

shall apply to all cases, without exception, pending on or after the date of the enactment of this Act which relate to any aspect of the detention, transfer, treatment, trial, or conditions of detention of an alien detained by the United States since September 11, 2001.

SEC. 8. REVISIONS TO DETAINEE TREATMENT ACT OF 2005 RELATING TO PROTECTION OF CERTAIN UNITED STATES GOVERNMENT PERSONNEL.

(a) COUNSEL AND INVESTIGATIONS.—Section 1004(b) of the Detainee Treatment Act of 2005 (42 U.S.C. 2000dd-1(b)) is amended—

(1) by striking “may provide” and inserting “shall provide”;

(2) by inserting “or investigation” after “criminal prosecution”; and

(3) by inserting “whether before United States courts or agencies, foreign courts or agencies, or international courts or agencies,” after “described in that subsection”.

(b) PROTECTION OF PERSONNEL.—Section 1004 of the Detainee Treatment Act of 2005 (42 U.S.C. 2000dd-1) shall apply with respect to any criminal prosecution that—

(1) relates to the detention and interrogation of aliens described in such section;

(2) is grounded in section 2441(c)(3) of title 18, United States Code; and

(3) relates to actions occurring between September 11, 2001, and December 30, 2005.

SEC. 9. REVIEW OF JUDGMENTS OF MILITARY COMMISSIONS.

Section 1005(e)(3) of the Detainee Treatment Act of 2005 (title X of Public Law 109-148; 119 Stat. 2740; 10 U.S.C. 801 note) is amended—

(1) in subparagraph (A), by striking “pursuant to Military Commission Order No. 1, dated August 31, 2005 (or any successor military order)” and inserting “by a military commission under chapter 47A of title 10, United States Code”;

(2) by striking subparagraph (B) and inserting the following new subparagraph (B):

“(B) GRANT OF REVIEW.—Review under this paragraph shall be as of right.”;

(3) in subparagraph (C)—

(A) in clause (i)—

(i) by striking “pursuant to the military order” and inserting “by a military commission”; and

(ii) by striking “at Guantanamo Bay, Cuba”; and

(B) in clause (ii), by striking “pursuant to such military order” and inserting “by the military commission”; and

(4) in subparagraph (D)(i), by striking “specified in the military order” and inserting “specified for a military commission”.

SEC. 10. DETENTION COVERED BY REVIEW OF DECISIONS OF COMBATANT STATUS REVIEW TRIBUNALS OF PROPRIETY OF DETENTION.

Section 1005(e)(2)(B)(i) of the Detainee Treatment Act of 2005 (title X of Public Law 109-148; 119 Stat. 2742; 10 U.S.C. 801 note) is amended by striking “the Department of Defense at Guantanamo Bay, Cuba” and inserting “the United States”.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. ENZI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I thank the Presiding Officer.

This matter has now been brought to conclusion.

I yield the floor.

**SECURE FENCE ACT OF 2006—
Resumed**

CLOTURE MOTION

The PRESIDING OFFICER (Mr. ALLEN). Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 615, H.R. 6061, a bill to establish operational control over the international land and maritime borders of the United States.

Bill Frist, Lamar Alexander, Richard Burr, Gordon Smith, John Thune, Johnny Isakson, John Cornyn, Judd Gregg, Jim Inhofe, Saxby Chambliss, Sam Brownback, Tom Coburn, Jeff Sessions, Richard Shelby, Craig Thomas, Michael B. Enzi, Lisa Murkowski.

Mr. BYRD. Mr. President, I support cloture on H.R. 6061, the Secure Fence Act. The sooner the Congress passes this bill, the sooner the Congress can put aside the misguided amnesty legislation passed by the Senate earlier this year. The American people have listened and rejected the call to offer U.S. citizenship to illegal aliens. They have said NO to amnesty! Hallelujah!

Comprehensive immigration reform is a euphemism for amnesty, and I oppose it absolutely and unequivocally. I voted against the amnesty bill passed by the Senate, and I will continue to vote against amnesty as long as I am in the Senate.

I have seen how amnesties encourage illegal immigration, with the amnesties of the 1980s and 1990s corresponding with an unprecedented rise in the population of unlawful aliens.

I have seen how amnesties open the border to terrorists, with the perpetrators of terrorist plots against our country taking advantage of amnesties to circumvent the regular border and immigration checks.

I have seen how amnesties afford special rules to some immigrants. Amnesty undermines that great and egalitarian American promise that the rules will be applied equally and fairly to everyone.

We are a nation of immigrants to be sure, but that does not mean that we are obligated to give away U.S. citizenship. According to immigration experts, until 1986, the Congress never granted amnesty to any generation of immigrants. The Congress encouraged immigrants to learn the Constitutional principles of our Government and the history of our country. Immigrants learned English, and tried to assimilate. U.S. citizenship was their reward. The Congress did not reward illegal aliens with U.S. citizenship.

Now that this idea of amnesty has been rejected by the Congress, perhaps the administration will begin, at long last, to focus its efforts on actually reducing the number of illegal aliens already in the country. Such an effort will require a significant investment of

funds to hire law enforcement and border security agents, and to give them the resources and equipment they need to do their job. In the years immediately after the September 11 attacks, those funds had not only been left out of the President's annual budgets but had been continuously blocked by the White House in the appropriations process. I and others tried to add funds where possible, but not until recently did the administration begin to respond to the inadequacies along the border. So much more is required and needs to be done.

The bill before the Senate today is a good bill. It would authorize two-layer fencing along the southern border where our security is weakest, and set timetables to which the Congress can hold the administration. But this bill will amount to little or no protection without the resources to implement it. The administration must do more. Without its continued support and a committed effort to prevent illegal immigration, the protective barrier called for in this bill will amount to nothing more than a line drawn in the sands of our porous Southern border.

Mr. KENNEDY. Mr. President, now we have 4 minutes that can be equally divided between those in favor and those in opposition; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

Let us review where we in the Senate have been on the issue of immigration.

Last May, we passed by 63 votes, with 1 favorable vote missing, a comprehensive measure to try to deal with a complex and difficult issue. The House of Representatives passed this bill, but they refused to meet with the Senate of the United States. The House of Representatives held 60 hearings all over the country at taxpayers' expense—millions and millions of dollars. What do they come up with? After all the pounding and finger-pointing, they came up with an 800-mile fence.

Listen to Governor Napolitano: You show me a 50-foot fence, and I will show you a 51-foot ladder.

This is a feel-good bumper-sticker vote. It is not going to work. Why? Because half of all the undocumented come here legally. They don't come over the fence.

Do you hear us? This is going to cost \$9 billion.

Listen to what Secretary Chertoff said about this issue. Secretary Chertoff said: “Don't give us old fences. Give us 20th century solutions.” Tom Ridge, the former head of Homeland Security, said the same thing.

This is a waste of money. Let us do what we should have done in the first place. Let us sit down with the House, the way this institution is supposed to work, rather than just take what is served up by the House of Representatives that said take it or leave it. That is what they are saying to the Senate.

We have had a good debate which resulted in a comprehensive measure. Let

us have a conference with the House. But let us reject this bumper-sticker solution. It isn't going to work. It is going to be enormously costly.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, we know that fencing works. It is a proven approach. The San Diego fence has been incredibly successful. The illegal entries have fallen from 500,000 to 100,000. Crime in San Diego County, the whole county, dropped 56 percent. It is an absolutely successful experiment and demonstration of this working.

The chief of Border Patrol told one of the House hearings that it multiplies the capacity of their agents to be effective. There is no way individual agents can run up and down the border without some barriers in these high-traffic areas.

Secretary Chertoff asked us explicitly for 800 miles of barriers and fencing. He asked for that. We voted for it in May. We voted 83 to 16 in favor of the fence, and in August we voted 93 to 3 in favor of funding. But we haven't gotten there yet.

This bill is the kind of bill which can allow us to go forward and complete what the American people would like to see, and maybe then we can have some credibility with the public and we can begin to deal with the very important, sensitive issues of comprehensive immigration reform which I favor. But I believe the present bill that came through the Senate did not meet the required standard. We can do much better.

We have voted for this. We voted for it at least three times to make it a reality. And then we will have some credibility with the American people after we do that and then begin to talk comprehensively about how to fix an absolutely broken immigration system.

I urge support of cloture.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on Calendar No. 615, H.R. 6061, a bill to establish operational control over the international land and maritime borders of the United States, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Maine (Ms. SNOWE).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 71, nays 28, as follows:

[Rollcall Vote No. 260 Leg.]

YEAS—71

Alexander	Allen	Bayh
Allard	Baucus	Bennett

Biden	Ensign	Murkowski
Bond	Enzi	Nelson (FL)
Brownback	Feinstein	Nelson (NE)
Bunning	Frist	Pryor
Burns	Graham	Roberts
Burr	Grassley	Rockefeller
Byrd	Gregg	Santorum
Chambliss	Hagel	Sessions
Coburn	Hatch	Shelby
Cochran	Hutchison	Smith
Coleman	Inhofe	Specter
Collins	Isakson	Stabenow
Conrad	Johnson	Stevens
Cornyn	Kyl	Sununu
Craig	Landrieu	Talent
Crapo	Lincoln	Thomas
Dayton	Lott	Thune
DeMint	Lugar	Vitter
DeWine	Martinez	Voinovich
Dole	McCain	Warner
Domenici	McConnell	Wyden
Dorgan	Mikulski	

NAYS—28

Akaka	Harkin	Menendez
Bingaman	Inouye	Murray
Boxer	Jeffords	Obama
Cantwell	Kennedy	Reed
Carper	Kerry	Reid
Chafee	Kohl	Salazar
Clinton	Lautenberg	Sarbanes
Dodd	Leahy	Schumer
Durbin	Levin	
Feingold	Lieberman	

NOT VOTING—1

Snowe

The PRESIDING OFFICER. On this vote, the yeas are 71, the nays are 28. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The clerk will please report the bill.

