in favour of a resolution that stated it would refuse to ratify such a treaty. I doubt time has shifted the numbers very radically.

But the US remains a signatory to the UN Framework Convention on Climate Change, and the US National Academy of Sciences agree that there is a link between human activity, carbon emissions and atmospheric warming. Recently the US Energy Secretary and Commercial Secretary jointly issued a report again accepting the potential damage to the planet through global warming.

Climate change will be a top priority for our G8 Presidency next year.

Recently, I announced that together with Africa, climate change would be our top priority for next year's G8. I do not under-estimate the difficulties. This remains an issue of high and fraught politics for many countries. But it is imperative we try.

I want today to highlight three key parts of my G8 strategy.

First, I want to secure an agreement as to the basic science on climate change and the threat it poses. Such an agreement would be new and provide the foundation for further action.

Second, agreement on a process to speed up the science, technology, and other measures necessary to meet the threat.

Third, while the eight G8 countries account for around 50 percent of global greenhouse gas emissions, it is vital that we also engage with other countries with growing energy needs—like China and India; both on how they can meet those needs sustainably and adapt to the adverse impacts we are already locked into.

Given the different positions of the G8 nations on this issue, such agreement will be a major advance; but I believe it is achievable.

The G8 Presidency is a wonderful opportunity to give a big push to international opinion and understanding, among businesses as well as Governments.

We have to recognise that the commitments reflected in the Kyoto protocol and current EU policy are insufficient, uncomfortable as that may be, and start urgently building a consensus based on the latest and best possible science.

Prior to the G8 meeting itself we propose first to host an international scientific meeting at the Hadley Centre for Climate Prediction and Research in Exeter in February. More than just another scientific conference, this gathering will address the big questions on which we need to pool the answers available from the science:

What level of greenhouse gases in the atmosphere is self-evidently too much?; and What options do we have to avoid such levels?;

This can help inform discussion at the G8.

CONCLUSION

The situation therefore can be summarised in this way:

(1) If what the science tells us about climate change is correct, then unabated it will result in catastrophic consequences for our world.

(2) The science, almost certainly, is correct.

(3) Recent experience teaches us that it is possible to combine reducing emissions with economic growth.

(4) Further investment in science and technology and in the businesses associated with it has the potential to transform the possibilities of such a healthy combination of sustainability and development.

(5) To acquire global leadership, on this issue Britain must demonstrate it first at home.

(6) The G8 next year, and the EU Presidency provide a great opportunity to push this debate to a new and better level that, after the discord over Kyoto, offers the prospect of agreement and action.

None of this is easy to do. But its logic is hard to fault. Even if there are those who still doubt the science in its entirety, surely the balance of risk for action or inaction has changed. If there were even a 50 percent chance that the scientific evidence I receive is right, the bias in favour of action would be clear. But of course it is far more than 50 percent.

And in this case, the science is backed up by intuition. It is not axiomatic that pollution causes damage. But it is likely. I am a strong supporter of proceeding through scientific analysis in such issues. But I also, as I think most people do, have a healthy instinct that if we upset the balance of nature, we are in all probability going to suffer a reaction. With world growth, and population as it is, this reaction must increase.

We have been warned. On most issues we ask children to listen to their parents. On climate change, it is parents who should listen to their children.

Now is the time to start.

ELDER JUSTICE ACT OF 2004

Mr. BREAUX. Mr. President. I rise to speak about the Elder Justice Act of 2004, the substitute for S. 333 as reported by the Committee on Finance. This bill is designed to greatly enhance our knowledge about elder abuse, neglect and exploitation, and how to combat it in the 21st Century. First, I would like to take a moment to thank Chairman GRASSLEY, Senator BAUCUS, and the other Members of the Finance Committee for unanimously reporting this bill. I thank Senator HATCH for his unwavering support for this bill as a lead sponsor. I also thank all 45 bi-partisan Senate cosponsors and over 100 bipartisan House cosponsors and their staff members. All have been instrumental in helping move this legislation forward and I appreciate all of the time and effort each has contributed.

Despite the rapid aging of America, few pressing social issues have been as systematically ignored as elder abuse, neglect and exploitation, as illustrated by the following points:

Twenty five years of congressional hearings on the devastating effects of elder abuse, called elder abuse a ''disgrace'' and a ''burgeoning national scandal.''

To date, we have no Federal law enacted to address elder abuse in a comprehensive manner.

Congress passed comprehensive bills to address the ugly truth about child abuse and crimes against women, yet there is not one full-time Federal employee working on elder abuse in the entire Federal Government.

The cost of elder abuse is high by any measure, including needless human suffering, inflated healthcare costs, depleted public resource, and loss of one of our greatest national assets, the wisdom and experience of our elders.

Abuse of our seniors takes many forms. It can be physical, sexual, psychological or financial. The perpetrator may be a stranger, an acquaintance, a paid caregiver, a corporation and, far too often, a spouse or another family member. Elder abuse happens everywhere, in poor, middle class and upper income households; in cities, suburbs, and rural areas. It knows no demographic or geographic boundaries.

With scientific advances and the graying of millions of baby boomers, last year the number of elderly on the planet passed the number of children for the first time. Although we have made great strides in promoting independence, productivity and quality of life, old age still brings inadequate health care, isolation, impoverishment, abuse and neglect for far too many Americans.

Studies conclude that elder abuse, neglect and exploitation are widely

under reported and these abuses significantly shorten the lives of older victims. A single episode of mistreatment can ''tip-over'' an otherwise independent, productive life, triggering a downward spiral that can result in depression, serious illness and even death.

Too many of our frailest citizens suffer needlessly and cannot simply move away from the abuse. Frequently, they cannot express their wishes or suffering. And, even if they can, often they do not, fearing retaliation.

This amendment will elevate elder abuse, neglect and exploitation to the national stage in a lasting way. We want to ensure Federal leadership to States and to provide resources for services, prevention and enforcement efforts to those on the front lines.

A crime is a crime whoever the victim and wherever it occurs. Crimes against seniors must be elevated to the level of child abuse and crimes against women.

It is clear in confronting child abuse and violence against women that the best method of prevention is three-pronged—through law enforcement, public health and social services. With grant programs in the Departments of Health and Human Services and Justice, this amendment ensures a combined public health-law enforcement coordination at all levels. In addition, because elder abuse and neglect have been virtually absent from the national research agenda, this amendment establishes research projects to fuel future legislation.

These measures lay the foundation to address, in a meaningful and lasting way, a devastating and growing problem that has been invisible for far too long. We can no longer neglect these difficult issues afflicting frail and elderly victims.

This effort takes numerous steps to prevent and treat elder abuse:

It improves prevention and intervention by funding projects to make older Americans safer in their homes, facilities and neighborhoods, to enhance long-term care staffing and to stop financial fraud before the money goes out the door.

It enhances detection by creating forensic centers and developing expertise to enhance detection of the problem.

It bolsters treatment by funding efforts to find better ways to mitigate the devastating consequences of elder mistreatment.

It increases collaboration by requiring ongoing coordination at the Federal level, among Federal, State, local and private entities, law enforcement, long-term care facilities, consumer advocates and families.

It aids prosecution by assisting law enforcement and prosecutors to ensure that those who abuse our Nation's frail elderly will be held accountable, wherever the crime occurs and whoever the victim.

It helps consumers by creating a resource center for family caregivers and those trying to make decisions about different types of long-term care providers.

More and more of us will enjoy longer life in relative health, but with this gift comes the responsibility to prevent the needless suffering too often borne by our frailest citizens.

Let me take a moment to thank so many people who contributed to the development of this legislation. First, I thank Senator HATCH for joining me and working with me as a lead cosponsor of the bill. Without the support of Senator GRASSLEY and Senator BAUCUS, the, chairman and ranking member of the Committee on Finance, this bill could never have advanced to this point. I deeply appreciative of their commitment, and perseverance to seeing this through the committee. I must thank all the members of the committee for their unanimous support of this bill. Further, I thank the 45 bipartisan Senate cosponsors and the 91 bipartisan House cosponsors, lead by Representative RAHM EMANUEL, Majority Whip ROY BLUNT, and Representative PETER KING for their tireless efforts toward passage in the House.

No legislation can advance without the efforts of an immensely dedicated staff. I would like to take this opportunity to mention the many individuals who worked to ensure the passage of this bill. I thank my Staff Director of the Special Committee on Aging, Michelle Easton, for assembling a talented staff and laying the groundwork for this important legislation, and my chief of staff Fred Hatfield for his leadership. I thank my chief investigative counsel, Lauren Fuller, for leading numerous hearings examining the nature and extent of elder abuse that resulted in the development of this legislation and for her tireless efforts to see it through to completion. I thank the following present and former staff of the Special Committee who worked on various aspects of the hearings and legislation, making many sacrifices in the process: Cecil Swamidoss, Janet Forlini, Phil Thevenet, Joy Cameron, Matt Lavigna, Arika Pierce, Dana Dupre, Kori Forster, Elaine Dalpiaz, Scott Mulhauser, Ryan McGinn and Patricia Hameister.

I also thank members of the Committee on Finance who went above and beyond the call of duty to shepherd this legislation: Ted Totman, Kolan Davis, Russ Sullivan, Bill Dauster, Liz Fowler, Mark Hayes, Andrea Cohen, David Schwartz, Emilia DiSanto, Becky Shipp, Chad Groover, Carla Martin and Robert Merulla.

I want to also mention the efforts of staff of other members including Patti DeLoatche, Bruce Artim, Kevin O'Scannlain, and Wan Kim with Senator HATCH; Pete Spiro and Liz Smith with Representative RAHM EMANUEL; Kevin Fogarty with Representative PETER KING; and Joe Trauger with Majority Whip ROY BLUNT. I would particularly like to thank the leadership of my colleagues in the House of Representatives, Representative EMANUEL, Representative KING and Majority Whip ROY BLUNT for their efforts throughout the process.

There are so many individuals across the country to recognize for their advocacy in passing the Elder Justice Act. However, there are too many to recognize here. So, I thank the 357 strong Elder Justice Coalition, lead by Robert Blancato, for their passionate advocacy on this legislation, and the members of the steering committee: National Committee for the Prevention of Elder Abuse, National Academy of Elder Law Attorneys, National Association of State Units on Aging, National Association of APS Administrators, and National Association of State Long-Term Care Ombudsman Programs. Last but not least, I would like to extend my sincerest appreciation to Marie-Therese Connolly, Nursing Home Initiative Coordinator at the U.S. Department of Justice who served as a resource and who provided immeasurable assistance in the development of this bill.

I am deeply gratified by how close the Senate came to passing the Elder Justice Act on the eve of my retirement from the Congress and look forward to this bill being passed expeditiously and signed into law in the next Congress so that elder justice can become a reality for those Americans who need it most.

IN TRIBUTE TO COL ANTHONY WALKER, USMC

Mr. CHAFEE. Mr. President, I rise to note the recent death of Marine Corps COL Anthony Walker, a Rhode Islander who served his country with the highest distinction.

After graduating in 1939 from Yale College, Mr. Walker enlisted in the Marine Corps, was commissioned a second lieutenant in 1941 and was deployed to the South Pacific during World War II.

As a Raider Company commander, he led part of the successful attack on Viru Harbor, New Georgia. He was wounded in New Georgia at the battle for Bairoko. Returning to combat, he fought in the campaigns of Emirau, Guam, and Okinawa. In Okinawa, he commanded the 6th Marine Division's Reconnaissance Company, leading numerous night patrols and attacks. The end of the war marked 30 continuous months for him in the Pacific Theater.

Colonel Walker later served tours of duty as a U.N. observer in Kashmir, as a battalion and regimental commander in the Fleet Marine Force, as a commander of Marine Barracks at Fort Campbell, KY, and at Guantanamo Bay, Cuba. He was a student and an instructor at the U.S. Naval War College in Newport, and in 1971 concluded 32 years of active duty, including a year in South Vietnam as the Operations Officer of the Joint Military Assistance Command.

In the Marine Corps, this Vietnam War veteran was known as ''Cold Steel'' in recognition of his particular

skill in close combat and small unit tactics. Colonel Walker was highly regarded for his tactical and leadership skills. His decorations included two Silver Stars, the Purple Heart, a Presidential Unit Citation, a Navy Unit Commendation and the Legion of Merit.

A devoted military historian, he published two books and numerous articles, many on the Revolutionary War. His book, ''So Few the Brave,'' is the definitive history of the Rhode Island regiments in the Revolution.

Colonel Walker served as president of Middletown Little League and was a volunteer for the Sachuest Point Wildlife Sanctuary. He was a member of the Sons of the American Revolution, the Marine Corps Heritage Foundation, and the Middletown Historical Society.

Colonel Walker leaves behind Judith Walker, his wife of 57 years, three sons, William W. Walker of Winston-Salem, NC, Daniel A. Walker of Hartford, CT, and Lt. Col. Andrew D. Walker, USMC, retired, of Poolesville, MD; and six grandchildren.

Colonel Walker was a man of integrity and honesty, a leader respected and loved by his family, friends, colleagues and military alumni in the Newport area. He will truly be missed.

CWO DAVID H. GARDNER JR.

Mr. GRASSLEY. Mr. President, I rise today to honor CWO David H. Gardner Jr., an Iowa native who was killed when his UH–60 Black Hawk helicopter went down near Fort Hood in Texas. A 1991 graduate of Mason City High School in Mason City, IA, David Gardner served as a helicopter pilot assigned to the 4th Infantry Division's A Company, 2nd Battalion, 4th Aviation Regiment. He had previously served in the Iowa National Guard before going on active duty in the 1990s. From October of 2003 until the following April, Chief Warrant Officer Gardner served his country in Iraq.

I ask my colleagues in the Senate and all Americans to join me today in paying tribute to Chief Warrant Officer Gardner. My deepest sympathy goes out to his friends and family, and particularly the 7-year-old daughter he leaves behind. It is my hope that she grows up knowing of the tremendous sacrifice her father made for his country and the deep appreciation America has for him. Chief Warrant Officer Gardner will always be honored as a hero who gave his life for his country, and he will be greatly missed.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the text of a letter be printed in the RECORD.

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

THE SECRETARY OF DEFENSE,
Washington, DC, November 19, 2004.

Hon. BILL FRIST,
Majority Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: The Department of Defense takes great pride in its longstanding and rich tradition of support to the Boy Scouts of America. Accordingly, the Department of Defense supports the proposed Concurrent Resolution expressing the sense of Congress that the Department of Defense should continue to exercise its statutory authority to support the activities of the Boy Scouts of America, in particular the periodic national and world Boy Scout Jamborees.

Sincerely,

DONALD RUMSFELD.

GEORGIA AND THE TRUTH ABOUT SOUTH OSSETIA

Mr. KYL. Mr. President, I rise today to talk about the republic of Georgia, America's ally in the war on terror and partner in Iraq.

I am not sure if you are aware of this, but the republic of Georgia has dispatched 150 of its troops to participate in the coalition that liberated Iraq and is now assisting in the rebuilding of that country. Last month, the Georgian government announced that it would nearly quintuple its number of forces in Iraq.

In recent weeks, much has been heard and seen of the political crisis in Ukraine. A little more than 1 year ago, a similar crisis befell Georgia following its November presidential election. As with Ukraine, the election results appeared rigged in favor of the ruling party candidate.

As we all know, the people of Georgia, through a group of brave, young reformers, patriots, and democrats, brought about historic political change in that country. Known now as the Rose Revolution, the forces of democracy, led by Mikhail Saakashvili, prevailed in Georgia and forced then-President Eduard Shevardnadze to resign. During the past year, President Saakashvili's government has dramatically reformed the Georgian government, instituting far-reaching political, economic, and legal reforms. And, just last month, the U.S. Senate passed S. Res. 472 honoring the 1-year anniversary of the Rose Revolution and recognizing the achievements the Georgian government has made in democratizing that country.

I would like to focus the remainder of my remarks on a small region in the republic of Georgia called South Ossetia, a place I'm sure relatively few Americans have heard of. But the potential for violence in this region was highlighted by the vicious terrorist attack in September of this year against a school in North Ossetia—in Beslan, Russia, just over the border from Georgian South Ossetia.

In 1991, the Soviet Union dissolved and many republics gained independence, including Georgia. But almost since the beginning, some in Russia did not accept the end of the Soviet empire. Russian overt and covert pressure worked to undermine the new-found sovereignty among bordering countries. No former republic was subject to more pressure than Georgia. Russia refused to withdraw its troops—a refusal that continues even today, some 13 years after the collapse of the Soviet Union.

In South Ossetia (in north central Georgia), as well as in Abkhazia (in western Georgia), disputes broke out shortly after independence. In both South Ossetia and Abkhazia, Russian forces aided ethnic separatists as a way to weaken Georgia. They sent arms, money, ''volunteers'' and military advisers. In South Ossetia, Russian President Boris Yeltsin negotiated a ceasefire in 1992 and forced Georgia to accept Russian and North Ossetian ''peacekeepers.'' In 1994, the Conference on Security and Cooperation in Europe (now the Organization on Security and Cooperation in Europe or OSCE) took responsibility for diplomatic efforts and monitoring in South Ossetia with the full support of the Georgian government. In 1999, the OSCE added monitoring of the Chechen-Georgian border, and later the Ingush and Dagestani portions of the Georgian border.

For 10 years following the OSCE's involvement in South Ossetia, several things happened. First, it became clear that the OSCE was unwilling or unable to take effective measures to resolve the separatist conflict—chiefly because Russia has a veto in the OSCE. The ''peacekeeping'' force has the Georgians out-numbered and out-gunned by South Ossetians, North Ossetians, and Russians. Any effort to expand the OSCE beyond its limited monitoring role or limited geographical area is opposed by Russia. The OSCE mission is unable to monitor Russian violations of Georgian airspace and only rarely uncovers illegal arms shipments. While individuals working in the OSCE mission perform admirably under difficult conditions, the unavoidable fact remains: the OSCE mission in Georgia is deeply and structurally flawed.

The second major development was in the economy of South Ossetia. Deeply isolated from the rest of Georgia but having a land link to the Russian Federation, South Ossetia became a giant smuggler's market—in effect criminalizing its entire economy. Cigarettes, alcohol, drugs, arms, and foodstuffs all came in duty-and-tax free. A massive open-air black market operated with impunity in Tskhinvali, the provincial capital of South Ossetia. Profit from the contraband smuggling and sale was distributed among Russian border guards, Russian military officers, and corrupt South Ossetian officials. Some foreign diplomats even suggested this smugglers paradise was positive because it provided employment and low-cost goods.

Earlier this summer, Georgian President Saakashvili decided the long-festering status quo was unacceptable—as it would be to the head of state of any democracy. What leader could tolerate separatists armed and sustained by a foreign power, the same foreign power that refuses to withdraw its own illegally stationed troops? What leader could tolerate a massive contraband market supplied directly from Russian

territory and operating under the noses of international monitors? What leader could tolerate threats against ethnic Georgians in South Ossetia while foreign ''volunteers'' from Kuban, Abkhazia and Trans-Dniester arrived to fight Georgians—as happened in July 2004? What leader could tolerate separatists whose loyalty is to a foreign country and whose closest connections are with the intelligence services and criminal mafias of that country?

It should surprise no one that President Saakashvili began to take steps for the peaceful reincorporation of South Ossetia into Georgia. It should surprise no one that the Russian media portrayed President Saakashvili as rash, reckless, and irresponsible for his efforts. Surprisingly, Russian propaganda was picked up by some in the western media who portrayed democratically elected President Saakashvili's efforts toward national integration as impulsive or erratic. They were not. They were a legitimate effort to reach a peaceful resolution in accordance with international law.

In July, South Ossetian forces captured Georgian policemen operating legally in Georgian territory. The Georgian police were disarmed, detained, and paraded in a deliberately humiliating fashion—made to kneel in the town square before Ossetian women while TV cameras filmed everything. Yet, Georgia did not retaliate. In July, Georgian forces intercepted an illegal shipment of air-to-ground missiles for helicopters. The Russians claimed they were for their ''peacekeepers'' who didn't even have helicopters—a claim so dubious as to be ludicrous. Yet, the Georgians promptly offered to return the missiles to the Russians.

Despite relentless provocations, Georgia continues to search for a peaceful political solution. President Saakashvili has offered far-reaching autonomy status for South Ossetia, including complete freedom to use the Ossetian language—the issue that originally sparked conflict in 1991. Georgia has continually tried to expand the mandate and mission of the OSCE, including monitoring of the vital road link at the Roki tunnel between Georgia and Russia. Russia blocks any expansion, and the OSCE remains paralyzed.

This is where things stand today. On one side is a democratic ally of the United States backed by international law. On the other side is a criminal regime sustained by Russians who have not reconciled themselves to the loss of the Soviet Empire. The United States needs to do more to help our Georgian friends. We should work with the European Union on a joint diplomatic approach so that democratic Georgia is not outnumbered and to avoid the ever-present Russian veto. In the OSCE and the U.N., we should push for expanded monitoring and for genuine peacekeeping forces independent of Russian military and intelligence forces. If this draws a Russian veto, let Russia explain its veto. In the wake of appropriate sympathy for all the Russian victims of separatist terrorism, we should force Russia to explain and justify its continued support for separatists in Georgia. We must also be clear about the ultimate outcome. There will be no independence and there will be no incorporation into Russia for South Ossetia. The only solution for South Ossetia is within a sovereign Georgia.

Finally, the U.S. should increase our assistance to Georgia, especially our military assistance. The Georgia Train and Equip Program, GTEP, was very successful in improving Georgian capabilities so that terrorists in Georgia's Pankisi Gorge were killed, apprehended, or forced out. Unfortunately, GTEP was halted after the training of one battalion. GTEP should be reinstated to further increase Georgian capabilities. A strong Georgia is the best guarantee of deterring Russian or South Ossetian military action. A strong and secure Georgia is the best guarantee for the patience required for a multilateral diplomatic solution. And a strong and secure Georgia is in America's interest. Despite all the problems Georgia faces internally and externally, they have deployed troops to fight at our side in Afghanistan and in Iraq. Georgia is a steadfast ally in the war on terror.

THANKING BOB KENNEY AND WISHING HIM WELL

Mr. LAUTENBERG. Mr. President, I rise today to thank Robert (''Bob'') Kenney, a lawyer with the Environmental Protection Agency, EPA, for his significant contributions to my office this year as a Brookings Legislative fellow. We will miss his contributions, experience land knowledge, but it is heartening to know that EPA's rank and file includes dedicated and capable civil servants like Bob.

Bob has worked at EPA for over 30 years implementing our clean air, clean water, and toxics laws. This is Bob's second year as a fellow in the Senate. In 1990, he helped draft parts of the Clean Air Act Amendments, the Oil Pollution Act, and Clean Water Act. He ill return later this month to his role as senior counsel at EPA, and I hope his experience in the Senate this year proves helpful to him in his future endeavors.

I would like to mention some of the specific contributions Bob made to my office and to our country. Bob took the lead in developing legislation I am introducing today to amend the Oil Pollution Act. Two weeks ago, my home State of New Jersey suffered a devastating oil spill in the Delaware River. The consequences for our natural resources and economy will take some time to assess, but it is clear they will be substantial. In response to that s Dill and to provide incentives to shippers to shift to safer double-hull vessels faster, the Oil Spill Liability Act of 2004 would phase out the liability cap for single-hull tankers. The bill would double the liability limits for double-hull vessels and facilities since those limits have not changed since they were established 14 years ago. I thank Bob for his hard work on this important bill.

Bob also took the lead on the brownfields tax provision that was successfully added to the JOBS bill which became law this year, Public Law 108–357. We all have so-called brownfields in our States—the long-abandoned manufacturing facilities—and we know how important it is to get these properties cleaned up and put back productive use. My amendment provides developers interested in brownfields with greater access to capital—alleviating what developers say is their number one problem when it comes to investing in these properties and sites. It does this by exempting funds which originate with tax-exempt entities, such as pension funds and university endowments, from being subject to the ''unrelated business income tax'' or UBIT, when those funds are used to clean up and re-sell large brownfield properties. This provision will give developers access to up to $7 trillion in assets. It represents a tremendous opportunity, potentially, for new jobs and a cleaner environment.

Based on Bob's research and recommendation, I worked to ensure that fiscal year 2005 funding to control the Asian longhorned beetle, ALB, ended up being more than triple the President's budget request. The ALB is a wood-boring insect native to China and Korea that has invaded New York, Illinois, and New Jersey via shipping containers. The beetle kills a wide variety of hardwood trees, but has a preference for sugar maples. In New Jersey, this insect's lethal damage to our forests is spreading, and these extra funds will help to combat that destruction.

I also thank Bob for his work on the New Jersey Coastal Heritage Trail, a Coastal Restoration bill, a bill to protect captive exotic animals, and many other projects. It has not been an easy year to promote, what I believe, are common sense environmental protections and initiatives, so we did not achieve all the successes we had hoped for during the year. But Bob's impact will last far beyond his stay here in the Senate.

It has become fashionable in some quarters to bash Government employees. This is unfortunate and unfair. I have to say that since I became a United States Senator, I have been impressed by the hard work and professionalism of the public servants I have encountered. Bob is no exception. He has tremendous expertise, he is diligent, and he obviously cares for our country. I appreciate his service during the past year he has been a member of my staff, more importantly, I appreciate an entire career spent in selfless service to our Nation. I extend my best wishes to Bob as he returns to EPA and resumes his career there.

FLEET RESERVE ASSOCIATION CELEBRATES ITS 80TH ANNIVERSARY

Mr. MCCAIN. Mr. President, November 11 marked the 80th anniversary of the Fleet Reserve Association, FRA, whose original charter was issued in Philadelphia, PA. FRA is the oldest and largest professional military organization representing the men and women serving in, or retired from the United States Navy, Marine Corps and Coast Guard.

The Fleet Reserve Association is named after the Fleet Naval Reserve program, which allows sailors with 16 or more years of active enlisted service to separate from the Navy, but remain ''on call'' for periods of national emergency.

From its inception, FRA's purpose was to advocate for sailors' rights. The association started with the efforts of a few enlisted men in 1919, who pooled their monies to send two Navy chief petty officers to testify before Congress on pay reform. Since that time, FRA has established an enviable track record of promoting favorable legislation for members of the Naval Service.

In 1923, FRA's efforts resulted in legislation that allowed WWI veterans to count their commissioned or warrant service toward time requirements for transfer to the Fleet Naval Reserve.

In the 1930's, the FRA helped with legislation that eliminated the requirement for enlisted retirees to pay for rations while hospitalized in Government treatment facilities, mandated death gratuities be paid to the estate of recalled servicemembers who died on active duty, authorized commissary privileges for military widows, and restored reenlistment bonuses.

FRA's ''Hospital Rights'' and ''Widow's Equity'' studies also helped foster the creation of the Civilian Health Program of the Uniformed Services, CHAMPUS, in 1966 and the adoption of the Uniformed Services Survivor Benefit Program, USSBP, in 1972.

FRA's 1999 study on military pay also set the stage for the targeted pay hikes for mid-grade enlisted personnel over the last few years, the repeal of the 1986 military retirement system (Redux), authorization of sea pay for junior enlisted personnel, and the reduction of additional ''out-of-pocket'' housing costs for servicemembers living in civilian housing.

On top of its award-winning legislative advocacy work, the FRA continues to promote community service at their 300–plus branches located throughout the world. In 2004 they awarded $90,000 in college scholarships and $75,000 to worthy students who competed in the FRA's Americanism Essay Contest.

Mr. President, I thank the Fleet Reserve Association for its eight decades of service to the men and women of the Navy, Marine Corps and Coast Guard. As we close the 108th Congress, and look ahead toward the 109th Congress, I wish the Fleet Reserve Association continued success and look forward to working with them to support the past, present, and future member of all of the military services who protect our great Nation.

TRIBUTE TO JOHN LITTLE

Mr. SESSIONS, Mr. President, today I rise to pay tribute to an outstanding staffer who has worked for me for the past 7 years. John Little came to my office as a legislative correspondent in August of 1997 after working on my first Senate campaign. He was a young lawyer who had just graduated from Cumberland School of Law in Alabama and was looking for a job in politics. I doubt at the time that he knew where this road would take him. He continued to work his way up the ladder in my office—becoming a research assistant, legislative counsel, and deputy legislative director. Then last year I asked him to take on the responsibility of being my legislative director. I'm pretty sure he didn't know what he was getting into when he said yes.

Since that time, I have had the privilege to work closely with John and see up close what many people notice when they first meet him. John is one of those people who epitomizes Teddy Roosevelt's adage ''speak softly and carry a big stick.'' In fact, a quotation hangs in his office that says ''a closed mouth gathers no feet.'' While he is often quietly working in the background, John has consistently demonstrated his desire to serve the people of Alabama through hard work and determination. He has served me well throughout his tenure in my office and has earned my respect, along with that of his colleagues, Members of Congress, and countless constituents. I have watched him grow from a young staffer into a strong leader with a sound foundation in policy and the knowledge of the inner workings of Congress.

John has come a long way since his first days on the Hill. I've witnessed many of the accomplishments of his life, both personal and professional. I've seen him learn the ways of Alabama politics, pass the bar exam, staff his first Senate hearing, and meet and marry his wife. In fact, I have to take some credit for his marriage. John met his future wife, Mary Catherine, while he was working for me and she was working for Senator LOTT. Our offices were next to each other at that time, which led to more than one romance and marriage, including that of John and Mary Catherine.

John has worked hard and effectively on a number of important issues. He has contributed significantly to much legislation. His work on the No Child Left Behind Act and on the reauthorization of the Individuals with Disabilities Education Act, just a few weeks ago, was most noteworthy. John met with education officials, teachers, parents of disabled children, and lawyers to fully understand this important act and how to improve it. At the end he was ably assisted by my legislative assistant, Prim Formby, but I know he was very proud to see this important bill become law. He received great praise, and his work was favorably mentioned by Senator GREGG and Senator KENNEDY.

Throughout all of these achievements and life experiences, John maintained his humility and strong work ethic and never waivered in his loyalty to me, my office, or the State. While I have shared in John's accomplishments to this point, his most recent achievement is bittersweet for me. John has accepted the Chief of Staff position with Senator-elect MEL MARTINEZ. This is a tremendous opportunity for John and a testament to his skill and knowledge as one of the finest staff members in the Senate. While I am sad to see him go, I am confident that he will serve Senator MARTINEZ in the same outstanding manner he has demonstrated over the past 7 years. From being elected president of his high school fraternity to serving as my legislative director, John has shown the strength of character and depth of knowledge which sets him apart as a truly great staffer. Phillip Brooks once said, ''character may be manifested in the great moments, but it is made in the small ones.'' I have seen John's character in the small and great moments, and I know that he is ready to face this next challenge. John will be missed. I thank him for his service and wish him all the best in his new endeavor.

THANKING STAFF

Mr. EDWARDS. Mr. President, I recently came to the Senate floor to publicly thank my staff. Unfortunately, not all staff names were listed in the RECORD. Therefore, I enter the following names of my staff for the RECORD.

Tracy L. Allen; Laurie G. Armstrong; William O. Austin; Alexis Bar; Victoria Bassetti; Jared J. Bataillon; William Beane; Austina L. Bennett; Crystal M. Bennett; David G. Berard; Sonceria Ann Berry; Joshua L. Brekenfeld; Michael D. Briggs; Erica Buehrens; Derek H. Chollet; Marilyn J. Dixon; Charles R. Dorrier; Paul D. Dryden; Robert W. Elliott.

Justin E. Fairfax; Colette Forrest; Alice D. Garland; Katherine L. Garland; Laura Godwin; Robert Gordon; Steven K. Gryskiewicz; Wanda Haith; Peter Harbage Emma Harris; Kate G. Heath; Robert Hines; Lisa Hyman; Morgan Jackson; Stephanie Jones; Mildred J. Joyner; Jeremy Kyle Kinner; Jeffrey I. Kovick; James R. Kvaal; Miles M. Lackey.

Jeffrey Lane; Louise D. Learson; Lawrence (Andy) Magill; Maureen Mahon; Sharyn J. Malone; Kenneth F. Mansfield; Kathryn J. Marks; John J. Maron; Cory S. Menees; Heather L. Messera; Sophie Milam; Blair B. Milligan; Joyce Mitchell; Carlos A. Monje; Kevin A. Monroe; Robert Morgan; Matthew L. Nelson; Elizabeth E. Nicholas; Ashley I. O'Bryant; Sacha M. Ostern.

Joseph W. Parry-Hill; Lauren Partner; Elizabeth Pegram; Philip J. Peisch; Sarah L. Pendergraft; Anthony Petty; Aaron S. Pickrell; Lesley Pittman; Sally Bussey Plyler; Mary Margaret Propes; Hunter L. Pruette; Jacqueline F. Ray; Karen A. Robb; David E. Roberts; Judith M. Rossabi; David A. Russell; Craig J. Saperstein; Heidi Schneble.

David G. Sewell; David L. Sherlin; Joseph L. Smalls; Julianna Smoot; Joshua H. Stein; Michael Sullivan; Jonathan Sumrell; Adrian Talbott; Noelle Shelby Talley; Bradford T. Thompson; Cindy E. Townes; Brooke I. Turner; Ann S. Vaughn; Jannice T. Verne; Rebecca Walldorff; Jewell E. Wilson; Jessica F. Wintringham; Andrew A. Young; Lisa E. Zeidner.

COMMENDING VERGENNES FIRE CHIEF RALPH JACKMAN FOR 50 YEARS OF SERVICE

Mr. LEAHY. Mr. President, I rise today to pay tribute to Ralph Jackman of Vergennes, VT. Mr. Jackman has been reporting for duty as chief of the Vergennes Fire Department for 50 years—since December 1, 1954.

Chief Jackman started with the fire department 8 years before he took over as chief. During his tenure a new station was built, the number of firefighters doubled, the number of vehicles tripled, and the budget more than quadrupled.

Though at 80 years of age Chief Jackman has given up fighting the fires himself, he continues to respond to calls and manage the volunteer department's paperwork and affairs.

I congratulate Chief Jackman and his family for over 50 years of service to the City of Vergennes and the State of Vermont. He has selflessly given so much to his community.

I ask unanimous consent that an editorial that appeared in today's Burlington Free Press be printed in the RECORD.

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

[From the Burlington Free Press, Dec. 8, 2004]

OPINION: TRUE PUBLIC SERVANT

Rare is the modern-day employee who stays in a job throughout his adult lifetime.

In sharp contrast stands Ralph Jackman, who has committed the last 50 years to the Vergennes Fire Department. That surely makes him one of the longest serving fire chiefs in the nation.

Jackman became chief of the department on Dec. 1, 1954, eight years after joining the force. And at age 80, don't expect him to retire anytime soon. Jackman's not actually battling blazes these days, but he's still in the thick of the action by managing the volunteer department's paperwork and overseeing the changes that have brought this fire department into the 21st century.

Among those changes was construction of a new fire station and a doubling of the number of firefighters.

He has also seen destruction and death. Jackman recalls in 1948 following a fire engine on the way to a blaze, and watching the engine crash into an oncoming car, leaving firefighter Lee Schroder dead.

His most memorable blaze was the Feb. 24, 1958, fire that destroyed much of downtown Vergennes. He was an eyewitness to an event that shaped the spirit of a small Vermont city.

His devotion to his community was honored last weekend at a gathering that drew Gov. Jim Douglas and Vergennes Mayor Kitty Oxholm. .

The nation came to understand the depth of that commitment on 9/11, when so many of New York City's firefighters lost their lives trying to save victims of the terrorist attacks on the World Trade Centers. Vermont firefighters don't face that extreme scenario, but they put their lives on the line every time they roll to a scene to protect their neighbors.

Jackman recently said, ''Being chief is just a privilege and an honor.''

However, it is the people of Vergennes who have been honored by his 50 years of service to their community.

ADDITIONAL STATEMENTS

FINAL THOUGHTS ON THE INDIAN HEALTH CARE IMPROVEMENT ACT AMENDMENTS OF 2003

• Mr. CAMPBELL. Mr. President, I am pleased to provide for inclusion in the CONGRESSIONAL RECORD, the final cost estimate for S. 556, the Indian Health Care Improvement Act Amendments of 2003 prepared by the Congressional Budget Office.

This estimate had not been completed in time to be filed with the Senate Report No. 108–411 on S. 556 that was filed on November 17, 2004.

S. 556 would reauthorize the Indian Health Care Improvement Act which sets forth the statutory framework for the Indian health system and was first enacted in 1976. The act was reauthorized in 1992. The goal of the 1976 act, as amended, is to raise the health status of Indians to achieve parity with that of other Americans.

