The House met at 10 a.m.
The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:
My brothers and sisters, let the words spoken through the prophet Ezekiel stir in your hearts so that the impending days may lead to an even deeper trust in the Lord:
“The nations shall know that I am the Lord, says the Lord God, when in their sight I prove my holiness through you. I will sprinkle clear water upon you to cleanse you from all your impurities and from all your idols I will cleanse you. I will give you a new heart and place a new spirit within you, taking from your bodies your stony hearts and giving you natural hearts.”
Lord God of prophets and politicians, through the campaigns surface out fiction and malicious thoughts that Your people may be led to America’s common concerns and the truth upon which to build anew. Deepen convictions in all contestants that their hearts may be naturally transformed by the response of the people and Your holy inspirations. We pray for civility in debates and peaceful resolve across the Nation, both now and forever. Amen.

THE JOURNAL
The SPEAKER. The Chair has examined the Journal of the last day’s proceedings and announces to the House his approval thereof.
Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE
The SPEAKER. Will the gentleman from Massachusetts (Mr. McGovern) come forward and lead the House in the Pledge of Allegiance.
Mr. McGovern led the Pledge of Allegiance as follows:
I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE
A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:
S. 2250. An act to award a congressional gold medal to Mr. Norman E. Borlaug.
S. 2491. An act to award a Congressional gold medal to Byron Nelson in recognition of his significant contributions to the game of golf as a player, a teacher, and a commentator.

ANNOUNCEMENT BY THE SPEAKER
The SPEAKER. The Chair will entertain 10 1-minutes on each side.

NIE
(Ms. Foxx asked and was given permission to address the House for 1 minute.)
Ms. Foxx. Mr. Speaker, I have deep concerns over the recent politicizing of the intelligence reports while our country is in the midst of a global war on terror. This is irresponsible when it comes to classified intelligence. Politics should be the last thing involved in the intelligence community. It is not surprising to see a leak come right out before the elections and Democrats using it as a campaign tool.
The New York Times story was based upon selective information and that was distorted and inaccurate when taken out of its full context. Information is classified for a reason, but it is too late, and the damage is done.
Just after the President declassified the information to show that progress in the war on terror was being made through our intelligence service, Al Jazeera’s Web site immediately posted a link to the document for their audience, which may include terrorists to review. Now they know sensitive aspects of our intelligence community’s assessment of the war on terror.
Releasing this intelligence compromised our success in the war on terror and the safety of our troops. If this inspires one terrorist, and it most certainly will, the cost is far too high.

IRAN
(Mr. Kucinich asked and was given permission to address the House for 1 minute.)
Mr. Kucinich. Iran should not have nuclear weapons; and, along with the United States as a signatory to the Nuclear Nonproliferation Treaty, should work with the community of nations to abolish all nuclear weapons, as is the express intent of the NPT.
However, this administration is trying to create an international crisis by inflating Iran’s nuclear development into another Iraq WMD hoax. There they go again.
Today, the House will consider a bill which will give the administration a pass on covert activities it has already undertaken in Iran to attempt to destabilize the government. Additionally, today’s bill will enable another Rendon type propaganda machine to feed the U.S. media a steady stream of lies, all to set the stage for a war against Iran.
Think about it; this, without a single hearing on Iran in this Congress. Think about it; this, while the State Department and DOD is ducking even classified briefings.
There is a Chinese proverb that says: Fool me once, shame on you. Fool me twice, shame on me. Will Congress be fooled again into supporting still another war against still another nation, which is not an imminent threat and which has no intention nor capability of attacking the United States?
HIGHLAND FALLS-FORT MONTGOMERY CENTRAL SCHOOL DISTRICT

(Mrs. KELLY asked and was given permission to address the House for 1 minute.)

Mrs. KELLY. Madam Speaker, I rise to urge this House to correct a broken impact aid formula that unfairly limits the federal funding received by local school districts in military communities.

A significant portion of the students I represent in Highland Falls-Fort Montgomery Central School District are children of military families living at West Point. Impact Aid funding complications have Highland Falls struggling to preserve its full curriculum for students. The Impact Aid funding shortfall leaves the local community surrounding West Point facing major property tax increases.

This is not the way the Federal Government should be treating the families of Highland Falls and West Point. Impact aid schools need and deserve consistent Federal support. They are not getting that through the current Impact Aid formula.