The legislative clerk read as follows:

A bill (H.R. 6061) to establish operational control over the international land and maritime borders of the United States.

Pending:

Frist amendment No. 5036, to establish military commissions.

Frist amendment No. 5037 (to amendment No. 5036), to establish the effective date.

Motion to commit the bill to the Committee on the Judiciary, with instructions to report back forthwith, with an amendment.

Frist amendment No. 5038 (to the instructions of the motion to commit H.R. 6061 to the Committee on the Judiciary), to establish military commissions.

Frist amendment No. 5039 (to the instructions of the motion to commit H.R. 6061 to the Committee on the Judiciary), to establish the effective date.

Frist amendment No. 5040 (to amendment No. 5039), to amend the effective date.

Mr. KENNEDY. In May, the Senate passed a historic bipartisan bill that bolsters national security, ensures economic prosperity and protects families. The House passed a very different bill.

The logical next step would have been to appoint conferees and begin negotiating a compromise.

But, instead of working to get legislation to the President's desk, the House Republican leadership frittered away the summer, embarking on a political road show featuring 60 cynical one-sided hearings, and wasting millions of precious taxpayer dollars.

Repeatedly, the American people have told us that they want our immigration system fixed, and fixed now. They know this complex problem requires border security, a solution for the 12 million undocumented, and a fair temporary worker program for fu-

ture workers. All security experts agree.

So what does the Republican leadership have to show for its months of fist pounding and finger pointing?

All they have is old and failed plan—a fence bill. It makes for a good bumper sticker, but it is not a solution. It is a feel good vote that will do nothing but waste \$9 billion.

The fence proposal we have before us: Goes far beyond what Secretary Chertoff needs; it doubles the size of the fence we have already approved. From 370 miles to 850 miles. It is also expensive. Estimates range from \$3 million per mile. And it will not work. Fences will not stop illegal overstayers—who account for 40-50 percent of current undocumented population, or the many who continue to come here to work.

What the Republican leadership does not seem to get is that comprehensive immigration reform is all about security.

The American people want realistic solutions, not piecemeal feel-good measures that will waste billions of precious taxpayer dollars and do nothing to correct a serious problem.

Sacrificing good immigration policy for political expediency and hateful rhetoric is not just shameful—it is cowardly.

Let us be frank. This is about politics not policy.

I urge my colleagues to choose good policy over political expedience and oppose this cloture motion.

Mr. FEINGOLD. Mr. President, every Member of this body recognizes that border security is critical to our Nation's security. We can and must improve our efforts at the borders and prevent potential terrorists from entering our country. I have long supported devoting more personnel and resources to border security, and I will continue to do so.

But this bill is a misguided effort to secure our borders. I cannot justify pouring billions of Federal dollars into efforts that are not likely to be effective.

Recent Congressional Budget Office estimates indicate that border fencing can cost more than \$3 million per mile. Under this legislation, we would be committing vast resources to an unproven initiative. Adding hundreds of miles of fencing along the border will almost certainly not stem the flow of people who are willing to risk their lives to come to this country.

Furthermore, there are very serious concerns about the environmental impact this type of massive construction project would have on fragile ecosystems in border areas. Before we pour precious Federal dollars into a massive border fencing system, at the very least we should do a thorough analysis of the most effective and fiscally responsible means of securing our borders against illegal transit. In fact, S. 2611, the Comprehensive Immigration Reform Act of 2006, would direct

the Attorney General, in cooperation with other executive branch officials, to conduct such a study on this question. The study would analyze the construction of a system of physical barriers along the southern international land and maritime border, including the necessity, feasibility, and impact of such barriers on the surrounding area.

Another reason that this bill is misguided is that improving our border security alone will not stem the tide of people who are willing to risk everything to enter this country. According to a recent Cato Institute report, the probability of catching an illegal immigrant has fallen over the past two decades from 33 percent to 5 percent, despite the fact that we have tripled the number of border agents and increased the enforcement budget tenfold. It would be fiscally irresponsible and self-defeating to devote more and more Federal dollars to border security efforts, like this fence, without also creating a realistic immigration system to allow people who legitimately want to come to this country to go through legal channels to do so.

That is why I oppose the House "enforcement only" bill. That is why business groups, labor unions and immigrant's rights groups have all come together to demand comprehensive immigration reform. And that is why I oppose this bill. We need a comprehensive, pragmatic approach that not only strengthens border security, but also brings people out of the shadows and ensures that our Government knows who is entering this country for legitimate reasons, so we can focus our efforts on finding those who want to do us harm. Border security alone is not enough. I will vote against cloture on this bill.

The PRESIDING OFFICER. The Senator from Alaska.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2007—CONFERENCE REPORT

Mr. STEVENS. Mr. President, I ask unanimous consent that notwithstanding the provisions of rule XXII, the Senate I proceed to the immediate consideration of the conference report to accompany H.R. 5631, the Defense appropriations bill. I further ask unanimous consent that there be 2 hours of debate equally divided between the majority and minority, with that debate time not counting against the 30 hours postcloture, and that a vote on adoption of the conference report occur at 10 a.m. on Friday, September 29.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5631), making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes, having met, have agreed that the House re-

cede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, and the Senate agree to the same, signed by all of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the proceedings of the House in the RECORD of September 25, 2006.)

The PRESIDING OFFICER. The Senator from Alaska. Mr. STEVENS. Mr. President, the time is equally divided, as I understand it.

The PRESIDING OFFICER. The Senator from Alaska is correct.

Mr. STEVENS. Mr. President, I am pleased to present the Defense appropriations conference report for fiscal year 2007 with my colleague from Hawaii, our cochairman, Senator INOUE.

Two nights ago, in a strong measure of bipartisan support for our men and women in uniform, the House of Representatives passed this bill. There are only 4 days left in the fiscal year. The 2007 Defense appropriations conference report must be signed into law by the President before Saturday at midnight.

Finishing debate on this bill tonight and passing it tomorrow morning will ensure that this bill will get to the President in time so there will be no lapse in money available to our men and women in uniform to conduct the ongoing activities throughout the world.

This bill includes the continuing resolution for those appropriations bills which have not been completed. This continuing resolution, or CR, as we call it, was negotiated on a bicameral, bipartisan basis. It is what we call a clean CR. There is no other problem associated with this CR. It has been supported on both sides of the aisle, and we are grateful to the Members in both the House and the Senate for that approval.

Our conference report represents a balanced approach to fulfilling the financial needs of the Department for fiscal year 2007. It provides \$436.5 billion in new discretionary spending authority for the Department of Defense. This amount also includes \$70 billion in emergency spending for early fiscal year 2007 costs associated with the operations in Iraq and Afghanistan and the global war against terrorism.

The bill fully funds the 2.2 percent across-the-board military pay raise as proposed in the President's budget.

This conference agreement also provides \$17.1 billion for additional fiscal year 2007 reset funding for the Army and \$5.8 billion for the Marine Corps. These are specific amounts identified by the services as necessary to meet their fiscal year 2007 equipment requirements.

The additional reset funding provides for the replacement of aircraft lost in battle and the recapitalization and production of combat and tactical vehicles, ammunition, and communications equipment.

In addition, the conference report provides \$1.1 billion for body armor and personal protection equipment and \$1.9 billion to combat improvised explosive devices.

The bill also provides \$1.5 billion for the Afghanistan security forces fund and \$1.7 billion for the Iraq security forces fund. These funds will continue the training of indigenous security forces and provide equipment and infrastructure essential to developing capable security forces in Afghanistan and Iraq.

The bill does not address the funding for basic allowance for housing within the military personnel accounts, sustainment, readiness and modernization funds contained in the operation and maintenance accounts, environmental funding, or Defense Health Program funding. These accounts will be conferred later this year with the House Appropriations subcommittee responsible for those accounts. They are separate from this bill.

Finally, I would like to note that the bill provides more than \$3 billion for National Guard and Reserve equipment to improve their readiness in combat operations as well as their critical role in our Nation's response to natural disasters.

I urge all Members of the Senate to support this bill. It supports the men and women in uniform who risk their lives for our country each day. By voting for this measure, we show our support for what they do.

I also wish to thank my cochairman again, Senator INOUE, for his support and invaluable counsel on the bill.

And before I recognize him, I would like to allocate 10 minutes of the time on our side to the distinguished Senator from Oklahoma. But I yield to my friend from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Mr. President, I rise to express my strong support for the conference report on H. R. 5631. This bill, as the chairman has noted, includes some \$436.6 billion for the Department of Defense, including \$70 billion to help offset the cost of war in Iraq and the global war on terrorism for the first several months of fiscal year 2007.

I want to remind my colleagues that the bill does not include funding, as noted by the chairman, for the Defense Health Program or for environmental and real property maintenance and related programs.

By agreement between the Appropriations Committees in both Houses, these amounts will be carried in the Military Construction bill which has not yet passed the Senate.

Accounting for this change, the bill is \$9.3 billion higher than the bill which passed the Senate. Of this amount, approximately \$4.7 billion is in emergency funding for the war on terror, and the balance is for regular appropriations.