American Indians and Alaska Natives rank at or near the bottom of nearly every health indicator when compared to the general U.S. population. Health studies indicate disproportionately higher mortality rates of alcoholism, between 670–770%; tuberculosis, 650%; diabetes, between 318–420% accidental injuries, 280%; suicide, 190%; and homicide, 210%, than other populations.

With the basic goals of the Act unrealized, the need for reauthorization grows greater. S. 556 would have provided an additional set of improvements to the Indian health care system—most notably, for facility construction, access to care through Medicaid cost-sharing waivers, and long-term planning through the establishment of a bipartisan commission to study the Indian health care system.

The reauthorization bill has been a work in progress since the 106th Congress when I introduced a bill to reauthorize the act. I have introduced a bill to reauthorize the act in every subsequent Congress. Over the course of the past three Congresses, the Committee has held eight hearings on the reauthorization with four hearings held in the 108th Congress alone.

I was particularly pleased to have Secretary Thompson testify before the Committee on July 21, 2004, regarding the administration's views on the proposed legislation. At this hearing, the Secretary expressed enthusiastic support of the proposed legislation and his desire to see it enacted this year.

This show of support was particularly important because we had been anticipating the administration's view for several months and were fast coming to the end of the 108th Congress.

At the hearing, Secretary Thompson committed his staff to immediately begin meeting with the bill committee staff to work on the bill. Much effort to advance this legislation had already been put forth by committee staff, tribal leaders and the Indian health community. With department staff working alongside committee staff, we anticipated swift passage of the bill.

However, swift passage did not happen and I am disappointed that the reauthorization did not get enacted this year. The committee staff worked diligently along with the administration and Indian tribal leaders until the very end of this Congress to finalize the bill for passage.

I believe that, in addition to the changes made prior to July, 2004, the committee was quite responsive to the department's concerns and suggestions in revising the bill.

In particular, the provisions for Medicare and health professional shortage areas were not included in the reported bill. The committee modified the establishment of creative funding programs such as the revolving loan funds and opted for studies for this type of funding mechanism instead—at the request of the administration.

There was substantial discussions at the eleventh hour regarding provisions governing urban Indians and non-eligible individuals. I believe the Federal responsibility to provide health care applies to individual Indians living in the urban centers, especially when it is remembered that Indians reside in urban areas primarily as a result of the Federal policy of relocation during the first half of the 20th Century.

In addition, in the course of negotiations, we were made aware of concerns dealing with the Veteran's Administration drug supply schedules and services to non-eligible individuals. A limited scope of services to certain non-eligibles has been a part of the Indian Health Care Improvement Act for years. Nevertheless, the Department and some tribes have different views of the scope of services.

In any event, the matter is being addressed in the courts. Any resolution we could offer would be better served by reviewing the decision of the courts and then thoroughly examining the matter instead of fixing what has not been determined by the courts to be a problem.

Likewise, I am concerned with what may be a desire to rollback the gains tribes have made in implementing the Indian Health Care Improvement Act and the Indian Self-Determination and Education Assistance Act.

The underlying policies and plain language of the both statutes should not be ignored and the commitment to self-governance needs to be respected when enacting any Indian legislation.

I certainly appreciated President Bush's Memorandum to Department Heads on ''The Government-to-Government Relationship with Tribal Governments'' dated September 30, 2004, in which he reiterated his support for the government-to-government relationship and tribal sovereignty. President Bush continued the long-standing policy of self-governance begun in 1970 by President Nixon.

The committee has continually upheld those principles and fought for expansions in self-governance, even over the objections of previous Administrations. I believe that retreating from those principles in enacting any Indian statutes would be inconsistent with the President's commitment as well as the will of Congress.

What I am particularly disappointed in having to set aside this year is the State Children's Health Insurance Program, SCHIP, improvements that we had worked on for several months. In mid-May, 2004, we were informed that the department lacked information regarding how many Indian children qualified for the program and how many Indian children were actually being served, despite clear statutory language mandating services to Indian children. Yet again, we find the most needy must continue to suffer until there is a serious effort to address these disparities.

There were many other Senators and committees which provided substantial assistance in seeking passage of this bill. Without the commitment and support of Majority Leader Bill Frist, we certainly could not have gotten as far as we did.

Senator FRIST was constructively engaged very early on this bill and continued his support throughout the negotiations with the Administration.

Senator STEVENS was also very supportive and committed to passage of this bill. His staff worked diligently also with the committee staff until the very end of the session.

Likewise, Senator GRASSLEY also committed his staff in assisting the committee staff in developing significant improvements in the Medicaid provisions.

I cannot forget the work of Senator HATCH on this matter as well. Senator HATCH was instrumental in developing the Indian provisions in the SCHIP statute and assisted in seeking resolutions for many of the problems we found in SCHIP implementation.

I am leaving the Senate knowing that there are many issues left unresolved but I have every confidence that the Committee under the leadership of Senator MCCAIN will continue to protect tribal sovereignty and uphold principles of tribal self-governance.

I do look forward to seeing a vigorous discussion on the reauthorization next year and believe that coordinated efforts ensure its passage.

I ask that the CBO cost estimate be printed in the RECORD.

S. 556—Indian Health Care Improvement Act Amendments of 2004

Summary: S. 556 would authorize the appropriation of such sums as necessary through 2015 for the Indian Health Care Improvement Act, the primary authorizing legislation for the Indian Health Service (IHS). The bill also contains specific authorizations for loans and loan guarantees for urban Indian organizations and a commission on Indian health care. In addition, the bill also would affect direct spending, primarily through provisions that would make it easier for IHS to enter into capital leases and make changes to the Medicaid program.

CBO estimates that implementing S. 556 would cost $2.4 billion in 2005 and $31.8 billion over the 2005–2014 period, assuming appropriation of the necessary amounts. We also estimate that enacting the bill would increase direct spending by $8 million in 2005, by $69 million over the 2005–2009 period, and by $238 million over the 2005–2014 period.

S. 556 would preempt state licensing laws in certain cases, and this preemption would be an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA); however, CBO estimates that the costs of that mandate would be small and would not approach the threshold established in UMRA ($60 million in 2004, adjusted annually for inflation). Other provisions of the bill would establish new or expand existing programs for Indian health care. It also would place new requirements on Medicaid and the State Children's Health Insurance Program (SCHIP) that would result in additional spending of about $35 million over the 2005–2009 period. This bill contains no private-sector mandates as defined in UMRA.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 556 is shown in Table 1. The costs of this legislation fall within budget function 550 (health).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF S. 556

	By fiscal year, in millions of dollars—									
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
CHANGES IN SPENDING SUBJECT TO APPROPRIATION										
Estimated Authorizations Level	2,977	3,026	3,093	3,165	3,243	3,321	3,401	3,484	3,569	3,657
Estimated Outlays	2,353	2,843	2,995	3,131	3,212	3,289	3,368	3,450	3,535	3,621
CHANGES IN DIRECT SPENDING										
Estimated Budget Authority	7	42	90	44	46	96	49	51	104	54
Estimated Outlays	8	12	13	15	21	24	28	36	38	43

Basis of estimate: For the purpose of this estimate, CBO assumes that S. 556 would be enacted near the start of calendar year 2005 and that the authorized amounts will be appropriated for each fiscal year.

Spending Subject to Appropriation

The estimated effects of S. 556 on spending subject to appropriation are shown in Table 2. IHS programs were authorized for 2004 by the Department of the Interior and Related Agencies Appropriations Act, 2004 (Public Law 108–108).

Existing Indian Health Service activities. S. 556 would authorize the appropriation of such sums as necessary for the Indian Health Service through 2015. The agency's responsibilities under the bill would be broadly similar to those in current law. CBO's estimate of the authorized level for IHS programs is the appropriated amount for 2004 adjusted for inflation in later years. The estimated outlays reflect CBO's current assumptions about spending patterns for IHS activities. (The pending omnibus appropriation act, H.R. 4818, would provide $2.985 billion in funding for IHS activities in fiscal year 2005).

TABLE 2.—ESTIMATED EFFECTS OF S. 556 ON DISCRETIONARY SPENDING

	By fiscal year, in millions of dollars—										
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Spending Under Current Law [1]											
Budget Authority	2,921	0	0	0	0	0	0	0	0	0	0
Estimated Outlays	2,909	605	159	71	5	0	0	0	0	0	0
Proposed Changes:											
Existing Indian Health Service Activities:											
Estimated Authorization Level	0	2,973	3,025	3,092	3,165	3,243	3,321	3,401	3,484	3,569	3,657
Estimated Outlays	0	2,352	2,841	2,994	3,131	3,212	3,289	3,368	3,450	3,535	3,621
Loan Guarantees for Urban Indian Organizations:											
Estimated Authorization Level	0	*	1	1	0	0	0	0	0	0	0
Estimated Outlays	0	*	*	*	*	*	*	0	0	0	0
Commission on Indian Health Care Entitlement:											
Authorization Level	0	4	0	0	0	0	0	0	0	0	0
Estimated Outlays	0	1	2	1	0	0	0	0	0	0	0
Total Changes in Spending Subject to Appropriation:											
Estimated Authorization Level	0	2,977	3,026	3,093	3,165	3,243	3,321	3,401	3,484	3,569	3,657
Estimated Outlays	0	2,353	2,843	2,995	3,131	3,212	3,289	3,368	3,450	3,535	3,621
Spending Under S. 556:											
Estimated Authorization Level [1]	2,921	2,977	3,026	3,093	3,165	3,243	3,321	3,401	3,484	3,569	3,657

TABLE 2.—ESTIMATED EFFECTS OF S. 556 ON DISCRETIONARY SPENDING—Continued

	By fiscal year, in millions of dollars—										
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Estimated Outlays	2,909	2,958	3,002	3,066	3,136	3,212	3,289	3,368	3,450	3,535	3,621

[1] The 2004 level is the amount appropriated for that year. The pending omnibus appropriation act (H.R. 4818) would provide $2.985 billion in funding for IHS activities in fiscal year 2005.

Note: *=Less than $500,000.

Loan Guarantees for Urban Indian Organizations. Section 509 of the bill would establish a loan guarantee program for urban Indian organizations. Under this new program, the federal government would provide loans or loan guarantees, with a term of up to 25 years, for construction or renovation by urban Indian organizations. The bill would not require any guarantee fees to be charged to the organizations and would not limit the percent of the loan that would be insured by the federal government. CBO therefore assumes that IHS would insure up to 100 percent of the loan value and that borrowers would not be charged any guarantee fees.

The new loan program would be considered a discretionary federal credit program and would require appropriation to establish a limit on the total value of outstanding loans and loan guarantees and to provide a credit subsidy for the cost of such loans and loan guarantees. Based on discussions with officials from the National Council of Urban Indian Health, CBO estimates that the total value of loans and loan guarantees would be $30 million. Using the Small Business Administration's 7(a) general business loan program as a guide, CBO assumes that, like small businesses, the default rate for loans made to urban Indian organizations would be about 10 percent and that recoveries on such loans would be about 50 percent. Using those assumptions, CBO estimates that the subsidy rate for the new loan program would be 5 percent, and that establishing the loan program would cost about $2 million over the next five years, assuming appropriation of the necessary amounts.

Commission on Indian Health Care Entitlement. Section 815 would authorize the appropriation of $4 million for a commission that would study establishing a legal entitlement for Indians to receive health care services. The members of the commission would have to be appointed within five months of the bill's enactment and would be required to submit a final report to the Congress no later than 18 months after that. Assuming the appropriation of the authorized amount, CBO estimates that implementing this provision would cost $1 million in 2005, $2 million in 2006, and $1 million in 2007.

New Hospital for Fort Berthold Indian Reservation. S. 556 contains a provision that would authorize the appropriation of $20 million for the construction of a new hospital on the Fort Berthold Indian Reservation in North Dakota. CBO estimates that this provision would have no effect on spending because it is also contained in a separate piece of legislation (S. 1146, the Three Affiliated Tribes Health Facility Compensation Act) that the Congress recently cleared.

Direct Spending

S. 556 contains several provisions, primarily related to leasing by IHS and the Medicaid program, that would affect direct spending. The bill's estimated effects on direct spending are shown in Table 3. Overall, CBO estimates that enacting the bill would inrease direct spending by $8 million in 2005 and $238 million over the 2005–2014 period.

The effects of each provision are discussed in more detail below. IHS-funded health programs are commonly divided into three groups: those operated directly by the Indian Health Service, those operated by tribes and tribal organizations under self-governance agreements, and those operated by urban Indian organizations. For this estimate, they are referred to collectively as Indian health programs.

TABLE 3.—ESTIMATED EFFECTS OF S. 556 ON DIRECT SPENDING

	By fiscal year, in millions of dollars—									
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Spending on Health Facilities:										
Estimated Budget Authority	0	31	78	32	32	82	33	34	86	35
Estimated Outlays	0	0	0	2	7	9	12	18	20	23
Consultation with Indian Health Programs:										
Estimated Budget Authority	*	*	1	1	1	1	1	1	1	1
Estimated Outlays	*	*	1	1	1	1	1	1	1	1
Exempt Indians from Cost Sharing:										
Medicaid:										
Estimated Budget Authority	3	5	5	5	6	6	7	8	8	9
Estimated Outlays	3	5	5	5	6	6	7	8	8	9
SCHIP:										
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	0
Estimated Outlays	1	1	1	1	*	*	*	*	*	*
Exempt Indians from Premiums:										
Medicaid:										
Estimated Budget Authority	2	3	3	3	3	3	3	3	3	3
Estimated Outlays	2	3	3	3	3	3	3	3	3	3
SCHIP:										
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	0
Estimated Outlays	*	*	*	*	*	*	*	*	*	*
Medicaid Interaction with SCHIP:										
Estimated Budget Authority	*	*	*	*	1	1	1	1	1	1
Estimated Outlays	*	*	*	*	1	1	1	1	1	1
Medicaid Managed Care Provisions:										
Estimated Budget Authority	1	2	3	3	3	4	4	4	5	5
Estimated Outlays	1	2	3	3	3	4	4	4	5	5
Scholarship and Loan Repayment Recovery Fund:										
Estimated Budget Authority	*	*	*	*	*	*	*	*	*	*
Estimated Outlays	*	*	*	*	*	*	*	*	*	*
Total Changes in Direct Spending:										
Estimated Budget Authority	7	42	90	44	46	96	49	51	104	54
Estimated Outlays	8	12	13	15	21	24	28	36	38	43

Notes: Components may not sum to totals because of rounding. SCHIP is the State Children's Health Insurance Program. * = Costs or savings of less than $500,000.

Spending on Health Facilities. IHS already has the authority to enter into leases, contracts, or other agreements with tribes or tribal organizations that have title to, a leasehold interest in, or a beneficial interest in facilities that would be used by IHS to deliver health care services. Section 308 of the bill would require that all such arrangements be treated as operating leases for the purposes of the Balanced Budget and Emergency Deficit Control Act.

Under the bill, CBO anticipates that IHS would enter into arrangements that should be treated as capital leases because those arrangements would effectively allow IHS to acquire new buildings. Consistent with government rules for accounting for obligations, the full cost of those leases should be recorded in the budget as new budget authority at the time the lease agreements are signed. That budget authority—estimated to be about $440 million over the 2005–2014 period—is determined by calculating the discounted present value of the anticipated lease payments. Spending of that budget authority would occur over the term of the various leases (that is, outlays would significantly lag behind the budget authority).

For this estimate, CBO assumed that IHS would begin signing new capital leases starting in 2006. Based on information from IHS, we anticipate that those leases would be used for a variety of construction projects, including inpatient hospitals, outpatient hospitals, and staff quarters. We assume that IHS would not begin to make lease payments until 2008; payments in that year would total $2 million and then rise gradually to $23 million by 2014. Both the level of spending that might occur under the bill and the types of projects that might be financed are uncertain, and IHS spending may be more or less than the amounts CBO has estimated.

Consultation with Indian Health Programs. Section 409 would encourage state Medicaid programs to consult regularly with Indian health programs on outstanding Medicaid issues by allowing states to receive federal matching funds for the cost of those consultations. Those costs would be treated as an administrative expense under Medicaid

and divided equally between the federal government and the states. CBO anticipates that a small number of states would take advantage of this provision, increasing federal Medicaid spending by about $200,000 in 2005 and by $7 million over the 2005–2014 period.

Exempt Indians from Cost Sharing. Section 412 would prohibit Medicaid and SCHIP from charging cost sharing to Indians for services provided directly or upon referral by Indian health programs. The provision also would require that payments by Medicaid and SCHIP for services provided directly by those programs could not be reduced by the amount of cost sharing that Indians otherwise would pay.

Medicaid. CBO anticipates that this provision's budgetary effect would stem primarily from eliminating cost sharing for referral services. Current law already prohibits Indian health programs from charging cost sharing to Indians who use their services. In addition, Medicaid pays almost all facilities operated by IHS and tribes based on an all-inclusive rate that is not reduced to account for any cost sharing that Indians would otherwise have to pay.

Using Medicaid administrative data, CBO estimates that about 225,000 Indians are Medicaid recipients who also use IHS, and that federal Medicaid spending on affected services would be about $400 per person annually in 2005. The amount of affected spending would be relatively low because Medicaid already prohibits cost sharing in many instances, such as long-term care services, emergency services, and all services for children and pregnant women. For the affected spending, CBO assumes that cost sharing paid by individuals equals 2 percent of total spending—Medicaid law limits cost sharing to nominal amounts—and that eliminating cost sharing would increase total spending by about 5 percent as individuals consume more services. Overall, CBO estimates that the provision would increase federal Medicaid spending by $3 million in 2005 and by $62 million over the 2005–2014 period.

State Children's Health Insurance Program. SCHIP regulations already prohibit states from charging cost sharing to Indian children enrolled in the program. As a result, the provision's impact on SCHIP spending reflects higher payments to Indian health programs and the use of additional referral services by adult enrollees that some states cover in waiver programs. CBO estimates that the additional spending would total $1 million in 2005 and $5 million over the 2005–2014 period. The provision's effects would be limited in later years because total funding for the program is capped.

Exempt Indians from Premiums. Section 412 also would exempt Indians from paying any premiums under Medicaid or SCHIP. Based on information from the Government Accountability Office on the limited extent to which states charge premiums in those programs and Medicaid administrative data, CBO estimated that this provision would affect about 5,000 Medicaid recipients, and that the loss of premium payments from those individuals would raise federal Medicaid spending by $2 million in 2005 and by $29 million over the next 10 years.

CBO also estimates that this provision would affect federal SCHIP spending by less than $500,000 annually. As noted above, Indian children do not pay premiums under SCHIP, so the provision would affect only adult recipients.

Medicaid Interaction with SCHIP. The changes in SCHIP spending outlined above also would lead to slightly higher Medicaid spending. Total funding for SCHIP is limited by statute, and CBO anticipates that many states will experience funding shortfalls over the 10–year projection period. CBO also assumes that states will partly offset those funding shortfalls by expanding Medicaid eligibility, which would allow states to continue to receive federal matching funds, albeit at a less-favorable matching rate. Since S. 556 would increase spending in SCHIP, it also would increase the extent to which states use Medicaid funds to offset funding shortfalls in SCHIP. CBO estimates that this interaction would raise federal Medicaid spending by less than $500,000 in 2005 and by about $5 million over the 2005–2014 period.

Medicaid Managed Care Provisions. Section 413 contains three provisions that would affect Medicaid spending on services provided in managed care settings.

Pay Indian Health Programs at Preferred Provider Rates. States that rely on managed care organizations (MCOs) to provide care to Medicaid beneficiaries and have an IHS presence commonly require MCOs to include Indian health programs in their networks or otherwise allow access to services provided by those programs. In other instances, states pay Indian health programs directly for services provided to Indians enrolled in managed care. Although Indian health programs are generally eligible for Medicaid reimbursement from MCOs, they may not be paid at the same rates as preferred providers. S. 556 would require that managed care organizations pay Indian health programs at least the rate paid to preferred providers. As an alternative, state Medicaid programs could pay the increased amounts directly to Indian health programs.

Under current law, about 200,000 Indians on Medicaid receive health care services through MCOs. Based on Medicaid administrative data, CBO estimates that about a third of Indians in Medicaid managed care also use Indian Health providers, mainly for primary care services. Assuming that a third of those enrollees use non-preferred providers, CBO estimates that providers serving about 23,000 Indians would receive rate increases by 2009. Based on administrative spending data for Indians in managed care and assuming that rates under the bill would be 20 percent higher than under current law, CBO estimates that the bill would increase payments to providers of about $150 per year in 2009, some of which would be paid through managed care plans and the balance directly by the states. Assuming the regular Medicaid match rate for plan spending and a 100 percent match rate for direct payments to facilities operated by IHS and tribes, CBO estimates that the bill would increase federal Medicaid payments by less than $1 million in 2005 and by about $16 million over the 2005–2014 period.

Submission of Claims. The bill also would prohibit MCOs from requiring enrollees to submit claims as a condition of payment to contracting Indian health programs. CBO anticipates that Indian health programs would be able to bill more, raising federal Medicaid spending by less than $1 million in 2005 and by $5 million over the 2005–2014 period.

Require States to Contract with Indian Health Programs. Finally, S. 556 would require states to enter into agreements with MCOs that are run by an Indian health program. CBO anticipates that the provision would increase the number of Indians who receive care from MCOs. Because payments to those MCOs would be reimbursed at a 100 percent federal matching rate (instead of the regular matching rate), CBO estimates that this provision would increase federal Medicaid spending by less than $1 million in 2005 and by $13 million over the 2005–2014 period.

Scholarship and Loan Repayment Recovery Fund. Section 111 would allow the Secretary of Health and Human Services to spend amounts collected for breach of contract from recipients of certain IHS scholarships. Under current law, those funds are deposited in the Treasury and not spent. Because the Secretary's ability to spend those funds would not be subject to appropriation, the provision would increase direct spending. Based on historical information from IHS, CBO estimated that the provision would increase spending by about $150,000 in 2005 and by $3 million over the 2005–2014 period.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

Intergovernmental Mandates

S. 556 would preempt state licensing laws in cases where a health care professional is licensed in one state but is performing services in another state under a funding agreement in a tribal health program. This preemption would be an intergovernmental mandate as defined in UMRA; however, CBO estimates that the loss of any licensing fees resulting from the mandate would be small and would not approach the threshold established in UMRA ($60 million in 2004, adjusted annually for inflation).

Other Impacts

S. 556 would reauthorize and expand grant and assistance programs available to Indian tribes, tribal organizations, and urban Indian organizations for a range of health care programs, including prevention, treatment, and ongoing care. The bill also would allow IHS and tribal entities to share facilities, and it would authorize joint ventures between IHS and Indian tribes or tribal organizations for the construction and operation of health facilities. The bill would authorize funding for a variety of health services including hospice care, long-term care, public health services, traditional Indian health care, and home and community-based services.

The bill would prohibit states from charging cost sharing or premiums in the Medicaid or SCRIP programs to Indians who receive services or benefits through an Indian health program. The bill also would require states that operate managed care systems within their Medicaid programs to enter into agreements with Indian health programs that operate managed care systems. CBO estimates that these requirements would result in additional spending by states of about $35 million over the 2005–2009 period. Some tribal entities, particularly those operating managed care systems, may realize some savings as a result of these provisions.

Estimated impact on the private sector. This bill contains no private-sector mandates as defined in UMRA.

Previous CBO estimate. On November 30, 2004, CBO transmitted a cost estimate for H.R. 2440, the Indian Health Care Improvement Act Amendments of 2004, as reported by the House Committee on Resources on November 19, 2004. The language in the two bills is almost identical, and CBO estimates that their budgetary effects would be the same.

Estimate Prepared by: Federal Costs: Eric Rollins; Impact on State, Local, and Tribal Governments: Leo Lex; Impact on the Private Sector: Stuart Hagen.

Estimate approved by: Peter H. Fontaine; Deputy Assistant Director for Budget Analysis.●

TRIBUTE TO CAROL SALISBURY

● Mr. ALLARD. Mr. President, on this occasion I pay tribute to a dear friend and employee, Carol Salisbury. Carol joined my office in January of 1991, when I was first elected to Congress from the Fourth Congressional District. One of my original staffers, Carol

has served my office and the people of Colorado for 14 years, and she has done so with grace and conviction. She will be leaving my office in January 2005.

Carol began her career working out of my Fort Collins Congressional office, and later, the Senate offices in Greeley and Loveland. As Area Director, she managed the office and provided dedicated service on a variety of issues, including housing and healthcare. Carol was instrumental in establishing the Fall River Visitor Center at Rocky Mountain National Park, the acquisition of Cherokee Park by the Forest Service, and many other smaller projects that have greatly benefitted our public lands and will lead to greater enjoyment by the public. She was passionate about historic preservation and worked tirelessly on behalf of many worthwhile interests, including the historic Cumbres & Toltec Scenic Railroad in Southern Colorado. Her presence on Team Allard will be missed and I know the Northern Colorado community will miss her as well. Carol was a hard working and earnest friend and employee.

My wife, Joan, joins me in thanking her for dedication and loyalty. We both wish her and her husband Jack the best in their future endeavors.●

HONORING WALTER THAYER, JR., MD, OF RHODE ISLAND HOSPITAL

● Mr. CHAFEE. Mr. President, I want to take this opportunity to recognize the retirement of an extraordinary Rhode Islander, Dr. Walter Thayer.

Walter Thayer was born in East Providence in 1929—back when there were farms in what is now an urban area. He graduated from Providence College and left for Tufts University Medical School in 1950. He returned to Rhode Island in 1965 to become the first Director of the Gastroentorology Division of Brown Medical School and Rhode Island Hospital after having worked at the National Institutes of Health, Georgetown, and Yale University School of Medicine.

Dr. Thayer's professional qualifications are outstanding. He served for 30 years as the Chief of Gastroenterology at Brown University and affiliated hospitals, and has been a professor at Brown since 1972; he was the Head of Gastroenterology at Rhode Island Hospital from 1965 to 1994 and continued as a practicing physician until this year. He has been presented with the Distinguished Clinician Award by the American Gastroenterology Association, the Humanitarian of the Year Award by both the Rhode Island and New England Chapters of the Crohns Colitis Foundation of America, and the W.W. Keene Award for Contribution to Brown Medical School. Walter has presented at the Quadrennial Lecture on Crohns Disease at the Third World Congress in Copenhagen, and served as the chairman of the NIH–NFIC Sponsored Symposium on Infectious Agents in Inflammatory Bowel Diseases and as the Governor for Rhode Island to the American College of Gastroenterology.

One of the great ironies is that Walter, who became such a fixture at Brown Medical School and trained and mentored so many fine physicians there, so desired to attend Brown University and was not admitted. Indeed, his experience in the world outside of Brown and the Ivy League was one of the factors that made him such a valuable bridge between town and gown between patient care and academic research.

This bridging between patient care and academic research is a key facet of Dr. Thayer's career. His true caring and empathy for his patients informed his extensive research. That research, where Walter sought to understand the causes of Crohn's disease and ulcerative colitis, and find effective treatments to these and other debilitating gastrointenstinal illnesses, has been remarkable and extensive, and has garnered Walter national and international renown.

To honor Dr. Thayer's service to the health and academic communities in Rhode Island, many of those whom Walter has affected, including mentors, colleagues, students and patients, gathered on October 7 to wish him well in his life in retirement, and to thank him for his service, dedication, caring, and friendship. At that time, one colleague said that Walter had earned the highest respect a doctor could earn—his colleagues would refer their family members to him. He was described as the father of gastroenterology in Rhode Island, someone who is a masterful teacher and had great love for his patients. Dr. Jose Behar said that Walter's patients trusted him so completely that when Dr. Behar would treat one of them, perhaps when Walter was on vacation, they would invariably ask him ''Do you think Dr. Thayer would agree with you?'' Dr. Behar said that as an accomplished doctor having his treatments questioned so bluntly was a little off-putting, but he came to realize that it did not stem from a lack of confidence in him as much as the patients remarkable level of trust, respect and belief in Walter.

To only speak of his professional life, however, is to miss a great deal about Walter. He is someone who is constantly curious, as is demonstrated by the fact that even now, well beyond the age of 70, he finds himself back in school pursuing an associate's degree in wildflower ecology. He has a great love of books, and is often found in his favorite chair, his glasses perched on his nose, a great book open in his hands. He is extremely active—he has run triathlons, marathons, and he spends many winter hours cross-country skiing. And he is a loving husband, father, and friend.

He sincerely cares about issues far from the realm of medicine, important social issues, and tries to address them in a real and admirable fashion. For example, as his children were growing up, he did not want them to only have knowledge of the city, so one summer he took his kids to an Amish farm and they all worked on that farm. He did not want his children to grow up isolated from questions of race, and made many efforts to bring them into close contact with families and children of different races and ethnicities.

Now, even though Dr. Thayer is officially retired, he continues his long volunteer service at the Veterans Affairs hospital and in his teaching at Brown University. He is looking forward to the opening of the new infectious bowel disease research laboratory that will open at Rhode Island Hospital—which will be named ''The Walter R. Thayer Inflammatory Bowel Disease Laboratory.'' What a fitting honor that this new, state-of-the-art research laboratory will be named for him.

Walter leaves behind a remarkable legacy. I know my colleagues join me in saluting him on his well-deserved retirement.●

TRIBUTE TO HELEN CHAMBERS HUNT

● Mr. SESSIONS. Mr. President, I wish to remember the life of one of Alabama's finest First Ladies, Helen Chambers Hunt, the wife of former Gov. Guy Hunt. Miss Helen, as she was known, was a gracious and caring woman, who carried out her duties as First Lady with charm and compassion, and she will be greatly missed by all who knew and loved her.

I was honored to get to personally know this wonderful lady. Governor Hunt told me once of a lady who had seen Mrs. Hunt walk across the stage. The lady said to him, ''I can tell she is a fine lady and you must be a fine person too.'' It was true. Her very countenance and carriage projected an aura of faith, compassion and humility. The Governor was so very proud of her and so were the people of Alabama. In all her gifts and graces she represented the highest of Alabama values.

Miss Helen grew up in the Birdsong community in Cullman County. She met Guy Hunt, the future Governor of Alabama, during high school, when they started dating. They met at church and their first date was to a drive-in movie. They were married in 1950, when Helen was only 16 years old and Guy was 17. The Hunts were blessed with four wonderful children—Pam, Sherrie, Keith and Lynn.

Miss Helen enjoyed cooking and sewing and also spending time with her husband at their Holly Pond home. She stood with him through two terms as Cullman County Probate Judge as well as his tenure as Governor from 1987–1993. Although she did not seek the spotlight, as First Lady she embraced a campaign to reduce littering along Alabama highways that resulted in the creation of the highly successful Adopt-a-Mile Program. She also was a wonderful hostess at the Governor's Mansion, organizing numerous dinners,

barbeques, and other social events. The Retirement Systems of Alabama recognized Miss Helen's service by naming a daycare center in Montgomery the RSA Helen Hunt Learning Center. She also devoted a great deal of her time to helping disabled children—a passion that grew from the fact that Pam, the Hunt's eldest daughter, was a special-needs child.

Not only was Helen Hunt the wife of a Baptist minister, but she was a devoted Christian and her life was a witness to her faith. She will be remembered by all the people of Alabama who loved her dearly as a warm and gracious First Lady, and a devoted and loving wife.●

CONGRATULATIONS TO FORT LEWIS COLLEGE CYCLING

● Mr. ALLARD. Mr. President, today I recognize the commendable performance of the Fort Lewis College Cycling Team. On the treacherous slopes of Seven Springs Resort in Pennsylvania the Skyhawks competed against the Nation's best cyclists to determine who was the best. When the dust settled at the bottom of the track the Fort Lewis College Skyhawks stood victorious, clinching the National Collegiate Cycling Association, NCCA, Mountain Bike Championship.

Fort Lewis College has a distinguished history of athletic excellence. This impressive win was the sixth time in the sport's eleven year history that the Skyhawks have brought the championship trophy back to Durango, CO.

In addition to the impressive overall team achievement there were several individual athletes that stood out; Susan Grandjean, Leana Gerrard, Matt Shriver, and Paul Smith all delivered championship performances. Fort Lewis College's victory would not have been possible without the leadership of the team's coach, Rick Crawford.

I would like to share my congratulations with the entire Fort Lewis College Community. Congratulations to all Fort Lewis College Skyhawks, congratulations to President Brad Bartel, congratulations to the Board of Trustees of Fort Lewis College, and especially congratulations to the members of Fort Lewis College Cycling, students and fans. You have made all Coloradans proud.●

THERE'S PLENTY FOR A FREE PRESS TO REPORT

● Mr. HOLLINGS. Mr. President, I recently authored a column that appeared in The State newspaper in Columbia. In it, I offer my thoughts on the media's shoddy coverage of the budget deficit and Social Security, U.S. trade policy, and the War in Iraq. I ask that it be printed in the RECORD.

The article follows.

[From The State, Dec. 8, 2004.]

THERE'S PLENTY FOR A FREE PRESS TO REPORT

(By Ernest F. Hollings)

In the beginning, Thomas Jefferson observed that if he had to choose ''between a government without newspapers or newspapers without a government,'' he would choose the latter. He envisioned the press would report the truth to the American people, keeping the Congress honest. The government wouldn't stay free long without a free press.

Today the press—the media, now—has joined the political fray, and the watchdog has become the attack dog. As a result, Mark Twain's admonition has become the creed of both Congress and the media: The truth is so precious a commodity it should be used sparingly.

Take Social Security. Both the Greenspan Commission and the Budget Act forbade using Social Security monies for any programs other than Social Security. But the government continues to spend Social Security surpluses on everything but Social Security. Then—presto!—the Congress and the media contend that Social Security is broke and needs fixing. Social Security is not broke; it's the government that's broke.

One fix is political: Privatize Social Security to get the young vote. The other choice, raising the retirement age or taxes, merely means more money for programs other than Social Security. Moreover, Congress has made it a federal crime for a private company to pay the company debt with its pension fund. Yet the government constantly pays its debt with Social Security and other pension funds. The Congress and the media then cite a false deficit of $413 billion for fiscal year 2004 while the true deficit, according to the Congressional Budget Office, is $593 billion.

Take trade. The second bill to pass the Congress on July 4, 1789, was a tariff bill—protectionism. We financed the government and built this economic giant, the United States, with protectionism. But after World War II, we took up the chant of ''free trade,'' treating trade as aid to defeat communism with capitalism in the Cold War. Now after 50 years of draining our industrial strength, it's time to rebuild. Article 1, Section 8 of the Constitution provides that Congress shall regulate foreign commerce. To open markets we must control access to ours—practice protectionism. But the media acts as if protecting the economy was unconstitutional.

Worst of all is the media's refusal to report the truth on Iraq. Saddam Hussein was no part of 9/11, had no weapons of mass destruction and was no threat to our national security. We invaded Iraq to implement a plan to democratize the Mideast for Israel.

In 1996, Richard Perle, Douglas Feith and David Wurmser submitted a plan to Israeli Prime Minister Benjamin Netanyahu for a ''Clean Break'' from Arafat and to institute democracy in the Mideast by bombing Lebanon, invading Syria and replacing Saddam with a Hashemite ruler favorable to Israel. Rejected by Prime Minister Netanyahu, Perle and company joined Dick Cheney, Paul Wolfowitz, Donald Rumsfeld, Scooter Libby, Stephen Cambone et. al. in the ''Project for the New American Century.''

They pressured Congress in the 1990s for a change of regime in Iraq, and when George W. Bush was elected president in 2000 ''Clean Break'' hit paydirt. Cheney became vice president; Rumsfeld, Wolfowitz and Feith took the Nos. 1, 2 and 3 positions in defense; Libby headed Cheney's staff; Cambone became Rumsfeld's right-hand man; and Perle, the architect of ''Clean Break,'' was made chairman of the Defense Policy Board.

Upon winning the presidency and before his inauguration, President Bush sought a briefing on Iraq from President Clinton's secretary of Defense, William Cohen. After the inauguration, Paul O'Neill, the new secretary of the Treasury, tells of going to the first meeting of the Security Council prepared to discuss the impending recession, but the discussion was mostly on Iraq.

When I served in World War II 60 years ago, we liberated Morocco, Algeria and Tunisia, but they have yet to opt for democracy. We liberated Kuwait in the Gulf War, but it has yet to opt for democracy. But by 9/11 the president, intent on democratizing the Mideast, was asking Rumsfeld for a plan to invade Iraq. Bush was so determined to invade he disregarded his father's admonition in A World Transformed: ''We should not march into Baghdad. . . . To occupy Iraq would instantly shatter our coalition, turning the whole Arab world against us . . . condemning (young soldiers) to fight in what would be an unwinnable urban guerrilla war.''