This bill provides for the essential requirements of the Department of Defense and is a fair compromise between

the priorities of the House and the Senate.

To my colleagues on the democratic side, I would say this is a good bill.

It was fashioned in a bi-partisan manner and it funds our critical defense needs.

Several items which were added to this bill by democratic amendments are addressed favorably in this conference report.

The agreement urges the President to report his plans in the event of increased sectarian violence in Iraq. It urges the director of national intelligence to assess many elements of the potential for civil war in Iraq.

It includes an additional \$100 million to help eradicate poppies in Afghanistan and it addresses concerns raised in the Senate about increasing funding to find the leaders of al-Qaida.

I point out to the Senate that all the members of the conference on both sides of the aisle supported this agreement.

I fully support the bill that the Chairman is recommending, and I urge my colleagues to support the measure as well.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, I thank the Senator from Alaska for all his hard work and dedication on defense in this country and the hard work he put forward. This bill undoubtedly will pass this body, and probably unanimously. I will note that there were several things I have a criticism of in the bill and things I would like to have seen in it, but they are not there. But I also note that we are having trouble maintaining Abrams fighting vehicles, maintaining tanks.

As we look at this bill, the \$70 billion we are going to have for the war, that is an emergency and it is appropriate, there is no question about it. What is not appropriate in this bill—and this body passed 96 to 1—is the fact that we agreed in this body that whatever the earmarks were in the bill, there ought to be a scorecard on them, on whether the earmarks met the mission of the Defense Department.

There are going to be a lot of earmarks that are good, but a lot of them are stinky. There are 2,000 earmarks in the bill directed by Members of Congress—somewhere around \$8 billion—and a large portion of those don't have anything to do with the mission of the Defense Department, and they have everything to do with us failing to do the things we should do in terms of prioritizing and making the hard decisions in this country.

I am going to vote for the bill because of its importance for our country. But in this bill, you don't know who did the earmarks. They are very cleverly written. You cannot find out exactly what contractor they are going to. You don't know who is responsible. They are not listed. That is OK if we want to do things that way, but it is not OK if you are going to do that and

not at least assess the effect of the earmarks.

We passed in this Chamber, 96 to 1, that we would, in fact, ask the Defense Department to assist in how effective the earmarks are in accomplishing their mission. My disappointment is, that is not in the bill. If out of that \$5 billion to \$8 billion worth of earmarks, \$2 billion or \$3 billion is waste, think what we could have done for the defense of this country. Think what we could have done for those who are depending on us and we cannot fully supply their needs, whether it is early childhood education, Head Start, or the AIDS drug assistance program, just to name a few.

We will try again next year. We will try to get the earmarks published, out in the open, and into the sunlight, so the American people can see what we are directing, to whom we are directing it, and who is doing the directing. I will be back on every bill until we come clean with the American people on the political games we are playing with earmarks. We either need to have the agencies say what they are doing with them and whether they meet their mission or we need to be upfront on who is doing what, why, and what for.

I appreciate the hard work of the chairman and Senator INOUE in terms of bringing this bill to the floor. More importantly, I appreciate those who dedicate their lives to this country by becoming a part of our Armed Services and setting an example we could very well learn from in this body when it comes to earmarks just by following their example of service, courage, and integrity.

With that, I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I ask unanimous consent for time off of Senator INOUE's time.

The PRESIDING OFFICER. Without objection, the Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, let me thank the chairman, Senator STEVENS from Alaska, and his ranking member, the Senator from Hawaii, Mr. INOUE, for their hard work on this Defense appropriations bill. As a member of that subcommittee, I have been pleased to work with them and their very able and diligent staffs to shape a Defense appropriations bill that does indeed meet the needs of our times and provides the funding resources our military needs in these very trying times.

Again, I express my support for the underlying bill, the Defense appropriations bill. Again, my gratitude goes to the Senator from Alaska and the Senator from Hawaii for all their hard work.

Mr. KENNEDY. Mr. President, I welcome the decision of the Defense Appropriations Subcommittee conferees to support the Senate's request for a new National Intelligence Estimate on conditions in Iraq.

Earlier this week, the American people were shocked to learn about an assessment from the intelligence community which unequivocally concluded that the war in Iraq is creating a new generation of terrorists. It was especially shocking, given the administration's repeated insistence that we are winning the war on terror and that America is safer because of the war in Iraq. That 5-month-old assessment addressed the impact of the Iraq war on the global threat of terrorism, outside of Iraq's borders.

But what about Iraq itself? What is the collective assessment of the intelligence community about the prospects for success in Iraq versus the likelihood of full-scale civil war? The President insists that we are winning in Iraq but, remarkably, the intelligence community has not prepared a National Intelligence Estimate on conditions inside Iraq for more than 2 years. That must change.

America is in deep trouble in Iraq, and it's mystifying that an Intelligence estimate focusing on the internal situation in Iraq has not been prepared since July 2004. We know that the President is determined to convince the American people that we are winning the war and that America is safer, but what does the intelligence community believe? The recent revelations about the April 6 estimate underscore the value and importance of obtaining the collective wisdom of the intelligence community to inform our policy judgments and to ensure that the American people have the facts, not just the political spin of the White House.

Stopping the slide into full-scale civil war is our greatest challenge and highest priority in Iraq. The continuing violence and death is ominous. The UN reports that more than 6,500 civilians were killed in July and August alone. Militias are growing in strength and continue to operate outside the law. Death squads are rampant. Reports of torture in official detention centers remain widespread. Kidnappings are on the rise, and so are the numbers of Iraqis fleeing the violence.

More than 140,000 American troops are on the ground. It's essential that we obtain—and obtain soon—a candid and comprehensive assessment from the intelligence community on whether Iraq is in or is descending into civil war and what can be done to stop the sectarian violence that is spiraling out of control.

The stakes are enormously high for our troops and our national security, and completing a new NIE on Iraq should be one of Director Negroponte's highest priorities.

After our Senate amendment requiring a new estimate was approved to this bill on August 3, Director Negroponte agreed to ask the intelligence community to prepare it.

Certainly nobody has an interest in unnecessarily rushing the intelligence community. But it has been more than

2 years since an NIE on Iraq was prepared, and that's too long. It has been nearly 2 months since Mr. Negroponte announced his decision to ask the intelligence community to prepare a new assessment, yet the the first step—determining the scope of the issues to be covered—is still not finished.

With Iraq on the brink of a full-scale civil war, preparation of this intelligence assessment cannot be delayed any longer. With more than 140,000 Americans under fire every hour of every day in Iraq, it's wrong to slow-roll this assessment. For the sake of our men and women in uniform, the intelligence community must move forward, and it must move forward soon.

Earlier today I sent a letter to Mr. Negroponte with Senators ROCKEFELLER, BIDEN, LEVIN, REID, and REED urging him to move forward and indicating that preparation and completion of this intelligence assessment cannot be delayed any longer.

As the intelligence community finalizes the terms of reference for the new Iraq National Intelligence Estimate, Mr. Negroponte should be mindful of the specific provisions in this conference agreement, which urge him to follow the parameters set out in the Senate amendment to this bill. Under the amendment, the following issues would be included in the new National Intelligence estimate on Iraq:

The prospects for controlling severe sectarian violence that could lead to civil war; the prospects for reconciling Iraq's ethnic, religious, and tribal divisions; an assessment of the extent to which militias are providing security and the extent to which the Government of Iraq has developed and implemented a credible plan to disarm, demobilize, and reintegrate the militias into the government security forces and is working to obtain a political commitment to ban militias; an assessment of whether Iraq is succeeding in creating a stable and effective unity government, and the likelihood that the government will address the concerns of the Sunni community; and the prospects for economic reconstruction and the impact it will have on security and stability.

It is obviously important that we obtain an open and honest assessment from the Director of National Intelligence, particularly on the question of civil war, and my colleagues and I look forward to such an assessment. It is also our view that an unclassified summary, consistent with the protection of sources and methods, should be made available when the estimate is completed.

We continue to believe the National Intelligence Estimate should be as thorough and comprehensive as possible. To this end, we would also benefit significantly by having it include the following areas:

An assessment addressing the threat from violent extremist-related terrorism, including al Qaeda, in and from Iraq, including the extent to which terrorist actions in Iraq are

targeted at the United States presence there and the likelihood that terrorist groups operating in Iraq will target U.S. interests outside Iraq; an assessment of whether, and in what ways, the large-scale presence of multinational forces in Iraq helps or hinders the prospects for success in Iraq; a description of the optimistic, most likely, and pessimistic scenarios for the stability of Iraq through 2007; and an assessment of the extent to which the situation in Iraq is affecting our relations with Iran, Saudi Arabia, Turkey, and other countries in the region.

The war in Iraq continues to be an immense strategic blunder for our country, and having the most thorough and comprehensive National Intelligence estimate possible will greatly inform the ongoing debate about our options for the future.

A new National Intelligence estimate is long overdue. As John Adams said, "Facts are stubborn things." It is abundantly clear that the facts matter on Iraq. They mattered before the war and during the war, and they matter now, as we try to deal effectively with the continuing quagmire.

I urge my colleagues to support this conference agreement, and I look forward to obtaining the new National Intelligence estimate on Iraq and to obtaining it soon.

Mr. President, I ask unanimous consent to have the letter to which I referred printed in the RECORD.

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

U.S. SENATE,
WASHINGTON, DC,
September 28, 2006.