If the media had reported the truth to the American people, we would have rejected ''Clean Break'' like Prime Minister Netanyahu. If the media had kept Congress honest, we would not be sending GIs to a war that most believe is a mistake and the top command says we can't win.●

OBRA S. KERNODLE III

● Mr. SANTORUM. Mr. President, I rise today to reflect on the loss of my good friend, Obra Kernodle. Obra recently suffered a fatal heart attack while in Cancun, Mexico, celebrating his daughter's wedding. The Kernodle family has suffered a tremendous loss, and I offer them my condolences and deepest sympathy in this difficult time.

I was introduced to Obra during my 2000 Senate campaign. He was a bright, resourceful and wonderful person, and I remained in contact with him ever since.

Using his bipartisan negotiating skills to render change, Obra became one of Philadelphia's most influential African American leaders. As a politically active Philadelphia lawyer who most recently served as general counsel to the Philadelphia Parking Authority, Obra actively served his community. Obra was also a member of the Pennsylvania Convention Center board.

His kind disposition and generous heart attracted people from both sides of the aisle, and he will never be forgotten. My thoughts and prayers are with the Kernodle family during the days and months ahead.●

REMEMBERING OUR POW/MIAs

● Mr. CAMPBELL. Mr. President, as a veteran who served in Korea, I have, throughout my congressional career, vigorously sought to ensure that our men and women in uniform who were listed as POW/MIA are not forgotten. I have also worked hard to promote a better understanding and appreciation of these brave men and women's extraordinary service and sacrifice by the American public.

Underscoring this commitment, I was proud to have authored a number of

important laws, including the POW/MIA Memorial flag Act of 2001, P.L. 107–323; the Bring Them Home Alive Act of 2000, P.L. 106–484; the Persian Gulf War Accountability Act of 2002, P.L. 107–258; and the Vietnam Veterans Recognition Act of 1999, P.L. 106–214. I want to take this opportunity to also commend my deputy chief of staff and legislative director, Larry Vigil, for all of his good work in getting these important initiatives passed on behalf of all Americans.

As my colleagues know, the United States has fought in many wars and thousands of Americans who served in those wars were captured by the enemy or listed as missing in action. In the 20th century wars alone, more than 147,000 Americans were captured and became prisoners of war. Of that number, more than 15,000 died while in captivity. When we add to this number, those who are still missing in action, we realize that we cannot do enough to not only remember their service, but to bring them back home alive.

Our mission is far from over. Today we continue to look for Capt. Michael Speicher from the 1991 Persian gulf war and PFC Keith ''Matt'' Maupin who went missing in action in Iraq on April 9, 2004. To that end, we must remain fully committed to leave no one behind and push for a full accounting for those who are still missing. We must spare no effort to bring them home.

The power of our democracy and the strength of our society comes from acknowledging our interdependence on each other. In our best moments we know full well that the commitment of so many in the military service has made our Nation and our lives fuller and more complete.

I commend Danny ''Greasy'' Belcher with Task Force Omega of Kentucky for his tireless efforts in bringing awareness to the POW/MIA issue and organizing national support for many of these successful legislative initiatives. I also thank Artie Muller, president of Rolling Thunder National, for his continued years of work on the POW/MIA issue and the National League of POW/MIA Families, the National Vietnam and Gulf War Veterans Coalition, VietNow and Veterans of the Vietnam War, Inc., and others.

As I conclude my tenure in the United States Senate, I challenge my colleagues and those who will follow in my footsteps to continue this valuable and necessary work to support the friends and families of those who are POW/MIA.●

125TH ANNIVERSARY OF ST. LOUIS CHILDREN'S HOSPITAL

● Mr. BOND. Mr. President, in 1878 a group of pioneering women led by Mrs. Appoline A. Blair had the innovative idea to open a hospital in St. Louis where children could receive the special care they needed and deserved. In 1879, St. Louis Children's Hospital opened its doors to children and families in downtown St. Louis, Missouri in a small, rented house with 15 beds. This year, St. Louis Children's Hospital, the first children's hospital west of the Mississippi River and the seventh oldest in the country, is proud to celebrate its 125th anniversary.

Today, St. Louis Children's Hospital's clinical and community outreach programs touch more than 250,000 patients annually. Patients from all 50 States and nearly 50 countries around the world have passed through the doors and been served by this remarkable institution.

The pioneering spirit with which this hospital was founded has continued through its long and distinguished history. St. Louis Children's Hospital, working in conjunction with Washington University School of Medicine, has consistently been at the forefront of pediatric care. From its earliest days St. Louis Children's Hospital has been home to critical pediatric advances. For example, from 1915 through the 1920s, Dr. Vilray Blair, known as the father of plastic surgery in America, perfected several important methods for correction of cleft palate and cleft lip. At about the same time, Dr. W. McKim Marriott, the hospital's pediatrician-in-chief from 1917 to 1936, revolutionized the artificial feeding of infants developing a formula using evaporated milk corn syrup and lactic acid supplemented with vitamins and iron. In 1922, for the first time anywhere, insulin was used to successfully treat an infant with diabetes. In 1927, Dr. James Barrett Brown performed the first homograft on a child resulting in the development of modern care for burns for children. In 1929, Dr. Alexis P. Hartmann developed the first practical treatment, Lactate Ringers Solution, for infants suffering from severe diarrhea and dehydration. Dr. Hartmann served as the hospital's pediatrician-in-chief from 1936 to 1964.

St. Louis Children's Hospital pioneered developments in many other health areas, including diagnosis of congenital heart diseases. After the acquisition of a heart-lung machine in 1958, the hospital became one of the most active institutions in the country in the field of pediatric open heart surgery. David Goldring, MD, who formed the hospital's cardiology division in 1950 and remained its director until 1985, was a pioneer in pediatric open heart surgery. In another ''first,'' doctors oversaw the first complete exchange of blood in a tiny infant weighing less than 3 pounds.

The first pediatric dialysis unit in the Midwest was set up at St. Louis Children's Hospital in 1974. Another innovation during the 1970s was the establishment of the Cleft Palate and Craniofacial Deformities Institute, the only one of its kind in the Midwest at the time. This unit works with many other areas of the hospital to reconstruct head and facial deformities in children. Dr. Thomas Spray, a cardiothoracic surgeon, performed his first successful Norwood procedure, an advanced surgical technique used to correct the fatal congenital heart defect known as hypoplastic left heart syndrome. Doctors at St. Louis Children's Hospital also performed the region's first cochlear implant, surgically implanting a device the helps children who are deaf to speak and comprehend language.

In addition, St. Louis Children's Hospital established the first free-standing pediatric lung transplant program in the United States. Today, St. Louis Children's Hospital is home to the world's most active pediatric lung transplant program. The hospital is one of the nation's leaders in total pediatric organ transplants, offering kidney, liver, heart and bone marrow transplant programs as well.

St. Louis Children's Hospital is recognized among America's best children's hospitals by Child magazine and US News & World Report, and its Neonatal Intensive Care Unit is distinguished nationally by Child magazine.

Mr. President, please join with me in celebrating 125 years of excellence in pediatric care. The pioneering vision and spirit of St. Louis Children's Hospital has improved the lives of children and families in Missouri and around the globe.●

CALIFORNIA GOLDEN BEARS AND THE ROSE BOWL

● Mrs. FEINSTEIN. Mr. President, I rise today to express my concerns about college football's Bowl Championship Series and the formula used to select teams to play in the major bowls at the end of the season.

Despite having one of their best seasons in years, the University of California at Berkeley Golden Bears were denied an opportunity to play the University of Michigan in the Rose Bowl on New Years Day, and will instead play Texas Tech in the Holiday Bowl on December 30 in San Diego.

For decades the Rose Bowl has featured the top teams from the Pac Ten Conference and the Big Ten Conference. Players and coaches dream of representing their universities in one of college football's showcase events. For their part, Cal fans and alumni have waited 46 years for another opportunity to see their Bears play in the ''granddaddy of them all''.

With all due respect to Texas, it just does not seem right to see the champion of the Big Ten Conference, Michigan, play a school from the Big Twelve Conference and not the Pac Ten. It would be like eliminating the traditional floats from the Tournament of Roses Parade.

I know it may surprise some that a proud Stanford alum would take to the Senate floor to speak out on behalf of the Cardinal's bitter rival, but as a Senator representing the entire State of California, I feel it is my obligation to support all of our fine college athletes and to ensure that fairness and

good sportsmanship prevails in the competitive arena.

The BCS was designed to ensure that the top two schools in the country have a chance to play each other for the national title. I am proud that another California school, the University of Southern California Trojans, will play number two ranked Oklahoma in the Orange Bowl.

If the top team from the Pac Ten cannot play in the Rose Bowl because it is playing for the national title, fans expect to see the next best school from the conference take its place.

And, make no mistake about it, Cal has earned a right to play in the Rose Bowl.

Led by Head Coach Jeff Tedford, quarterback Aaron Rodgers, defensive end Ryan Riddle, and running back J.J. Arrington, Cal won 10 and lost only once—on the road at USC—beating teams by an average of 23.9 points per game. They were the only team to rank in the top six both in scoring and scoring defense.

In the end, despite beating Southern Mississippi 26–16 to win their final game of the year, Cal lost points in the ESPN/USA Today coaches poll—one of the polls that accounts for 33 per cent of the BCS rankings—and thus was edged out by Texas for the opportunity to play in the Rose Bowl.

Let me be clear: The Texas Longhorns had a great season, and I have a lot of respect for the university and their coaches and players.

But, Cal led Texas in the BCS rankings for most of the season and it is common sense to me that if a team is in position to earn a trip to the Rose Bowl and they win their last four games of the season—as Cal did—they should not be denied an opportunity to play in that game.

Surely we can find a way to preserve the best traditions of college football and ensure that teams that earn an opportunity play in a major bowl, are allowed to do so.

In their last game, Cal had an opportunity to score another touchdown when the result of the game was no longer in doubt. Instead, Coach Tedford decided to let the clock run out. Perhaps another score would have impressed enough voters in the coaches poll to give Cal a chance to play in the Rose Bowl. But Coach Tedford did the right thing and college football should reward those decisions, not penalize them.

Nothing can detract from Cal's great season and I am confident that the team will bring home a win in the Holiday Bowl on December 30. I wish them the best of luck.●

REMEMBERING RICHARD K. SORENSON

● Mr. ENSIGN. Mr. President, I rise today to pay tribute to a man of remarkable courage, compassion, and patriotism and to join Nevadans and Americans in mourning the loss of American patriot and former Marine Richard K. Sorenson.

A shining example of just how one individual can make a difference is found in the life story of Richard K. ''Rick'' Sorenson.

Born the 28th day of August in 1924, Sorenson tried unsuccessfully to enlist in the Navy on the day after Pearl Harbor. He was only 17 at the time, and his parents refused to give their permission. He finished his junior year in high school, but the next fall, the day after football season ended, he and some of his teammates joined the Marine Corps.

Little did Rick Sorenson know, but he would soon make history.

On February 1, 1944, at the age of 19, Private Sorenson and his five man machine gun squad found themselves part of the amphibious assault of Namur, a small island in the Kwajalein atoll which was defended by 4,000 Japanese soldiers fighting from heavy concrete fortifications.

At dawn the following morning, the Japanese counterattacked Sorenson's position in what he later called a ''full-fledged banzai charge.'' His squad had been fighting for its life for half an hour when a Japanese soldier got close enough to throw a grenade in their midst. Sorenson's first impulse was to jump to the other side of the concrete foundation, but he instantly realized that his buddies would take the impact and that the entire squad would be overrun, so he threw himself on the grenade and took the full force of the explosion.

For his actions he was awarded the Medal of Honor. His citation was signed by Franklin D. Roosevelt and read, in part: ''For conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty . . . Unhesitatingly, and with complete disregard for his own safety, Private Sorenson hurled himself upon the deadly weapon, heroically taking the full impact of the explosion. As a result of his gallant action, he was severely wounded, but the lives of his comrades were saved. His great personal valor and exceptional spirit of self-sacrifice in the face of almost certain death were in keeping with the highest traditions of the United States Naval Service.''

Sorenson would undergo six operations over the next nine months. But he survived and went on to graduate from college, marry, and raise a family. He was also recalled to active duty with the Marines in 1950 during the Korean War and was commissioned a first lieutenant.

After eventually leaving the Marines for good in 1955, he returned to civilian life and pursued a career as an insurance underwriter before finally joining the Veterans' Administration. In 1978 he transferred to Reno, NV, and assumed duties as Director of Veterans Affairs for all of Nevada and nine counties in California. He retired in 1985 but remained a resident of Reno until his passing several months ago.

Those who lived through World War II are often referred to as our Greatest Generation. And that Greatest Generation is well represented in the life story of Rick Sorenson. He was not only a battle-tested Marine but he also was a loving husband, father, and grandfather. In his vocation he served other veterans, and in his free time he was active in community affairs.

Simply stated, the world is a better place because of Rick Sorenson.

To Rick's wife Milli I offer the condolences and the admiration of Nevadans and Americans. This great nation that Rick Sorenson risked his life for and lived his life for will always be grateful for his contributions.●

RECOGNIZING A RACING STAR

● Mr. ENSIGN. Mr. President, I rise today to recognize and congratulate an outstanding athlete and a tremendous competitor from my home State of Nevada.

A Las Vegas native, Kurt Busch is the epitome of a team player who thrives on pressure and has the utmost respect for his competition.

His journey to the finish line of the NASCAR Nextel Cup title started in go carts and dwarf cars in Pahrump and Las Vegas. Kurt and his brother, Kyle, shared their father Tom's love for racing, and once Kurt hit the track there was no stopping him.

His career highlights start with the Las Vegas Motor Speedway and the Nevada State Dwarf Car Rookie of the Year and Champion in 1994 and 1995 respectively. From there he broadened his horizons to the Southwest Series after graduating from Durango High School in Las Vegas. Durango High School is the home of the Trailblazers, and Kurt's road to champion race-car driver at the age of 26 certainly blazed a trail or two along the way.

Since those early Las Vegas days, Kurt has been an incredible presence in the American racing scene. He competed and finished above expectation time and time again. He started this season with the goal of winning the championship. There were no guarantees in this Cup season though. Kurt stayed focused, and keeping his eye on the prize paid off. But it was a nail biter. Kurt faced many hurdles that would have meant the end for a lesser competitor. There was the broken wheel, the late restart, and the intense competition. And those challenges all came in the last race at the Homestead-Miami Speedway.

Mechanical failures and pressures aside, racing fans attribute Kurt's success to his consistency. I say it's all about heart.

Following his victory, Kurt stated matter-of-factly: ''This is what a team does to win a championship . . . I'd like to put a cap on today and move on to what we did this year as a team, which is unbelievable. This championship is for Jimmy Fennig and everyone that's put work into this car.''

And that team—including those of us who cheered on our native son from Las Vegas—is proud of its driver. He showed us all a passion for racing and a loyalty to those who got him to this point. And he has proven that it is okay to dream big. From go carts in the Las Vegas desert to top racing machines on professional tracks, Kurt Busch is an inspiration. As Co-Chair of the Congressional Motorsports Caucus and a true race fan, I congratulate Kurt Busch on all his accomplishments, including this championship. Kurt, you have made us proud in Las Vegas, and we look forward to watching you continue to shine in the future. God bless you.●

HONORING DELBERT V. GROBERG

● Mr. CRAPO. Mr. President, I rise today to honor a civic leader in Idaho who passed away this week at the age of 98. Delbert V. Groberg was so active in community efforts in eastern Idaho that the local newspaper reported ''it would take the best part of a newspaper page to list'' his accomplishments. But I knew him best as a close family friend; the father of one of my best friends, Dr. George Groberg; and a man who held a place of trust and honor in the community for decades.

Delbert and his late wife, Jennie Holbrooke, were married nearly 74 years and are the parents of eleven children, all born and reared in Idaho Falls. His family was his proudest accomplishment, and he leaves behind Mary Jane, Richard who is currently serving an LDS mission in Finland, Joseph, Lewis, George, Julia, John, David, Delbert, Elizabeth, and Gloria, along with 64 grandchildren, 116 great-grandchildren and one great-great-grandchild. What a legacy he has fostered!

His business accomplishments began in 1929 in real estate when he founded the D. V. Groberg Company in Idaho Falls. The company expanded into real estate sales, appraisals, property management and development, building subdivisions throughout the area. He served as the president of the Idaho Falls Real Estate Board and of the Idaho Real Estate Association. He was also the chairman of the Idaho Real Estate Commission and vice-president of the National Association of Realtors. Not surprisingly, he was selected as the Idaho Realtor of the Year. He was the first in southern Idaho to receive the professional designation from the American Institute of Real Estate Appraisers, which awarded him a lifetime membership. He was the founding president of its southern Idaho chapter.

His interest in real estate led to an achievement that is a landmark in Idaho Falls—the siting and building of an LDS temple on the banks of the Snake River. He later served as president of the Idaho Falls LDS Temple from 1975 to 1980 and authored a book about the temple, ''The Idaho Falls Temple: The First LDS Temple in Idaho.''

His service to his religion took many forms as well. He served as a bishop of the Idaho Falls Third Ward, a member of the South Idaho Falls Stake high council, and a stake patriarch. He set an example of Christian living throughout his life.

Delbert's business accomplishments moved outside of real estate into banking and broadcasting. He was a director and vice president of the Bank of Commerce and founded KID Broadcasting Corporation. He and his wife Jennie were honored pioneers of the Bonneville County Historical Society. He was also inducted into the Idaho Hall of Fame. His civic positions included president or chairman of the Chamber of Commerce, Kiwanis Club, the Selective Service Board, the United Way, and the Bonneville Bicentennial Commission. He was given the Idaho 7th District Bar Association Liberty Bell Award, the BYU Alumni Service to Family Award, and the Presidential Citation Award from Brigham Young University.

While I have presented a long list of accomplishments, what I want to share with you most is that Delbert V. Groberg was a man of great integrity. I learned much from him in my childhood, lessons that continue to serve me well today. He was thoughtful, sensitive, and considerate. He was patriotic and civic-minded. Although his accomplishments are legion, he remained humble and interested. Despite his busy schedule, his children say they never felt neglected. Delbert served his community, his church, and his family and managed to do it all through difficult times in our country's history. His life is an outstanding example for all. He will be missed by his family, his community, and so many whose lives he has touched over nearly a century of living. I was privileged to know him and to have his influence in my life. For that, I will always be grateful.●

TRIBUTE TO JAMES LEROY WILLIAMS

● Mr. BURNS. Mr. President, I rise today to recognize a fellow Montanan who represents the embodiment of many of us who stand in steadfast and determined support of our armed forces both yesterday and today. James LeRoy Williams was born just south of Montana, in Sheridan, WY and now makes his home in beautiful Columbus, MT.

At a time many recall in the late sixties, men were volunteering to serve in Vietnam, and being drafted to serve. For some, service wasn't an option due to medical complications, in this case a back injury kept Mr. Williams from fulfilling what he felt was his duty to our Nation, and our future generations, and he stayed here in the States as a civilian.

This did not hinder his determination to make a difference to those who did serve in our armed forces, and Mr. Williams made it his mission to ensure Veterans received that handshake and 'thank you', and did so by creating a repository in Columbus of military history that spans the history of our great Nation. Mr. Williams believes, as I do, that we must remember our history, as it is our roadmap to the future, and that we owe it to our children and grandchildren to provide them the proud history of our armed forces, and their defense of our freedoms these so many years.

Mr. Williams has become a historian of our military, and keeps an authentic World War One Doughboy's uniform that he wears when giving talks on both the vast history of our services, and the individual tales of bravery and sacrifice one learns when taking the time to listen to the men who climbed the cliffs at Pointe Du Hoc, froze in both the Ardennes and the Chosin, or made one more climb up a numbered hill in the jungles of Vietnam.

To Mr. Williams and those like him, I can only say thank you, both as a Veteran, and as an American, for keeping alive the history that shapes our Nation. He may not have served directly in our armed forces, but he has served his Nation by honoring the sacrifice of the thousands of men and women who did wear the uniform, and I know that if circumstances had been different, he would have made our Nation proud in that capacity as well.●

MESSAGE FROM THE HOUSE

At 9:33 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4116. An act to require the Secretary of the Treasury to mint coins celebrating the recovery and restoration of the American bald eagle, the national symbol of the United States, to America's lands, waterways, and skies and the great importance of the designation of the American bald eagle as an ''endangered'' species under the Endangered Species Act of 1973, and for other purposes.

H.R. 5426. An act to make technical corrections relating to the Coast Guard and Maritime Transportation Act of 2004.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 531. Concurrent resolution providing for the sine die adjournment of the second session of the One Hundred Eighth Congress.

H. Con. Res. 532. Concurrent resolution commending the Aero Squad After School Program at Tomorrow's Aeronautical Museum in Compton, California, as well as other youth aviation programs that expose young minorities to the field of civil aviation.

The message further announced that the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2845) to reform the intelligence community and the intelligence and

intelligence-related activities of the United States Government, and for other purposes.

The message also announced that the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4548) to authorize appropriations for fiscal year 2005 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 5426. An act to make technical corrections relating to the Coast Guard and Maritime Transportation Act of 2004; to the Committee on Commerce, Science, and Transportation.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 430. Concurrent resolution recognizing the importance of early diagnosis, proper treatment, and enhanced public awareness of Tourette Syndrome and supporting the goals and ideals of National Tourette Syndrome Awareness Month; to the Committee on Health, Education, Labor, and Pensions.

H. Con. Res. 532. Concurrent resolution commending the Aero Squad After School Program at Tomorrow's Aeronautical Museum in Compton, California, as well as other youth aviation programs that expose young minorities to the field of civil aviation; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–10072. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Cyazofamid; Pesticide Tolerance; Technical Correction'' (FRL7685–1) received on September 30, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–10073. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Oriental Fruit Fly: Designation of Quarantined Area'' (Doc. No. 04–105–1) received November 9, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–10074. A communication from the Congressional Review Coordinator, Animal Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Mexican Avocado Import Program'' (Doc. No. 03–022–5) received November 30, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–10075. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Melons Grown in South Texas; Temporary Suspension of Handling and Assessment Collection Regulations'' (Doc. No. FV05–979–1 IFR) received December 6, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–10076. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Vidalia Onions Grown in Georgia; Change in Assessment Requirements'' (Doc. No. FV04–955–1 IFR) received December 6, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–10077. A communication from the Secretary of Commerce, transmitting, pursuant to law, the periodic report on the national emergency caused by the lapse of the Export Administration Act of 1979 for February 19, 2004 to August 19, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–10078. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the six-month periodic report on the national emergency with respect to the proliferation of weapons of mass destruction that was declared in Executive Order 12938 of November 14, 1994; to the Committee on Banking, Housing, and Urban Affairs.

EC–10079. A communication from the Chairman and President of the Export-Import Bank of the United States, transmitting, the report of a transaction involving U.S. exports to Taiwan; to the Committee on Banking, Housing, and Urban Affairs.

EC–10080. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary (Management); to the Committee on Banking, Housing, and Urban Affairs.

EC–10081. A communication from the Deputy Chief Financial Officer, transmitting, pursuant to law, the U. S. Department of the Treasury Fleet Alternative Fuel Vehicle Acquisition Report for Fiscal Year 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–10082. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Employment and income tax treatment of amounts paid to a baseball player as a signing bonus and amounts paid to an employee pursuant to a collective bargaining agreement (CBA) upon ratification of the CBA by the union'' (Rev. Rul. 2004–109) received on December 5, 2004; to the Committee on Finance.

EC–10083. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Employment and income tax treatment of amounts paid to an employee as consideration for cancellation of an employment contract and relinquishment of contract rights'' (Rev. Rul. 2004–110) received on December 5, 2004; to the Committee on Finance.

EC–10084. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Definitions of Dependent under section 106 of the Internal Revenue Code'' (Notice 2004–79) received on December 5, 2004; to the Committee on Finance.

EC–10085. A communication from the Acting Chief of the Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Preferential Treatment of Brassieres Under the Caribbean Basin Economic Recovery Act'' (RIN1505–AB42) received on December 5, 2004; to the Committee on Finance.

EC–10086. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program: Expedited Determination Procedures for Provider Service Terminations'' (RIN0938–AL67) received on December 5, 2004; to the Committee on Finance.

EC–10087. A communication from the Commissioner of the Social Security Administration, transmitting, pursuant to law, the annual inventory report for 2004 listing commercial activities based on OMB guidance; to the Committee on Finance.

EC–10088. A communication from the Chairman of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the Commission's Year 2004 Inventory of Commercial Activities; to the Committee on Energy and Natural Resources.

EC–10089. A communication from the Deputy Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Pennsylvania Regulatory Program'' (PA–141–FOR) received on December 6, 2004; to the Committee on Energy and Natural Resources.

EC–10090. A communication from the Deputy Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Pennsylvania Regulatory Program'' (PA–143–FOR) received on December 6, 2004; to the Committee on Energy and Natural Resources.

EC–10091. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Indiana Regulatory Program'' (IN–141–FOR) received on December 6, 2004; to the Committee on Energy and Natural Resources.

EC–10092. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Office of Law Enforcement, U.S. Fish and Wildlife Service, transmitting, pursuant to law, the report of a rule entitled ''Conferring Designated Port Status for Houston, Texas; Louisville, Kentucky; and Memphis, Tennessee'' (RIN1018–AT59) received on December 6, 2004; to the Committee on Energy and Natural Resources.

EC–10093. A communication from the Acting Assistant Secretary for Fish, Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the California Tiger Salamander (Ambystoma californiense) in Santa Barbara County'' (RIN1018–AT44) received on December 6, 2004; to the Committee on Energy and Natural Resources.

EC–10094. A communication from the Secretary of Education, transmitting, pursuant to law, the Annual Report of the National Advisory Committee on Institutional Quality and Integrity for Fiscal Year 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–10095. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Annual Report on the Refugee Resettlement Program for Fiscal Year 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–10096. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Report on the Community Services Block Grant Discretionary Activities: Community Economic

Development Program (CEDP) projects funded during Fiscal Year 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–10097. A communication from the President of the Barry M. Goldwater Scholarship Foundation, transmitting, pursuant to law, the Fiscal Year 2004 Report on the Accountability of Tax Dollars Act (ADTA); to the Committee on Health, Education, Labor, and Pensions.

EC–10098. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on Temporary Assistance for Needy Families (TANF) Program dated September 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–10099. A communication from the Director, Occupational Safety and Health Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Updating OSHA Based on National Consensus Standards; General, Incorporation by Reference; Hazardous Materials, Flammable and Combustible Liquids; General Environmental Controls, Temporary Labor Camps; Hand and Portable Powered Tools and Other Hand Held Equipment, Guarding of Portable Powered Tools; Welding, Cutting, and Brazing, Arc Welding and Cutting; Special Industries, Sawmills'' (RIN1218–AC08) received on December 6, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–10100. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report on Charter for State Advisory Committees; to the Committee on the Judiciary.

EC–10101. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report describing the efforts undertaken by the U.S. Department of Justice Office of Victims of Crime (OVC) during Fiscal Year 2001 and 2002; to the Committee on the Judiciary.

EC–10102. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report describing the assignment of responsibility for the functions of the United States Parole Commission (USPC) regarding supervised release of District of Columbia offenders; to the Committee on the Judiciary.

EC–10103. A communication from the Director, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Implementation of the Agreement Between the Government of the United States of America and the Government of Canada Regarding Asylum Claims Made in Transit and at Land Border Ports-of-Entry'' (RIN1615–AA91) received on December 6, 2004; to the Committee on the Judiciary.

EC–10104. A communication from the General Counsel, Executive Office for Immigration Review, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Asylum Claims Made by Aliens Arriving from Canada at Land Border Ports-of-Entry'' (RIN1125–AA46) received on December 6, 2004; to the Committee on the Judiciary.

EC–10105. A communication from Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Air Quality: Revision to Definition of Volatile Organic Compounds—Exclusion of Four Compounds'' (FRL7840–7) received on December 6, 2004; to the Committee on Environment and Public Works.

EC–10106. A communication from Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; Revised Format of 40 CFR Part 52 for Materials Being Incorporated by Reference'' (FRL7835–7) received on December 6, 2004; to the Committee on Environment and Public Works.

EC–10107. A communication from Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Emergency Planning and Community Right-to-Know Act; Extremely Hazardous Substances List; Deletion of Phosment'' (FRL7842–1) received on December 6, 2004; to the Committee on Environment and Public Works.

EC–10108. A communication from Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''List of Hazardous Air Pollutants, Petition Process, Lesser Quantity Designations, Source Category List; Petition to Delist of Ethylene Glycol Monobutyl Ether'' (FRL7841–8) received on December 6, 2004; to the Committee on Environment and Public Works.

EC–10109. A communication from Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revision to Definition of Volatile Organic Compounds—Exclusion of t-Butyl Acetate'' (FRL7840–8) received on December 6, 2004; to the Committee on Environment and Public Works.

EC–10110. A communication from Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Oregon; Removal of Perchlorethylene Dry Cleaning Systems Rules'' (FRL7839–5) received on December 6, 2004; to the Committee on Environment and Public Works.

EC–10111. A communication from Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Implementation Plans; Indiana; Rules to Control Particulate Matter and Carbon Monoxide from Incinerators'' (FRL7838–3) received on December 6, 2004; to the Committee on Environment and Public Works.

EC–10112. A communication from Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC Requirements for Portable Fuel Containers'' (FRL7845–3) received on December 6, 2004; to the Committee on Environment and Public Works.

EC–10113. A communication from Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC Requirements for Consumer Products'' (FRL7845–1) received on December 6, 2004; to the Committee on Environment and Public Works.

EC–10114. A communication from Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Preliminary Assessment Information Reporting; Addition of Certain Chemicals'' (FRL7366–8) received on December 6, 2004; to the Committee on Environment and Public Works.

EC–10115. A communication from Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Tennessee: Final Authorization of State Hazardous Waste Management Program Revision'' (FRL7846–2) received on December 6, 2004; to the Committee on Environment and Public Works.

EC–10116. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled ''Statistical Programs of the United States Government for Fiscal Year 2005''; to the Committee on Governmental Affairs.

EC–10117. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report of the Office of the Inspector General for the period of October 1, 2003 through March 31, 2004; to the Committee on Governmental Affairs.

EC–10118. A communication from the Secretary of Energy, transmitting, pursuant to law, the Department's fiscal year 2004 Performance and Accountability Report; to the Committee on Governmental Affairs.

EC–10119. A communication from the Chairman of the Federal Communication Commission, transmitting, pursuant to law, the Commission's Fiscal Year 2004 Performance and Accountability Report; to the Committee on Governmental Affairs.

EC–10120. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of the Office of the Inspector General for the period of April 1, 2004 through September 30, 2004; to the Committee on Governmental Affairs.

EC–10121. A communication from the Secretary of Veterans Affairs, transmitting, pursuant to law, the Fiscal Year 2004 Annual Performance and Accountability Report; to the Committee on Governmental Affairs.

EC–10122. A communication from the Chairman of the National Endowment for the Arts, transmitting, pursuant to law, the Fiscal Year 2004 Performance and Accountability Report; to the Committee on Governmental Affairs.

EC–10123. A communication from the Chairman of the Board of Governors of the United States Postal Service, transmitting, pursuant to law, the report of the Office of the Inspector General for the period of April 1, 2004 through September 30, 2004; to the Committee on Governmental Affairs.

EC–10124. A communication from the Chairman of the Broadcasting Board of Governors, transmitting, pursuant to law, the report of the Office of the Inspector General for the period of April 1, 2004 through September 30, 2004; to the Committee on Governmental Affairs.

EC–10125. A communication from the Secretary of Veterans Affairs, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1, 2004 through September 30, 2004; to the Committee on Governmental Affairs.

EC–10126. A communication from the Chairman of the Federal Housing Finance Board, transmitting, pursuant to law, the Fiscal Year 2004 Performance and Accountability Report; to the Committee on Governmental Affairs.

EC–10127. A communication from the Secretary of Labor, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1, 2004 through September 30, 2004; to the Committee on Governmental Affairs.

EC–10128. A communication from the Chief Financial Officer, United States Holocaust Museum, transmitting, pursuant to law, the Fiscal Year 2004 Performance and Accountability Report; to the Committee on Governmental Affairs.

EC–10129. A communication from the Chairman of the Railroad Retirement Board,

transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1, 2004 through September 30, 2004; to the Committee on Governmental Affairs.

EC–10130. A communication from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, the Fiscal Year 2004 Performance and Accountability Report; to the Committee on Governmental Affairs.

EC–10131. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the Fiscal Year 2004 Performance and Accountability Report; to the Committee on Governmental Affairs.

EC–10132. A communication from the Chairman of the Occupational Safety and Health Review Commission, transmitting, pursuant to law, the Fiscal Year 2004 Performance and Accountability Report; to the Committee on Governmental Affairs.

EC–10133. A communication from the Acting Director, National Science Foundation, transmitting, pursuant to law, the Fiscal Year 2004 Performance and Accountability Report; to the Committee on Governmental Affairs.

EC–10134. A communication from the Secretary of Homeland Security, transmitting, pursuant to law, the Fiscal Year 2004 Performance and Accountability Act; to the Committee on Governmental Affairs.

EC–10135. A communication from the Acting Under Secretary of Defense, transmitting, pursuant to law, seven quarterly Selected Acquisition Reports (SARs) for the quarter ending September 30, 2004; to the Committee on Armed Services.

EC–10136. A communication from the Deputy Chief of Naval Operations (Manpower and Personnel), Department of Defense, transmitting, pursuant to law, a report regarding a decision to implement performance by the Most Efficient Organization (MEO) for Physical Distribution in Bremerton, WA; to the Committee on Armed Services.

EC–10137. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report relative to acceptance of contributions for defense programs, projects, and activities; Defense Cooperation Account, and a report concerning the value of personal property that foreign nations have provided the United States for the global war on terrorism; to the Committee on Armed Services.

EC–10138. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Research and Development Contracting'' (Case 2003–D067) received on November 22, 2004; to the Committee on Armed Services.

EC–10139. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Sealed Bidding'' (Case 2003–D076) received on November 22, 2004; to the Committee on Armed Services.

EC–10140. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Publicizing Contract Actions'' (Case 2003–D016) received on November 22, 2004; to the Committee on Armed Services.

EC–10141. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Cost Principles and Procedures'' (Case 2003–D036) received on November 22, 2004; to the Committee on Armed Services.

EC–10142. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Laws Inapplicable to Commercial Subcontracts'' (Case 2003–D018) received on November 22, 2004; to the Committee on Armed Services.

EC–10143. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Acquisition of Commercial Items'' (Case 2003–D074) received on November 22, 2004; to the Committee on Armed Services.

EC–10144. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Insurance'' (Case 2003–D037) received on November 22, 2004; to the Committee on Armed Services.

EC–10145. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Transition of Weapons-Related Prototype Projects to Follow-On Contracts'' (Case 2003–D106) received on November 22, 2004; to the Committee on Armed Services.

EC–10146. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Federal Prison Industries—Deletion of Duplicative Text'' (Case 2004–D005) received on November 22, 2004; to the Committee on Armed Services.

EC–10147. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Procedures, Guidance, and Information'' (Case 2003–D090) received on November 22, 2004; to the Committee on Armed Services.

EC–10148. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Contractor Qualifications Relating to Contract Placement'' (Case 2003–D011) received on November 22, 2004; to the Committee on Armed Services.

EC–10149. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to Kyrgyzstan, Moldova, and the Ukraine; to the Committee on Foreign Relations.

EC–10150. A communication from the Assistant Secretary of Legislative Affairs, transmitting, pursuant to law, a report relative to information on U.S. military personnel and U.S. individual civilians retained as contractors involved in the anti-narcotics campaign in Colombia; to the Committee on Foreign Relations.

EC–10151. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of text and background statements of international agreement other than treaties; to the Committee on Foreign Relations.

EC–10152. A communication from the Acting Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the preliminary fleet alternative fuel vehicle program report for fiscal year 2004; to the Committee on Foreign Relations.

EC–10153. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad with Poland; to the Committee on Foreign Relations.

EC–10154. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad with Italy; to the Committee on Foreign Relations.

EC–10155. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $100,000,000 or more with Japan; to the Committee on Foreign Relations.

EC–10156. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles or defense services in the amount of $100,000,000 or more with Japan; to the Committee on Foreign Relations.

EC–10157. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $50,000,000 or more with Mexico, Greece, and France; to the Committee on Foreign Relations.

EC–10158. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles that are firearms controlled under category I of the United States Munitions List sold commercially under a contract in the amount of $1,000,000 or more with Kuwait; to the Committee on Foreign Relations.