Ambassador JOHN D. NEGROPONTE,
*Director of National Intelligence, Office of the
Director of National Intelligence, Wash-
ington, DC.*

DEAR DIRECTOR NEGROPONTE: We welcome your response to our July 26 correspondence and our August 3 amendment to the Department of Defense Appropriations bill for fiscal year 2007 requiring an updated National Intelligence Estimate on Iraq. An NIE focusing on Iraq has not been prepared in more than two years, and we welcome your August 4 announcement that you will ask the intelligence community to prepare this document.

As the intelligence community finalizes the terms of reference for the new Iraq National Intelligence Estimate, we draw your attention to a provision in the conference agreement on the Department of Defense Appropriations bill which urges you to follow the parameters set out in our August 3 amendment on the NIE. Under the Senate amendment, the following issues would be included:

The prospects for controlling severe sectarian violence that could lead to civil war; The prospects for Iraq's ethnic, religious, and tribal divisions;

An assessment of the extent to which militias are providing security and the extent to which the Government of Iraq has developed and implemented a credible plan to disarm and demobilize and reintegrate the militias into the government security forces and is working to obtain a political commitment to ban militias;

An assessment of whether Iraq is succeeding in creating a stable and effective unity government, and the likelihood that the government will address the concerns of the Sunni community;

The prospects for economic reconstruction and the impact it will have on security and stability.

It's obviously important that we obtain an open and honest assessment from the intelligence community, particularly on the question of whether Iraq is in or is descending into civil war, and we look forward to the assessment from the intelligence community. It is also our view that an unclassified summary of the judgments, consistent with the protection of sources and methods, should be made available when the NIE is completed.

Additionally, we continue to believe the NIE should be as thorough and comprehensive as possible. To this end, we would also benefit significantly by having the following areas addressed in a new Iraq NIE:

An assessment addressing the threat from violent extremist-related terrorism, including al Qaeda, ill and from Iraq, including the extent to which terrorist actions in Iraq are targeted at the United States presence there and the likelihood that terrorist groups operating in Iraq will target U.S. interests outside Iraq;

An assessment of whether, and in what ways, the large-scale presence of multinational forces in Iraq helps or hinders the prospects for success in Iraq;

A description of the optimistic, most likely, and pessimistic scenarios for the stability of Iraq through 2007;

An assessment of the extent to which the situation in Iraq is affecting our relations with Iran, Saudi Arabia, Turkey, and other countries in the region.

The stakes are enormously high in Iraq, and having the most thorough and comprehensive NIE possible will greatly inform the debate about our options in Iraq.

We look forward to hearing from you about the final terms of reference for the new Iraq NIE and to receiving the updated NIE. Certainly nobody has an interest in unnecessarily rushing the intelligence community. But it has been more than two years since an NIE on Iraq was prepared and nearly two months since you announced your decision to ask the intelligence community to prepare a new assessment. With more than 140,000 troops on the ground in Iraq, preparation of this intelligence assessment cannot be delayed any longer.

Sincerely,

JOHN D. ROCKEFELLER IV.
JOSEPH R. BIDEN, JR.
CARL LEVIN.
HARRY REID.
EDWARD M. KENNEDY.
JACK REED.

Mr. LEAHY. Mr. President, the Senate is poised to approve the fiscal year 2007 Department of Defense Appropriations conference report. Like past Defense Appropriations bills, there are things in this bill that I support and there are others that I disagree with. Without taking much of the Senate's time today I want to mention one small but very important provision in this bill.

Section 9012 of the conference report states that no funds shall be made available for the establishment of permanent U.S. military bases in Iraq or to exercise U.S. control over any oil resource of Iraq. This language, which was sponsored by Senator BIDEN and which I strongly support, provides an important signal to the Iraqi people and to the sovereign government of Iraq that it is not the intent of the United States to control or maintain a

permanent military presence in their country. It is especially important in light of the recent surveys which indicate that a significant majority of Iraqis want United States military forces to withdraw from their country.

For many Vermonters and for people around the world who have concerns and suspicions about the Bush administration's intentions in Iraq, this makes clear that regardless of the disagreements among us over the continued deployment of U.S. troops in Iraq, we agree that they are not there to establish permanent bases or to control Iraqi oil resources.

Mr. McCONNELL. Mr. President, on a related note, one portion of the much publicized National Intelligence Estimate that came out this week failed to capture much attention. It was a segment that said, "We cannot measure the extent of the spread [of jihadist terrorism] with precision . . ." This candid admission reflects just how difficult good intelligence is to come by. It also reflects why it is so important that this bill permits the CIA interrogation program to continue—because it provides valuable intelligence.

Over the weekend, much was made about this selective leak of national security information. Some of our colleagues pounced on the media reports to bolster their argument that we should pull out of Iraq, pull out now.

But whoever leaked this report somehow forgot to mention a key finding of the intelligence community. As anyone who read the declassified report knows, the findings are clear: If we defeat the terrorists in Iraq, there will be fewer terrorists inspired to carry on the fight elsewhere. But if we leave Iraq to the terrorists, it will only inspire more terrorists to join the fight.

In other words, defeating terrorists in Iraq not only secures the new democracy there but prevents future attacks here.

The New York Times editorial board rightly pointed out that "[t]he current situation will get worse if American forces leave."

Mr. President, it is a banner day when the New York Times editorial board contradicts my colleagues across the aisle, and the Times is certainly right, at least in this regard: a policy of retreat will not stop terrorists there—or prevent attacks here.

I have said it before, but it bears repeating. Terrorism against the United States didn't start on 9/11 or the day our troops entered Baghdad—But attacks here at home did stop when we started fighting al-Qaida where they live rather than responding after they hit.

We don't need to guess what will happen if we leave Iraq to the terrorists. We already have a real-world example of what will happen. Recall that Afghanistan was a wholly owned subsidiary of al-Qaida before 9/11. It was from there that they planned and executed—with impunity—attacks against the United States and our allies. Think

what Iraq would be like if we let al-Qaida take possession of the country—like bin Laden wants us to do.

And remember what the 9/11 Commission concluded, and I quote: "If, for example, Iraq becomes a failed state, it will go to the top of the list of places that are breeding grounds for attacks against Americans at home."

Mr. President, we know what will happen if we leave Iraq before the job is finished. That is simply not in dispute. Remember, bin Laden declared that, for him, Iraq was the "capital of the Caliphate." We must not and we will not give him that victory.

RYAN WHITE CARE ACT

Mr. ENZI. Mr. President, I rise again today to ask unanimous consent that the Senate pass S. 2823, the Ryan White HIV/AIDS Treatment Modernization Act, and I will make the formal request in just a few moments.

I want to make a few comments first in hopes that some who have a hold on this bill will come down and lodge the objection themselves. Just last week we requested the unanimous consent agreement to pass this bipartisan, bicameral legislation as it passed out of the House Energy and Commerce Committee last week. At 9:30 tonight it will pass on the floor of the House, and I expect by significant margins. But five Senators from three States are blocking a vote to create a more equitable program for providing life-sparing treatment for individuals suffering from HIV and AIDS.

Now, 2 days ago I made this same request to pass this critical legislation, and the five Senators who are holding up this legislation chose not to come to the floor to discuss their concerns or to debate their issues. Instead, the Senator from Minnesota, Mr. DAYTON, was gracious enough to notify us of his objection, even though he stated he would vote for the bill.

So today I ask again the Senators from New York, New Jersey, and California, those who have holds on this critical legislation, to come to the floor themselves and lodge their objections to explain why their parochial interests should be permitted to deny lifesaving care to people who don't live in their States.

Now, I have a chart here that shows the New York and New Jersey situation. You can see that New York, under the current law, receives \$509 per case above the national average. Under the reauthorization, they would still receive \$304 above the national average per case. And not only that, at the end of the year, they have \$29 million left over.

In New Jersey, they get \$310 per case above the national average. Now, under the reauthorization, they would still get \$88 more per case above the national average, and they have a little slush fund at the end of the year: \$17.7 million.

These States have simply raised objections about what funds they will receive this year compared to last year.

These States will still be overpaid per case, just no longer grossly overpaid. For example, New York is paid \$509 more per AIDS case, as I showed my colleagues, than the national average and would get \$304. They have been unable to spend \$29 million in Ryan White funding. They can't spend the money they are taking in now. Yet those States' Senators still want more at the expense of many other States that are currently underfunded.

Now, these States have not objected to the underlying policies. Again, I must emphasize that these couple of States have been grossly overpaid for years, receiving well over the national average per patient with HIV. Even under this new bill, they will continue to be overpaid, although not quite as much.

Now, California is a little different situation. When the law was passed last time, we put some provisions into law, and we set a deadline for HIV/AIDS cases for fiscal year 2005 to have a conversion. Now, the Secretary opted to delay that until 2007 to give the States more time, and the CDC in 2005 urged all the States to transition immediately. California decided to transition in 2006. CDC offered resources and people in 2006 to help them make the transition. California declined.

There is a deadline. California will lose \$74 million in 4 years under the current law for not meeting the deadline. When we pass this bill, under the new law, California would gain \$60 million over the 4 years and have more time. So it is kind of a win-win situation for California. Under some of the formula, they were hoping, I think, to gain even more. But they can meet the deadline; extra help has been offered. So if they would take the extra help, they could meet that timeline, and under this bill, they would gain \$60 million over 4 years instead of losing \$74 million over that same 4 years by not complying with the transition language.