EC–10159. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more with India; to the Committee on Foreign Relations.

EC–10160. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles that are firearms controlled under category I of the United States Munitions List sold commercially under a contract in the amount of $1,000,000 or more with Columbia; to the Committee on Foreign Relations.

EC–10161. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles that are firearms controlled under category I of the United States Munitions List sold commercially under a contract in the amount of $1,000,000 or more with the United Arab Emirates; to the Committee on Foreign Relations.

EC–10162. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and license for

the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more to Italy; to the Committee on Foreign Relations.

EC–10163. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $100,000,000 or more with Canada; to the Committee on Foreign Relations.

EC–10164. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Mexico; to the Committee on Foreign Relations.

EC–10165. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, a report Waiving Prohibition on United States Military Assistance with Respect to Burundi, Guyana, and Liberia; to the Committee on Foreign Relations.

EC–10166. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the annual report for 2003 on United States Participation in the United Nations; to the Committee on Foreign Relations.

EC–10167. A communication from the Assistant Secretary for Administration, Department of Transportation, transmitting, pursuant to law, the report of inventories of commercial and inherently governmental positions in the U.S. Department of Transportation; to the Committee on Commerce, Science, and Transportation.

EC–10168. A communication from the Chief Financial Officer and Assistant Secretary for Administration, Department of Commerce, transmitting, pursuant to law, the report on competitive sourcing efforts for fiscal year 2003; to the Committee on Commerce, Science, and Transportation.

EC–10169. A communication from the Chief Financial Officer and Assistant Secretary for Administration, Department of Commerce, transmitting, pursuant to law, the report of functions performed by the Agency that are not inherently governmental after the inventory has been reviewed by the Office of Management and Budget for 2003; to the Committee on Commerce, Science, and Transportation.

EC–10170. A communication from the Assistant Secretary, Federal Maritime Commission, transmitting, pursuant to law, the report of a rule entitled ''Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984'' (Doc. No. 03–15) received on November 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10171. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Final rule to implement Amendments 48/48 to the Fishery Management Plans for Groundfish of the Bering Sea and Aleutian Islands Management Area, and Groundfish of the Gulf of Alaska'' (RIN0648–AR77) received on November 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10172. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Notice of Closure of the Recreational Red Snapper Component of the Reef Fish Fishery of the Gulf of Mexico'' received on November 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10173. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #13—Adjustments of the Recreational Fisheries from the U.S.-Canada Border to Cape Falcon, Oregon'' (ID 102604C) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10174. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ''Proper Disposal of Consumer Report Information and Records'' (R411007) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10175. A communication from the Legal Counsel, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Part 51—Interconnection; Section 51.319 Specific Unbundling Requirements; Section 51.325 Notice of network changes: Public Notice Requirement; Section 51.331 Notice of network changes: Timing of notice; Section 51.333 Notice of Network Changes: Short Term Notice, Objections Thereto and Objections to Retirement of Copper Loops or Copper Subloops'' (FCC04-248) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10176. A communication from the Senior Legal Advisor, International Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Amendment of Parts 2 and 25 to Implement the Global Mobile Personal Communications by Satellite (GMPCS) Memorandum of Understanding and Arrangement'' (Doc. No. 94–102) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10177. A communication from the Chief, Network Technology Division, Office of Engineering and Technology, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''New Part 4 of the Commission's Rule Concerning Disruptions to Communications'' (Doc. No. 04–35) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10178. A communication from the Legal Advisor, Wireless Telecommunications Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Part 1 of the Commission's Rules and Procedures for the Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process'' (Doc. No. 03–128) received on December 5, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10179. A communication from the Deputy Chief, Office of Engineering and Technology, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Part 15 regarding new requirements and measurement guidelines for Access Broadband over Power Line Systems, Carrier Current Systems, including Broadband over Power Line Systems'' (Doc. No. 04–37 and 03–104) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10180. A communication from the Deputy Chief, Office of Engineering and Technology, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of part 2 of the Commission's rules to allocate spectrum below 3 GHz for mobile and fixed service to support the introduction of new advanced wireless services, including third generation wireless systems'' (Doc. No. 00–258) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10181. A communication from the Chief, Office of Engineering and Technology, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of part 2 of the Commission's rules to allocate spectrum below 3 GHz for mobile and fixed services to support the introduction of new advanced wireless services, including third generation wireless systems'' (Doc. No. 00–258) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10182. A communication from the Deputy Chief, Wireline Competition Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Local Telephone Competition and Broadband Reporting'' (FCC 04–266) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10183. A communication from the Senior Attorney, Office of Chief Counsel, Research and Special Programs Administration, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Materials: Miscellaneous Changes to the Hazard Communication Requirements'' (RIN2137–AD28) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation .

EC–10184. A communication from the Chief, Policy and Rules Division, Office of Engineering and Technology, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Review of Part 15 and other Parts of the Commission's Rules'' (Doc. No. 01–278) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10185. A communication from the Attorney-Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Label Placement on Rear Impact Guards'' (RIN2127–AI04) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10186. A communication from the Attorney-General, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Rear Impact Guards'' (RIN2127–AI56) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10187. A communication from the Assistant Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Termination of Certain Emergencies with Respect to Yugoslavia and Related Removal of Restrictions on Transactions with Persons Identified by the Bracketed Initials (FRYM) under the Export Administration Regulations'' (RIN0694–AC84) received on November 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10188. A communication from the Assistant Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the Export Administration Regulations: Removal of the List of Missile Projects and Expansion of Missile-related End-Use and End-User Controls'' (RIN0694-AC46) received on November 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10189. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model DHC-8-102 Airplanes'' ((RIN2120-AA64)(2004-0485)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10190. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model MD-11 and 11F Airplanes'' ((RIN2120-AA64)(2004-0484)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10191. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Empresa Brasileria de Aeronautica SA (EMBRAER) model EMB-135 and EMB-145'' ((RIN2120-AA64)(2004-0483)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10192. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A330 and Model A340-200 and 300 Airplanes'' ((RIN2120-AA64)(2004-0488)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10193. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Rolls Royce plc RG 211-22B, RB211-524, and RB211-535 Turbofan Engines'' ((RIN2120-AA64)(2004-0486)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10194. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 777 Airplanes'' ((RIN2120-AA64)(2004-0487)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10195. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A300 B2 and B4 Airplanes and Model A300 B4-601, B4-603, B4-605R, B4-620, B4-622R, C4-605R Variant F, and F4-605R Airplanes'' ((RIN2120-AA64)(2004-0490)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10196. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model DC-10, 10, DC-10-10F, DC-1-15, DC-10-30, DC-10-30F, DC-10-30F (KC10A and KDC-10), DC-10-40, DC-1—40F, MD-10-10F, and MD-10-30F Airplanes'' ((RIN2120-AA64)(2004-0489)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10197. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Smiley, Yoakum, and Markham, Texas'' (Doc. No. 02-248) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10198. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Windsor and Bethel, North Carolina'' (Doc. No. 04-72) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10199. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotment, FM Broadcast Stations (Susanville, Quincy, Corning, and Portola, California'' (Doc. No. 04-164) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10200. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Maplesville, Alabama)'' (Doc. No. 03-5) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10201. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Boligee, Alabama and Vaiden, Mississippi)'' (Doc. No. 04-213 and 04-216) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10202. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (El Indio, Texas)'' (Doc. No. 04-169) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10203. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Cross City and Key Largo, Florida; McCall, Idaho)'' (Doc. No. 04-195—04-200) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10204. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Dexter, Georgia)'' (Doc. No. 04-69) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10205. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Trenton and Burlington, New Jersey)'' (Doc. No. 04-150) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10206. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Cordele, Dawson, and Pinehurst, Georgia)'' (Doc. No. 04-33) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10207. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations (Green Bay, Wisconsin)'' (Doc. No. 01-334) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10208. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Valley Mills, Teague, Brady, Hico, Meridian, San Saba, and Richland Springs, Texas)'' (Doc. No. 01–47) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10209. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Telecommunications Services Inside Wiring, Customer Premises Equipment, In the Matter of the Cable TV Consumer Protection and Competition Act of 1992; Cable Home Wiring'' (Doc. No. 95–184) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10210. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations (Kalispell, Montana)'' (Doc. No. 04–283) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10211. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations (Greenwood, Mississippi)'' (Doc. No. 04–187) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10212. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Sections 73.606(b) and 73.622(b), Table of Allotments, TV and DTV Broadcast Stations (Tulsa, Oklahoma)'' (Doc. No. 04–260) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10213. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Calhoun, Georgia) and Reclassification of License of Station WYSF FM, Birmingham, Alabama'' (Doc. No. 04–204) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10214. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Islamorada, Florida)'' (Doc. No. 04–205) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10215. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Waitsburg, Washington)'' (Doc. No. 04–168) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10216. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Sells, Arizona)'' (Doc. No. 02–376) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10217. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations (Greeley, Colorado)'' (Doc. No. 04–253) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10218. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: General Electric CF6–80C2 Turbofan Engines'' ((RIN2120–AA64) (2004–0505)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10219. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Cessna Aircraft Company Models 190, 195 (L–126A, B, B), 195A, and 195B Airplanes'' ((RIN2120–AA64)(2004–0506)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10220. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A320 Series Airplanes)'' (RIN2120–AA64) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10221. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bell Helicopter Textron Canada Model 222, 222B, 222U, and 230 Helicopters'' (RIN2120–AA64) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10222. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class D Airspace; and Modification of Class E Airspace (Salina, Kansas)'' (RIN2120–AA66) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10223. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pratt and Whitney Canada Models PW 123, 123B, 123C, 123D, 123E, 123AF, 124B, 125B, 126A, PW127, 127E , 127F, and 127G Turboprop Engines'' (RIN2120–AA64) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10224. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 737–100, 200, 200C, 300, 400, and 500 Series Airplanes'' (RIN2120–AA64) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10225. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Rolls Royce plc RB211 Trent 800 Series Turbofan Engines'' (RIN2120–AA64) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10226. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace (Hannibal, Missouri)'' (RIN2120–AA66) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10227. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace (Lamar, Missouri)'' (RIN2120–AA66) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10228. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class D Airspace and Modification of Class D Airspace and Modification of Class E Airspace (Grand Island, Nebraska)'' (RIN2120–AA66) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10229. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class D Airspace and Modification of Class E Airspace (Harrisonville, Missouri)'' (RIN2120–AA66) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10230. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace (Merrill, Wisconsin)'' (RIN2120–AA66) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10231. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace (Teller, Alaska)'' (RIN2120–AA66) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10232. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace (Jonesville, Virginia)'' (RIN2120–AA66) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10233. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Burwell, Nebraska'' (RIN2120–AA66) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10234. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; California, California'' (RIN2120–AA66) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10235. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Beaver, Alaska'' (RIN2120–AA66) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10236. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Nulato, Alaska'' (RIN2120–AA66) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10237. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Albert Lea, Minnesota'' (RIN2120–AA66) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10238. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Fremont, Nebraska'' (RIN2120–AA66) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10239. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (59)'' (RIN2120–AA65) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10240. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Kennett, Missouri'' (RIN2120–AA66) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10241. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class D Airspace; and Modification of Class E Airspace; Joplin, Missouri'' (RIN2120–AA66) received on December 6 , 2004; to the Committee on Commerce, Science, and Transportation.

EC–10242. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class D Airspace and Modification of Class E Airspace; Grand Island, Nebraska'' (RIN2120–AA66) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10243. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (95)'' (RIN2120–AA65) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10244. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Correction to Class E Airspace; Kalispell, Montana'' (RIN2120–AA66) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10245. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Przedsiebiorstwo Doswiadezalno-Produkcyjne Szybownictwa ''PZL–Bielski'' Model SZD 50–3 ''Puchacz'' Sailplane'' (RIN2120–AA64) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10246. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Restricted Area 2503D; Camp Pendleton, California'' (RIN2120–AA66) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10247. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Alpine Airstrip, Nuiqsut, Alaska'' (RIN2120–AA66) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10248. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Correction Bombardier Model CL 600 2C10, and CL 600 2D24 Series Airplanes'' ((RIN2120–AA64(2004–0507)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10249. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Kelly Aerospace Power Systems B–Series Combustion Heaters Models B1500, B2030, B2500, B3040, B3500, B4050, and B4500'' ((RIN2120–AA64)(2004–0508)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10250. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Empresa Brasileria de Aeronautica SA Model EMB 120Series Airplanes'' ((RIN2120–AA64)(2004–0357)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10251. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Stemme Gmbh and Co. Models S10, S10–V, and S10–CT Sailplanes'' ((RIN2120–AA64)(2004–0358)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10252. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A300–B4–600, B4–600R, C4–605R Variant F, and F4–600R, and A310 Series Airplanes'' ((RIN2120–AA64)(2004–0359)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10253. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747–100, 200B, 200C, 200F, 300, 400, 400D, 400F, and 747 SR Series Airplanes'' ((RIN2120–AA64)(2004–0360)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10254. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model DHC 8 102, 103, and 106 Airplanes'' ((RIN2120–AA64)(2004–0361)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10255. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A300 B4–600, B4–600R, and F4–600R Series Airplanes; and Models A310 Series Airplanes; Equipped with Pratt and Whitney JT9D–7R4 or 4000 Series Engines'' ((RIN2120–AA64)(2004–0362)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10256. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Rolls Royce Corporation Models 250–C28, C–28B, and C–28 Turboshaft Engines'' ((RIN2120–AA64)(2004–0363)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10257. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Fokker Model F28 Mark 0070 and 0100 Airplanes'' ((RIN2120–AA64)(2004–0364)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10258. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A330, A340–200 and A340–300 Series Airplanes'' ((RIN2120–AA64)(2004–0365)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10259. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A319–11, 112, 113, and 114; A320–111, 211, 212, and 214; and A321–111, 112, and 211 Series Airplanes'' ((RIN2120–AA64)(2004–0366)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10260. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A320–111, 211, 212, and 231'' ((RIN2120–AA64)(2004–0367)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10261. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A310 Series Airplanes'' ((RIN2120–AA64)(2004–0368)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10262. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model DC 8 11, 8 12, 8 21, 8 31, 8 32, 8 33, 8 41, 8 42, 8 43, 8F 54 and 8F 55 Airplanes'' ((RIN2120–AA64)(2004–0369)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10263. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Saab Model SAAB 2000 Series Airplanes'' ((RIN2120–AA64)(2004–0370)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10264. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Correction Boeing Model 737–100, 200, 200C, 300, 400, and 500 Series Airplanes'' ((RIN2120–AA64)(2004–0372)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10265. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 767 Series Airplanes'' ((RIN2120–AA64)(2004–0371)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10266. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model CL 600 2B19 Airplanes'' ((RIN2120–AA64)(2004–0373)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10267. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas DC 9 82 and DC 9 83 Airplanes; and Model MD88 Airplanes'' ((RIN2120–AA64)(2004–0374)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10268. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: BAE Systems Limited Model 4101 Airplanes'' ((RIN2120–AA64)(2004–0375)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10269. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: BAE Limited Model BAE 146 Series Airplanes and Model AVRO 146 RJ Series Airplanes'' ((RIN2120–AA64)(2004–0376)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10270. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model MD 11 and 11 F Airplanes'' ((RIN2120–AA64)(2004–0377)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10271. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: BAE Systems Limited Model 4101 Airplanes'' ((RIN2120–AA64)(2004–0378)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10272. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Israel Aircraft Industries, Lrd Model 1121, 1121A, 1121B, 1123, 1124, and 1124A Series Airplanes'' ((RIN2120–AA64)(2004–0379)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10273. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model DHC8–400 Airplanes''

((RIN2120–AA64)(2004–0380)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10274. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: The New Piper Aircraft, Inc. Models PA 28–161, 181, PA–28R–301, –301T, PA–32–301FT, PA–32–301XTC, PA–34–22OT, PA–44–180, PA–46–350P, and PA–46–500TP Airplanes'' ((RIN2120–AA64)(2004–0381)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10275. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Cessna Aircraft Company Model 525 Airplanes'' ((RIN2120–AA64)(2004–0382)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10276. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: International Aero Engines AGV2500–AL, V2522–AL, V2524–A5, V2525–D5, V2527–A5, V2527M–A5, V2528–D5, V2530–A5, and V2533–A5 Turbofan Engines'' ((RIN2120–AA64)(2004–0383)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10277. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Empresa Brasileira de Aeronautica SA Model EMB 135 and 145 Series Airplanes'' ((RIN2120–AA64)(2004–0498)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10278. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: MD Helicopters Inc Model 600N Helicopters'' ((RIN2120–AA64)(2004–0500)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10279. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747–400, 400D, and 400F Series Airplanes; Equipped with General Electric or Pratt and Whitney Series Engines'' ((RIN2120–AA64)(2004–0499)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10280. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model CL 600 and 2B19 Airplanes'' ((RIN2120–AA64)(2004–0501)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10281. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Various Transport Category Airplanes on Which Cargo Restraint Strap Assemblies Have Been Installed per Supplemental Type Certificate'' ((RIN2120–AA64)(2004–0502)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10282. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 737–300, 400, and 500 Series Airplanes'' ((RIN2120–AA64)(2004–0503)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10283. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Raytheon Model MU 300–10, 400, 400A, and 400T Series Airplanes; and Raytheon Model Beech MU 300 Airplanes'' ((RIN2120–AA64)(2004–0504)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–10284. A message from the President of the United States, transmitting, pursuant to law, a report relative to the Federal Payment for Emergency Planning and Security Costs in the District of Columbia; to the Committee on Appropriations.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GRAHAM of South Carolina:

S. 3033. A bill for the relief of Ricardo F. Pedrotti; to the Committee on the Judiciary.

By Mr. PRYOR:

S. 3034. A bill for the relief of Susan Overton Huey; considered and passed.

By Mr. LAUTENBERG (for himself and Mr. CORZINE):

S. 3035. A bill to amend the Oil Pollution Act of 1990 to prevent oil spills and increase liability limits, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SMITH (for himself, Mr. BIDEN, Ms. STABENOW , and Mr. CORZINE):

S. Res. 485. A resolution expressing the sense of the Senate regarding the November 21, 2004, Presidential runoff election in Ukraine; to the Committee on Foreign Relations.

By Mr. FRIST (for himself, Mr. DASCHLE, Mr. BURNS, and Mr. LEAHY):

S. Res. 486. A resolution relative to the death of J. Stanley Kimmitt, Former Secretary of the Senate; considered and agreed to.

By Mr. SMITH (for himself, Mr. BIDEN, Mr. LUGAR, Ms. STABENOW, Mr. MCCAIN, and Mr. CORZINE):

S. Res. 487. A resolution expressing the sense of the Senate regarding the November 21, 2004, Presidential runoff election in Ukraine; considered and agreed to.

ADDITIONAL COSPONSORS

S. 585

At the request of Mr. NELSON of Florida, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 585, a bill to amend title 10, United States Code, to repeal the requirement for reduction of SBP survivor annuities by dependency and indemnity compensation.

S. 2672

At the request of Mr. WYDEN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2672, a bill to establish an Independent National Security Classification Board in the executive branch, and for other purposes.

S. 2889

At the request of Mr. ALEXANDER, the names of the Senator from Texas (Mr. CORNYN), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 2889, a bill to require the Secretary of the Treasury to mint coins celebrating the recovery and restoration of the American bald eagle, the National symbol of the United States, to America's lands, waterways, and skies and the great importance of the designation of the American bald eagle as an endangered species under the Endangered Species Act of 1973, and for other purposes.

S. 2900

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 2900, a bill to authorize the President to posthumously award a gold medal on behalf of Congress to Elizabeth Wanamaker Peratrovich and Roy Peratrovich in recognition of their outstanding and enduring contributions to civil rights and dignity of the Native peoples of Alaska and the Nation.

S. 2994

At the request of Ms. SNOWE, the names of the Senator from North Dakota (Mr. CONRAD), the Senator from Vermont (Mr. JEFFORDS) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 2994, a bill to provide that funds received as universal service contributions under section 254 of the Communications Act of 1934 and the universal service support programs established pursuant thereto are not subject to certain provisions of title 31, United States Code, commonly known as the Anti-deficiency Act, for a period of time.

S. 3026

At the request of Mr. TALENT, his name was added as a cosponsor of S. 3026, a bill to support the Boy Scouts of America and the Girl Scouts of the United States of America.

S. CON. RES. 152

At the request of Mr. ENZI, his name was added as a cosponsor of S. Con. Res. 152, a concurrent resolution expressing the sense of the Congress that the Department of Defense should continue to exercise its statutory authority to support the activities of the Boy Scouts of America, in particular the periodic national and world Boy Scout Jamborees.

At the request of Mr. SESSIONS, his name was added as a cosponsor of S. Con. Res. 152, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAUTENBERG (for himself and Mr. CORZINE):

S. 3035. A bill to amend the Oil Pollution Act of 1990 to prevent oil spills and increase liability limits, and for other purposes; to the Committee on Environment and Public Works.

Mr. LAUTENBERG. Mr. President, I rise to introduce the Oil Spill Prevention and Liability Act of 2004. This bill encourages the oil industry to speed up the shift to double-hull tankers by phasing out liability caps on oil spills involving single-hull tankers. My bill also updates the liability caps—which haven't changed since 1990—for all other oil-carrying vessels and facilities.

I am introducing this bill because on November 26, the *Athos I*, a foreign-owned, single-hull tanker, leaked up to 473,000 gallons of Venezuelan crude oil into the Delaware River near Philadelphia. It is the Delaware River's worst oil spill in a decade. The effects of this spill are clearly devastating.

Eighty-five miles of shoreline have been contaminated. Scores of shorebirds have been killed and hunting and fishing areas have been closed. The spill is approaching inlets used as sources for drinking water. Two nuclear reactors have been shut down because contaminated water could damage cooling systems.

The effect on our economy is immense. The Philadelphia/Delaware River ports have more calls by general cargo vessels than any other port system in the country. Now, restrictions have been placed on all ships entering the port, and ships leaving the port have to be decontaminated first.

The clean-up effort, headed by the U.S. Coast Guard, is remarkable.

I want to thank the men and women who are involved. More than 1,600 people and 145 vessels are working on this response effort. But we are told that it will take months to complete.

And because of the type of oil spilled by the ship—raw crude oil—the ecological impacts of this spill could last for decades.

What is so infuriating is that this spill didn't have to happen. So why did it happen? Because the oil industry is dragging its feet when it comes to shifting from single-hull vessels to double-hull vessels—that is why.

They are supposed to be doing that under the Oil Pollution Act of 1990, a bill I co-sponsored. I also served on the conference committee on the bill.

The 1990 act was our response to the infamous *Exxon Valdez* oil spill in 1989, which devastated the pristine Prince William Sound of Alaska with more than 11 million gallons of oil.

We all remember the enormous cost of that spill to the community, the environment, and the economy—costs which continue to this day.

The 1990 act improved our ability to prevent and respond to oil spills.

Since that act was passed, we have not built any single-hull tankers in the United States. That is the good news. But the oil industry is still using old, single-hull vessels, and it is evident that the industry will continue to use them until the last minute, putting private profit over the public good. That is the bad news.

As of last year, 14 years after the most catastrophic oil spill in our Nation's history, there were still more single-hull tankers operating out of Valdez, AK, than double-hull tankers.

Apparently, the lessons of the *Exxon Valdez* have been lost on the oil industry. And now we are paying the price on the Delaware River.

When we passed the 1990 act, we gave the oil industry plenty of time to phase out single-hull tankers in an orderly fashion. But the industry hasn't acted in good faith. The fact is, the only way we are going to get the industry to stop relying on single-hull vessels is to lift the liability caps on their use.

That is why my bill phases out the liability cap for single-hull vessels by 2010, the same year the Coast Guard predicts that the Federal Oil Spill Trust Fund will run out of money. The Trust Fund has been used to clean up over 7,500 oil spills in nearly every State of the Nation.

Right now, the liability for the owner of the *Athos I* is capped at $45 million.

That may seem like a lot, but the full costs of this spill may continue to accrue for years to come.

Why should we cap liability for companies that insist on using old, unsafe single-hull vessels when they are supposed to be upgrading their fleets to newer, safer double-hull vessels?

The bill I am introducing today has several other features to help protect our ports and waterways from oil spills:

It requires more frequent inspections of older single-hull tankers. Other countries do this; why shouldn't we? Are we getting their rejects?

The bill would double liability caps set in the 1990 act for other oil-carrying vessels and facilities. This provision is extremely important since, as I mentioned, the Federal Oil Spill Trust Fund will run out of money by 2010.

Also, since many ports simply can't handle an interruption of commerce that could be caused by a major oil spill, the bill would require the Coast Guard to establish procedures for determining what types of vessels and cargo are just too risky for certain ports to handle.

I am pleased that Senator CORZINE has joined me as a cosponsor of this bill.

I urge my other colleagues to support this bill, too. Single-hull oil tankers pose a titanic risk to our oceans, coasts, rivers, lakes, and ports; it is time we got back on the right course when it comes to fighting and cleaning up oil spills.

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

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

S. 3035

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 ''Oil Spill Prevention and Liability Act of 2004''.

SEC. 2. DEFINITION OF RESPONSIBLE PARTY.

Section 1001(32) of the Oil Pollution Act of 1990 (33 U.S.C. 2701(32)) is amended by striking subparagraph (A) and inserting the following:

''(A) VESSELS.—

''(i) IN GENERAL.—In the case of a vessel other than a single-hull tank vessel, any person that owns, operates, or demise charters the vessel.

''(ii) SINGLE-HULL TANK VESSELS.—In the case of a single-hull tank vessel, any person that—

''(I) owns, operates, or demise charters the vessel; or

''(II) by contract or agreement, through an agent, or otherwise, arranges for the shipment in a single-hull tank vessel of oil owned or possessed by the person or any other person.''.

SEC. 3. LIMITS ON LIABILITY.

(a) INCREASE IN LIABILITY LIMITS.—Section 1004(a) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(a)) is amended—

(1) in paragraph (1)—

(A) by striking ''for a tank vessel, the greater of—'' and inserting ''for a double-hull tank vessel, after December 31, 2004, the greater of—'';

(B) in subparagraph (A), by striking ''$1,200'' and inserting ''$2,400''; and

(C) in subparagraph (B)—

(i) in clause (i), by striking ''$10,000,000'' and inserting ''$20,000,000''; and

(ii) in clause (ii), by striking ''$2,000,000'' and inserting ''$4,000,000'';

(2) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively;

(3) by inserting after paragraph (1) the following:

''(2) for a single-hull tank vessel—

''(A) during the period beginning January 1, 2005, and ending December 31, 2005, the greater of—

''(i) $2,400 per gross ton; or

''(ii)(I) in the case of a vessel of greater than 3,000 gross tons, $20,000,000; or

''(II) in the case of a vessel of 3,000 gross tons or less, $4,000,000;

''(B) during the period beginning January 1, 2006, and ending December 31, 2006, the greater of—

''(i) $3,600 per gross ton; or

''(ii)(I) in the case of a vessel of greater than 3,000 gross tons, $30,000,000; or

''(II) in the case of a vessel of 3,000 gross tons or less, $6,000,000;

''(C) during the period beginning January 1, 2007, and ending December 31, 2007, the greater of—

''(i) $4,800 per gross ton; or

''(ii)(I) in the case of a vessel of greater than 3,000 gross tons, $40,000,000; or

''(II) in the case of a vessel of 3,000 gross tons or less, $8,000,000;

''(D) during the period beginning January 1, 2008, and ending December 31, 2008, the greater of—

''(i) $6,000 per gross ton; or

''(ii)(I) in the case of a vessel of greater than 3,000 gross tons, $50,000,000; or

''(II) in the case of a vessel of 3,000 gross tons or less, $10,000,000;

''(E) during the period beginning January 1, 2009, and ending December 31, 2009, the greater of—

''(i) $7,200 per gross ton; or

''(ii)(I) in the case of a vessel of greater than 3,000 gross tons, $60,000,000; or

''(II) in the case of a vessel of 3,000 gross tons or less, $12,000,000; and

''(F) after December 31, 2009, the maximum amount permitted under the Constitution;'';

(4) in paragraph (3) (as redesignated by paragraph (2))—

(A) by striking ''$600'' and inserting ''$1,200''; and

(B) by striking ''$500,000'' and inserting ''$1,000,000'';

(5) in paragraph (4) (as redesignated by paragraph (2)), by striking ''$75,000,000'' and inserting ''$150,000,000''; and

(6) in paragraph (5) (as redesignated by paragraph (2)), by striking ''$350,000,000'' and inserting ''$700,000,000''.

(b) ADJUSTMENT OF LIABILITY LIMITS.—Section 1004(d) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(d)) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

''(1) DEEPWATER PORTS AND ASSOCIATED VESSELS.—The Secretary may establish a limit of liability of less than $700,000,000, but not less than $100,000,000, for the transportation of oil by vessel to deepwater ports (as defined in section 3 of the Deepwater Port Act of 1974 (33 U.S.C. 1502).''; and

(2) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(c) ADJUSTMENT FOR INFLATION.—Paragraph (2) of section 1004(d) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(d)) (as redesignated by subsection (b)(2)) is amended—

(1) by striking ''The President'' and inserting ''The Secretary of the department in which the Coast Guard is located, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of the Interior,''; and

(2) by striking ''significant''.

SEC. 4. CARRIAGE OF LIQUID BULK DANGEROUS CARGOES.

(a) CONDITIONS FOR ENTRY TO PORTS IN THE UNITED STATES.—Section 9 of the Ports and Waterways Safety Act (33 U.S.C. 1228) is amended by adding at the end the following:

''(c) RISK OF SEVERE HARM.—Not later than January 1, 2006, the Secretary of the department in which the Coast Guard is located shall promulgate regulations under which the owner or operator of a port on the navigable waters of the United States may, after December 31, 2009, request the Secretary of the department in which the Coast Guard is located to place restrictions on the entry into port of the shipment of an individual tank vessel, or class of tank vessels, that presents a risk of severe harm to the environment, economy, or public safety of the port or port region.''.

(b) INSPECTION AND EXAMINATION.—Section 3714(a) of title 46, United States Code, is amended by adding at the end the following:

''(6) In addition to the inspections required under paragraphs (1) and (2), each single-hull tank vessel that is more than 15 years of age shall undergo an annual inspection in accordance with the Condition Assessment Scheme of the Marine Environment Protection Committee of the International Maritime Organization, adopted by Resolution 94(46) on April 27, 2001, as determined in accordance with regulations promulgated by the Secretary.''.

SEC. 5. STUDY.

(a) ADMINISTRATION.—The Commandant of the Coast Guard shall offer to enter into a contract with the National Academy of Sciences to conduct a study to assess the total economic cost of oil spills, and the types of costs resulting from oil spills, in the United States.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commandant of the Coast Guard shall submit to Congress a report describing the results of the study.

SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by this Act take effect on January 1, 2005.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 485—EXPRESSING THE SENSE OF THE SENATE REGARDING THE NOVEMBER 21, 2004, PRESIDENTIAL RUNOFF ELECTION IN UKRAINE

Mr. SMITH (for himself, Mr. BIDEN, Ms. STABENOW, and Mr. CORZINE) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 485

Whereas on November 21, 2004, Ukraine held a presidential runoff election between former Prime Minister and opposition candidate Victor Yushchenko and current Prime Minister Victor Yanukovych;

Whereas the Ukrainian Central Election Commission reported that Mr. Yanukovych won 49.42 percent of the vote and Mr. Yushchenko won 46.7 percent of the vote in the runoff election, despite the fact that several exit polls indicated that Mr. Yushchenko secured significantly more votes than Mr. Yanukovych;

Whereas the International Election Observation Mission from the Organization for Security and Cooperation in Europe (OSCE) determined that the runoff election did not meet international standards for democratic elections, and specifically declared that state resources were abused to support the candidacy of Prime Minister Yanukovych;

Whereas the Committee of Voters of Ukraine, a nongovernmental electoral organization in Ukraine, reported on illegal voting by absentee ballot, multiple voting, assaults on electoral observers and journalists, the use of counterfeit ballots, and even kidnaping;

Whereas such reports of fraud were also echoed by Senator Richard Lugar of Indiana, Chairman of the Committee on Foreign Relations of the Senate, an observer to the runoff election designated by President George W. Bush;

Whereas since November 22, 2004, tens of thousands of people have engaged in peaceful demonstrations in Kiev, Ukraine, to protest the declaration by the Central Election Commission of Mr. Yanukovych as the winner of the runoff election;

Whereas antigovernment protests in support of opposition candidate Mr. Yushchenko took place in cities throughout Ukraine, and several city councils adopted resolutions that declared Mr. Yushchenko as the legally elected president;

Whereas on November 23, 2004, opposition candidate Mr. Yushchenko declared victory in the runoff election and took a symbolic oath of office;

Whereas the United States has called for a complete and immediate investigation into the conduct of the runoff election to examine fully the reports of fraud and corruption;

Whereas the European Union has also stated that authorities in Ukraine must redress election irregularities and that the reported results do not reflect the will of the people of Ukraine;

Whereas the Ukrainian Supreme Court blocked the publication of the official runoff election results stating that Mr. Yanukovych was the winner, thus preventing his inauguration as President of Ukraine until the court examined the reports of voter fraud;

Whereas on November 27, 2004, the Parliament of Ukraine passed a resolution declaring that there were violations of law during the runoff election but on November 30, 2004, with support from progovernment and communist parties, canceled the resolution;

Whereas 15 eastern and southern regions in Ukraine that supported the candidacy of Mr. Yanukovych threatened to split off from the country if an illegitimate president were to come to power;

Whereas on December 1, 2004, the Parliament of Ukraine passed a no confidence motion in the cabinet of Prime Minister Yanukovych as approximately 100,000 supporters of Mr. Yushchenko demonstrated in front of the parliament building;

Whereas Mr. Yanukovych and Mr. Yushchenko, along with European mediators and current Ukraine President Leonid Kuchma, began discussions on December 1, 2004, to attempt to work out a resolution to the standoff;

Whereas on December 3, 2004, the Ukrainian Supreme Court ruled that the November 21, 2004, runoff election was invalid and ordered a new vote on December 26, 2004;

Whereas on December 8, 2004, the Parliament of Ukraine passed electoral changes to reform the Central Election Commission and close loopholes for fraud, as well as constitutional changes to reduce the power of the President of Ukraine; and

Whereas the manner in which this crisis is resolved will have significant implications for the perceptions of the democratic institutions of Ukraine by the international community: Now, therefore, be it

Resolved, That the Senate—

(1) condemns the widespread fraud in the November 21, 2004, runoff presidential election in Ukraine;

(2) objects to the separatist initiatives in Ukraine that are being used by one side to influence the outcome of the election dispute; and

(3) supports a peaceful political and legal settlement in Ukraine that is based on the principles of democracy and reflects the will of the people of Ukraine.

SENATE RESOLUTION 486—RELATIVE TO THE DEATH OF J. STANLEY KIMMITT, FORMER SECRETARY OF THE SENATE

Mr. FRIST (for himself, Mr. DASCHLE, Mr. BURNS, and Mr. LEAHY) submitted the following resolution; which was considered and agreed to:

S. RES. 486

Whereas Stan Kimmitt served with distinction in the United States Army for 25 years, served in combat during World War 11 in Europe and later in Korea, received the Silver Star, the Legion of Merit, and the Bronze Star for Valor with Three Oak Leaf Clusters, and retired with the rank of Colonel;

Whereas Stan Kimmitt began his service to the United States Senate in 1965 as administrative assistant to Majority Leader Mike Mansfield;

Whereas Stan Kimmitt served as Secretary for the Majority of the Senate from 1966 until 1977:

Whereas Stan Kimmitt served as Secretary of the Senate from 1977 until 1981;

Whereas after a distinguished career in the United States Army, Stan Kimmitt served as an employee of the Senate of the United States and ably and faithfully upheld the high standards and traditions of the staff of the Senate from 1965 until 1981;

Whereas Stan Kimmitt faithfully discharged the difficult duties and responsibilities of a wide variety of important and demanding positions in public life with honesty, integrity, loyalty and humility; and

Whereas Stan Kimmitt's clear understanding and appreciation of the challenges facing the Nation has left his mark on those many areas of public life: Now, therefore, be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of Stan Kimmitt.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of Stan Kimmitt.