This bill would ensure that every State in the Nation has the appropriate funding to care for their residents living with HIV and AIDS.

Let me show you another chart. On the left-hand side, the States in red will have losses under the current law: 100,000 Americans get left out. This will happen on September 30 unless we pass a bill. On September 30, there will be huge penalties to these States. The bottom right shows the States that will gain under the reauthorization that we are doing, and you will notice that there are five States that will not gain, but only two of them are objecting. These five Senators who didn't come to the floor 2 days ago still continue to obstruct the Senate from passing a bill that can save more than 100,000 lives, including the lives of a growing number of women and minorities who are afflicted by this devastating disease.

As you can see from this chart, without this new law, people across the

country who are suffering from HIV and AIDS will be hurt unless we pass the new bipartisan, bicameral bill. That means that we have worked on this for a long period of time, and we have people from both sides of the aisle in agreement. We even have people on both ends of the building in agreement, and, in fact, the bill that the House is passing tonight is the same bill that we worked out and are ready to pass over here.

So holding up passage of this new law is wrong. By doing so, these Senators are denying growing numbers of minorities and women living with HIV and AIDS equal protection under the Ryan White CARE Act.

This chart shows Americans are at risk. More than half of the HIV/AIDS cases are not counted under the Federal law in the States that are marked in red. Those are ones that are not getting half of the money that they need right now, half that they ought to have if the bill was fair.

So we need to pass this bill. We need to pass this bill by September 30. Let's see, today is the 28th. We only have 2 days to pass this bill. And if we don't pass the bill, a whole bunch of States are going to be penalized severely under the old law.

I have gotten letters from several of the Senators who are worried about what is going to happen to their States under the old law come just 2 days from now. If the bill is not authorized by September 30, hundreds and thousands of people in the States and the District of Columbia will lose access to lifesaving services.

Therefore, Senators from three States are holding up a bill that would help Connecticut, Georgia, Kentucky, New Hampshire, Pennsylvania, Delaware, Illinois, Maine, Oregon, Washington State, California, Hawaii, Massachusetts, Maryland, Montana, Rhode Island, Vermont, and the District of Columbia. Hundreds of thousands of people living with HIV and AIDS who live in these States will be needlessly hurt if a few Senators continue obstructing good policy.

As you can see from the chart, more than half of the HIV/AIDS cases are not counted under current law. As we all know, the Ryan White Program provides critical health care services for people who are infected with HIV/AIDS. These individuals rely on this vital program for drugs and other services. We need to pass this legislation so that we can provide them with the treatment they desperately need.

I urge the Senators who are holding up this bill to stop playing the numbers game so that Ryan White CARE Act funding can address the epidemic of today, not 2 days or 2 years ago.

The HIV/AIDS epidemic of today affects more women, more minorities, and more people in rural areas in the South than ever before. While we have made significant progress in understanding and treating this disease, there is still much more to do to en-

sure equitable treatment for all Americans infected with HIV and AIDS. We must ensure that those infected with HIV and living with AIDS will receive our support and our compassion regardless of their race, regardless of their gender, regardless of where they live.

Therefore, I urge my colleagues to support this key legislation and stop playing the numbers game so we can assist those with HIV in America.

UNANIMOUS CONSENT REQUEST—S. 2823

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 580, S. 2823, the Ryan White Act. I ask unanimous consent the Enzi substitute at the desk be agreed to, the committee reported amendment as amended be agreed to, the bill as amended be read the 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. Is there objection?

The Senator from Minnesota.

Mr. DAYTON. Mr. President, reserving the right to object, I want to say that I thank the Senator for his courtesy and for warning me about his intention here tonight. I salute him for his leadership on this legislation, which I support, so I am in a bit of an awkward situation, as he has recognized. But I guess I would ask the chairman, if my information is correct, there are actually 14 States that would lose funding under the revised formula.

As the chairman said the other day, there is a hold-harmless clause that is in effect, as I understand, for 3 years, and this is a 5-year reauthorization, so at that point these other States would lose funding.

Does the chairman find it surprising that Senators from those States are doing what I think I would do if I were in that situation? I am grateful the formula adds money for Minnesota, but I find it unsurprising that they are doing what any of us I believe would do, which is to protect our States.

My second question to the chairman is: Given that this is a \$12.2 billion reauthorization over 5 years, what would it cost in additional authorization to give these States over the next 5 years the same amount of money as they receive presently?

Mr. ENZI. Mr. President, I thank the Senator for his reluctant objection, although it still counts as an objection.

The PRESIDING OFFICER. Has the Senator from Minnesota objected?

Mr. DAYTON. Mr. President, I am reserving the right to object. I directed two questions to the chairman, if I may, Mr. President.

Mr. ENZI. Mr. President, I will go ahead and answer the questions, then, and hope this changes your mind on being the one willing to make the objection.

Would I protect my State if my State were losing money? I think we are elected to the Senate by the people in

our States, but our obligation is to the people of the United States. And were my State grossly overpaid on an average, and I was still going to be grossly overpaid afterwards, and my State couldn't use the money each year that it received, I think I would have a terrible time trying to object to this bill. I hope we do not play that kind of numbers game, we don't get that parochial on bills around here.

Another bill I have been working on is the Older Americans Act, and it has a formula in it. Again, there are States that lose under that bill. But there are people who have been willing to work out a formula like we did on this. We must have run about 300 different programs trying to come up with something as equitable as possible. We even put in the 3 years hold harmless for people who were being grossly overpaid.

I think we have come up with as reasonable a bill as we possibly can. We need to get it passed, and we need to get it passed by September 30 so the penalties don't kick into effect for those States that have a big penalty coming up and that are desperately in need of making sure they get enough money to take care of the cases they presently have.

Mr. COBURN. Will the chairman yield for a question?

Mr. DAYTON. Mr. President, I haven't had my question answered.

Mr. ENZI. I have one more answer that I need to do.

The PRESIDING OFFICER. The Senator from Wyoming has the floor. His unanimous consent request is pending. Is there objection?

Mr. ENZI. I will yield for some other questions as soon as I finish answering this question.

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

Mr. ENZI. There aren't 14 States that would lose money unless the new bill doesn't pass. There are only five States that will lose money under the new bill, the bill we are trying to get passed by unanimous consent—the bill that we are at least trying to be able to bring up by unanimous consent. We tried a number of different ways. There are just five States that are involved in losing money. Of those five, three have said we have to be fair. Two have said we don't care whether we are fair or not.

Mr. DAYTON. If I may direct a question again to the chairman, how much would it cost in addition to the \$12.2 billion for this 5-year authorization? What additional authorization would it cost to give those five States the same level of funding over the next 5 years that they would receive as of today?

Mr. ENZI. Mr. President, I don't have that number. Like I say, we ran about 300 different iterations of different formulas. I will get the Senator that number.

But there is 3 years hold harmless in this. You are talking about 5 years hold harmless. Hold harmless means

that the dollars don't follow the person, that the State gets the money even if they have run out of people with HIV/AIDS, and if there are decreasing numbers of them they should not continue to get those dollars. What you are asking is we continue to give those dollars even if we run out of people. All we are trying to do with this bill is make sure the dollars follow the person. You get more people, you get more money. You get less people, you get less money. It is take care of the people.

It is not an economic development bill.

Mr. DAYTON. Mr. President, I appreciate the answers of the chairman. I respect him very highly for what he has done. I must, however, object on behalf of my colleagues whom I believe are doing properly what they must and should do to protect their own States. So I do object.

The PRESIDING OFFICER. Objection is heard. The Senator from Oklahoma.

Mr. COBURN. Mr. President, it really strikes me strange, when we are talking about protecting money from States that already have full treatment programs, and people are dying across this country because there is inequity in the funding for those States. If that is the basis for an objection, that is an obscene objection.

We are talking about people dying who have no access to medicines, who have no access to treatment, while we have—let me get to the specifics—while we have in New York alone, last year—the city of New York spent \$9 million on hotel rooms averaging \$329 a night to house people. They spent money, \$2.2 million, on people who were dead, paying for rented rooms they weren't even in. And we are talking about objecting to fair treatment and access to care for people who have none now because we don't want to see the fluff associated with other programs decline.

The President has asked us to pass this bill. On October 1, lots of changes take place. They are going to impact lots of people in lots of States.

I find it unconscionable that somebody would have somebody object for them rather than to come down and defend their objection. If you object to making sure African-American women across this country have access to life-saving drugs, you ought to come to the floor and say you object to that because that is what an objection means for this bill starting October 1. There is already a lack. There are people dying in three States right now because they have waiting lists for drugs for HIV for people who have no other resources to take care of themselves.

Last year I offered an amendment on this floor, fully paid for and offset, for \$60 million for additional ADAP funds that would have taken care of the very people who are going to suffer from this bill, and the very same Senators who are blocking this bill voted

against those funds for those people who have no treatment today. There is something very wrong in the Senate when the leaders of the charge for this bill, with the exception of Senator KENNEDY who has done miraculous work with Senator ENZI—the leaders in the charge for getting this bill and making sure everybody has equal access to care for HIV in this country are four conservative Senators.

We ought to ask a question about that. Why are we down here fighting for this? We believe in equal treatment. We believe in equal access. Where are the people who claim all the time to defend that? Why aren't they here on the floor of the Senate?

I want to make a couple of other points. The Labor-HHS bill that we are going to be voting on this fall has \$1 billion in earmarks in it; \$1 billion in earmarks. Most of it has zero, in comparison to saving somebody's life, like ADAP drugs and access to treatment if you are infected with HIV and you don't have any access to care whatsoever. We don't see anybody volunteering to give up their earmarks.