SENATE RESOLUTION 487—EXPRESSING THE SENSE OF THE SENATE REGARDING THE NOVEMBER 21, 2004, PRESIDENTIAL RUNOFF ELECTION IN UKRAINE

Mr. SMITH (for himself, Mr. BIDEN, Mr. LUGAR, Ms. STABENOW, Mr. MCCAIN, and Mr. CORZINE) submitted the following resolution; which was considered and agreed to:

S. RES. 487

Whereas on November 21, 2004, Ukraine held a presidential runoff election between former Prime Minister and opposition candidate Victor Yushchenko and current Prime Minister Victor Yanukovych;

Whereas the Ukrainian Central Election Commission reported that Mr. Yanukovych won 49.42 percent of the vote and Mr. Yushchenko won 46.7 percent of the vote in the runoff election, despite the fact that several exit polls indicated that Mr. Yushchenko secured significantly more votes than Mr. Yanukovych;

Whereas the International Election Observation Mission from the Organization for Security and Cooperation in Europe (OSCE) determined that the runoff election did not meet international standards for democratic elections, and specifically declared that state resources were abused to support the candidacy of Prime Minister Yanukovych;

Whereas the Committee of Voters of Ukraine, a nongovernmental electoral organization in Ukraine, reported on illegal voting by absentee ballot, multiple voting, assaults on electoral observers and journalists and the use of counterfeit ballots;

Whereas such reports of fraud were also echoed by Senator Richard Lugar of Indiana, Chairman of the Committee on Foreign Relations of the Senate, an observer to the runoff election designated by President George W. Bush;

Whereas since November 22, 2004, tens of thousands of people have engaged in peaceful demonstrations in Kiev, Ukraine, to protest the declaration by the Central Election Commission of Mr. Yanukovych as the winner of the runoff election;

Whereas antigovernment protests in support of opposition candidate Mr. Yushchenko took place in cities throughout Ukraine, and several city councils adopted resolutions that declared Mr. Yushchenko as the legally elected president;

Whereas on November 23, 2004, opposition candidate Mr. Yushchenko declared victory in the runoff election;

Whereas the United States has called for a complete and immediate investigation into the conduct of the runoff election to examine fully the reports of fraud and corruption;

Whereas the European Union has also stated that authorities in Ukraine must redress election irregularities and that the reported results do not reflect the will of the people of Ukraine;

Whereas the Ukrainian Supreme Court blocked the publication of the official runoff election results stating that Mr. Yanukovych was the winner, thus preventing his inauguration as President of Ukraine until the court examined the reports of voter fraud;

Whereas on November 27, 2004, the Parliament of Ukraine passed a resolution declaring that there were violations of law during the runoff election but on November 30, 2004, with support from progovernment and communist parties, canceled the resolution;

Whereas 15 eastern and southern regions in Ukraine that supported the candidacy of Mr. Yanukovych threatened to split off from the country if an illegitimate president were to come to power;

Whereas on December 1, 2004, the Parliament of Ukraine passed a no confidence motion in the cabinet of Prime Minister Yanukovych as approximately 100,000 supporters of Mr. Yushchenko demonstrated in front of the parliament building;

Whereas Mr. Yanukovych and Mr. Yushchenko, along with European mediators and current Ukraine President Leonid Kuchma, began discussions on December 1, 2004, to attempt to work out a resolution to the standoff;

Whereas on December 3, 2004, the Ukrainian Supreme Court ruled that the November 21, 2004, runoff election was invalid and ordered a new vote on December 26, 2004;

Whereas on December 8, 2004, the Parliament of Ukraine passed electoral changes to reform the Central Election Commission and close loopholes for fraud, as well as constitutional changes to reduce the power of the President of Ukraine; and

Whereas the manner in which this crisis is resolved will have significant implications for the perceptions of the democratic institutions of Ukraine by the international community: Now, therefore, be it

Resolved, That the Senate—

(1) condemns the widespread fraud in the November 21, 2004, runoff presidential election in Ukraine; and

(2) supports a peaceful political and legal settlement in Ukraine that is based on the principles of democracy and reflects the will of the people of Ukraine.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4086. Mr. FRIST (for Mr. MCCAIN (for himself and Mr. CORNYN)) proposed an amendment to the bill S. 2603, to amend section 227 of the Communications Act of 1934 (47 U.S.C. 227) relating to the prohibition on junk fax transmissions.

SA 4087. Mr. FRIST (for Mr. BINGAMAN (for himself and Mr. FEINGOLD)) proposed an amendment to the resolution S. Res. 387, commemorating the 40th Anniversary of the Wilderness Act.

SA 4088. Mr. FRIST (for Mr. ROBERTS) proposed an amendment to the bill H.R. 2121, to amend the Eisenhower Exchange Fellowship Act of 1990 to authorize additional appropriations for the Eisenhower Exchange Fellowship Program Trust Fund, and for other purposes.

TEXT OF AMENDMENTS

SA 4086. Mr. FRIST (for Mr. MCCAIN (for himself and Mr. CORNYN)) proposed an amendment to the bill S. 2603, to amend section 227 of the Communications Act of 1934 (47 U.S.C. 227) relating to the prohibition on junk fax transmissions; as follows:

TITLE I—JUNK FAXES

SEC. 101. SHORT TITLE.

This title may be cited as the ''Junk Fax Prevention Act of 2004''.

SEC. 102. PROHIBITION ON FAX TRANSMISSIONS CONTAINING UNSOLICITED ADVERTISEMENTS.

(a) PROHIBITION.—Section 227(b)(1)(C) of the Communications Act of 1934 (47 U.S.C. 227(b)(1)(C)) is amended to read as follows:

''(C) to use any telephone facsimile machine, computer, or other device to send, to a telephone facsimile machine, an unsolicited advertisement, unless—

''(i) the unsolicited advertisement is from a sender with an established business relationship with the recipient;

''(ii) in the case of an unsolicited advertisement sent based on the established business relationship to a residential telephone facsimile machine, or, after the date of enactment of the Junk Fax Prevention Act of 2004, in the case of an unsolicited advertisement sent based on the established business relationship to a business telephone facsimile machine, such number was obtained by the sender through—

''(I) the voluntary communication of such number, within the context of such established business relationship, from the recipient of the unsolicited advertisement, or

''(II) a directory, advertisement, or site on the World Wide Web to which the recipient voluntarily agreed to make available its facsimile number for public distribution; and

''(iii) the unsolicited advertisement contains a notice meeting the requirements under paragraph (2)(D), except that the exception under clauses (i) and (ii) shall not apply with respect to an unsolicited advertisement sent to a telephone facsimile machine by a sender to whom a request has been made not to send future unsolicited advertisements to such telephone facsimile machine that complies with the requirements under paragraph (2)(E); or''.

(b) DEFINITION OF ESTABLISHED BUSINESS RELATIONSHIP.—Section 227(a) of the Communications Act of 1934 (47 U.S.C. 227(a)) is amended—

(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and

(2) by inserting after paragraph (1) the following:

''(2) The term 'established business relationship', for purposes only of subsection (b)(1)(C)(i), shall have the meaning given the term in section 64.1200 of title 47, Code of Federal Regulations, as in effect on January 1, 2003, except that—

''(A) such term shall include a relationship between a person or entity and a business subscriber subject to the same terms applicable under such section to a relationship between a person or entity and a residential subscriber; and

''(B) an established business relationship shall be subject to any time limitation established pursuant to paragraph (2)(G))''.

(c) REQUIRED NOTICE OF OPT-OUT OPPORTUNITY.—Section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)) is amended—

(1) in subparagraph (B), by striking ''and'' at the end;

(2) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(D) shall provide that a notice contained in an unsolicited advertisement complies with the requirements under this subparagraph only if—

''(i) the notice is clear and conspicuous and on the first page of the unsolicited advertisement;

''(ii) the notice states that the recipient may make a request to the sender of the unsolicited advertisement not to send any future unsolicited advertisements to a telephone facsimile machine or machines and

that failure to comply, within the shortest reasonable time, as determined by the Commission, with such a request meeting the requirements under subparagraph (E) is unlawful;

''(iii) the notice sets forth the requirements for a request under subparagraph (E);

''(iv) the notice includes—

''(I) a domestic contact telephone and facsimile machine number for the recipient to transmit such a request to the sender; and

''(II) a cost-free mechanism for a recipient to transmit a request pursuant to such notice to the sender of the unsolicited advertisement; the Commission shall by rule require the sender to provide such a mechanism and may, in the discretion of the Commission and subject to such conditions as the Commission may prescribe, exempt certain classes of small business senders, but only if the Commission determines that the costs to such class are unduly burdensome given the revenues generated by such small businesses;

''(v) the telephone and facsimile machine numbers and the cost-free mechanism set forth pursuant to clause (iv) permit an individual or business to make such a request during regular business hours; and

''(vi) the notice complies with the requirements of subsection (d);''.

(d) REQUEST TO OPT-OUT OF FUTURE UNSOLICITED ADVERTISEMENTS.—Section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)), as amended by subsection (c), is further amended by adding at the end the following:

''(E) shall provide, by rule, that a request not to send future unsolicited advertisements to a telephone facsimile machine complies with the requirements under this subparagraph only if—

''(i) the request identifies the telephone number or numbers of the telephone facsimile machine or machines to which the request relates;

''(ii) the request is made to the telephone or facsimile number of the sender of such an unsolicited advertisement provided pursuant to subparagraph (D)(iv) or by any other method of communication as determined by the Commission; and

''(iii) the person making the request has not, subsequent to such request, provided express invitation or permission to the sender, in writing or otherwise, to send such advertisements to such person at such telephone facsimile machine;''.

(e) AUTHORITY TO ESTABLISH NONPROFIT EXCEPTION.—Section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)), as amended by subsections (c) and (d), is further amended by adding at the end the following:

''(F) may, in the discretion of the Commission and subject to such conditions as the Commission may prescribe, allow professional or trade associations that are tax-exempt nonprofit organizations to send unsolicited advertisements to their members in furtherance of the association's tax-exempt purpose that do not contain the notice required by paragraph (1)(C)(ii), except that the Commission may take action under this subparagraph only—

''(i) by regulation issued after public notice and opportunity for public comment; and

''(ii) if the Commission determines that such notice required by paragraph (1)(C)(ii) is not necessary to protect the ability of the members of such associations to stop such associations from sending any future unsolicited advertisements; and''.

(f) AUTHORITY TO ESTABLISH TIME LIMIT ON ESTABLISHED BUSINESS RELATIONSHIP EXCEPTION.—Section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)), as amended by subsections (c), (d), and (e) of this section, is further amended by adding at the end the following:

''(G)(i) may, consistent with clause (ii), limit the duration of the existence of an established business relationship to a period after the last occurrence of an action sufficient to establish such a relationship, but only if—

''(I) the Commission determines that the existence of the exception under paragraph (1)(C) relating to an established business relationship has resulted in a significant number of complaints to the Commission regarding the sending of unsolicited advertisements to telephone facsimile machines;

''(II) upon review of such complaints referred to in subclause (I), the Commission has reason to believe that a significant number of such complaints involve unsolicited advertisements that were sent on the basis of an established business relationship that was longer in duration than the Commission believes is consistent with the reasonable expectations of consumers;

''(III) the Commission determines that the costs to senders of demonstrating the existence of an established business relationship within a specified period of time do not outweigh the benefits to recipients of establishing a limitation on such established business relationship; and

''(IV) the Commission determines that, with respect to small businesses, the costs are not unduly burdensome, given the revenues generated by small businesses, and taking into account the number of specific complaints to the Commission regarding the sending of unsolicited advertisements to telephone facsimile machines by small businesses; and

''(ii) may not commence a proceeding to determine whether to limit the duration of the existence of an established business relationship before the expiration of the 3-year period that begins on the date of the enactment of the Junk Fax Prevention Act of 2004.''.

(g) UNSOLICITED ADVERTISEMENT.—Section 227(a)(5) of the Communications Act of 1934, as so redesignated by subsection (b)(1), is amended by inserting '', in writing or otherwise'' before the period at the end.

(h) REGULATIONS.—Except as provided in section 227(b)(2)(G)(ii) of the Communications Act of 1934 (as added by subsection (f)), not later than 270 days after the date of enactment of this Act, the Federal Communications Commission shall issue regulations to implement the amendments made by this section.

SEC. 103. FCC ANNUAL REPORT REGARDING JUNK FAX ENFORCEMENT.

Section 227 of the Communications Act of 1934 (47 U.S.C. 227) is amended by adding at the end the following:

''(g) JUNK FAX ENFORCEMENT REPORT.—The Commission shall submit an annual report to Congress regarding the enforcement during the past year of the provisions of this section relating to sending of unsolicited advertisements to telephone facsimile machines, which report shall include—

''(1) the number of complaints received by the Commission during such year alleging that a consumer received an unsolicited advertisement via telephone facsimile machine in violation of the Commission's rules;

''(2) the number of citations issued by the Commission pursuant to section 503 during the year to enforce any law, regulation, or policy relating to sending of unsolicited advertisements to telephone facsimile machines;

''(3) the number of notices of apparent liability issued by the Commission pursuant to section 503 during the year to enforce any law, regulation, or policy relating to sending of unsolicited advertisements to telephone facsimile machines;

''(4) for each notice referred to in paragraph (3)—

''(A) the amount of the proposed forfeiture penalty involved;

''(B) the person to whom the notice was issued;

''(C) the length of time between the date on which the complaint was filed and the date on which the notice was issued; and

''(D) the status of the proceeding;

''(5) the number of final orders imposing forfeiture penalties issued pursuant to section 503 during the year to enforce any law, regulation, or policy relating to sending of unsolicited advertisements to telephone facsimile machines;

''(6) for each forfeiture order referred to in paragraph (5)—

''(A) the amount of the penalty imposed by the order;

''(B) the person to whom the order was issued;

''(C) whether the forfeiture penalty has been paid; and

''(D) the amount paid;

''(7) for each case in which a person has failed to pay a forfeiture penalty imposed by such a final order, whether the Commission referred such matter for recovery of the penalty; and

''(8) for each case in which the Commission referred such an order for recovery—

''(A) the number of days from the date the Commission issued such order to the date of such referral;

''(B) whether an action has been commenced to recover the penalty, and if so, the number of days from the date the Commission referred such order for recovery to the date of such commencement; and

''(C) whether the recovery action resulted in collection of any amount, and if so, the amount collected.''.

SEC. 104. GAO STUDY OF JUNK FAX ENFORCEMENT.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study regarding complaints received by the Federal Communications Commission concerning unsolicited advertisements sent to telephone facsimile machines, which study shall determine—

(1) the mechanisms established by the Commission to receive, investigate, and respond to such complaints;

(2) the level of enforcement success achieved by the Commission regarding such complaints;

(3) whether complainants to the Commission are adequately informed by the Commission of the responses to their complaints; and

(4) whether additional enforcement measures are necessary to protect consumers, including recommendations regarding such additional enforcement measures.

(b) ADDITIONAL ENFORCEMENT REMEDIES.—In conducting the analysis and making the recommendations required under subsection (a)(4), the Comptroller General shall specifically examine—

(1) the adequacy of existing statutory enforcement actions available to the Commission;

(2) the adequacy of existing statutory enforcement actions and remedies available to consumers;

(3) the impact of existing statutory enforcement remedies on senders of facsimiles;

(4) whether increasing the amount of financial penalties is warranted to achieve greater deterrent effect; and

(5) whether establishing penalties and enforcement actions for repeat violators or abusive violations similar to those established under section 1037 of title 18, United States Code, would have a greater deterrent effect.

(c) REPORT.—Not later than 270 days after the date of the enactment of this Act, the Comptroller General shall submit a report on the results of the study under this section to Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

TITLE II—PROFESSIONAL BOXING SAFETY

SEC. 201. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Professional Boxing Amendments Act of 2004''.

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Sec. 201. Short title; table of contents.
Sec. 202. Amendment of Professional Boxing Safety Act of 1996.
Sec. 203. Definitions.
Sec. 204. Purposes.
Sec. 205. United States Boxing Commission approval, or ABC or commission sanction, required for matches.
Sec. 206. Safety standards.
Sec. 207. Registration.
Sec. 208. Review.
Sec. 209. Reporting.
Sec. 210. Contract requirements.
Sec. 211. Coercive contracts.
Sec. 212. Sanctioning organizations.
Sec. 213. Required disclosures by sanctioning organizations.
Sec. 214. Required disclosures by promoters and broadcasters.
Sec. 215. Judges and referees.
Sec. 216. Medical registry.
Sec. 217. Conflicts of interest.
Sec. 218. Enforcement.
Sec. 219. Repeal of deadwood.
Sec. 220. Recognition of tribal law.
Sec. 221. Establishment of United States Boxing Commission.
Sec. 222. Study and report on definition of promoter.
Sec. 223. Effective date.

SEC. 202. AMENDMENT OF PROFESSIONAL BOXING SAFETY ACT OF 1996.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Professional Boxing Safety Act of 1996 (15 U.S.C. 6301 et seq.).

SEC. 203. DEFINITIONS.

(a) IN GENERAL.—Section 2 (15 U.S.C. 6301) is amended to read as follows:

''SEC. 2. DEFINITIONS.

''In this Act:

''(1) COMMISSION.—The term 'Commission' means the United States Boxing Commission.

''(2) BOUT AGREEMENT.—The term 'bout agreement' means a contract between a promoter and a boxer that requires the boxer to participate in a professional boxing match for a particular date.

''(3) BOXER.—The term 'boxer' means an individual who fights in a professional boxing match.

''(4) BOXING COMMISSION.—The term 'boxing commission' means an entity authorized under State or tribal law to regulate professional boxing matches.

''(5) BOXER REGISTRY.—The term 'boxer registry' means any entity certified by the Commission for the purposes of maintaining records and identification of boxers.

''(6) BOXING SERVICE PROVIDER.—The term 'boxing service provider' means a promoter, manager, sanctioning body, licensee, or matchmaker.

''(7) CONTRACT PROVISION.—The term 'contract provision' means any legal obligation between a boxer and a boxing service provider.

''(8) INDIAN LANDS; INDIAN TRIBE.—The terms 'Indian lands' and 'Indian tribe' have the meanings given those terms by paragraphs (4) and (5), respectively, of section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703).

''(9) LICENSEE.—The term 'licensee' means an individual who serves as a trainer, corner man, second, or cut man for a boxer.

''(10) MANAGER.—The term 'manager' means a person other than a promoter who, under contract, agreement, or other arrangement with a boxer, undertakes to control or administer, directly or indirectly, a boxing-related matter on behalf of that boxer, including a person who is a booking agent for a boxer.

''(11) MATCHMAKER.—The term 'matchmaker' means a person that proposes, selects, and arranges for boxers to participate in a professional boxing match.

''(12) PHYSICIAN.—The term 'physician' means a doctor of medicine legally authorized to practice medicine by the State in which the physician performs such function or action and who has training and experience in dealing with sports injuries, particularly head trauma.

''(13) PROFESSIONAL BOXING MATCH.—The term 'professional boxing match' means a boxing contest held in the United States between individuals for financial compensation. The term 'professional boxing match' does not include a boxing contest that is regulated by a duly recognized amateur sports organization, as approved by the Commission.

''(14) PROMOTER.—The term 'promoter'—

''(A) means the person primarily responsible for organizing, promoting, and producing a professional boxing match; but

''(B) does not include a hotel, casino, resort, or other commercial establishment hosting or sponsoring a professional boxing match unless—

''(i) the hotel, casino, resort, or other commercial establishment is primarily responsible for organizing, promoting, and producing the match; and

''(ii) there is no other person primarily responsible for organizing, promoting, and producing the match.

''(15) PROMOTIONAL AGREEMENT.—The term 'promotional agreement' means a contract, for the acquisition of rights relating to a boxer's participation in a professional boxing match or series of boxing matches (including the right to sell, distribute, exhibit, or license the match or matches), with—

''(A) the boxer who is to participate in the match or matches; or

''(B) the nominee of a boxer who is to participate in the match or matches, or the nominee is an entity that is owned, controlled or held in trust for the boxer unless that nominee or entity is a licensed promoter who is conveying a portion of the rights previously acquired.

''(16) STATE.—The term 'State' means each of the 50 States, Puerto Rico, the District of Columbia, and any territory or possession of the United States, including the Virgin Islands.

''(17) SANCTIONING ORGANIZATION.—The term 'sanctioning organization' means an organization, other than a boxing commission, that sanctions professional boxing matches, ranks professional boxers, or charges a sanctioning fee for professional boxing matches in the United States—

''(A) between boxers who are residents of different States; or

''(B) that are advertised, otherwise promoted, or broadcast (including closed circuit television) in interstate commerce.

''(18) SUSPENSION.—The term 'suspension' includes within its meaning the temporary revocation of a boxing license.

''(19) TRIBAL ORGANIZATION.—The term 'tribal organization' has the same meaning as in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).''.

(b) CONFORMING AMENDMENT.—Section 21 (15 U.S.C. 6312) is amended to read as follows:

''SEC. 21. PROFESSIONAL BOXING MATCHES CONDUCTED ON INDIAN LANDS.

''(a) IN GENERAL.—Notwithstanding any other provision of law, a tribal organization may establish a boxing commission to regulate professional boxing matches held on Indian land under the jurisdiction of that tribal organization.

''(b) STANDARDS AND LICENSING.—A tribal organization that establishes a boxing commission shall, by tribal ordinance or resolution, establish and provide for the implementation of health and safety standards, licensing requirements, and other requirements relating to the conduct of professional boxing matches that are at least as restrictive as—

''(1) the otherwise applicable requirements of the State in which the Indian land on which the professional boxing match is held is located; or

''(2) the guidelines established by the United States Boxing Commission.

''(c) APPLICATION OF ACT TO BOXING MATCHES ON TRIBAL LANDS.—The provisions of this Act apply to professional boxing matches held on tribal lands to the same extent and in the same way as they apply to professional boxing matches held in any State.''.

SEC. 204. PURPOSES.

Section 3(2) (15 U.S.C. 6302(2)) is amended by striking ''State''.

SEC. 205. UNITED STATES BOXING COMMISSION APPROVAL, OR ABC OR COMMISSION SANCTION, REQUIRED FOR MATCHES.

(a) IN GENERAL.—Section 4 (15 U.S.C. 6303) is amended to read as follows:

''SEC. 4. APPROVAL OR SANCTION REQUIREMENT.

''(a) IN GENERAL.—No person may arrange, promote, organize, produce, or fight in a professional boxing match within the United States unless the match—

''(1) is approved by the Commission; and

''(2) is held in a State, or on tribal land of a tribal organization, that regulates professional boxing matches in accordance with standards and criteria established by the Commission.

''(b) APPROVAL PRESUMED.—

''(1) IN GENERAL.—For purposes of subsection (a), the Commission shall be presumed to have approved any match other than—

''(A) a match with respect to which the Commission has been informed of an alleged violation of this Act and with respect to which it has notified the supervising boxing commission that it does not approve;

''(B) a match advertised to the public as a championship match;

''(C) a match scheduled for 10 rounds or more; or

''(D) a match in which 1 of the boxers has—

''(i) suffered 10 consecutive defeats in professional boxing matches; or

''(ii) has been knocked out 5 consecutive times in professional boxing matches.

''(2) DELEGATION OF APPROVAL AUTHORITY.—Notwithstanding paragraph (1), the Commission shall be presumed to have approved a match described in subparagraph (B), (C), or (D) of paragraph (1) if—

''(A) the Commission has delegated in writing its approval authority with respect to that match to a boxing commission; and

''(B) the boxing commission has approved the match.

''(3) KNOCKED-OUT DEFINED.—Except as may be otherwise provided by the Commission by rule, in paragraph (1)(D)(ii), the term 'knocked out' means knocked down and unable to continue after a count of 10 by the referee or stopped from continuing because of a technical knockout.''.

(b) CONFORMING AMENDMENT.—Section 19 (15 U.S.C. 6310) is repealed.

SEC. 206. SAFETY STANDARDS.

Section 5 (15 U.S.C. 6304) is amended—

(1) by striking ''requirements or an alternative requirement in effect under regulations of a boxing commission that provides equivalent protection of the health and safety of boxers:'' and inserting ''requirements:'';

(2) by adding at the end of paragraph (1) ''The examination shall include testing for infectious diseases in accordance with standards established by the Commission.'';

(3) by striking paragraph (2) and inserting the following:

''(2) An ambulance continuously present on site.'';

(4) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and inserting after paragraph (2) the following:

''(3) Emergency medical personnel with appropriate resuscitation equipment continuously present on site.''; and

(5) by striking ''match.'' in paragraph (5), as redesignated, and inserting ''match in an amount prescribed by the Commission.''.

SEC. 207. REGISTRATION.

Section 6 (15 U.S.C. 6305) is amended—

(1) by inserting ''or Indian tribe'' after ''State'' the second place it appears in subsection (a)(2);

(2) by striking the first sentence of subsection (c) and inserting ''A boxing commission shall, in accordance with requirements established by the Commission, make a health and safety disclosure to a boxer when issuing an identification card to that boxer.'';

(3) by striking ''should'' in the second sentence of subsection (c) and inserting ''shall, at a minimum,''; and

(4) by adding at the end the following:

''(d) COPY OF REGISTRATION AND IDENTIFICATION CARDS TO BE SENT TO COMMISSION.—A boxing commission shall furnish a copy of each registration received under subsection (a), and each identification card issued under subsection (b), to the Commission.''.

SEC. 208. REVIEW.

Section 7 (15 U.S.C. 6306) is amended—

(1) by striking ''that, except as provided in subsection (b), no'' in subsection (a)(2) and inserting ''that no'';

(2) by striking paragraphs (3) and (4) of subsection (a) and inserting the following:

''(3) Procedures to review a summary suspension when a hearing before the boxing commission is requested by a boxer, licensee, manager, matchmaker, promoter, or other boxing service provider which provides an opportunity for that person to present evidence.'';

(3) by striking subsection (b); and

(4) by striking ''(a) PROCEDURES.—''.

SEC. 209. REPORTING.

Section 8 (15 U.S.C. 6307) is amended—

(1) by striking ''48 business hours'' and inserting ''2 business days'';

(2) by striking ''bxoing'' and inserting ''boxing''; and

(3) by striking ''each boxer registry.'' and inserting ''the Commission.''.

SEC. 210. CONTRACT REQUIREMENTS.

Section 9 (15 U.S.C. 6307a) is amended to read as follows:

''SEC. 9. CONTRACT REQUIREMENTS.

''(a) IN GENERAL.—The Commission, in consultation with the Association of Boxing Commissions, shall develop guidelines for minimum contractual provisions that shall be included in each bout agreement, boxer-manager contract, and promotional agreement. Each boxing commission shall ensure that these minimal contractual provisions are present in any such agreement or contract submitted to it.

''(b) FILING AND APPROVAL REQUIREMENTS.—

''(1) COMMISSION.—A manager or promoter shall submit a copy of each boxer-manager contract and each promotional agreement between that manager or promoter and a boxer to the Commission, and, if requested, to the boxing commission with jurisdiction over the bout.

''(2) BOXING COMMISSION.—A boxing commission may not approve a professional boxing match unless a copy of the bout agreement related to that match has been filed with it and approved by it.

''(c) BOND OR OTHER SURETY.—A boxing commission may not approve a professional boxing match unless the promoter of that match has posted a surety bond, cashier's check, letter of credit, cash, or other security with the boxing commission in an amount acceptable to the boxing commission.''.

SEC. 211. COERCIVE CONTRACTS.

Section 10 (15 U.S.C. 6307b) is amended—

(1) by striking paragraph (3) of subsection (a);

(2) by inserting ''OR ELIMINATION'' after ''MANDATORY'' in the heading of subsection (b); and

(3) by inserting ''or elimination'' after ''mandatory'' in subsection (b).

SEC. 212. SANCTIONING ORGANIZATIONS.

(a) IN GENERAL.—Section 11 (15 U.S.C. 6307c) is amended to read as follows:

''SEC. 11. SANCTIONING ORGANIZATIONS.

''(a) OBJECTIVE CRITERIA.—Within 1 year after the date of enactment of the Professional Boxing Amendments Act of 2004, the Commission shall develop guidelines for objective and consistent written criteria for the rating of professional boxers based on the athletic merits and professional record of the boxers. Within 90 days after the Commission's promulgation of the guidelines, each sanctioning organization shall adopt the guidelines and follow them.

''(b) NOTIFICATION OF CHANGE IN RATING.—A sanctioning organization shall, with respect to a change in the rating of a boxer previously rated by such organization in the top 10 boxers—

''(1) post a copy, within 7 days after the change, on its Internet website or home page, if any, including an explanation of the change, for a period of not less than 30 days;

''(2) provide a copy of the rating change and a thorough explanation in writing under penalty of perjury to the boxer and the Commission;

''(3) provide the boxer an opportunity to appeal the ratings change to the sanctioning organization; and

''(4) apply the objective criteria for ratings required under subsection (a) in considering any such appeal.

''(c) CHALLENGE OF RATING.—If, after disposing with an appeal under subsection (b)(3), a sanctioning organization receives a petition from a boxer challenging that organization's rating of the boxer, it shall (except to the extent otherwise required by the Commission), within 7 days after receiving the petition—

''(1) provide to the boxer a written explanation under penalty of perjury of the organization's rating criteria, its rating of the boxer, and the rationale or basis for its rating (including a response to any specific questions submitted by the boxer); and

''(2) submit a copy of its explanation to the Association of Boxing Commissions and the Commission for their review.''.

(b) CONFORMING AMENDMENTS.—Section 18(e) (15 U.S.C. 6309(e)) is amended—

(1) by striking ''FEDERAL TRADE COMMISSION,'' in the subsection heading and inserting ''UNITED STATES BOXING COMMISSION''; and

(2) by striking ''Federal Trade Commission,'' in paragraph (1) and inserting ''United States Boxing Commission,''.

SEC. 213. REQUIRED DISCLOSURES BY SANCTIONING ORGANIZATIONS.

Section 12 (15 U.S.C. 6307d) is amended—

(1) by striking the matter preceding paragraph (1) and inserting ''Within 7 days after a professional boxing match of 10 rounds or more, the sanctioning organization, if any, for that match shall provide to the Commission, and, if requested, to the boxing commission in the State or on Indian land responsible for regulating the match, a written statement of—'';

(2) by striking ''will assess'' in paragraph (1) and inserting ''has assessed, or will assess,''; and

(3) by striking ''will receive'' in paragraph (2) and inserting ''has received, or will receive,''.

SEC. 214. REQUIRED DISCLOSURES BY PROMOTERS AND BROADCASTERS.

Section 13 (15 U.S.C. 6307e) is amended—

(1) by striking ''promoters.'' in the section caption and inserting ''promoters and broadcasters.'';

(2) by striking so much of subsection (a) as precedes paragraph (1) and inserting the following:

''(a) DISCLOSURES TO BOXING COMMISSIONS AND THE COMMISSION.—Within 7 days after a professional boxing match of 10 rounds or more, the promoter of any boxer participating in that match shall provide to the Commission, and, if requested, to the boxing commission in the State or on Indian land responsible for regulating the match—'';

(3) by striking ''writing,'' in subsection (a)(1) and inserting ''writing, other than a bout agreement previously provided to the commission,'';

(4) by striking ''all fees, charges, and expenses that will be'' in subsection (a)(3)(A) and inserting ''a written statement of all fees, charges, and expenses that have been, or will be,'';

(5) by inserting ''a written statement of'' before ''all'' in subsection (a)(3)(B);

(6) by inserting ''a statement of'' before ''any'' in subsection (a)(3)(C);

(7) by striking the matter in subsection (b) following ''BOXER.—'' and preceding paragraph (1) and inserting ''Within 7 days after a professional boxing match of 10 rounds or more, the promoter of the match shall provide to each boxer participating in the bout or match with whom the promoter has a bout or promotional agreement a statement of—'';

(8) by striking ''match;'' in subsection (b)(1) and inserting ''match, and that the promoter has paid, or agreed to pay, to any other person in connection with the match;''; and

(9) by adding at the end the following:

''(d) REQUIRED DISCLOSURES BY BROADCASTERS.—

''(1) IN GENERAL.—A broadcaster that owns the television broadcast rights for a professional boxing match of 10 rounds or more shall, within 7 days after that match, provide to the Commission—

''(A) a statement of any advance, guarantee, or license fee paid or owed by the broadcaster to a promoter in connection with that match;

''(B) a copy of any contract executed by or on behalf of the broadcaster with—

''(i) a boxer who participated in that match; or

''(ii) the boxer's manager, promoter, promotional company, or other representative or the owner or representative of the site of the match; and

''(C) a list identifying sources of income received from the broadcast of the match.

''(2) COPY TO BOXING COMMISSION.—Upon request from the boxing commission in the State or Indian land responsible for regulating a match to which paragraph (1) applies, a broadcaster shall provide the information described in paragraph (1) to that boxing commission.

''(3) CONFIDENTIALITY.—The information provided to the Commission or to a boxing commission pursuant to this subsection shall be confidential and not revealed by the Commission or a boxing commission, except that the Commission may publish an analysis of the data in aggregate form or in a manner which does not disclose confidential information about identifiable broadcasters.

''(4) TELEVISION BROADCAST RIGHTS.—In paragraph (1), the term 'television broadcast rights' means the right to broadcast the match, or any part thereof, via a broadcast station, cable service, or multichannel video programming distributor as such terms are defined in section 3(5), 602(6), and 602(13) of the Communications Act of 1934 (47 U.S.C. 153(5), 602(6), and 602(13), respectively).''.

SEC. 215. JUDGES AND REFEREES.

(a) IN GENERAL.—Section 16 (15 U.S.C. 6307h) is amended—

(1) by inserting ''(a) LICENSING AND ASSIGNMENT REQUIREMENT.—'' before ''No person'';

(2) by striking ''certified and approved'' and inserting ''selected'';

(3) by inserting ''or Indian lands'' after ''State''; and

(4) by adding at the end the following:

''(b) CHAMPIONSHIP AND 10-ROUND BOUTS.—In addition to the requirements of subsection (a), no person may arrange, promote, organize, produce, or fight in a professional boxing match advertised to the public as a championship match or in a professional boxing match scheduled for 10 rounds or more unless all referees and judges participating in the match have been licensed by the Commission.

''(c) ROLE OF SANCTIONING ORGANIZATION.—A sanctioning organization may provide a list of judges and referees deemed qualified by that organization to a boxing commission, but the boxing commission shall select, license, and appoint the judges and referees participating in the match.

''(d) ASSIGNMENT OF NONRESIDENT JUDGES AND REFEREES.—A boxing commission may assign judges and referees who reside outside that commission's State or Indian land.

''(e) REQUIRED DISCLOSURE.—A judge or referee shall provide to the boxing commission responsible for regulating a professional boxing match in a State or on Indian land a statement of all consideration, including reimbursement for expenses, that the judge or referee has received, or will receive, from any source for participation in the match. If the match is scheduled for 10 rounds or more, the judge or referee shall also provide such a statement to the Commission.''.

(b) CONFORMING AMENDMENT.—Section 14 (15 U.S.C. 6307f) is repealed.

SEC. 216. MEDICAL REGISTRY.

The Act is amended by inserting after section 13 (15 U.S.C. 6307e) the following:

''SEC. 14. MEDICAL REGISTRY.

''(a) IN GENERAL.—The Commission shall establish and maintain, or certify a third party entity to establish and maintain, a medical registry that contains comprehensive medical records and medical denials or suspensions for every licensed boxer.

''(b) CONTENT; SUBMISSION.—The Commission shall determine—

''(1) the nature of medical records and medical suspensions of a boxer that are to be forwarded to the medical registry; and

''(2) the time within which the medical records and medical suspensions are to be submitted to the medical registry.

''(c) CONFIDENTIALITY.—The Commission shall establish confidentiality standards for the disclosure of personally identifiable information to boxing commissions that will—

''(1) protect the health and safety of boxers by making relevant information available to the boxing commissions for use but not public disclosure; and

''(2) ensure that the privacy of the boxers is protected.''.

SEC. 217. CONFLICTS OF INTEREST.

Section 17 (15 U.S.C. 6308) is amended—

(1) by striking ''enforces State boxing laws,'' in subsection (a) and inserting ''implements State or tribal boxing laws, no officer or employee of the Commission,'';

(2) by striking ''belong to,'' and inserting ''hold office in,'' in subsection (a);

(3) by striking the last sentence of subsection (a);

(4) by striking subsection (b) and inserting the following:

''(b) BOXERS.—A boxer may not own or control, directly or indirectly, an entity that promotes the boxer's bouts if that entity is responsible for—

''(1) executing a bout agreement or promotional agreement with the boxer's opponent; or

''(2) providing any payment or other compensation to—

''(A) the boxer's opponent for participation in a bout with the boxer;

''(B) the boxing commission that will regulate the bout; or

''(C) ring officials who officiate at the bout.''.

SEC. 218. ENFORCEMENT.

Section 18 (15 U.S.C. 6309) is amended—

(1) by striking ''(a) INJUNCTIONS.—'' in subsection (a) and inserting ''(a) ACTIONS BY ATTORNEY GENERAL.—'';

(2) by striking ''enforces State boxing laws,'' in subsection (b)(3) and inserting ''implements State or tribal boxing laws, any officer or employee of the Commission,'';

(3) by inserting ''has engaged in or'' after ''organization'' in subsection (c);

(4) by striking ''subsection (b)'' in subsection (c)(3) and inserting ''subsection (b), a civil penalty, or''; and

(5) by striking ''boxer'' in subsection (d) and inserting ''person''.

SEC. 219. REPEAL OF DEADWOOD.

Section 20 (15 U.S.C. 6311) is repealed.

SEC. 220. RECOGNITION OF TRIBAL LAW.

Section 22 (15 U.S.C. 6313) is amended—

(1) by insert ''**OR TRIBAL**'' in the section heading after ''**STATE**''; and

(2) by inserting ''or Indian tribe'' after ''State''.

SEC. 221. ESTABLISHMENT OF UNITED STATES BOXING COMMISSION.

(a) IN GENERAL.—The Act is amended by adding at the end the following:

''TITLE II—UNITED STATES BOXING COMMISSION

''SEC. 201. PURPOSE.

''The purpose of this title is to protect the health, safety, and welfare of boxers and to ensure fairness in the sport of professional boxing.

''SEC. 202. UNITED STATES BOXING COMMISSION.

''(a) IN GENERAL.—The United States Boxing Commission is established as a commission within the Department of Commerce.

''(b) MEMBERS.—

''(1) IN GENERAL.—The Commission shall consist of 3 members appointed by the President, by and with the advice and consent of the Senate.

''(2) QUALIFICATIONS.—

''(A) IN GENERAL.—Each member of the Commission shall be a citizen of the United States who—

''(i) has extensive experience in professional boxing activities or in a field directly related to professional sports;

''(ii) is of outstanding character and recognized integrity; and

''(iii) is selected on the basis of training, experience, and qualifications and without regard to political party affiliation.

''(B) SPECIFIC QUALIFICATIONS FOR CERTAIN MEMBERS.—At least 1 member of the Commission shall be a former member of a local boxing authority. If practicable, at least 1 member of the Commission shall be a physician or other health care professional duly licensed as such.

''(C) DISINTERESTED PERSONS.—No member of the Commission may, while serving as a member of the Commission—

''(i) be engaged as a professional boxer, boxing promoter, agent, fight manager, matchmaker, referee, judge, or in any other capacity in the conduct of the business of professional boxing;

''(ii) have any pecuniary interest in the earnings of any boxer or the proceeds or outcome of any boxing match; or

''(iii) serve as a member of a boxing commission.

''(3) BIPARTISAN MEMBERSHIP.—Not more than 2 members of the Commission may be members of the same political party.

''(4) GEOGRAPHIC BALANCE.—Not more than 2 members of the Commission may be residents of the same geographic region of the United States when appointed to the Commission. For purposes of the preceding sentence, the area of the United States east of the Mississippi River is a geographic region, and the area of the United States west of the Mississippi River is a geographic region.

''(5) TERMS.—

''(A) IN GENERAL.—The term of a member of the Commission shall be 3 years.

''(B) REAPPOINTMENT.—Members of the Commission may be reappointed to the Commission.

''(C) MIDTERM VACANCIES.—A member of the Commission appointed to fill a vacancy in the Commission occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that unexpired term.

''(D) CONTINUATION PENDING REPLACEMENT.—A member of the Commission may serve after the expiration of that member's term until a successor has taken office.

''(6) REMOVAL.—A member of the Commission may be removed by the President only for cause.

''(c) EXECUTIVE DIRECTOR.—

''(1) IN GENERAL.—The Commission shall employ an Executive Director to perform the administrative functions of the Commission under this Act, and such other functions and duties of the Commission as the Commission shall specify.

''(2) DISCHARGE OF FUNCTIONS.—Subject to the authority, direction, and control of the Commission the Executive Director shall carry out the functions and duties of the Commission under this Act.

''(d) GENERAL COUNSEL.—The Commission shall employ a General Counsel to provide legal counsel and advice to the Executive Director and the Commission in the performance of its functions under this Act, and to carry out such other functions and duties as the Commission shall specify.

''(e) STAFF.—The Commission shall employ such additional staff as the Commission considers appropriate to assist the Executive Director and the General Counsel in carrying

out the functions and duties of the Commission under this Act.

''(f) COMPENSATION.—

''(1) MEMBERS OF COMMISSION.—

''(A) IN GENERAL.—Each member of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission.

''(B) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

''(2) EXECUTIVE DIRECTOR AND STAFF.—The Commission shall fix the compensation of the Executive Director, the General Counsel, and other personnel of the Commission. The rate of pay for the Executive Director, the General Counsel, and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

''SEC. 203. FUNCTIONS.

''(a) PRIMARY FUNCTIONS.—The primary functions of the Commission are—

''(1) to protect the health, safety, and general interests of boxers consistent with the provisions of this Act; and

''(2) to ensure uniformity, fairness, and integrity in professional boxing.

''(b) SPECIFIC FUNCTIONS.—The Commission shall—

''(1) administer title I of this Act;

''(2) promulgate uniform standards for professional boxing in consultation with the Association of Boxing Commissions;

''(3) except as otherwise determined by the Commission, oversee all professional boxing matches in the United States;

''(4) work with the boxing commissions of the several States and tribal organizations—

''(A) to improve the safety, integrity, and professionalism of professional boxing in the United States;

''(B) to enhance physical, medical, financial, and other safeguards established for the protection of professional boxers; and

''(C) to improve the status and standards of professional boxing in the United States;

''(5) ensure, in cooperation with the Attorney General (who shall represent the Commission in any judicial proceeding under this Act), the chief law enforcement officer of the several States, and other appropriate officers and agencies of Federal, State, and local government, that Federal and State laws applicable to professional boxing matches in the United States are vigorously, effectively, and fairly enforced;

''(6) review boxing commission regulations for professional boxing and provide assistance to such authorities in meeting minimum standards prescribed by the Commission under this title;

''(7) serve as the coordinating body for all efforts in the United States to establish and maintain uniform minimum health and safety standards for professional boxing;

''(8) if the Commission determines it to be appropriate, publish a newspaper, magazine, or other publication and establish and maintain a website consistent with the purposes of the Commission;

''(9) procure the temporary and intermittent services of experts and consultants to the extent authorized by section 3109(b) of title 5, United States Code, at rates the Commission determines to be reasonable; and

''(10) promulgate rules, regulations, and guidance, and take any other action necessary and proper to accomplish the purposes of, and consistent with, the provisions of this title.

''(c) PROHIBITIONS.—The Commission may not—

''(1) promote boxing events or rank professional boxers; or

''(2) provide technical assistance to, or authorize the use of the name of the Commission by, boxing commissions that do not comply with requirements of the Commission.

''(d) USE OF NAME.—The Commission shall have the exclusive right to use the name 'United States Boxing Commission'. Any person who, without the permission of the Commission, uses that name or any other exclusive name, trademark, emblem, symbol, or insignia of the Commission for the purpose of inducing the sale or exchange of any goods or services, or to promote any exhibition, performance, or sporting event, shall be subject to suit in a civil action by the Commission for the remedies provided in the Act of July 5, 1946 (commonly known as the 'Trademark Act of 1946'; 15 U.S.C. 1051 et seq.).

''SEC. 204. LICENSING AND REGISTRATION OF BOXING PERSONNEL.

''(a) LICENSING.—

''(1) REQUIREMENT FOR LICENSE.—No person may compete in a professional boxing match or serve as a boxing manager, boxing promoter, or sanctioning organization for a professional boxing match except as provided in a license granted to that person under this subsection.

''(2) APPLICATION AND TERM.—

''(A) IN GENERAL.—The Commission shall—

''(i) establish application procedures, forms, and fees;

''(ii) establish and publish appropriate standards for licenses granted under this section; and

''(iii) issue a license to any person who, as determined by the Commission, meets the standards established by the Commission under this title.

''(B) DURATION.—A license issued under this section shall be for a renewable—

''(i) 4-year term for a boxer; and

''(ii) 2-year term for any other person.

''(C) PROCEDURE.—The Commission may issue a license under this paragraph through boxing commissions or in a manner determined by the Commission.

''(b) LICENSING FEES.—

''(1) AUTHORITY.—The Commission may prescribe and charge reasonable fees for the licensing of persons under this title. The Commission may set, charge, and adjust varying fees on the basis of classifications of persons, functions, and events determined appropriate by the Commission.

''(2) LIMITATIONS.—In setting and charging fees under paragraph (1), the Commission shall ensure that, to the maximum extent practicable—

''(A) club boxing is not adversely effected;

''(B) sanctioning organizations and promoters pay comparatively the largest portion of the fees; and

''(C) boxers pay as small a portion of the fees as is possible.

''(3) COLLECTION.—Fees established under this subsection may be collected through boxing commissions or by any other means determined appropriate by the Commission.

''SEC. 205. NATIONAL REGISTRY OF BOXING PERSONNEL.

''(a) REQUIREMENT FOR REGISTRY.—The Commission shall establish and maintain (or authorize a third party to establish and maintain) a unified national computerized registry for the collection, storage, and retrieval of information related to the performance of its duties.

''(b) CONTENTS.—The information in the registry shall include the following:

''(1) BOXERS.—A list of professional boxers and data in the medical registry established under section 114 of this Act, which the Commission shall secure from disclosure in accordance with the confidentiality requirements of section 114(c).

''(2) OTHER PERSONNEL.—Information (pertinent to the sport of professional boxing) on boxing promoters, boxing matchmakers, boxing managers, trainers, cut men, referees, boxing judges, physicians, and any other personnel determined by the Commission as performing a professional activity for professional boxing matches.

''SEC. 206. CONSULTATION REQUIREMENTS.

''The Commission shall consult with the Association of Boxing Commissions—

''(1) before prescribing any regulation or establishing any standard under the provisions of this title; and

''(2) not less than once each year regarding matters relating to professional boxing.

''SEC. 207. MISCONDUCT.

''(a) SUSPENSION AND REVOCATION OF LICENSE OR REGISTRATION.—

''(1) AUTHORITY.—The Commission may, after notice and opportunity for a hearing, suspend or revoke any license issued under this title if the Commission finds that—

''(A) the license holder has violated any provision of this Act;

''(B) there are reasonable grounds for belief that a standard prescribed by the Commission under this title is not being met, or that bribery, collusion, intentional losing, racketeering, extortion, or the use of unlawful threats, coercion, or intimidation have occurred in connection with a license; or

''(C) the suspension or revocation is necessary for the protection of health and safety or is otherwise in the public interest.

''(2) PERIOD OF SUSPENSION.—

''(A) IN GENERAL.—A suspension of a license under this section shall be effective for a period determined appropriate by the Commission except as provided in subparagraph (B).

''(B) SUSPENSION FOR MEDICAL REASONS.—In the case of a suspension or denial of the license of a boxer for medical reasons by the Commission, the Commission may terminate the suspension or denial at any time that a physician certifies that the boxer is fit to participate in a professional boxing match. The Commission shall prescribe the standards and procedures for accepting certifications under this subparagraph.

''(3) PERIOD OF REVOCATION.—In the case of a revocation of the license of a boxer, the revocation shall be for a period of not less than 1 year.

''(b) INVESTIGATIONS AND INJUNCTIONS.—

''(1) AUTHORITY.—The Commission may—

''(A) conduct any investigation that it considers necessary to determine whether any person has violated, or is about to violate, any provision of this Act or any regulation prescribed under this Act;

''(B) require or permit any person to file with it a statement in writing, under oath or otherwise as the Commission shall determine, as to all the facts and circumstances concerning the matter to be investigated;

''(C) in its discretion, publish information concerning any violations; and

''(D) investigate any facts, conditions, practices, or matters to aid in the enforcement of the provisions of this Act, in the prescribing of regulations under this Act, or in securing information to serve as a basis for recommending legislation concerning the matters to which this Act relates.

''(2) POWERS.—

''(A) IN GENERAL.—For the purpose of any investigation under paragraph (1) or any other proceeding under this title—

''(i) any officer designated by the Commission may administer oaths and affirmations, subpoena or otherwise compel the attendance of witnesses, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records the Commission considers relevant or material to the inquiry; and

''(ii) the provisions of sections 6002 and 6004 of title 18, United States Code, shall apply.

''(B) WITNESSES AND EVIDENCE.—The attendance of witnesses and the production of any documents under subparagraph (A) may be required from any place in the United States, including Indian land, at any designated place of hearing.

''(3) ENFORCEMENT OF SUBPOENAS.—

''(A) CIVIL ACTION.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Commission may file an action in any district court of the United States within the jurisdiction of which an investigation or proceeding is carried out, or where that person resides or carries on business, to enforce the attendance and testimony of witnesses and the production of books, papers, correspondence, memorandums, and other records. The court may issue an order requiring the person to appear before the Commission to produce records, if so ordered, or to give testimony concerning the matter under investigation or in question.

''(B) FAILURE TO OBEY.—Any failure to obey an order issued by a court under subparagraph (A) may be punished as contempt of that court.

''(C) PROCESS.—All process in any contempt case under subparagraph (A) may be served in the judicial district in which the person is an inhabitant or in which the person may be found.

''(4) EVIDENCE OF CRIMINAL MISCONDUCT.—

''(A) IN GENERAL.—No person may be excused from attending and testifying or from producing books, papers, contracts, agreements, and other records and documents before the Commission, in obedience to the subpoena of the Commission, or in any cause or proceeding instituted by the Commission, on the ground that the testimony or evidence, documentary or otherwise, required of that person may tend to incriminate the person or subject the person to a penalty or forfeiture.

''(B) LIMITED IMMUNITY.—No individual may be prosecuted or subject to any penalty or forfeiture for, or on account of, any transaction, matter, or thing concerning the matter about which that individual is compelled, after having claimed a privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

''(5) INJUNCTIVE RELIEF.—If the Commission determines that any person is engaged or about to engage in any act or practice that constitutes a violation of any provision of this Act, or of any regulation prescribed under this Act, the Commission may bring an action in the appropriate district court of the United States, the United States District Court for the District of Columbia, or the United States courts of any territory or other place subject to the jurisdiction of the United States, to enjoin the act or practice, and upon a proper showing, the court shall grant without bond a permanent or temporary injunction or restraining order.

''(6) MANDAMUS.—Upon application of the Commission, the district courts of the United States, the United States District Court for the District of Columbia, and the United States courts of any territory or other place subject to the jurisdiction of the United States, shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this Act or any order of the Commission.

''(c) INTERVENTION IN CIVIL ACTIONS.—

''(1) IN GENERAL.—The Commission, on behalf of the public interest, may intervene of right as provided under rule 24(a) of the Federal Rules of Civil Procedure in any civil action relating to professional boxing filed in a district court of the United States.

''(2) AMICUS FILING.—The Commission may file a brief in any action filed in a court of the United States on behalf of the public interest in any case relating to professional boxing.

''(d) HEARINGS BY COMMISSION.—Hearings conducted by the Commission under this Act shall be public and may be held before any officer of the Commission. The Commission shall keep appropriate records of the hearings.

''SEC. 208. NONINTERFERENCE WITH BOXING COMMISSIONS.

''(a) NONINTERFERENCE.—Nothing in this Act prohibits any boxing commission from exercising any of its powers, duties, or functions with respect to the regulation or supervision of professional boxing or professional boxing matches to the extent not inconsistent with the provisions of this Act.

''(b) MINIMUM STANDARDS.—Nothing in this Act prohibits any boxing commission from enforcing local standards or requirements that exceed the minimum standards or requirements promulgated by the Commission under this Act.

''SEC. 209. ASSISTANCE FROM OTHER AGENCIES.

''Any employee of any executive department, agency, bureau, board, commission, office, independent establishment, or instrumentality may be detailed to the Commission, upon the request of the Commission, on a reimbursable or nonreimbursable basis, with the consent of the appropriate authority having jurisdiction over the employee. While so detailed, an employee shall continue to receive the compensation provided pursuant to law for the employee's regular position of employment and shall retain, without interruption, the rights and privileges of that employment.

''SEC. 210. REPORTS.

''(a) ANNUAL REPORT.—The Commission shall submit a report on its activities to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Commerce each year. The annual report shall include—

''(1) a detailed discussion of the activities of the Commission for the year covered by the report; and

''(2) an overview of the licensing and enforcement activities of the State and tribal organization boxing commissions.

''(b) PUBLIC REPORT.—The Commission shall annually issue and publicize a report of the Commission on the progress made at Federal and State levels and on Indian lands in the reform of professional boxing, which shall include comments on issues of continuing concern to the Commission.

''(c) FIRST ANNUAL REPORT ON THE COMMISSION.—The first annual report under this title shall be submitted not later than 2 years after the effective date of this title.

''SEC. 211. INITIAL IMPLEMENTATION.

''(a) TEMPORARY EXEMPTION.—The requirements for licensing under this title do not apply to a person for the performance of an activity as a boxer, boxing judge, or referee, or the performance of any other professional activity in relation to a professional boxing match, if the person is licensed by a boxing commission to perform that activity as of the effective date of this title.

''(b) EXPIRATION.—The exemption under subsection (a) with respect to a license issued by a boxing commission expires on the earlier of—

''(A) the date on which the license expires; or

''(B) the date that is 2 years after the date of the enactment of the Professional Boxing Amendments Act of 2004.

''SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated for the Commission for each fiscal year such sums as may be necessary for the Commission to perform its functions for that fiscal year.

''(b) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, United States Code, any fee collected under this title—

''(1) shall be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

''(2) shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

''(3) shall remain available until expended.''.

(b) CONFORMING AMENDMENTS.—

(1) PBSA.—The Professional Boxing Safety Act of 1996, as amended by this Act, is further amended—

(A) by striking section 1 and inserting the following:

''SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'Professional Boxing Safety Act'.

''(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

''Section 1. Short title; table of contents.
''Sec. 2. Definitions.

''TITLE I—PROFESSIONAL BOXING SAFETY

''Sec. 101. Purposes.
''Sec. 102. Approval or sanction requirement.
''Sec. 103. Safety standards.
''Sec. 104. Registration.
''Sec. 105. Review.
''Sec. 106. Reporting.
''Sec. 107. Contract requirements.
''Sec. 108. Protection from coercive contracts.
''Sec. 109. Sanctioning organizations.
''Sec. 110. Required disclosures to State boxing commissions by sanctioning organizations.
''Sec. 111. Required disclosures by promoters and broadcasters.
''Sec. 112. Medical registry.
''Sec. 113. Confidentiality.
''Sec. 114. Judges and referees.
''Sec. 115. Conflicts of interest.
''Sec. 116. Enforcement.
''Sec. 117. Professional boxing matches conducted on Indian lands.
''Sec. 118. Relationship with State or Tribal law.

''TITLE II—UNITED STATES BOXING COMMISSION

''Sec. 201. Purpose.
''Sec. 202. United States Boxing Commission.
''Sec. 203. Functions.
''Sec. 204. Licensing and registration of boxing personnel.
''Sec. 205. National registry of boxing personnel.
''Sec. 206. Consultation requirements.
''Sec. 207. Misconduct.
''Sec. 208. Noninterference with boxing commissions
''Sec. 209. Assistance from other agencies.
''Sec. 210. Reports.
''Sec. 211. Initial implementation.
''Sec. 212. Authorization of appropriations.'';

(B) by inserting before section 3 the following:

"TITLE I—PROFESSIONAL BOXING SAFETY";

(C) by redesignating sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, and 22 as sections 101 through 118, respectively;

(D) by striking subsection (a) of section 113, as redesignated, and inserting the following:

''(a) IN GENERAL.—Except to the extent required in a legal, administrative, or judicial proceeding, a boxing commission, an Attorney General, or the Commission may not disclose to the public any matter furnished by a promoter under section 111.'';

(E) by striking ''section 13'' in subsection (b) of section 113, as redesignated, and inserting ''section 111'';

(F) by striking ''9(b), 10, 11, 12, 13, 14, or 16,'' in paragraph (1) of section 116(b), as redesignated, and inserting ''107, 108, 109, 110, 111, or 114,'';

(G) by striking ''9(b), 10, 11, 12, 13, 14, or 16'' in paragraph (2) of section 116(b), as redesignated, and inserting ''107, 108, 109, 110, 111, or 114'';

(H) by striking ''section 17(a)'' in subsection (b)(3) of section 116, as redesignated, and inserting ''section 115(a)'';

(I) by striking ''section 10'' in subsection (e)(3) of section 116, as redesignated, and inserting ''section 108''; and

(J) by striking ''of this Act'' each place it appears in sections 101 through 120, as redesignated, and inserting ''of this title''.

(2) COMPENSATION OF MEMBERS.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''Members of the United States Boxing Commission.''.

SEC. 222. STUDY AND REPORT ON DEFINITION OF PROMOTER.

(a) STUDY.—The United States Boxing Commission shall conduct a study on how the term ''promoter'' should be defined for purposes of the Professional Boxing Safety Act.

(b) HEARINGS.—As part of that study, the Commission shall hold hearings and solicit testimony at those hearings from boxers, managers, promoters, premium, cable, and satellite program service providers, hotels, casinos, resorts, and other commercial establishments that host or sponsor professional boxing matches, and other interested parties with respect to the definition of that term as it is used in the Professional Boxing Safety Act.

(c) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the study conducted under subsection (a). The report shall—

(1) set forth a proposed definition of the term ''promoter'' for purposes of the Professional Boxing Safety Act; and

(2) describe the findings, conclusions, and rationale of the Commission for the proposed definition, together with any recommendations of the Commission, based on the study.

SEC. 223. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title shall take effect on the date of enactment of this Act.

(b) 1-YEAR DELAY FOR CERTAIN TITLE II PROVISIONS.—Sections 205 through 212 of the Professional Boxing Safety Act of 1996, as added by section 221(a) of this title, shall take effect 1 year after the date of enactment of this Act.

TITLE III—INTELLECTUAL PROPERTY

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Family Entertainment and Copyright Act of 2004''.

TITLE I—ARTISTS' RIGHTS AND THEFT PREVENTION

SEC. 101. SHORT TITLE.

This title may be cited as the ''Artists' Rights and Theft Prevention Act of 2004'' or the ''ART Act''.

SEC. 102. CRIMINAL PENALTIES FOR UNAUTHORIZED RECORDING OF MOTION PICTURES IN A MOTION PICTURE EXHIBITION FACILITY.

(a) IN GENERAL.—Chapter 113 of title 18, United States Code, is amended by adding after section 2319A the following new section:

''§ 2319B. Unauthorized recording of motion pictures in a motion picture exhibition facility

''(a) OFFENSE.—Any person who, without the authorization of the copyright owner, knowingly uses or attempts to use an audiovisual recording device to transmit or make a copy of a motion picture or other audiovisual work protected under title 17, or any part thereof, from a performance of such work in a motion picture exhibition facility, shall—

''(1) be imprisoned for not more than 3 years, fined under this title, or both; or

''(2) if the offense is a second or subsequent offense, be imprisoned for no more than 6 years, fined under this title, or both.

The possession by a person of an audiovisual recording device in a motion picture exhibition facility may be considered as evidence in any proceeding to determine whether that person committed an offense under this subsection, but shall not, by itself, be sufficient to support a conviction of that person for such offense.

''(b) FORFEITURE AND DESTRUCTION.—When a person is convicted of a violation of subsection (a), the court in its judgment of conviction shall, in addition to any penalty provided, order the forfeiture and destruction or other disposition of all unauthorized copies of motion pictures or other audiovisual works protected under title 17, or parts thereof, and any audiovisual recording devices or other equipment used in connection with the offense.

''(c) AUTHORIZED ACTIVITIES.—This section does not prevent any lawfully authorized investigative, protective, or intelligence activity by an officer, agent, or employee of the United States, a State, or a political subdivision of a State, or a person acting under a contract with the United States, a State, or a political subdivision of a State.

''(d) IMMUNITY FOR THEATERS.—With reasonable cause, the owner or lessee of a facility where a motion picture is being exhibited, the authorized agent or employee of such owner or lessee, the licensor of the motion picture being exhibited, or the agent or employee of such licensor—

''(1) may detain, in a reasonable manner and for a reasonable time, any person suspected of a violation of this section for the purpose of questioning or summoning a law enforcement officer; and

''(2) shall not be held liable in any civil or criminal action arising out of a detention under paragraph (1).

''(e) VICTIM IMPACT STATEMENT.—

''(1) IN GENERAL.—During the preparation of the presentence report under rule 32(c) of the Federal Rules of Criminal Procedure, victims of an offense under this section shall be permitted to submit to the probation officer a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

''(2) CONTENTS.—A victim impact statement submitted under this subsection shall include—

''(A) producers and sellers of legitimate works affected by conduct involved in the offense;

''(B) holders of intellectual property rights in the works described in subparagraph (A); and

''(C) the legal representatives of such producers, sellers, and holders.

''(f) STATE LAW NOT PREEMPTED.—Nothing in this section may be construed to annul or limit any rights or remedies under the laws of any State.

''(g) DEFINITIONS.—In this section, the following definitions shall apply:

''(1) TITLE 17 DEFINITIONS.—The terms 'audiovisual work', 'copy', 'copyright owner', 'motion picture', 'motion picture exhibition facility', and 'transmit' have, respectively, the meanings given those terms in section 101 of title 17.

''(2) AUDIOVISUAL RECORDING DEVICE.—The term 'audiovisual recording device' means a digital or analog photographic or video camera, or any other technology or device capable of enabling the recording or transmission of a copyrighted motion picture or other audiovisual work, or any part thereof, regardless of whether audiovisual recording is the sole or primary purpose of the device.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113 of title 18, United States Code, is amended by inserting after the item relating to section 2319A the following:

''2319B. Unauthorized recording of motion pictures in a motion picture exhibition facility.''.

(c) DEFINITION.—Section 101 of title 17, United States Code, is amended by inserting after the definition of ''Motion pictures'' the following:

''The term 'motion picture exhibition facility' means a movie theater, screening room, or other venue that is being used primarily for the exhibition of a copyrighted motion picture, if such exhibition is open to the public or is made to an assembled group of viewers outside of a normal circle of a family and its social acquaintances.''.

SEC. 103. CRIMINAL INFRINGEMENT OF A WORK BEING PREPARED FOR COMMERCIAL DISTRIBUTION.

(a) PROHIBITED ACTS.—Section 506(a) of title 17, United States Code, is amended to read as follows:

''(a) CRIMINAL INFRINGEMENT.—

''(1) IN GENERAL.—Any person who willfully infringes a copyright shall be punished as provided under section 2319 of title 18, if the infringement was committed—

''(A) for purposes of commercial advantage or private financial gain;

''(B) by the reproduction or distribution, including by electronic means, during any 180–day period, of 1 or more copies or phonorecords of 1 or more copyrighted works, which have a total retail value of more than $1,000; or

''(C) by the distribution of a work being prepared for commercial distribution, by making it available on a computer network accessible to members of the public, if such person knew or should have known that the work was intended for commercial distribution.

''(2) EVIDENCE.—For purposes of this subsection, evidence of reproduction or distribution of a copyrighted work, by itself, shall not be sufficient to establish willful infringement of a copyright.

''(3) DEFINITION.—In this subsection, the term 'work being prepared for commercial distribution' means—

''(A) a computer program, a musical work, a motion picture or other audiovisual work, or a sound recording, if at the time of unauthorized distribution—

''(i) the copyright owner has a reasonable expectation of commercial distribution; and

''(ii) the copies or phonorecords of the work have not been commercially distributed; or

''(B) a motion picture, if at the time of unauthorized distribution, the motion picture—

''(i) has been made available for viewing in a motion picture exhibition facility; and

''(ii) has not been made available in copies for sale to the general public in the United States in a format intended to permit viewing outside a motion picture exhibition facility.''.

(b) CRIMINAL PENALTIES.—Section 2319 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''Whoever'' and inserting ''Any person who''; and

(B) by striking ''and (c) of this section'' and inserting '', (c), and (d)'';

(2) in subsection (b), by striking ''section 506(a)(1)'' and inserting ''section 506(a)(1)(A)'';

(3) in subsection (c), by striking ''section 506(a)(2) of title 17, United States Code'' and inserting ''section 506(a)(1)(B) of title 17'';

(4) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively;

(5) by adding after subsection (c) the following:

''(d) Any person who commits an offense under section 506(a)(1)(C) of title 17—

''(1) shall be imprisoned not more than 3 years, fined under this title, or both;

''(2) shall be imprisoned not more than 5 years, fined under this title, or both, if the offense was committed for purposes of commercial advantage or private financial gain;

''(3) shall be imprisoned not more than 6 years, fined under this title, or both, if the offense is a second or subsequent offense; and

''(4) shall be imprisoned not more than 10 years, fined under this title, or both, if the offense is a second or subsequent offense under paragraph (2).''; and

(6) in subsection (f), as redesignated—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(3) the term 'financial gain' has the meaning given the term in section 101 of title 17; and

''(4) the term 'work being prepared for commercial distribution' has the meaning given the term in section 506(a) of title 17.''.

SEC. 104. CIVIL REMEDIES FOR INFRINGEMENT OF A WORK BEING PREPARED FOR COMMERCIAL DISTRIBUTION.

(a) PREREGISTRATION.—Section 408 of title 17, United States Code, is amended by adding at the end the following:

''(f) PREREGISTRATION OF WORKS BEING PREPARED FOR COMMERCIAL DISTRIBUTION.—

''(1) RULEMAKING.—Not later than 180 days after the date of enactment of this subsection, the Register of Copyrights shall issue regulations to establish procedures for preregistration of a work that is being prepared for commercial distribution and has not been published.

''(2) CLASS OF WORKS.—The regulations established under paragraph (1) shall permit preregistration for any work that is in a class of works that the Register determines has had a history of infringement prior to authorized commercial distribution.

''(3) APPLICATION FOR REGISTRATION.—Not later than 3 months after a the first publication of a work preregistered under this subsection, the applicant shall submit to the Copyright Office—

''(A) an application for registration of the work;

''(B) a deposit; and

''(C) the applicable fee.

''(4) EFFECT OF UNTIMELY APPLICATION.—An action under this chapter for infringement of a preregistered work, in a case in which the infringement commenced no later than 2 months after the first publication of the work shall be dismissed if the items described in paragraph (3) are not submitted to the Copyright Office in proper form within the earlier of—

''(A) 3 months after the first publication of the work; or

''(B) 1 month after the copyright owner has learned of the infringement.''.

(b) INFRINGEMENT ACTIONS.—Section 411(a) of title 17, United States Code, is amended by inserting ''preregistration or'' after ''shall be instituted until''.

(c) EXCLUSION.—Section 412 of title 17, United States Code, is amended by inserting '', an action for infringement of the copyright of a work that has been preregistered under section 408(f) before the commencement of the infringement and that has an effective date of registration not later than the earlier of 3 months after the first publication of the work or 1 month after the copyright owner has learned of the infringement,'' after ''section 106A(a)''.

SEC. 105. FEDERAL SENTENCING GUIDELINES.

(a) REVIEW AND AMENDMENT.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission, pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, shall review and, if appropriate, amend the Federal sentencing guidelines and policy statements applicable to persons convicted of intellectual property rights crimes, including any offense under—

(1) section 506, 1201, or 1202 of title 17, United States Code; or

(2) section 2318, 2319, 2319A, 2319B, or 2320 of title 18, United States Code.

(b) AUTHORIZATION.—The United States Sentencing Commission may amend the Federal sentencing guidelines in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note) as though the authority under that section had not expired.

(c) RESPONSIBILITIES OF UNITED STATES SENTENCING COMMISSION.—In carrying out this section, the United States Sentencing Commission shall—

(1) take all appropriate measures to ensure that the Federal sentencing guidelines and policy statements described in subsection (a) are sufficiently stringent to deter, and adequately reflect the nature of, intellectual property rights crimes;

(2) determine whether to provide a sentencing enhancement for those convicted of the offenses described in subsection (a), if the conduct involves the display, performance, publication, reproduction, or distribution of a copyrighted work before it has been authorized by the copyright owner, whether in the media format used by the infringing party or in any other media format;

(3) determine whether the scope of ''uploading'' set forth in application note 3 of section 2B5.3 of the Federal sentencing guidelines is adequate to address the loss attributable to people who broadly distribute copyrighted works without authorization over the Internet; and

(4) determine whether the sentencing guidelines and policy statements applicable to the offenses described in subsection (a) adequately reflect any harm to victims from copyright infringement if law enforcement authorities cannot determine how many times copyright material has been reproduced or distributed.

TITLE II—EXEMPTION FROM INFRINGEMENT FOR SKIPPING AUDIO AND VIDEO CONTENT IN MOTION PICTURES

SEC. 201. SHORT TITLE.

This title may be cited as the ''Family Movie Act of 2004''.

SEC. 202. EXEMPTION FROM INFRINGEMENT FOR SKIPPING AUDIO AND VIDEO CONTENT IN MOTION PICTURES.

(a) IN GENERAL.—Section 110 of title 17, United States Code, is amended—

(1) in paragraph (9), by striking ''and'' after the semicolon at the end;

(2) in paragraph (10), by striking the period at the end and inserting ''; and'';

(3) by inserting after paragraph (10) the following:

''(11) the making imperceptible, by or at the direction of a member of a private household, of limited portions of audio or video content of a motion picture, during a performance in or transmitted to that household for private home viewing, from an authorized copy of the motion picture, or the creation or provision of a computer program or other technology that enables such making imperceptible and that is designed and marketed for such use at the direction of a member of a private household, if no fixed copy of the altered version of the motion picture is created by such computer program or other technology.''; and

(4) by adding at the end the following:

''For purposes of paragraph (11), the term 'making imperceptible' does not include the addition of audio or video content that is performed or displayed over or in place of existing content in a motion picture.

''Nothing in paragraph (11) shall be construed to imply further rights under section 106 of this title, or to have any effect on defenses or limitations on rights granted under any other section of this title or under any other paragraph of this section.''.

(c) EXEMPTION FROM TRADEMARK INFRINGEMENT.—Section 32 of the Trademark Act of 1946 (15 U.S.C. 1114) is amended by adding at the end the following:

''(3)(A) Any person who engages in the conduct described in paragraph (11) of section 110 of title 17, United States Code, and who complies with the requirements set forth in that paragraph is not liable on account of such conduct for a violation of any right under this Act. This subparagraph does not preclude liability, nor shall it be construed to restrict the defenses or limitations on rights granted under this Act, of a person for conduct not described in paragraph (11) of section 110 of title 17, United States Code, even if that person also engages in conduct described in paragraph (11) of section 110 of such title.

''(B) A manufacturer, licensee, or licensor of technology that enables the making of limited portions of audio or video content of a motion picture imperceptible as described in subparagraph (A) is not liable on account of such manufacture or license for a violation of any right under this Act, if such manufacturer, licensee, or licensor ensures that the technology provides a clear and conspicuous notice at the beginning of each performance that the performance of the motion picture is altered from the performance intended by the director or copyright holder of the motion picture. The limitations on liability in subparagraph (A) and this subparagraph shall not apply to a manufacturer, licensee, or licensor of technology that fails to comply with this paragraph.

''(C) The requirement under subparagraph (B) to provide notice shall apply only with respect to technology manufactured after the end of the 180-day period beginning on the date of the enactment of the Family Movie Act of 2004.

''(D) Any failure by a manufacturer, licensee, or licensor of technology to qualify for the exemption under subparagraphs (A) and (B) shall not be construed to create an inference of liability for trademark infringement for any such party that engages in conduct described in paragraph (11) of section 110 of title 17, United States Code.''.

(d) DEFINITION.—In this section, the term ''Trademark Act of 1946'' means the Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (15 U.S.C. 1051 et seq.).

TITLE III—NATIONAL FILM PRESERVATION

Subtitle A—Reauthorization of the National Film Preservation Board

SEC. 301. SHORT TITLE.

This subtitle may be cited as the ''National Film Preservation Act of 2004''.

SEC. 302. REAUTHORIZATION AND AMENDMENT.