Here is a stack of earmarks for New York State alone, last year in excess of \$1.5 billion—over 600 earmarks. Nobody volunteered to give up the earmarks, the special projects that politicians get benefits from that sometimes do good and sometimes don't do good—nobody offered to give those up to pay for this loss. We want to continue to do what we are doing, having the privileges and prerogatives of a Senator or a Congressman to grease the skids of our own reelection with an earmark, but we will not give some of that up to make sure somebody in a State that is not having access, who is going to die in the next 3 months, has access to life-saving drugs.

That is an incrimination on this process. It is an incrimination on this body. Shame on us if we allow this to continue to be held up.

New York State carried over \$27 million. The Department of HHS—here is another. This past weekend, HHS spent \$400,000 sending people—78 employees—to Hollywood, FL, of which 2 out of the 3 days didn't have anything to do with the conference. It was a party. As a matter of fact, as a quote from the New York Times states, at the last AIDS conference in Toronto, 78 HHS employees went, and as the New York Times said, this was a star-studied rock concert, a circus-like atmosphere that made it seem more like a convention and social gathering than a scientific meeting. For these and other reasons a number of leading scientists have stopped attending and some supporters claimed the quality of the presentations have declined at recent conferences.

We can find more money. We can find money from earmarks. We can find money from conferences. We can find money from waste, fraud, and abuse. What we cannot find is the integrity to treat everybody equally in this country

because we want to protect the parochial interests of our city or our State. That is wrong.

It is wrong that they are not down here defending that immoral position. I challenge them to come down and defend it.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BURR. Mr. President, I thank Chairman ENZI and Ranking Member KENNEDY for an incredible amount of work, not just within our committee but in a bicameral way with the House. Seldom do we get the opportunity to come to the floor of the Senate fully knowing that the House is on board to every word that is in a bill, which means even with the 2 days that the chairman has suggested we have before this bill adversely affects thousands in this country, we could actually have it on the President's desk and signed. But we are tonight, at almost 9 o'clock, with four Senators on the floor, finding absent the Senators who object to us bringing up this bill. Why would they object?

Senator DAYTON said because they owe it to their States to get as much money as they possibly can and to not be equitable under a distribution formula.

I tell you that could be the reason. But I think the reason they are not here is because their position is indefensible; to allow us to bring this bill to the floor one would challenge them on why they take the position that they do. Their position is indefensible because this formula is run on numbers.

It is very simple. The chairman stated it to the Senator from Minnesota very clearly. For every patient you have you get dollars to make sure that you provide the services and the pharmaceuticals that are needed. If you don't have the people, if you don't have the infected patients, you should not get the money. What is the fear? The fear is, they know they don't have the people. Therefore, they will not get the money. So why not have the debate? Stall and see what happens.

The chairman said there were a number of States—New York being the most egregious—where they received \$2,122 per infected patient. The national average is \$1,613. I represent the State of North Carolina. We have one of the fastest growing populations of HIV-infected individuals in the United States. Today what does North Carolina receive—\$1,029 per individual infected with HIV/AIDS. Can any Member who blocks this come to the floor and tell me that is equitable? Can any Member come to the floor and suggest to me that this funding, designed to provide the drugs that these people need to live is equitable? That New York should get \$2,122 per person but North Carolina should get \$1,129 per person? Can they tell me that is equitable? It is not only not equitable, it is unjust. It is unfair. It is wrong.

You know what, the people in North Carolina say: We are tired. It can't happen anymore. You have to change it.

I have a State who, annually, has individuals on the ADAP waiting list—individuals waiting in line to be eligible to get pharmaceuticals, to stay alive. This is not the vision of America we have been taught. We have been taught that we need to make sure that safety net is there. But the argument tonight is that we are going to be denied the safety net in some States so that others can keep feeding at the trough—whether they have the population or not.

The people in North Carolina are tired of watching their State contribute the second highest percentage of dollars to the Ryan White Program but getting less Federal funding than States who barely contribute a dime on their own.

They are tired of seeing African-American women in the South of the United States 26 times more likely to be HIV-positive than a White woman and to see States that deny them the ability to provide the drugs that these women need. They are tired of hearing about HIV-positive people in San Francisco and New York getting dog-walking services and massages when some of my constituents can't even get HIV drugs.

They are tired of hearing terms such as “double counting,” “hold harmless,” “duplication of names,” “grandfathered in.” All of those terms translate to one word: unequal.

What is so wrong with the concept that Ryan White dollars follow HIV-infected individuals?

Recently, I had individuals in my office. They suggested that 3 years was not enough time to account for the infected population, that in fact they are going to be penalized because they have more individuals who are infected with HIV/AIDS than what we count today.

It is real simple. The chairman said 3 years hold harmless. They have 3 years to produce those names to verify that they are eligible for the funds, and if they don't do that then, in fact, that money goes elsewhere. So what was their argument? Three years is not enough time.

Every one of the individuals who is infected is enrolled in some type of program and service and receiving drugs and services. Clearly, if they receive those drugs and services on a regular basis, it is easy to account for who they are and where they are.

In fact, if they are not there, the last thing you want to do is have a program that accounts by an individual's name. But, in fact, that is what we do with this formula.

Right now, the Federal Government is giving exotic fruit to California and New York, and North Carolina is getting rotten apples. That is about the comparison. We allow them to have a Cadillac and, in fact, we don't even

give those folks in North Carolina a car.

The transition that is going on in America is that the infected population is in rural America, and many of them are showing up in the southeastern part of the United States. They are not in urban areas; they are not in what we consider title I or title II towns. We don't get the enhanced dollars because of the concentration in a big city. They are at the end of a dirt road. They are 30 miles from an AIDS clinic.

When we look at how we service that newly infected population in the South, which is predominantly African-American women, it is not only where we get the money to supply the drug, it is where we get the money to provide the transportation so they can go to an AIDS clinic. Where do we get the money to provide the rest of the service for somebody who doesn't have a relationship with a health care professional? The closest thing they get to primary care is the day they walk in and get their drugs and they get a “quickie” check up. Then it is another process of a bus or a van or a friend who takes them to get it. But without that extra bit, they would never get the drug if, in fact, we didn't supply some type of transportation.

In 2000, North Carolina had 12,489 people living with HIV/AIDS. There are 6,000-plus infected people more today than that 2000 statistic. I know how many there are in North Carolina because we keep their names. We track the individuals.

We are not asking for more money than we have in infected patients. We are asking for this formula to be fair.

Through December 2004, North Carolina was a State with the 14th greatest number of AIDS cases in the Nation, and the highest ranking State—the only State in the top 17—without a title I city that had enhanced reimbursement you get because of the size of the city and the infected population.

In 2004, 66.7 percent of people living with AIDS in North Carolina were African American—the fifth highest rate in the Nation. The national average in 2004 was 39.9, and ours is 66.7.

I would like to think there would be 100 Senators down here talking about the outrage; that they would look at the racial disparity in this, the regional disparity; and that they would be down here arguing that this program has to be changed. It is not happening, and 72 percent of the new North Carolina cases in 2005 were minorities. It may be that the 66.7 percent of the infected population is, in fact, the low watermark, not the high watermark as we begin to see those new cases of minority individuals.

For those of us who are here arguing tonight that this should be changed, we recognize the fact that women of color in the South are 26 times more likely to be HIV-positive than White females.

This is an alarming trend that this Nation ought to turn around. We have a lot to do in 2 days—now a night and

a day. We want to make that September 30 deadline.

It is clear that individuals in New York want to maintain the \$2,100 per case and not accept the \$1,613 average. The individuals in New Jersey want to keep their \$1,923 and not settle for the \$1,613 that is the national average. They are willing to suggest that is an equitable tradeoff with North Carolina that gets \$1,129 per individual infected by HIV.

It is time that we show the leadership that we have to point out to people who are holding this up that we cannot let them hide behind some defense that “I can't lose for my State” money that they cannot prove goes in their State to save the lives of people who are dying in my State because they can't get the pharmaceutical products they need.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank Senator ENZI, our chairman, for his great leadership and persuasive remarks earlier on this important issue.

My good friend, Dr. COBURN, has personally treated people with AIDS and has dealt with women who have had babies with AIDS. It is a matter deeply important to him.

Senator BURR is a force in our committee. He works extremely hard. His remarks go to the core of what we are all about here. He explained it in great detail. I am so appreciative of that.

I will just say a few things that I believe are important.

Senator DAYTON, I must tell you that my good friend Senator ENZI is a very fair man. If the chairman were asked, Chairman ENZI, why should New York give up anything? Why shouldn't they insist on keeping the special position they have?

Let me ask this question: How did New York get that special position? How did it happen? They came to the Congress a number of years ago. They said: We have an extraordinary problem in New York. Our problem is great. We have this growing problem with AIDS, and we need extra money.

The Nation said: We believe you are hurting, New York. We believe you have a special problem, and we will give you special money, extra money. You will get more than the rest of the country because it appears that the disease is more centered there and is spreading most rapidly there.