(a) DUTIES OF THE LIBRARIAN OF CONGRESS.—Section 103 of the National Film Preservation Act of 1996 (2 U.S.C. 179m) is amended—

(1) in subsection (b)—

(A) by striking ''film copy'' each place that term appears and inserting ''film or other approved copy'';

(B) by striking ''film copies'' each place that term appears and inserting ''film or other approved copies''; and

(C) in the third sentence, by striking ''copyrighted'' and inserting ''copyrighted, mass distributed, broadcast, or published''; and

(2) by adding at the end the following:

''(c) COORDINATION OF PROGRAM WITH OTHER COLLECTION, PRESERVATION, AND ACCESSIBILITY ACTIVITIES.—In carrying out the comprehensive national film preservation program for motion pictures established under the National Film Preservation Act of 1992, the Librarian, in consultation with the Board established pursuant to section 104, shall—

''(1) carry out activities to make films included in the National Film registry more broadly accessible for research and educational purposes, and to generate public awareness and support of the Registry and the comprehensive national film preservation program;

''(2) review the comprehensive national film preservation plan, and amend it to the extent necessary to ensure that it addresses technological advances in the preservation and storage of, and access to film collections in multiple formats; and

''(3) wherever possible, undertake expanded initiatives to ensure the preservation of the moving image heritage of the United States, including film, videotape, television, and born digital moving image formats, by supporting the work of the National Audio-Visual Conservation Center of the Library of Congress, and other appropriate nonprofit archival and preservation organizations.''.

(b) NATIONAL FILM PRESERVATION BOARD.—Section 104 of the National Film Preservation Act of 1996 (2 U.S.C. 179n) is amended—

(1) in subsection (a)(1) by striking ''20'' and inserting ''22'';

(2) in subsection (a) (2) by striking ''three'' and inserting ''5'';

(3) in subsection (d) by striking ''11'' and inserting ''12''; and

(4) by striking subsection (e) and inserting the following:

''(e) REIMBURSEMENT OF EXPENSES.—Members of the Board shall serve without pay, but may receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.''.

(c) NATIONAL FILM REGISTRY.—Section 106 of the National Film Preservation Act of 1996 (2 U.S.C. 179p) is amended by adding at the end the following:

''(e) NATIONAL AUDIO-VISUAL CONSERVATION CENTER.—The Librarian shall utilize the National Audio-Visual Conservation Center of the Library of Congress at Culpeper, Virginia, to ensure that preserved films included in the National Film Registry are stored in a proper manner, and disseminated to researchers, scholars, and the public as may be appropriate in accordance with—

''(1) title 17, United States Code; and

''(2) the terms of any agreements between the Librarian and persons who hold copyrights to such audiovisual works.''.

(d) USE OF SEAL.—Section 107 (a) of the National Film Preservation Act of 1996 (2 U.S.C. 179q(a)) is amended—

(1) in paragraph (1), by inserting ''in any format'' after ''or any copy''; and

(2) in paragraph (2), by striking ''or film copy'' and inserting ''in any format''.

(e) EFFECTIVE DATE.—Section 113 of the National Film Preservation Act of 1996 (2 U.S.C. 179w) is amended by striking ''7'' and inserting ''12''.

Subtitle B—Reauthorization of the National Film Preservation Foundation

SEC. 311. SHORT TITLE.

This subtitle may be cited as the ''National Film Preservation Foundation Reauthorization Act of 2004''.

SEC. 312. REAUTHORIZATION AND AMENDMENT.

(a) BOARD OF DIRECTORS.—Section 151703 of title 36, United States Code, is amended—

(1) in subsection (b)(2)(A), by striking ''nine'' and inserting ''12''; and

(2) in subsection (b)(4), by striking the second sentence and inserting ''There shall be no limit to the number of terms to which any individual may be appointed.''.

(b) POWERS.—Section 151705 of title 36, United States Code, is amended in subsection (b) by striking ''District of Columbia'' and inserting ''the jurisdiction in which the principal office of the corporation is located''.

(c) PRINCIPAL OFFICE.—Section 151706 of title 36, United States Code, is amended by inserting '', or another place as determined by the board of directors'' after ''District of Columbia''.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 151711 of title 36, United States Code, is amended by striking subsections (a) and (b) and inserting the following:

''(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Library of Congress amounts necessary to carry out this chapter, not to exceed $530,000 for each of the fiscal years 2004 through 2008. These amounts are to be made available to the corporation to match any private contributions (whether in currency, services, or property) made to the corporation by private persons and State and local governments.

''(b) LIMITATION RELATED TO ADMINISTRATIVE EXPENSES.—Amounts authorized under this section may not be used by the corporation for management and general or fundraising expenses as reported to the Internal Revenue Service as part of an annual information return required under the Internal Revenue Code of 1986.''.

TITLE IV—PRESERVATION OF ORPHAN WORKS

SEC. 401. SHORT TITLE.

This title may be cited as the ''Preservation of Orphan Works Act''.

SEC. 402. REPRODUCTION OF COPYRIGHTED WORKS BY LIBRARIES AND ARCHIVES.

Section 108(i) of title 17, United States Code, is amended by striking ''(b) and (c)'' and inserting ''(b), (c), and (h)''.

TITLE V—ANTICOUNTERFEITING PROVISIONS AND FRAUDULENT ONLINE IDENTITY SANCTIONS

Subtitle A—Anticounterfeiting Provisions

SEC. 501. SHORT TITLE.

This subtitle may be cited as the ''Anticounterfeiting Act of 2004''.

SEC. 502. PROHIBITION AGAINST TRAFFICKING IN COUNTERFEIT COMPONENTS.

(a) IN GENERAL.—Section 2318 of title 18, United States Code, is amended—

(1) by striking the section heading and inserting the following:

''§ 2318. Trafficking in counterfeit labels, illicit labels, or counterfeit documentation or packaging'';

(2) by striking subsection (a) and inserting the following:

''(a) Whoever, in any of the circumstances described in subsection (c), knowingly traffics in—

''(1) a counterfeit label or illicit label affixed to, enclosing, or accompanying, or designed to be affixed to, enclose, or accompany—

''(A) a phonorecord;

''(B) a copy of a computer program;

''(C) a copy of a motion picture or other audiovisual work;

''(D) a copy of a literary work;

''(E) a copy of a pictorial, graphic, or sculptural work;

''(F) a work of visual art; or

''(G) documentation or packaging; or

''(2) counterfeit documentation or packaging, shall be fined under this title or imprisoned for not more than 5 years, or both.'';

(3) in subsection (b)—

(A) in paragraph (2), by striking ''and'' after the semicolon;

(B) in paragraph (3)—

(i) by striking ''and 'audiovisual work' have'' and inserting the following: '' 'audiovisual work', 'literary work', 'pictorial, graphic, or sculptural work', 'sound recording', 'work of visual art', and 'copyright owner' have''; and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(4) the term 'illicit label' means a genuine certificate, licensing document, registration card, or similar labeling component—

''(A) that is used by the copyright owner to verify that a phonorecord, a copy of a computer program, a copy of a motion picture or other audiovisual work, a copy of a literary work, a copy of a pictorial, graphic, or sculptural work, a work of visual art, or documentation or packaging is not counterfeit or infringing of any copyright; and

''(B) that is, without the authorization of the copyright owner—

''(i) distributed or intended for distribution not in connection with the copy, phonorecord, or work of visual art to which such labeling component was intended to be affixed by the respective copyright owner; or

''(ii) in connection with a genuine certificate or licensing document, knowingly falsified in order to designate a higher number of licensed users or copies than authorized by the copyright owner, unless that certificate or document is used by the copyright owner solely for the purpose of monitoring or tracking the copyright owner's distribution channel and not for the purpose of verifying that a copy or phonorecord is noninfringing;

''(5) the term 'documentation or packaging' means documentation or packaging, in physical form, for a phonorecord, copy of a computer program, copy of a motion picture or other audiovisual work, copy of a literary work, copy of a pictorial, graphic, or sculptural work, or work of visual art; and

''(6) the term 'counterfeit documentation or packaging' means documentation or packaging that appears to be genuine, but is not.'';

(4) in subsection (c)—

(A) by striking paragraph (3) and inserting the following:

''(3) the counterfeit label or illicit label is affixed to, encloses, or accompanies, or is designed to be affixed to, enclose, or accompany—

''(A) a phonorecord of a copyrighted sound recording or copyrighted musical work;

''(B) a copy of a copyrighted computer program;

''(C) a copy of a copyrighted motion picture or other audiovisual work;

''(D) a copy of a literary work;

''(E) a copy of a pictorial, graphic, or sculptural work;

''(F) a work of visual art; or

''(G) copyrighted documentation or packaging; or''; and

(B) in paragraph (4), by striking ''for a computer program''; and

(5) in subsection (d)—

(A) by inserting ''or illicit labels'' after ''counterfeit labels'' each place it appears; and

(B) by inserting before the period at the end the following: '', and of any equipment, device, or material used to manufacture, reproduce, or assemble the counterfeit labels or illicit labels''.

(b) CIVIL REMEDIES.—Section 2318 of title 18, United States Code, is further amended by adding at the end the following:

''(f) CIVIL REMEDIES.—

''(1) IN GENERAL.—Any copyright owner who is injured, or is threatened with injury, by a violation of subsection (a) may bring a civil action in an appropriate United States district court.

''(2) DISCRETION OF COURT.—In any action brought under paragraph (1), the court—

''(A) may grant 1 or more temporary or permanent injunctions on such terms as the court determines to be reasonable to prevent or restrain a violation of subsection (a);

''(B) at any time while the action is pending, may order the impounding, on such terms as the court determines to be reasonable, of any article that is in the custody or control of the alleged violator and that the court has reasonable cause to believe was involved in a violation of subsection (a); and

''(C) may award to the injured party—

''(i) reasonable attorney fees and costs; and

''(ii)(I) actual damages and any additional profits of the violator, as provided in paragraph (3); or

''(II) statutory damages, as provided in paragraph (4).

''(3) ACTUAL DAMAGES AND PROFITS.—

''(A) IN GENERAL.—The injured party is entitled to recover—

''(i) the actual damages suffered by the injured party as a result of a violation of subsection (a), as provided in subparagraph (B) of this paragraph; and

''(ii) any profits of the violator that are attributable to a violation of subsection (a) and are not taken into account in computing the actual damages.

''(B) CALCULATION OF DAMAGES.—The court shall calculate actual damages by multiplying—

''(i) the value of the phonorecords, copies, or works of visual art which are, or are intended to be, affixed with, enclosed in, or accompanied by any counterfeit labels, illicit labels, or counterfeit documentation or packaging, by

''(ii) the number of phonorecords, copies, or works of visual art which are, or are intended to be, affixed with, enclosed in, or accompanied by any counterfeit labels, illicit labels, or counterfeit documentation or packaging.

''(C) DEFINITION.—For purposes of this paragraph, the 'value' of a phonorecord, copy, or work of visual art is—

''(i) in the case of a copyrighted sound recording or copyrighted musical work, the retail value of an authorized phonorecord of that sound recording or musical work;

''(ii) in the case of a copyrighted computer program, the retail value of an authorized copy of that computer program;

''(iii) in the case of a copyrighted motion picture or other audiovisual work, the retail value of an authorized copy of that motion picture or audiovisual work;

''(iv) in the case of a copyrighted literary work, the retail value of an authorized copy of that literary work;

''(v) in the case of a pictorial, graphic, or sculptural work, the retail value of an authorized copy of that work; and

''(vi) in the case of a work of visual art, the retail value of that work.

''(4) STATUTORY DAMAGES.—The injured party may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages for each violation of subsection (a) in a sum of not less than $2,500 or more than $25,000, as the court considers appropriate.

''(5) SUBSEQUENT VIOLATION.—The court may increase an award of damages under this subsection by 3 times the amount that would otherwise be awarded, as the court considers appropriate, if the court finds that a person has subsequently violated subsection (a) within 3 years after a final judgment was entered against that person for a violation of that subsection.

''(6) LIMITATION ON ACTIONS.—A civil action may not be commenced under this subsection unless it is commenced within 3 years after the date on which the claimant discovers the violation of subsection (a).''.

(c) CONFORMING AMENDMENT.—The item relating to section 2318 in the table of sections for chapter 113 of title 18, United States Code, is amended to read as follows:

''2318. Trafficking in counterfeit labels, illicit labels, or counterfeit documentation or packaging.''.

SEC. 503. OTHER RIGHTS NOT AFFECTED.

(a) CHAPTERS 5 AND 12 OF TITLE 17; ELECTRONIC TRANSMISSIONS.—The amendments made by this subtitle—

(1) shall not enlarge, diminish, or otherwise affect any liability or limitations on liability under sections 512, 1201, or 1202 of title 17, United States Code; and

(2) shall not be construed to apply—

(A) in any case, to the electronic transmission of a genuine certificate, licensing document, registration card, similar labeling component, or documentation or packaging described in paragraph (4) or (5) of section 2318(b) of title 18, United States Code, as amended by this subtitle; and

(B) in the case of a civil action under section 2318(f) of title 18, United States Code, to the electronic transmission of a counterfeit label or counterfeit documentation or packaging defined in paragraph (1) or (6) of section 2318(b) of title 18, United States Code.

(b) FAIR USE.—The amendments made by this subtitle shall not affect the fair use, under section 107 of title 17, United States Code, of a genuine certificate, licensing document, registration card, similar labeling component, or documentation or packaging described in paragraph (4) or (5) of section 2318(b) of title 18, United States Code, as amended by this subtitle.

Subtitle B—Fraudulent Online Identity Sanctions

SEC. 511. SHORT TITLE.

This subtitle may be cited as the ''Fraudulent Online Identity Sanctions Act''.

SEC. 512. AMENDMENT TO TRADEMARK ACT OF 1946.

Section 35 of the Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (commonly referred to as the ''Trademark Act of 1946''; 15 U.S.C. 1117), is amended by adding at the end the following new subsection:

''(e) In the case of a violation referred to in this section, it shall be a rebuttable presumption that the violation is willful for purposes of determining relief if the violator, or a person acting in concert with the violator, knowingly provided or knowingly caused to be provided materially false contact information to a domain name registrar, domain name registry, or other domain name registration authority in registering, maintaining, or renewing a domain name used in connection with the violation. Nothing in this subsection limits what may be considered a willful violation under this section.''.

SEC. 513. AMENDMENT TO TITLE 17, UNITED STATES CODE.

Section 504(c) of title 17, United States Code, is amended by adding at the end the following new paragraph:

''(3) (A) In a case of infringement, it shall be a rebuttable presumption that the infringement was committed willfully for purposes of determining relief if the violator, or a person acting in concert with the violator, knowingly provided or knowingly caused to be provided materially false contact information to a domain name registrar, domain name registry, or other domain name registration authority in registering, maintaining, or renewing a domain name used in connection with the infringement.

''(B) Nothing in this paragraph limits what may be considered willful infringement under this subsection.

''(C) For purposes of this paragraph, the term 'domain name' has the meaning given that term in section 45 of the Act entitled 'An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes' approved July 5, 1946 (commonly referred to as the 'Trademark Act of 1946'; 15 U.S.C. 1127).''.

SEC. 514. AMENDMENT TO TITLE 18, UNITED STATES CODE.

(a) SENTENCING ENHANCEMENT.—Section 3559 of title 18, United States Code, is amended by adding at the end the following:

''(f)(1) If a defendant who is convicted of a felony offense (other than offense of which an element is the false registration of a domain name) knowingly falsely registered a domain name and knowingly used that domain name in the course of that offense, the maximum imprisonment otherwise provided by law for that offense shall be doubled or increased by 7 years, whichever is less.

''(2) As used in this subsection—

''(A) the term 'falsely registers' means registers in a manner that prevents the effective identification of or contact with the person who registers; and

''(B) the term 'domain name' has the meaning given that term in section 45 of the Act entitled 'An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes' approved July 5, 1946 (commonly referred to as the 'Trademark Act of 1946') (15 U.S.C. 1127).''.

(b) UNITED STATES SENTENCING COMMISSION.—

(1) DIRECTIVE.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend the sentencing guidelines and policy statements to ensure that the applicable guideline range for a defendant convicted of any felony offense carried out online that may be facilitated through the use of a domain name registered with materially false contact information is sufficiently stringent to deter commission of such acts.

(2) REQUIREMENTS.—In carrying out this subsection, the Sentencing Commission shall provide sentencing enhancements for anyone convicted of any felony offense furthered through knowingly providing or knowingly causing to be provided materially false contact information to a domain name registrar, domain name registry, or other domain name registration authority in registering, maintaining, or renewing a domain name used in connection with the violation.

(3) DEFINITION.—For purposes of this subsection, the term ''domain name'' has the meaning given that term in section 45 of the Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (commonly referred to as the ''Trademark Act of 1946''; 15 U.S.C. 1127).

SEC. 515. CONSTRUCTION.

(a) FREE SPEECH AND PRESS.—Nothing in this subtitle shall enlarge or diminish any rights of free speech or of the press for activities related to the registration or use of domain names.

(b) DISCRETION OF COURTS IN DETERMINING RELIEF.—Nothing in this subtitle shall restrict the discretion of a court in determining damages or other relief to be assessed against a person found liable for the infringement of intellectual property rights.

(c) DISCRETION OF COURTS IN DETERMINING TERMS OF IMPRISONMENT.—Nothing in this subtitle shall be construed to limit the discretion of a court to determine the appropriate term of imprisonment for an offense under applicable law.

TITLE VI—COOPERATIVE RESEARCH AND TECHNOLOGY ENHANCEMENT

SEC. 601. SHORT TITLE.

This title may be cited as the ''Cooperative Research and Technology Enhancement (CREATE) Act of 2004''.

SEC. 602. COLLABORATIVE EFFORTS ON CLAIMED INVENTIONS.

Section 103(c) of title 35, United States Code, is amended to read as follows:

''(c)(1) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

''(2) For purposes of this subsection, subject matter developed by another person and a claimed invention shall be deemed to have been owned by the same person or subject to an obligation of assignment to the same person if—

''(A) the claimed invention was made by or on behalf of parties to a joint research agreement that was in effect on or before the date the claimed invention was made;

''(B) the claimed invention was made as a result of activities undertaken within the scope of the joint research agreement; and

''(C) the application for patent for the claimed invention discloses or is amended to disclose the names of the parties to the joint research agreement.

''(3) For purposes of paragraph (2), the term 'joint research agreement' means a written contract, grant, or cooperative agreement entered into by two or more persons or entities for the performance of experimental, developmental, or research work in the field of the claimed invention.''.

SEC. 603. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title shall apply to any patent granted on or after the date of the enactment of this Act.

(b) SPECIAL RULE.—The amendments made by this title shall not affect any final decision of a court or the United States Patent and Trademark Office rendered before the date of the enactment of this Act, and shall not affect the right of any party in any action pending before the United States Patent and Trademark Office or a court on the date of the enactment of this Act to have that party's rights determined on the basis of the provisions of title 35, United States Code, in effect on the day before the date of the enactment of this Act.

SA 4087. Mr. FRIST (for Mr. BINGAMAN (for himself and Mr. FEINGOLD)) proposed an amendment to the resolution S. Res. 387, commemorating the 40th Anniversary of the Wilderness Act; as follows:

Strike the preamble and insert the following:

Whereas September 3, 2004, marked the 40th Anniversary of the enactment of the Wilderness Act (16 U.S.C. 1131 et seq.), which gave to the people of the United States an enduring resource of natural heritage as part of the National Wilderness Preservation System;

Whereas American explorers Meriwether Lewis, William Clark, and Sergeant York, and Native American guide Sacajawea helped the United States recognize the expanse of American wilderness;

Whereas Native American leaders such as Kiowa Chief Santanta, Chief Luther Standing Bear, and Chief Seattle recognized that the land involved was not in fact ''wild'', but existed as the land should be;

Whereas great American writers such as Ralph Waldo Emerson, Mary Austin, Henry David Thoreau, George Perkins Marsh, Isabella L. Bird, and John Muir joined poets like William Cullen Bryant, and painters such as Thomas Cole, Frederic Church, Frederic Remington, Albert Bierstadt, Georgia O'Keefe, and Thomas Moran to define the United States' distinct cultural value of wild nature and unique concept of wilderness;

Whereas national leaders such as President Theodore Roosevelt reveled in outdoor pursuits and sought diligently to preserve those opportunities for molding individual character, shaping a nation's destiny, striving for balance, and ensuring the wisest use of natural resources, to provide the greatest good for the greatest many;

Whereas luminaries in the conservation movement, such as scientist Aldo Leopold, forester Bob Marshall, writer Howard Zahniser, teacher Sigurd Olson, biologists Olaus, Margaret (Mardy), and Adolph Murie, conservation leader Celia Hunter, and conservationist David Brower believed that the people of the United States could have the boldness to project into the eternity of the future some of the wilderness that has come from the eternity of the past;

Whereas Senator Hubert H. Humphrey, a Democrat from Minnesota, and Representative John Saylor, a Republican from Pennsylvania, originally introduced the legislation with strong bipartisan support in both bodies of Congress;

Whereas with the help of their colleagues, including cosponsors Gaylord Nelson, William Proxmire, Clinton P. Anderson, and Henry ''Scoop'' M. Jackson, and other conservation allies, including Secretary of the Interior Stewart L. Udall and Representative Morris K. Udall, Senator Humphrey and Representative Saylor toiled 8 years to secure nearly unanimous passage of the legislation, 78 to 8 in the Senate, and 373 to 1 in the House of Representatives;

Whereas critical support in the Senate for the Wilderness Act came from 3 Senators who still serve in the Senate as of 2004: Senator Robert C. Byrd, Senator Daniel Inouye, and Senator Edward M. Kennedy;

Whereas President John F. Kennedy, who came into office in 1961 with enactment of wilderness legislation part of his administration's agenda, was assassinated before he could sign a bill into law;

Whereas 4 wilderness champions, Aldo Leopold, Olaus Murie, Bob Marshall, and Howard Zahniser, sadly, also passed away before seeing the fruits of their labors ratified by Congress and sent to the President;

Whereas President Lyndon B. Johnson signed into law the Wilderness Act in the Rose Garden on September 3, 1964, establishing a system of wilderness heritage as President Kennedy and the conservation community had so ardently envisioned and eloquently articulated;

Whereas now, as a consequence of wide popular support, the people of the United States have a system of places wild and free for the permanent good of the whole people of this great Nation;

Whereas over the past 40 years the system for protecting an enduring resource of wilderness has been built upon by subsequent Presidents, successive leaders of Congress, and experts in the land managing agencies within the Departments of the Interior and Agriculture;

Whereas today that system is 10 times larger than when first established;

Whereas the Wilderness Act instituted an unambiguous national policy to recognize the natural heritage of the United States as a resource of value and to protect that wilderness for future generations to use and enjoy as previous and current generations have had the opportunity to do;

Whereas since 1964, when the first 9,000,000 acres of wilderness were included by Congress, more than 110 additional laws have been passed to build the National Wilderness Preservation System to its current size of 106,000,000 acres;

Whereas wild places protected in perpetuity can currently be found and enjoyed in 44 of the Nation's 50 States;

Whereas this wealth of the heritage of the United States can be seen today from Alaska to Florida in over 650 units, from Fire Island in New York's Long Island South Shore and Ohio's West Sister Island in Lake Erie, to far larger Mojave in eastern California and Idaho's River of No Return;

Whereas President Gerald R. Ford stated that the National Wilderness Preservation System ''serves a basic need of all Americans, even those who may never visit a wilderness area—the preservation of a vital element of our natural heritage'' and that, ''wilderness preservation ensures that a central facet of our Nation can still be realized, not just remembered''; and

Whereas President Gerald R. Ford has joined with President Jimmy Carter and more than 100 other prominent United States citizens as honored members of Americans

for Wilderness, a committee formed to celebrate this national achievement: Now, therefore, be it

SA 4088. Mr. FRIST (for Mr. ROBERTS) proposed an amendment to the bill H.R. 2121, to amend the Eisenhower Exchange Fellowship Act of 1990 to authorize additional appropriations for the Eisenhower Exchange Fellowship Program Trust Fund, and for other purposes; as follows:

On page 4, on lines 5 and 6, strike ''for fiscal year 2004''.

PRIVILEGES OF THE FLOOR

Ms. COLLINS. I ask unanimous consent floor privileges be extended to Deborah Barger, a CMA detailee in my office, for the duration of today's consideration of S. 2845.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. I ask unanimous consent that the staff members of the Senate Intelligence Committee be given floor privileges during consideration of the intelligence reform conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that floor privileges be extended to Bob Kenney, a Brookings Legislative Fellow on loan to my office from the Environmental Protection Agency, for the rest of today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMERCIAL SPECTRUM ENHANCEMENT ACT

Mr. FRIST. I ask unanimous consent that the Senate now proceed to consideration of H.R. 5419, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5419) to amend the National Telecommunications and Information Administration Organization Act to facilitate the reallocation of spectrum from governmental to commercial users; to improve, enhance, and promote the Nation's homeland security, public safety, and citizen activated emergency response capabilities through the use of enhanced 911 services, to further upgrade Public Safety Answering Point capabilities and related functions in receiving E–911 calls, and to support in the construction and operation of a ubiquitous and reliable citizen activated system; and to provide that funds received as universal service contributions under section 254 of the Communications Act of 1934 and the universal service support programs established pursuant thereto are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act, for a period of time.

There being no objection, the Senate proceeded to consider the bill.

LIFESAVING E–911 SERVICE

Mr. FRIST. Mr. President, I wish to engage the Senator from Montana in a brief colloquy for a point of clarification on the bill,

First, I wish to congratulate the Senator and others who worked tirelessly on this bill. This bill provides critical assistance to State and local governments to help them reach the goals and standards set by Congress and the FCC for bringing lifesaving E–911 service to all Americans. I especially commend the bill's authors for providing much needed financial assistance in the form of grants for training, equipment and other needs in providing and advancing E–911 service.

I am very proud of my home State's E–911 leaders. They, along with the wireless industry, have helped make Tennessee one of the Nation's leaders in wireless E–911 implementation. I am informed that to date all but one of our 95 counties are Phase II E–911 ready, with the goal of reaching 100 percent by the end of this year. Since 1998, our State has committed itself to bringing E–911 service to all its citizens, rural and urban, from Memphis to Mountain City.

However, much work remains to be done. Our State is re-writing its requirements for 911 dispatchers and their training. We currently have no formal training program or academy. In spite of all of Tennessee's accomplishments, financial challenges continue to grow.

I am concerned that the Federal agency administering the bill's grant program will not give equal funding and eligibility consideration to States and localities that have achieved E–911 service, thus penalizing States such as Tennessee and others for their accomplishments. Would such an outcome be the intent of the bill's authors?

Mr. BURNS. I thank the Senator from Tennessee for his question and commend his State for its leadership on E–911 issues. It is not our intent to give any less priority in grant eligibility and funding to States like Tennessee that have made substantial progress in wireless E–911 deployment. We recognize that once a State or local government achieves E–911 service, other challenges and needs exist such as those pointed out by the Senator. So that was not our intent in the crafting of the ''grants'' provision.

Mr. FRIST. I thank the Senator for that clarification and commend his leadership on this very important legislation.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5419) was read the third time and passed.

PROVIDING FOR SINE DIE ADJOURNMENT OF THE SENATE AND HOUSE OF REPRESENTATIVES

Mr. FRIST. I ask unanimous consent that the Senate now proceed to the consideration of H. Con. Res. 531, the adjournment resolution; provided that the concurrent resolution be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 531) was agreed to, as follows:

H. CON. RES. 531

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on any legislative day from Tuesday, December 7, 2004, through Friday, December 10, 2004, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned sine die, or until the time of any reassembly pursuant to section 2 of this concurrent resolution; and that when the Senate adjourns on any day from Tuesday, December 7, 2004, through Saturday, December 11, 2004, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned sine die, or until the time of any reassembly pursuant to section 2 of this concurrent resolution.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

Passed the House of Representatives December 7, 2004.

ORDERS FOR TUESDAY, JANUARY 4, 2005

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it adjourn sine die under the provisions of H. Con. Res. 531.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. FRIST. I further ask consent that when the Senate returns on Tuesday, January 4, at 12 noon, following the presentation of the certificates of election and the swearing in of elected Members, and the required live quorum, the morning hour then be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and that there then be a period for morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada.

Mr. REID. Mr. President, the hour is late, but let me say that I have some real mixed emotions tonight. I have had this desk for 6 years and it has been a great experience for me to serve as the assistant leader, the whip, of the Senate Democrats. I have learned so

much being on the floor regarding procedures of this very classic body. I am now going to move over one desk. As I have said on this floor previously, I will miss very much my dear friend, my brother, TOM DASCHLE. My ability to function here these past 6 years has been based upon my relationship with Senator DASCHLE.

I look forward to my new job. I look forward to working with my friend, the distinguished Republican leader. I have said publicly and privately what a good experience this will be for me. He has dedicated 12 years of his life, at least, to public service after having been a very distinguished transplant surgeon. I look forward to our relationship. I hope we can do some good things for the country. I am certainly going to try.

I know that the experience of these past 6 years has been made much more interesting as a result of the chairman of the Appropriations Committee, Senator STEVENS, the President pro tempore of the Senate. He is here tonight and this legislation that just passed is an indication of his tenaciousness and the role model he sets for all of us. Six hours ago, none of us could have thought we would have accomplished this. A couple of hours ago, we wished he had not tried. But it is over with now.

I thank the staff very much for working as hard as they do and putting up with our many delays which are necessary to move things forward. I wish everyone a Merry Christmas and a Happy New Year.

Mr. STEVENS. Mr. President, if the Senator would yield just for a second, I want to thank the Senator from Nevada and tell him that I spent 8 years in the whip's job and sought to move left. Unfortunately, it did not happen.

I do congratulate the Senator from Nevada, and we look forward to working with him and the assistant Democratic leader.

I thank, Senator BURNS for his tenaciousness on this bill, and I want to acknowledge the really intense cooperation of the Senator from Arizona, Mr. MCCAIN, and really praise my great and longtime friend Senator BYRD from West Virginia for having recognized the necessity to have this bill passed before we go home for the recess. We are really going to adjourn sine die.

I do congratulate the Senator. He listened to us. It is quite late. He has been quite gracious to proceed with us on the commitment that we will protect the appropriations process in the future and work with him to make certain that the provisions of the law that govern expenditures of the money covered by the bill we just passed be followed, as far as the protection of the Treasury. And we will be consistent with the Constitution, as he has urged us so many times to be.

I thank the Senator for his patience in keeping us in session, and I am prepared to take tickets here as we leave the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. I can add very little to what has just been said. But as America has watched and as our colleagues have participated over the last, really, 6 hours, you have seen—not on the floor, but we have all worked together over the course of the day to bring to resolution another major bill before we close out this session. We came to a lameduck, now, several weeks ago. Lameduck sessions are notoriously not very productive. Both the Democratic leader, our leadership, their leadership on the other side of the aisle, again and again said these lameducks never produce very much, if you look at history. A lot of time is spent, although we clearly end up producing something.

I think if you look at this lameduck session and the intervening time before coming back in this week, we can all be very proud of what has been accomplished in the series of bills, the bill we just discussed and the series of bills we passed over the course of the day, and the major intelligence reform bill that was passed. So we have had a very productive session of which we can all be proud.

As the Democratic leader said, I very much look forward to working with him and having this leadership team meet with their leadership team as we move forward in accomplishing what America expects from us.

When the 109th Congress convenes on January 4, we will immediately proceed to the presentation of certificates of election. Following the swearing in ceremonies and the live quorum, the Senate will consider the normal routine housekeeping matters of the 109th Congress beginning.

Once again, I thank everyone who has contributed to our efforts during the past Congress. We always want to mention the pages who are here tonight at a little before 11. They have been here all day. We thank them for their dedication, for their hard work in making the cogs in this body function as well as they possibly could; the law enforcement, the police who, again, are standing right outside the doors with us, from early in the morning until late at night; the cloakroom staff; the clerks who are here before us; the many others who work to keep the institution running. We appreciate their service to this body.

We are going to have a fresh start in January. People are quite tired, producing all of this legislation. It is going to be a fresh start. We all look forward to that. I do wish everybody a happy holiday season.

ADJOURNMENT SINE DIE

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate adjourn sine die, under the provisions of H. Con. Res. 531.

There being no objection, the Senate, at 10:54 p.m., adjourned sine die.

DISCHARGED NOMINATIONS

The Senate Committee on Foreign Relations was discharged from further consideration of the following nominations and the nominations were confirmed:

FOREIGN SERVICE NOMINATIONS BEGINNING WITH DONNA LURLINE WOOLF AND ENDING WITH LISA BOBBIE SCHREIBER-HUGHES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 16, 2004.

FOREIGN SERVICE NOMINATIONS BEGINNING WITH CYNTHIA A. HALEY AND ENDING WITH WALTER D. PATTERSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 16, 2004.

The Senate Committee on Energy and Natural Resources was discharged from further consideration of the following nominations and the nominations were confirmed:

KAREN ALDERMAN HARBERT, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (INTERNATIONAL AFFAIRS AND DOMESTIC POLICY).

JOHN S. SHAW, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (ENVIRONMENT, SAFETY AND HEALTH).

The Senate Committee on Health, Education, Labor, and Pensions was discharged from further consideration of the following nomination and the nomination was confirmed:

VERONICA VARGAS STIDVENT, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF LABOR.

NOMINATIONS RETURNED TO THE PRESIDENT AT SINE DIE ADJOURNMENT OF 108TH CONGRESS ON DECEMBER 8, 2004

LOUIS S. THOMPSON, OF MARYLAND, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS.

ENRIQUE J. SOSA, OF FLORIDA, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS.

FAYZA VERONIQUE BOULAD RODMAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2006.

PETER CYRIL WYCHE FLORY, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

ROBERT LERNER, OF MARYLAND, TO BE COMMISSIONER OF EDUCATION STATISTICS FOR A TERM EXPIRING JUNE 21, 2009.

SUSAN JOHNSON GRANT, OF VIRGINIA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF ENERGY.

PAMELA HUGHES PATENAUDE, OF NEW HAMPSHIRE, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

KIRK VAN TINE, OF VIRGINIA, TO BE DEPUTY SECRETARY OF TRANSPORTATION.

ROGER FRANCISCO NORIEGA, OF KANSAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 2006.

KIRON KANINA SKINNER, OF PENNSYLVANIA, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF FOUR YEARS.

ROBERT L. CRANDALL, OF TEXAS, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS.

FLOYD HALL, OF NEW JERSEY, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS.

WALTER H. KANSTEINER, ASSISTANT SECRETARY OF STATE (AFRICAN AFFAIRS), TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING SEPTEMBER 27, 2003.

EPHRAIM BATAMBUZE, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING FEBRUARY 9, 2008.

EDWARD BREHM, OF MINNESOTA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING NOVEMBER 13, 2007.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 U.S.C. SECTION 601:

LT. GEN. JOHN D. HOPPER JR., 0000, TO BE LIEUTENANT GENERAL.

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

COLONEL JAMES T WILLIAMS, 0000, TO BE BRIGADIER GENERAL.