That was a good and decent thing for the country to do. It made sense that this bill passed. I am not disputing that. But I am telling you right now, as a representative of the people of the State of Alabama, having talked to the leadership that deals with AIDS in my State, they are really upset. They cannot imagine how it is possible that now my State and the entire Southern region is showing a faster increase in AIDS than any other region of the country—the South has the highest rate of increase of any region in the

country. I will show this chart. It is actually beginning to surge here. It is a crisis in our State. Even this new bill, as Chairman ENZI said, still provides more money per patient for a big-city State than we would get in Alabama, even though our AIDS rate increase is higher by far than the Northeast or other areas.

How can that be justified? I know the people of New York say that New York City deserves more money to protect itself from terrorists because terrorists are more likely to attack New York. They complain about this. But the truth is, they get a lot more money in New York for that protection than the rest of the country gets. I think current legislation will give them even more for it. Why? Because the terrorist threat is more real. Well, the AIDS threat is real here; more real in Alabama. And it is falling on poor people and it is falling on the African-American community and it is falling hardest on African-American women.

Senator BURR said that, and that is an absolute fact. The numbers bear it out without any doubt whatsoever. I believe a fair proposal is on the floor of the Senate. I believe if we had any pretense of passing legislation that deals fairly and objectively with the deadly disease of AIDS, we need to pass this legislation. It is absolutely not right to continue this disproportionate shifting of revenue from States all over America to big cities that are getting almost twice as much in some instances as the poorer States and the rural States. It is not right to continue that. We need to fix that.

The chairman didn't overreact. Maybe next time, if we can't get this bill passed, we ought to pass a bill that makes it completely level across the board and not leave some of these States with a continued advantage. They have had an advantage for years and years now. I suggest that we need to work on that and work on it hard.

Let me point out again the yellow line which represents the increase in the South—far higher than the Northeast and the West. That is where the big cities are that are getting the biggest amount of money per patient, not just more money total but more money per patient.

We have all read reports of abuses of those moneys and some of the worst things they are doing in some of those centers. Senator COBURN mentioned the great conferences they go to where they have rock concerts and spend this money that they claim they do not have, I guess, to treat people who are sick.

Let's look at the next chart just to make one more point about what this legislation that Chairman ENZI and the committee hammered out is trying to do. There are 1.185 million Americans living with HIV/AIDS, and 250,000 of them do not know they are infected. One of the greatest things we can do is to make sure that people who are infected with HIV/AIDS know it as soon

as possible. Treatment will commence immediately. It can mean years of extra life, years of extra healthy ability to live a normal life if we diagnose them early.

This bill provides new moves toward early diagnosis, early detection, and early testing. It absolutely is the right thing to do.

I was in my home State talking to some of our AIDS people who work on a daily basis. They told me about a lady who came in pregnant, and they did a test on her. She was 7 months pregnant. She was positive for HIV. That was a tragedy, of course. But that child, given the right treatment, is almost certain to be born without AIDS because she was diagnosed as having it before the child was born. Had she not been diagnosed, there would have been a 50-50 chance that the child would have been born with AIDS. What a tragedy which was averted in that instance. They began to talk to her. They ended up talking to her boyfriend. He agreed to be tested. They found out that he was positive. He didn't know that. Had he known that, he would never have infected the lady. I am convinced of it. Most people are going to protect themselves and their partners if they know they have AIDS.

There are a lot of reasons for early detection. One is that it will help reduce the spread of AIDS because most people would not want their partners to be infected. And it would allow them to get on medication at the earliest possible time. So we made some real progress in that area. It can save lives and money in the long run.

I salute the chairman. How the Senator has time to work all the bills he is leading members on in the HELP committee, I do not know. It is a tremendous challenge and the Senator does it with good humor and consistent efforts to do right thing.

The Senator is exactly right on this important issue. I thank the Senator for his leadership. We must pass this reform. We must have equity in distribution of the money. It absolutely needs to show a shift of resources to the most threatened area of our country—that is the South, our poor, our African American community, and particularly, African American women.

I yield the floor.

The PRESIDING OFFICER (Mr. DEMINT). The Senator from Wyoming.

Mr. ENZI. Mr. President, I thank the Senator from Alabama for his kind comments and even more so for his passion and understanding on this issue. I thank the others who have spoken.

We had given those who are objecting to the Senate completing this bill an hour to state their case; no one showed up. We were pretty sure of that based on the fact they had one of the Members who is not running for office to be the one to object. They sent someone from a State that actually gains by having the bill completed. That tells something about how willing they are

to defend the position they have on this bill.

This bill is critical to people all over the United States. There are HIV/AIDS families in every single State asking Congress to pass this bill and to pass it immediately.

Thirteen States, on September 30, will have huge losses in revenue. We are getting more calls, naturally.

This is not just a bill. This is not just policy. This is life and death to people across this country.

We have heard people are on waiting lists that cannot get drugs because the money does not follow the person. The money goes to the States that had the money before. This bill readjusts that so the people who need the drugs get the drugs. It sounds like an American principle to me.

As I mentioned before, there are other bills we work on where we are changing the formula. I have been very fortunate the people working with those bills have said, yes, we have to be fair. We always transition into these things. This is no exception. Three years of hold-harmless. That means they get the same amount of money whether they deserve it or not for 3 years, while they count again to see if they have more or less people affected.

STANDARDS CONVERSION

Mr. SANTORUM. Mr. President, I realize that Senator ENZI has been working with Senator KENNEDY and others to craft this underlying bipartisan, bicameral product. Already today, he has discussed how the bill will ensure more equitable treatment, target key resources, and save lives through treatment. However, he has also mentioned that someone from California is holding up the bill, due to concerns about converting their HIV system to standards created by the Centers for Disease Control and Prevention. I am curious about that, given that Pennsylvania, like California, is also in the process of converting its system. How long have States under current law to change their system?

Mr. ENZI. The 2000 reauthorization stated that States need to have CDC accepted HIV data as early as 2005 but not later than 2007. Therefore, States have already had seven years to make this change.

Mr. SANTORUM. How many more years will California and Pennsylvania have to make that change?

Mr. ENZI. Under the bipartisan, bicameral product, California and Pennsylvania will have 4 more years to make the change. Thus, you both will have had over a decade to convert your systems. However, in fiscal year 2011, only CDC standards for HIV cases will be used for the funding formula.

Mr. SANTORUM. So, I understand that you have given States like my own Pennsylvania more time to change their system, so that they don't have losses just due to system issues when people still need care. What would Pennsylvania and California lose if those States did not receive the 4-year extension you are proposing?

Mr. ENZI. According to a February 2006 report by the GAO, Pennsylvania would lose \$9 million and California would lose \$18.5 million in 1 year. With this bill that allows those States to still count the people that matter while the systems are transitioning, Pennsylvania would instead gain \$4.8 million and California would gain \$15.4 million.

Mr. SANTORUM. Will CDC provide assistance to States that need to make this change? How will the Federal Government assist?

Mr. ENZI. CDC has offered to provide assistance to States throughout the process. In fact, I recently confirmed today that CDC has already offered California technical assistance—up to six staff for up to 6 months—to help them make this change. Further, given some confusion about that technical assistance, I have asked CDC to send a letter to California, restating that they would provide that assistance.

Mr. President, Senator HATCH was the chairman of this committee when the original Ryan White HIV/AIDS treatment bill went through. He is the one that selected the name of Ryan White. He has an explanation of how that came about and the differences this bill has made and the urgency with which this needs to be done right now.

Mr. HATCH. Mr. President, I rise to support the effort to call up and immediately adopt S. 2823, the Ryan White HIV/AIDS Treatment Modernization Act.

Adoption of this legislation offers us the opportunity to make a difference in the lives of the hundreds of thousands of people in the United States who are living with HIV/AIDS. We should not let this opportunity pass.

I am pleased to have joined HELP Committee Chairman ENZI and Ranking Minority Member KENNEDY, Majority Leader FRIST, and Senators DEWINE and BURR in introducing this reauthorization bill.

As my colleagues are aware, I was the author of the original legislation along with Senator KENNEDY and we introduced the first bill on this issue in the 101st Congress. The Ryan White Comprehensive AIDS Resources Emergency Act of 1990 was signed into public law on August 18, 1990 and became—excluding Medicaid and Medicare—the United States' largest Federally funded program for the care of those living with HIV and AIDS. It was a lot of hard work. But it was a lot of hard work for a very important cause.

Let us take a moment to remember one of the reasons why we did all that hard work in the first place. His name was Ryan White. Ryan was born in Kokomo, IN, in 1971. Three days after his birth, he was diagnosed with severe hemophilia. Fortunately for Ryan and his parents, there was a new blood-based product just approved by the Food and Drug Administration called Factor VIII, which contains the clotting agent found in blood.

While he was growing up, Ryan had many bleeds or hemorrhages in his joints which were very painful. A bleed occurs from a broken blood vessel or vein. Think of a water balloon. When the blood has nowhere to go, it swells up in a joint and creates painful pressure. Twice a week, Ryan would receive injections or IVs of Factor VIII, which clotted the blood and then broke it down.

In December of 1984, Ryan was battling severe pneumonia and had to have surgery to have 2 inches of his left lung removed. Two hours after the surgery, doctors told his mother that he had contracted AIDS as a result of his biweekly treatment with Factor VIII. He was given 6 months to live.

Ryan White was a fighter. He was determined to continue at his school and live life normally. But in 1985, not many people knew the truth about AIDS. Not very much was known about AIDS at all. Most of the so-called facts that people claimed to know were speculation. So Ryan faced a lot of discrimination, mostly based on the unknown.

Ryan was soon expelled from his high school because of the supposed health risk to other students. His situation became one of the most controversial cases in North America, with AIDS activists lobbying to have him reinstated while attempting to explain to the public that AIDS cannot be transmitted by casual contact.

After legal battles, Ryan and his mother settled with the school to have separate restrooms and use disposable silverware from the cafeteria. He agreed to drink from separate water fountains and no longer used the high school gymnasium.

But those concessions didn't stop much. Students vandalized his locker. Some restaurants threw his dishes away after he left. A bullet was even fired into his home.

Later, Ryan transferred to a different school where he was well-received by faculty and students who were fully educated into the nature of HIV. Ryan was a great student with an exceptional work ethic and perseverance. He was respected by his fellow students because of his admirable traits. They understood he was a human being—just like them, but living with a terrible disease.

Before he died on April 8, 1990, Ryan White worked to educate people on the nature of HIV and AIDS, to show that it was not a lifestyle disease and that, with a few precautions, it was safe to associate with people who were HIV-positive. His character sought to overcome stigma. He became an inspiration to patients and advocates throughout the United States and the rest of the world.

By the spring of 1990, over 128,000 people had been diagnosed with AIDS in the United States and 78,000 had died of the disease.

The Ryan White CARE Act was originally enacted in 1990 in response to the

need for HIV primary care and support services. At that time, the focus of public policy was on research, public education, surveillance, and prevention. The CARE Act was the first approach developed to help people with HIV and AIDS to obtain primary care and support services to save and improve their lives. There is no doubt that the CARE Act has played a critical role in the Nation's response to the AIDS epidemic.

The CARE Act was reauthorized in 1996 and 2000 to address the fact that the epidemic continued to spread and that primary care and support services provided through the act were still vitally important to people living with HIV and AIDS.

Today, more than 944,000 cases of AIDS have been reported to the Centers for Disease Control and prevention, the CDC. Nearly 530,000 men, women, and children have died as the epidemic has spread over the last 25 years to both new populations and new geographic areas.

The public health burden and the economic burden of the AIDS epidemic have not been reduced since the CARE Act was passed. The continued need for services grows faster than the resources available.

Steady expansion and shifted demographics of the epidemic and the increasing survival rates for people living with AIDS have increased the stress on local health care systems in some areas. This strain is felt both in urban centers, where the epidemic continues to rage, and in smaller cities and rural areas, where the epidemic is expanding rapidly.

This reauthorization bill addresses those inequities and reevaluates funding formulas so that money for the program follows the epidemic. It keeps money for the AIDS Drug Assistance Program—known as ADAP—within ADAP, and even grants States flexibility to transfer funds to ADAP when they have demonstrated need. Currently, funds for the ADAP supplemental pool are frequently dipped into for other purposes, resulting in inadequate funding and waiting lists. It also protects States and eligible metropolitan areas from suffering catastrophic losses in funding.

I know that it is never easy to revise a bill that contains funding formulas. No matter what changes we make, they will always raise issues and questions. But let us move beyond the narrow fight and work for the greater good.

We have been talking a lot about numbers and codes and case counts and reporting data, but we need to remember that there are actual real people being affected by this, real people who need our help. Hundreds of thousands of people continue to live affected with and die from this disease, and we need to bring out all the tools within the Federal arsenal to help fight for them.

As of December 31, 2005, the Utah Department of Health reported a total of 1,907 people living with HIV and AIDS

in the State of Utah. Many of these individuals rely on Title II funding from the Ryan White Program to receive health care, vital medications and support services.

These individuals are also counting on me to fight for their continued access to care and services that have such a big impact on their survival and quality of life. We in Congress are being counted on to work together on behalf of the nearly 1 million people living with HIV/AIDS in our country.

The last reauthorization period for the Ryan White Program expired in 2005. It is incredibly important that we reauthorize the program again now in order to continue providing the care that is so critical to these populations and alleviate strain from shifts in the epidemic felt by health care providers.

There are real people counting on us. We need to move forward in reauthorizing the only Federal program that helps the neediest of people living with this devastating disease. This bill extends the availability of vital services, and it includes changes that intend to fix discrepancies that have resulted in Ryan White funds not following the epidemic.

This is a good bill and I urge my colleagues to support it.

Mr. ENZI. I am very distressed. I have had a lot of success on other bills we are trying to get through. People have been willing to listen to reason and understand the urgency of a lot of the issues, particularly in the health area, but also in the education, labor, and pensions area.

As a committee, we work on these things across the aisle and across the building. As a result, we have had 12 bills signed by the President. Of those 12 bills, we have only spent about 2 hours total in the Senate debating them because we work across the aisle and across the building. We work on important issues. We solve the parts we can and we bring them here. This is one of those where we thought we had the parts solved that we could. There are a lot of moving parts to a lot of these things. We work to get as much consensus as we can, but occasionally we reach a sticking point like this.

I am really disappointed we have reached a sticking point like this where people are going to die. If, by tomorrow, we have not passed this bill and in case we go longer than tomorrow, I am going to ask the leader to file cloture on this bill so we can see if five Senators can hold up a Senate bill.

If we leave tomorrow or the next day, it won't ripen yet, but it can ripen as soon as we can get back. We can spend the time debating it, and those States that are losing money on September 30, while they will not be able to retrieve all the money they will lose, they will have some breathing room for the future.

I am desperate. I usually do not have to do that sort of thing. I am willing to do it on this bill. I am very distressed. Usually we are able to get agreement.

We went a long ways toward giving concessions to those States.

In all fairness, if you do not have the cases, you really should not have the money tomorrow, let alone 3 more years. We have tried to be reasonable. We have tried to help out States. We have run a bunch of formulas to make it as fair as we possibly could and to protect the States as much as we can, but it is time to be fair to the people with HIV/AIDS and to be fair to the families of people with HIV/AIDS.

I ask unanimous consent that a Washington Post article be printed in the RECORD.

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

[From the Washington Post, Sept. 28, 2006]

LAWMAKERS ARGUE OVER AIDS FUNDING BILL (By Erica Werner)

WASHINGTON.—House members from rural areas and the South clashed with big-city lawmakers Thursday over who should get a bigger share of federal money to care for AIDS patients.

"It's shameful and disgraceful," shouted Rep. Eliot Engel, D-N.Y., denouncing amendments to the \$2.1 billion Ryan White CARE Act that could take millions of dollars out of New York's health care coffers.

The HIV/AIDS epidemic is moving," countered Rep. Joe Barton, R-Texas. "This is a very fair compromise. It begins to treat all states on an equal footing."

The House was expected to vote on the bill later in the evening. A two-thirds vote was needed for passage.

Even if it passes the House, the bill faces uncertain prospects in the Senate before Congress recesses at the end of the week to campaign for re-election. Senators from New York, New Jersey and California are blocking it.

Supporters said the election-year updates were needed because of how AIDS has changed since the Ryan White law first passed in 1990. Once a big-city epidemic infecting mostly gay white men, the disease is now prevalent in the South and among minorities.

By some measures federal funding has not kept up, and states like California, New York and New Jersey get more money per patient than Alabama, Kentucky or North Carolina.

The Ryan White amendments, the first since 2000, make a number of changes aiming to spread money more equally around the country.

While current law only counts patients with full-blown AIDS, the revision also would count patients with the HIV virus who have not developed AIDS.

That change would favor parts of the country where the disease is a newer phenomenon, which tend to be southern and rural areas.

New York state stands to lose \$100 million over the five years of the bill. New Jersey would lose \$70 million.

Alabama, by contrast, would get an increase from \$11 million a year to about \$18 million a year.

"The problem is that the population of those needing services has grown, but the funding for Ryan White programs has not grown with it," said Rep. Henry Waxman, D-Calif. "That means if we're going to give to some people who are very deserving, we're going to take from others who are very deserving."

California and some other states are worried about a change in the bill that mandates

counting HIV patients by name instead of codes. Some states used code-based systems out of concern for patient privacy. California could lose an estimated \$50 million in the last year of the bill, when the name-based system would take effect, because it won't be prepared to make the transition.

Mr. ENZI. I have a unanimous consent that has been agreed to by the majority and minority leader. I yield back all time on the Defense appropriations conference report.

MORNING BUSINESS

Mr. ENZI. Mr. President, I ask that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

TIME ALLOCATION

Mr. ENZI. I further ask that all time after 9 p.m. tonight be counted postcloture, notwithstanding the adjournment of the Senate.

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

PRYOR NOMINATION TO PBS BOARD

Mr. PRYOR. Mr. President, I am very proud to say that my father has been nominated to a seat on the board of the Corporation for Public Broadcasting. I think he will do an excellent job. I think we will all be proud of his services there. However, because he is my father, I decided to recuse myself from that nomination and abstain from any votes. I don't think it has all been worked out yet, but my anticipation is that it will not be done by rollcall vote but by voice vote or some other type of vote.

I would like the record to show that I am abstaining from that vote and recusing myself from that nomination.

I thank the Chair.

Mr. WARNER. Mr. President, might I say that I was privileged not only to serve with the Senator's father but consider him a good personal and professional working partner. He is an extraordinary individual and the citizens of this country are fortunate if his nomination is confirmed and he takes up that service.

Mr. LEVIN. Mr. President, I add my compliments and congratulations to the Senator dad. I feel so close to him that I am tempted to recuse myself, but I won't do that. Instead, I will be very happy to vote for him whether it is a rollcall or a voice vote.

Mr. LEAHY. Mr. President, I was privileged to serve with David Pryor. I am proud of him. I think it is going to be a wonderful opportunity for the board to have his services.