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

BRIG. GEN. HAROLD A. CROSS, 0000, TO BE MAJOR GENERAL.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

COLONEL ROBERT R. ALLARDICE, 0000, TO BE BRIGADIER GENERAL.
COLONEL C.D. ALSTON, 0000, TO BE BRIGADIER GENERAL.
COLONEL THOMAS K. ANDERSEN, 0000, TO BE BRIGADIER GENERAL.
COLONEL BROOKS L. BASH, 0000, TO BE BRIGADIER GENERAL.
COLONEL MICHAEL J. BASLA, 0000, TO BE BRIGADIER GENERAL.
COLONEL MARK S. BORKOWSKI, 0000, TO BE BRIGADIER GENERAL.
COLONEL FRANCIS M. BRUNO, 0000, TO BE BRIGADIER GENERAL.
COLONEL HERBERT J. CARLISLE, 0000, TO BE BRIGADIER GENERAL.
COLONEL GARY S. CONNOR, 0000, TO BE BRIGADIER GENERAL.
COLONEL CHARLES R. DAVIS, 0000, TO BE BRIGADIER GENERAL.
COLONEL DANIEL R. DINKINS JR., 0000, TO BE BRIGADIER GENERAL.
COLONEL GREGORY A. FEEST, 0000, TO BE BRIGADIER GENERAL.
COLONEL FRANK GORENC, 0000, TO BE BRIGADIER GENERAL.
COLONEL BLAIR E. HANSEN, 0000, TO BE BRIGADIER GENERAL.
COLONEL MARY K. HERTOG, 0000, TO BE BRIGADIER GENERAL.
COLONEL JIMMIE C. JACKSON JR., 0000, TO BE BRIGADIER GENERAL.
COLONEL FRANK J. KISNER, 0000, TO BE BRIGADIER GENERAL.
COLONEL JAMES M. KOWALSKI, 0000, TO BE BRIGADIER GENERAL.
COLONEL DONALD LUSTIG, 0000, TO BE BRIGADIER GENERAL.
COLONEL WILLIAM N. MCCASLAND, 0000, TO BE BRIGADIER GENERAL.
COLONEL CHRISTOPHER D. MILLER, 0000, TO BE BRIGADIER GENERAL.
COLONEL HAROLD W. MOULTON II, 0000, TO BE BRIGADIER GENERAL.
COLONEL JOSEPH F. MUDD JR., 0000, TO BE BRIGADIER GENERAL.
COLONEL MARK H. OWEN, 0000, TO BE BRIGADIER GENERAL.
COLONEL ELLEN M. PAWLIKOWSKI, 0000, TO BE BRIGADIER GENERAL.
COLONEL ROBIN RAND, 0000, TO BE BRIGADIER GENERAL.
COLONEL JOSEPH M. REHEISER, 0000, TO BE BRIGADIER GENERAL.
COLONEL JOSEPH REYNES JR., 0000, TO BE BRIGADIER GENERAL.
COLONEL ALBERT F. RIGGLE, 0000, TO BE BRIGADIER GENERAL.
COLONEL PAUL G. SCHAFER, 0000, TO BE BRIGADIER GENERAL.
COLONEL STEPHEN D. SCHMIDT, 0000, TO BE BRIGADIER GENERAL.
COLONEL MARK S. SOLO, 0000, TO BE BRIGADIER GENERAL.
COLONEL LAWRENCE A. STUTZRIEM, 0000, TO BE BRIGADIER GENERAL.
COLONEL JANET ANTHEA THERIANOS, 0000, TO BE BRIGADIER GENERAL.
COLONEL ROBERT YATES, 0000, TO BE BRIGADIER GENERAL.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

LT. GEN. RONALD E. KEYS, 0000, TO BE GENERAL.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

MAJ. GEN. STEPHEN R. LORENZ, 0000, TO BE LIEUTENANT GENERAL.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

MAJ. GEN. KEVIN P. CHILTON, 0000, TO BE LIEUTENANT GENERAL.

FLOYD HALL, OF NEW JERSEY, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS.

ENRIQUE J. SOSA, OF FLORIDA, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

BRIG. GEN. STEVEN R. HAWKINS, 0000, TO BE MAJOR GENERAL.
BRIG. GEN. BENJAMIN C. FREAKLEY, 0000, TO BE MAJOR GENERAL.

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

BRIGADIER GENERAL ROBLEY S. RIGDON, 0000, TO BE MAJOR GENERAL.
COLONEL LINWOOD M. SAWYER, 0000, TO BE BRIGADIER GENERAL.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

COL. GERALD E. FERGUSON JR., 0000, TO BE BRIGADIER GENERAL.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

BRIG. GEN. MICHAEL A. KUEHR, 0000, TO BE MAJOR GENERAL.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

BRIG. GEN. RONALD D. SILVERMAN, 0000, TO BE MAJOR GENERAL.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

BRIGADIER GENERAL VINCENT E. BOLES, 0000, TO BE MAJOR GENERAL.
BRIGADIER GENERAL THOMAS P. BOSTICK, 0000, TO BE MAJOR GENERAL.
BRIGADIER GENERAL HOWARD B. BROMBERG, 0000, TO BE MAJOR GENERAL.
BRIGADIER GENERAL SEAN J. BYRNE, 0000, TO BE MAJOR GENERAL.
BRIGADIER GENERAL CHARLES A. CARTWRIGHT, 0000, TO BE MAJOR GENERAL.
BRIGADIER GENERAL THOMAS R. CSRNKO, 0000, TO BE MAJOR GENERAL.
BRIGADIER GENERAL JOHN DEFREITAS III, 0000, TO BE MAJOR GENERAL.
BRIGADIER GENERAL ROBERT E. DURBIN, 0000, TO BE MAJOR GENERAL.
BRIGADIER GENERAL DAVID A. FASTABEND, 0000, TO BE MAJOR GENERAL.
BRIGADIER GENERAL CHARLES W. FLETCHER JR., 0000, TO BE MAJOR GENERAL.
BRIGADIER GENERAL DANIEL A. HAHN, 0000, TO BE MAJOR GENERAL.
BRIGADIER GENERAL RHETT A. HERNANDEZ, 0000, TO BE MAJOR GENERAL.
BRIGADIER GENERAL MARK P. HERTLING, 0000, TO BE MAJOR GENERAL.
BRIGADIER GENERAL JAY W. HOOD, 0000, TO BE MAJOR GENERAL.
BRIGADIER GENERAL CHARLES H. JACOBY JR., 0000, TO BE MAJOR GENERAL.
BRIGADIER GENERAL JEROME JOHNSON, 0000, TO BE MAJOR GENERAL.
BRIGADIER GENERAL GARY M. JONES, 0000, TO BE MAJOR GENERAL.
BRIGADIER GENERAL WILLIAM M. LENAERS, 0000, TO BE MAJOR GENERAL.
BRIGADIER GENERAL DOUGLAS E. LUTE, 0000, TO BE MAJOR GENERAL.
BRIGADIER GENERAL JAMES R. MYLES, 0000, TO BE MAJOR GENERAL.
BRIGADIER GENERAL ROGER A. NADEAU, 0000, TO BE MAJOR GENERAL.
BRIGADIER GENERAL DAVID M. RODRIGUEZ, 0000, TO BE MAJOR GENERAL.
BRIGADIER GENERAL RICHARD J. ROWE JR., 0000, TO BE MAJOR GENERAL.
BRIGADIER GENERAL JEFFREY J. SCHLOESSER, 0000, TO BE MAJOR GENERAL.
BRIGADIER GENERAL JEFFREY A. SORENSON, 0000, TO BE MAJOR GENERAL.
BRIGADIER GENERAL ABRAHAM J. TURNER, 0000, TO BE MAJOR GENERAL.
BRIGADIER GENERAL ROBERT M. WILLIAMS, 0000, TO BE MAJOR GENERAL.
BRIGADIER GENERAL RICHARD P. ZAHNER, 0000, TO BE MAJOR GENERAL.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

BRIG. GEN. DONNA L. DACIER, 0000, TO BE MAJOR GENERAL.
COL. CHARLES K. EBNER, 0000, TO BE BRIGADIER GENERAL.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

COL. JULIA A. KRAUS, 0000, TO BE BRIGADIER GENERAL.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

COL. JAMES O. BARCLAY III, 0000, TO BE BRIGADIER GENERAL.
COL. DONALD M. CAMPBELL JR., 0000, TO BE BRIGADIER GENERAL.
COL. DENNIS E. ROGERS, 0000, TO BE BRIGADIER GENERAL.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

MAJ. GEN. STANLEY E. GREEN, 0000, TO BE LIEUTENANT GENERAL.

CHARLES P. RUCH, OF SOUTH DAKOTA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING AUGUST 11, 2010.

FAYZA VERONIQUE BOULAD RODMAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2006.

KENNETH Y. TOMLINSON, OF VIRGINIA, TO BE CHAIRMAN OF THE BROADCASTING BOARD OF GOVERNORS.

KENNETH Y. TOMLINSON, OF VIRGINIA, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2007.

D. JEFFREY HIRSCHBERG, OF WISCONSIN, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2007.

GARY LEE VISSCHER, OF MARYLAND, TO BE A MEMBER OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD FOR A TERM OF FIVE YEARS.

WILLIAM A. SCHAMBRA, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING SEPTEMBER 14, 2006.

DONNA N. WILLIAMS, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2006.

CYNTHIA BOICH, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2007.

HENRY LOZANO, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2008.

DOROTHY A. JOHNSON, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2007.

EDWARD L. FLIPPEN, OF VIRGINIA, TO BE INSPECTOR GENERAL, CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

CLAUDIA PUIG, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING JANUARY 31, 2008.

GAY HART GAINES, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING JANUARY 31, 2004.

MICHAEL D. GALLAGHER, OF WASHINGTON, TO BE ASSISTANT SECRETARY OF COMMERCE FOR COMMUNICATIONS AND INFORMATION.

THEODORE WILLIAMS KASSINGER, OF MARYLAND, TO BE DEPUTY SECRETARY OF COMMERCE.

ALBERT A. FRINK, JR., OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

JONATHAN W. DUDAS, OF VIRGINIA, TO BE UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE.

R. BRUCE MATTHEWS, OF NEW MEXICO, TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM EXPIRING OCTOBER 18, 2005.

MICHAEL W. WYNNE, OF FLORIDA, TO BE UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY, AND LOGISTICS.

JOHN PAUL WOODLEY, JR., OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE ARMY.

JOHN J. YOUNG, JR., OF VIRGINIA, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR ACQUISITION AND TECHNOLOGY.

KIRON KANINA SKINNER, OF PENNSYLVANIA, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF FOUR YEARS.

RAYMOND F. DUBOIS, OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR LOGISTICS AND MATERIEL READINESS.

BUDDIE J. PENN, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE NAVY.

GERALD REYNOLDS, OF MISSOURI, TO BE ASSISTANT SECRETARY FOR CIVIL RIGHTS, DEPARTMENT OF EDUCTION.

ROBERT LERNER, OF MARYLAND, TO BE COMMISSIONER OF EDUCATION STATISTICS FOR A TERM EXPIRING JUNE 21, 2009.

RAYMOND SIMON, OF ARKANSAS, TO BE ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION.

EUGENE HICKOK, OF PENNSYLVANIA, TO BE DEPUTY SECRETARY OF EDUCATION.

CRAIG T. RAMEY, OF WEST VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM OF TWO YEARS.

CRISTINA BEATO, OF NEW MEXICO, TO BE MEDICAL DIRECTOR IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE, SUBJECT TO THE QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS, AND TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES.

DANIEL R. LEVINSON, OF MARYLAND, TO BE INSPECTOR GENERAL, DEPARTMENT OF HEALTH AND HUMAN SERVICES.

CLARK KENT ERVIN, OF TEXAS, TO BE INSPECTOR GENERAL, DEPARTMENT OF HOMELAND SECURITY.

CLARK KENT ERVIN, OF TEXAS, TO BE INSPECTOR GENERAL, DEPARTMENT OF HOMELAND SECURITY, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

CATHY M. MACFARLANE, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

DENNIS C. SHEA, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

ROMOLO A. BERNARDI, OF NEW YORK, TO BE DEPUTY SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

CARIN M. BARTH, OF TEXAS, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

EARL CRUZ AGUIGUI, OF GUAM, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF GUAM AND CONCURRENTLY UNITED STATES MARSHAL FOR THE DISTRICT OF THE NORTHERN MARIANA ISLANDS FOR THE TERM OF FOUR YEARS.

GRETCHEN C. F. SHAPPERT, OF NORTH CAROLINA, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF NORTH CAROLINA FOR THE TERM OF FOUR YEARS.

LANCE ROBERT OLSON, OF IOWA, TO BE UNITED STATES MARSHAL FOR THE NORTHERN DISTRICT OF IOWA FOR THE TERM OF FOUR YEARS.

ALBERTO R. GONZALES, OF TEXAS, TO BE ATTORNEY GENERAL.

GRANT S. GREEN, JR., OF VIRGINIA, TO BE DEPUTY SECRETARY OF STATE FOR MANAGEMENT AND RESOURCES.

HOWARD J. KRONGARD, OF NEW JERSEY, TO BE INSPECTOR GENERAL, DEPARTMENT OF STATE.

ALDONA WOS, OF NORTH CAROLINA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ESTONIA, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

CHARLES GRAVES UNTERMEYER, OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE STATE OF QATAR, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

JOHN D. ROOD, OF FLORIDA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE COMMONWEALTH OF THE BAHAMAS, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

LINDA MORRISON COMBS, OF NORTH CAROLINA, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION.

KIRK VAN TINE, OF VIRGINIA, TO BE DEPUTY SECRETARY OF TRANSPORTATION.

SUE ELLEN WOOLDRIDGE, OF VIRGINIA, TO BE SOLICITOR OF THE DEPARTMENT OF THE INTERIOR.

GREGORY FRANKLIN JENNER, OF OREGON, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

PAUL JONES, OF COLORADO, TO BE A MEMBER OF THE INTERNAL REVENUE SERVICE OVERSIGHT BOARD FOR A TERM EXPIRING SEPTEMBER 14, 2008.

JESUS H. DELGADO-JENKINS, OF ILLINOIS, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

HAROLD DAMELIN, OF VIRGINIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF THE TREASURY.

RAYMOND THOMAS WAGNER, JR., OF MISSOURI, TO BE A MEMBER OF THE INTERNAL REVENUE SERVICE OVERSIGHT BOARD FOR A TERM EXPIRING SEPTEMBER 14, 2009.

LUIS LUNA, OF MARYLAND, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

CHARLES JOHNSON, OF UTAH, TO BE CHIEF FINANCIAL OFFICER, ENVIRONMENTAL PROTECTION AGENCY.

ANN R. KLEE, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

THOMAS V. SKINNER, OF ILLINOIS, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

STEPHEN L. JOHNSON, OF MARYLAND, TO BE DEPUTY ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

NAOMI CHURCHILL EARP, OF VIRGINIA, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2005.

ADAM MARC LINDEMANN, OF NEW YORK, TO BE A MEMBER OF THE ADVISORY BOARD FOR CUBA BROADCASTING FOR A TERM EXPIRING OCTOBER 27, 2005.

JORGE A. PLASENCIA, OF FLORIDA, TO BE A MEMBER OF THE ADVISORY BOARD FOR CUBA BROADCASTING FOR A TERM EXPIRING OCTOBER 27, 2006.

LINDA MYSLIWY CONLIN, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 2007.

RONALD ROSENFELD, OF OKLAHOMA, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR THE REMAINDER OF THE TERM EXPIRING FEBRUARY 27, 2009.

PETER EIDE, OF MARYLAND, TO BE GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY FOR A TERM OF FIVE YEARS.

A. PAUL ANDERSON, OF FLORIDA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 2007.

STANLEY C. SUBOLESKI, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM OF SIX YEARS EXPIRING AUGUST 30, 2006.

DAVID B. RIVKIN, JR., OF VIRGINIA, TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR THE TERM EXPIRING SEPTEMBER 30, 2004.

BRIAN DAVID MILLER, OF VIRGINIA, TO BE INSPECTOR GENERAL, GENERAL SERVICES ADMINISTRATION.

JUANITA ALICIA VASQUEZ-GARDNER, OF TEXAS, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 2003.

PATRICK LLOYD MCCRORY, OF NORTH CAROLINA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 2005.

JUANITA ALICIA VASQUEZ-GARDNER, OF TEXAS, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 2003.

JUANITA ALICIA VASQUEZ-GARDNER, OF TEXAS, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 2009, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

ROGER FRANCISCO NORIEGA, OF KANSAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 2006.

ADOLFO A. FRANCO, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 2008.

ADOLFO A. FRANCO, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 2008.

ROGER W. WALLACE, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 2008.

NADINE HOGAN, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING JUNE 26, 2008.

JACK VAUGHN, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 2006.

NADINE HOGAN, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING JUNE 26, 2008.

JACK VAUGHN, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 2006.

ROGER W. WALLACE, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 2008.

JAY PHILLIP GREENE, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION FOR A TERM EXPIRING NOVEMBER 17, 2005.

DAVID WESLEY FLEMING, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION FOR A TERM EXPIRING MAY 29, 2007.

JOHN RICHARD PETROCIK, OF MISSOURI, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION FOR A TERM EXPIRING SEPTEMBER 27, 2008.

GEORGE PERDUE, OF GEORGIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION FOR A TERM EXPIRING NOVEMBER 5, 2006.

LILLIAN R. BEVIER, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 2004.

THOMAS A. FUENTES, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 2005.

THOMAS A. FUENTES, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 2005.

BERNICE PHILLIPS, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 2005.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

COL. CRAIG T. BODDINGTON, 0000, TO BE BRIGADIER GENERAL.

BRIGADIER GENERAL DON T. RILEY, UNITED STATES ARMY, TO BE A MEMBER AND PRESIDENT OF THE MISSISSIPPI RIVER COMMISSION, UNDER THE PROVISIONS OF SECTION 2 OF AN ACT OF CONGRESS, APPROVED JUNE 1879 (21 STAT. 37) (33 USC 642).

MICHAEL BUTLER, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 2008.

D. MICHAEL RAPPOPORT, OF ARIZONA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 2008.

ALLEN WEINSTEIN, OF MARYLAND, TO BE ARCHIVIST OF THE UNITED STATES.

HARRY ROBINSON, JR., OF TEXAS, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2008.

RICHARD KENNETH WAGNER, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD FOR A TERM EXPIRING NOVEMBER 25, 2006.

WILLIAM HARDIMAN, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 2006.

RONALD E. MEISBURG, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING AUGUST 27, 2008.

RONALD E. MEISBURG, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING AUGUST 27, 2008.

A. WILSON GREENE, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL MUSEUM AND LIBRARY SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2009.

KATINA P. STRAUCH, OF SOUTH CAROLINA, TO BE A MEMBER OF THE NATIONAL MUSEUM AND LIBRARY SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2009.

JAMES WILLIAM CARR, OF ARKANSAS, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF FOUR YEARS.

GEORGE M. DENNISON, OF MONTANA, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF FOUR YEARS.

ANDREW J. MCKENNA, JR., OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF FOUR YEARS.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

CAPT. CAROL M. POTTENGER, 0000, TO BE REAR ADMIRAL (LOWER HALF).

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

CAPT. ALBERT GARCIA III, 0000, TO BE REAR ADMIRAL (LOWER HALF).

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

CAPT. NATHAN E. JONES, 0000, TO BE REAR ADMIRAL (LOWER HALF).

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

CAPT. VICTOR C. SEE JR., 0000, TO BE REAR ADMIRAL (LOWER HALF).

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

CAPT. KEVIN M. MCCOY, 0000, TO BE REAR ADMIRAL (LOWER HALF).

CAPT. WILLIAM D. RODRIGUEZ, 0000, TO BE REAR ADMIRAL (LOWER HALF).

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

CAPT. CHRISTINE M. BRUZEK-KOHLER, 0000, TO BE REAR ADMIRAL (LOWER HALF).

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

CAPT. RAYMOND E. BERUBE, 0000, TO BE REAR ADMIRAL (LOWER HALF).

CAPT. JOHN J. PRENDERGAST III, 0000, TO BE REAR ADMIRAL (LOWER HALF).

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

REAR ADM. (LH) ALAN S. THOMPSON, 0000, TO BE REAR ADMIRAL.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

CAPT. PETER M. GRANT III, 0000, TO BE REAR ADMIRAL (LOWER HALF).

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

REAR ADM. (LH) NANCY J. LESCAVAGE, 0000, TO BE REAR ADMIRAL.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

CAPT. MARK W. BALMERT, 0000, TO BE REAR ADMIRAL (LOWER HALF).

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

REAR ADM. (LH) JEFFREY A. BROOKS, 0000, TO BE REAR ADMIRAL.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

REAR ADM. (LH) ROBERT B. MURRETT, 0000, TO BE REAR ADMIRAL.

GREGORY B. JACZKO, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR A TERM EXPIRING JUNE 30, 2008.

ALBERT HENRY KONETZNI, JR., OF NEW YORK, TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR A TERM EXPIRING JUNE 30, 2009.

EDWIN D. WILLIAMSON, OF SOUTH CAROLINA, TO BE DIRECTOR OF THE OFFICE OF GOVERNMENT ETHICS FOR A TERM OF FIVE YEARS.

TONY HAMMOND, OF VIRGINIA, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR A TERM EXPIRING OCTOBER 14, 2010.

JACK EDWIN MCGREGOR, OF CONNECTICUT, TO BE A MEMBER OF THE ADVISORY BOARD OF THE SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION.

SCOTT KEVIN WALKER, OF WISCONSIN, TO BE A MEMBER OF THE ADVISORY BOARD OF THE SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION.

TERRENCE W. BOYLE, OF NORTH CAROLINA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT.

RICHARD A. GRIFFIN, OF MICHIGAN, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT.

CAROLYN B. KUHL, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT.

DAVID W. MCKEAGUE, OF MICHIGAN, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT.

SUSAN BIEKE NEILSON, OF MICHIGAN, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT.

PRISCILLA RICHMAN OWEN, OF TEXAS, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT.

CHARLES W. PICKERING, SR., OF MISSISSIPPI, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT.

HENRY W. SAAD, OF MICHIGAN, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT.

JAMES C. DEVER III, OF NORTH CAROLINA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NORTH CAROLINA.

THOMAS L. LUDINGTON, OF MICHIGAN, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN.

WILLIAM H. PRYOR, JR., OF ALABAMA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT.

ROBERT J. CONRAD, JR., OF NORTH CAROLINA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF NORTH CAROLINA.

DANIEL P. RYAN, OF MICHIGAN, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN.

WILLIAM GERRY MYERS III, OF IDAHO, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT.

JANICE R. BROWN, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT.

BRETT M. KAVANAUGH, OF MARYLAND, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT.

WILLIAM JAMES HAYNES II, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT.

PETER G. SHERIDAN, OF NEW JERSEY, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.

CLAUDE A. ALLEN, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT.

CHARLES W. PICKERING, SR., OF MISSISSIPPI, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT.

WILLIAM H. PRYOR, OF ALABAMA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT.

THOMAS B. GRIFFITH, OF UTAH, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT.

LAURA A. CORDERO, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS.

JULIET JOANN MCKENNA, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS.

PAUL A. CROTTY, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

SEAN F. COX, OF MICHIGAN, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN.

J. MICHAEL SEABRIGHT, OF HAWAII, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF HAWAII.

JENNIFER M. ANDERSON, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS.

NOEL ANKETELL KRAMER, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE DISTRICT OF COLUMBIA COURT OF APPEALS FOR THE TERM OF FIFTEEN YEARS.

JAY T. SNYDER, OF NEW YORK, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 2007.

JAMES R. KUNDER, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

DANIEL PIPES, OF PENNSYLVANIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 2005.

DANIEL PIPES, OF PENNSYLVANIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 2005.

CHARLOTTE A. LANE, OF WEST VIRGINIA, TO BE A MEMBER OF THE UNITED STATES INTERNATIONAL TRADE COMMISSION FOR A TERM EXPIRING DECEMBER 16, 2009.

DANIEL PEARSON, OF MINNESOTA, TO BE A MEMBER OF THE UNITED STATES INTERNATIONAL TRADE COMMISSION FOR THE TERM EXPIRING JUNE 16, 2011.

DEBORAH ANN SPAGNOLI, OF CALIFORNIA, TO BE A COMMISSIONER OF THE UNITED STATES PAROLE COMMISSION FOR A TERM OF SIX YEARS.

CAROLYN L. GALLAGHER, OF TEXAS, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 8, 2005.

LOUIS J. GIULIANO, OF NEW YORK, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR A TERM EXPIRING DECEMBER 8, 2009.

LOUIS J. GIULIANO, OF NEW YORK, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR A TERM EXPIRING DECEMBER 8, 2009.

CAROLYN L. GALLAGHER, OF TEXAS, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 8, 2005.

RICARDO H. HINOJOSA, OF TEXAS, TO BE CHAIR OF THE UNITED STATES SENTENCING COMMISSION.

23 NOMINATIONS IN THE AIR FORCE BEGINNING WITH PAUL N. AUSTIN AND ENDING WITH FLORENCE A. VALLEY.

134 NOMINATIONS IN THE AIR FORCE BEGINNING WITH TRAVIS R. ADAMS AND ENDING WITH WENDY J. WYSE.

17 NOMINATIONS IN THE AIR FORCE BEGINNING WITH STEPHEN M. ALLEN AND ENDING WITH THEADORE L. WILSON.

57 NOMINATIONS IN THE AIR FORCE BEGINNING WITH STEVEN G. ALLRED AND ENDING WITH JOHN R. WROCKLOFF.

1425 NOMINATIONS IN THE AIR FORCE BEGINNING WITH DAVID C. ABRUZZI AND ENDING WITH MICHAEL J. ZUBER.

49 NOMINATIONS IN THE ARMY BEGINNING WITH STANLEY P . ALLEN AND ENDING WITH HENRY J. YOUNG.

TONI CHRISTIANSEN-WAGNER IN THE FOREIGN SERVICE

DENIS P. COLEMAN, JR. IN THE FOREIGN SERVICE

DAVID J. WILSON IN THE MARINE CORPS TO BE LIEUTENANT COLONEL

AMY V. DUNNING IN THE MARINE CORPS TO BE COLONEL

MICHAEL AKSELRUD IN THE MARINE CORPS TO BE MAJOR

2 NOMINATIONS IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION BEGINNING WITH JAMES D. RATHBUN AND ENDING WITH ANDREW P. SEAMAN.

DAVID B. WEIDING IN THE NAVY TO BE COMMANDER

THOMAS C. DORR, OF IOWA, TO BE UNDER SECRETARY OF AGRICULTURE FOR RURAL DEVELOPMENT.

THOMAS C. DORR, OF IOWA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 8, 2004:

DEPARTMENT OF ENERGY

SUSAN JOHNSON GRANT, OF VIRGINIA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF ENERGY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

KAREN ALDERMAN HARBERT, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (INTERNATIONAL AFFAIRS AND DOMESTIC POLICY).

JOHN S. SHAW, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (ENVIRONMENT, SAFETY AND HEALTH).

DEPARTMENT OF LABOR

VERONICA VARGAS STIDVENT, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF LABOR.

DEPARTMENT OF JUSTICE

WILLIAM SANCHEZ, OF FLORIDA, TO BE SPECIAL COUNSEL FOR IMMIGRATION-RELATED UNFAIR EMPLOYMENT PRACTICES FOR A TERM OF FOUR YEARS.

FOREIGN SERVICE NOMINATIONS BEGINNING DONNA LURLINE WOOLF AND ENDING LISA BOBBIE SCHREIBER-HUGHES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 16, 2004.

FOREIGN SERVICE NOMINATIONS BEGINNING CYNTHIA A. HALEY AND ENDING WALTER D. PATTERSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 16, 2004.

Daily Digest

HIGHLIGHTS

Senate agreed to the Conference Report to accompany S. 2845, National Intelligence Reform Act.

Senate agreed to the Conference Report to accompany H.R. 4548, Intelligence Authorization Act.

Senate agreed to H. Con. Res. 531, providing for the sine die adjournment of the second session of the One Hundred Eighth Congress.

Senate

Chamber Action

Routine Proceedings, pages S11937–S12087

Measures Introduced: Three bills and three resolutions were introduced, as follows: S. 3033–3035, and S. Res. 485–487. **Page S12068**

Measures Passed:

Relative to the Death of J. Stanley Kimmitt: Senate agreed to S. Res. 486, relative to the death of J. Stanley Kimmitt, Former Secretary of the Senate. **Pages S12017–18**

Microenterprise Results and Accountability Act: Senate passed H.R. 3818, to amend the Foreign Assistance Act of 1961 to improve the results and accountability of microenterprise development assistance programs, clearing the measure for the President. **Page S12018**

Private Relief: Senate passed S. 3034, for the relief of Susan Overton Huey. **Page S12018**

Wilderness Act Anniversary: Committee on Energy and Natural Resources was discharged from further consideration of S. Res. 387, commemorating the 40th Anniversary of the Wilderness Act, and the resolution was then agreed to, after agreeing to the following amendment proposed thereto: **Pages S12018–19**

Frist (for Bingaman/Feingold) Amendment No. 4087 (to the preamble), to add additional history relating to the wilderness. **Pages S12018–19**

Atomic Energy Act of 1954 Recognition: Committee on Environment and Public Works was discharged from further consideration of S. Con. Res. 151, recognizing the essential role that the Atomic Energy Act of 1954 has played in development of peaceful uses of atomic energy, and the resolution was then agreed to. **Page S12019**

Kilauea Point National Wildlife Refuge Expansion Act: Committee on Environment and Public Works was discharged from further consideration of H.R. 2619, to provide for the expansion of Kilauea Point National Wildlife Refuge, and the bill was then passed, clearing the measure for the President. **Page S12019**

Junk Fax Prevention Act: Senate passed S. 2603, to amend section 227 of the Communications Act of 1934 (47 U.S.C. 227) relating to the prohibition on junk fax transmissions, after agreeing to the following amendment proposed thereto: **Page S12020**

Frist (for McCain/Cornyn) Amendment No. 4086, in the nature of a substitute. **Page S12020**

Castillo de San Marcos National Monument Boundary Adjustment Act: Committee on Energy and Natural Resources was discharged from further consideration of H.R. 2457, to authorize funds for an educational center for the Castillo de San Marcos National Monument, and the bill was then passed, clearing the measure for the President. **Page S12020**

Everglades National Park Land Exchange: Senate passed H.R. 3785, to authorize the exchange of certain land in Everglades National Park, clearing the measure for the President. **Page S12020**

U.S. Justices Judges Salary Adjustments: Senate passed H.R. 5363, to authorize salary adjustments for Justices and judges of the United States for fiscal year 2005, clearing the measure for the President. **Page S12020**

American Bald Eagle Recovery and National Emblem Commemorative Coin Act: Senate passed H.R. 4116, to require the Secretary of the Treasury to mint coins celebrating the recovery and restoration of the American bald eagle, the national symbol of the United States, to America's lands, waterways, and skies and the great importance of the designation of the American bald eagle as an "endangered" species under the Endangered Species Act of 1973, clearing the measure for the President.

Pages S12020–21

Ukraine Elections: Senate agreed to S. Res. 487, expressing the sense of the Senate regarding the November 21, 2004, Presidential runoff election in Ukraine. **Page S12021**

Private Relief: Committee on the Judiciary was discharged from further consideration of H.R. 530, for the relief of Tanya Andrea Goudeau, and the bill was then passed, clearing the measure for the President. **Page S12021**

Sudden Oak Death Syndrome Control: Senate passed H.R. 4569, to provide for the development of a national plan for the control and management of Sudden Oak Death, a tree disease caused by the fungus-like pathogen Phytophthora ramorum, clearing the measure for the President. **Page S12026**

Sudden Oak Death Syndrome Control Act: Committee on Agriculture, Nutrition, and Forestry was discharged from further consideration of S. 2575, to direct the Secretary of Agriculture to conduct research, monitoring, management, treatment, and outreach activities relating to sudden oak death syndrome and to convene regular meetings of, or conduct regular consultations with, Federal, State, tribal, and local government officials to provide recommendations on how to carry out those activities, and the bill was then passed. **Pages S12026–27**

District of Columbia Retirement Protection Improvement Act: Senate passed H.R. 4657, to amend the Balanced Budget Act of 1997 to improve the administration of Federal pension benefit payments for District of Columbia teachers, police officers, and firefighters, clearing the measure for the President.

Pages S12027–28

Anticounterfeiting Act: Committee on the Judiciary was discharged from further consideration of S. 2227, to prevent and punish counterfeiting and copyright piracy, and the bill was then passed.

Pages S12028–29

Anti-Counterfeiting Amendment Act: Committee on the Judiciary was discharged from further consideration of H.R. 3632, to prevent and punish counterfeiting of copyrighted copies and phonorecords, and the bill was then passed, clearing the measure for the President. **Page S12029**

Eisenhower Exchange Fellowship Program Trust Fund Enhancement Act: Committee on Foreign Relations was discharged from further consideration of H.R. 2121, to amend the Eisenhower Exchange Fellowship Act of 1990 to authorize additional appropriations for the Eisenhower Exchange Fellowship Program Trust Fund, and the bill was then passed, after agreeing to the following amendment proposed thereto: **Page S12029**

Frist (for Roberts) Amendment No. 4088, to remove a fiscal year limitation from an authorization of appropriations. **Page S12029**

Arrow Components Taxation: Senate passed H.R. 5394, to amend the Internal Revenue Code of 1986 to modify the taxation of arrow components, clearing the measure for the President. **Page S12029**

Public Health Service Act Amendment: Senate passed H.R. 5204, to amend section 340E of the Public Health Service Act (relating to children's hospitals) to modify provisions regarding the determination of the amount of payments for indirect expenses associated with operating approved graduate medical residency training programs, clearing the measure for the President. **Page S12029**

University of Miami Marine Life Science Center: Committee on Commerce, Science, and Transportation was discharged from further consideration of H.R. 4027, to authorize the Secretary of Commerce to make available to the University of Miami property under the administrative jurisdiction of the National Oceanic and Atmospheric Administration on Virginia Key, Florida, for use by the University for a Marine Life Science Center, and the bill was then passed, clearing the measure for the President.

Page S12029

Commercial Space Launch Amendments Act: Senate passed H.R. 5382, to promote the development of the emerging commercial human space flight industry, clearing the measure for the President. **Page S12029**

Enhance 911 Act: Senate passed H.R. 5419, to amend the NationalTelecommunications and Information Administration Organization Act to facilitate the reallocation of spectrum from governmental to commercial users; to improve, enhance, and promote the Nation's homeland security, public safety, and citizen activated emergency response capabilities through the use of enhanced 911 services, to further upgrade Public Safety Answering Point capabilities and related functions in receiving E–911 calls, and to support in the construction and operation of a ubiquitous and reliable citizen activated system; and

to provide that funds received as universal service contributions under section 254 of the Communications Act of 1934 and the universal service support programs established pursuant thereto are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act, for a period of time, clearing the measure for the President. **Page S12083**

Sine Die Adjournment: Senate agreed to H. Con. Res. 531, providing for the sine die adjournment of the second session of the One Hundred Eighth Congress. **Page S12083**

National Intelligence Reform Act Conference Report: By 89 yeas to 2 nays (Vote No. 216), Senate agreed to the conference report to accompany S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, clearing the measure for the President. **Pages S11939–S12010**

Intelligence Authorization Act Conference Report: Senate agreed to the conference report to accompany H.R. 4548, to authorize appropriations for fiscal year 2005 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, clearing the measure for the President. **Page S12020**

Authorizing Leadership to Make Appointments—Agreement: A unanimous-consent agreement was reached providing that notwithstanding the adjournment of the Senate, the President of the Senate, the President Pro Tempore, and the Majority and Minority Leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate. **Page S12022**

Signing Authority—Agreement: A unanimous-consent agreement was reached providing that during this adjournment of the Senate, the Majority Leader be authorized to sign duly enrolled bills or joint resolutions. **Page S12022**

Nominations Confirmed: Senate confirmed the following nominations:

Susan Johnson Grant, of Virginia, to be Chief FinancialOfficer, Department of Energy.

William Sanchez, of Florida, to be Special Counsel forImmigration-Related Unfair Employment Practices for a term offour years.

Veronica Vargas Stidvent, of Texas, to be an AssistantSecretary of Labor. (Prior to this action, Committee on Health, Education, Labor and Pensions was dischargedfrom further consideration).

Karen Alderman Harbert, of the District of Columbia, to bean Assistant Secretary of Energy (International Affairs and Domestic Policy). (Prior to this action, Committee on Energy and Natural Resources was discharged from furtherconsideration).

John S. Shaw, of the District of Columbia, to be anAssistant Secretary of Energy (Environment, Safety and Health). (Prior to this action, Committee on Energy and Natural Resources was discharged from further consideration).

Routine lists in the Foreign Service. (Prior to this action, Committee on Foreign Relations was discharged from further consideration). **Page S12087**

Nominations Returned to the President: **Pages S12084–12087**

Messages From the House: **Pages S12060–61**

Measures Referred: **Page S12061**

Executive Communications: **Pages S12061–68**

Additional Cosponsors: **Page S12068**

Statements on Introduced Bills/Resolutions: **Pages S12068–71**

Additional Statements: **Pages S12052–60**

Amendments Submitted: **Page S12071**

Privilege of the Floor: **Page S12083**

Record Votes: One record vote was taken today. (Total—216) **Page S12010**

Adjournment: Senate met at 9:30 a.m., and, in accordance with the provisions of H. Con. Res. 531, adjourned sine die at 10:54 p.m., on Wednesday, December 8, 2004, until 12 noon, on January 4, 2005.

Committee Meetings

No committee meetings were held.

House of Representatives

Chamber Action

The House was not in session today. The House will meet at 12 noon on Tuesday, January 4, 2005 for the convening of the One Hundred Ninth Congress.

Committee Meetings

No committee meetings were held.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *p. D1124)*

H.R. 1350, to reauthorize the Individuals with Disabilities Education Act. Signed on December 3, 2004. (Public Law 108–446)

Next Meeting of the SENATE

12 noon, Tuesday, January 4, 2005

Senate Chamber

Program for January 4, 2005: Senate will convene the first session of the 109th Congress.

Next Meeting of the HOUSE OF REPRESENTATIVES

12 noon, Tuesday, January 4, 2005

House Chamber

Program for January 4, 2005: Convening of the 109th Congress.

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