I urge this House to pass the Impact Aid Update Act, a bill I introduced to correct the outdated cap that is restricting Impact Aid funding to Highland Falls-Fort Montgomery Central School District and other Impact Aid schools.

I also call on this House to pass H.R. 390, a bill I am cosponsoring to improve the Impact Aid program. This Congress needs to permanently fix Impact Aid funding formulas so that local school districts like Highland Falls throughout the country have the full resources they need to teach our children.

VICTIM-ACTIVATED LANDMINE ABOLITION ACT

(Mr. McGOVERN asked and was given permission to address the House for 1 minute.)

Mr. McGOVERN. Madam Speaker, yesterday, Congressman Phil ENGLISH and I introduced H.R. 6178, the Victim-Activated Landmine Abolition Act.

Our Nation is the global leader in funding for landmine clearance, mine risk education, and mine survivors. The U.S. was the first nation to call for risk education, and mine survivors. I introduced H.R. 6178, the Victim-Activated Landmine Abolition Act.

We no longer need to procure or design landmines that are victim-activated. Let the U.S. set the example for other countries in banning the procurement of victim-activated landmines and weapons. I encourage my colleagues to join me as a cosponsor of H.R. 6178.

BROOKLYN ALLYSON—DAUGHTER OF TEXAS

(Mr. POE asked and was given permission to address the House for 1 minute.)

Mr. POE. Madam Speaker, I have news, good news. A child is born, a girl. Brooklyn Allyson Reaves arrived in the summer heat of Austin, Texas, August 18, 2006, at 7 pounds, 13 ounces. Her parents, Kim and Derek Reaves, and her brother, Barrett Houston, are all proud of this new family member.

Brooklyn is in the sunrise of her life. May her days be long, may she see good days of happiness and health, days of doing service for others, days filled with a passion for liberty and righteous justice, days with a love for her heritage and her country, and days with a commitment to her Maker; so that when she reaches the sunset of life, she will have been a good citizen, a good patriot, and a good servant of her Lord.

Every time a child is born, the Almighty is making a bet on the future of humanity. Kids are our greatest of all national resources.

So, Madam Speaker, the angels in heaven may be singing with joy at the arrival of Brooklyn, but they cannot be as happy or as proud as I am, because Brooklyn is my new granddaughter.

And that’s just the way it is.

SHOCKED AT HOW AWFUL IRAQ IS

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Madam Speaker, the Iraq war has gone from shock and awe to shocked at how awful it is.

On the heels of the public disclosure of the NIE estimates, today's Washington Post reports that the Baghdad Police College was so poorly constructed it might need to be demolished.

Special Inspector for Iraq Reconstruction said, “This is the most essential civil security project in the country. It is a failure, The Baghdad Police Academy is a disaster.”

There are foundation problems, tile floors are warped beyond repair, faucets leak, toilet waste flooding all over the second and third floors.

The Parsons Corporation did such a bad job with the $75 million in U.S. taxpayer money it was awarded to build the new facility, the whole facility may need to be torn down. The Parsons Corporation received a $1 billion contract. $12 billion gone, wasted, unaccounted for in Iraq. But what is $12.5 billion among friends? That wasted money follows a long line of other costly mistakes, including this Congress’s refusal to hold anybody accountable.

HUGO CHAVEZ AND THE AMERICAN CONSUMER

(Mr. STEARNS asked and was given permission to address the House for 1 minute.)

Mr. STEARNS. Madam Speaker, Hugo Chavez, dictator of Venezuela, gave a speech at the United Nations last week in which he lambasted the United States and derigated President Bush. Chavez is little more than a comical autocrat on an anti-American public relations tour, but it is interesting that the American public has channeled their wrath into their consumer purchasing, moving to boycott Citgo, the Venezuelan national gas company.

Indeed, on Wednesday, 7-Eleven reacted to growing bad publicity by announcing it would not renew a 20-year contract with Citgo. That is about 2,100 gas stations off the books for Citgo. The rest will be targets of an angry American public’s spontaneous boycott of Venezuelan oil.

All of us are working here in Congress to promote America’s oil independence. All of us should do what 7-Eleven is doing by boycotting Citgo gas stations.

DEFENSE AUTHORIZATION BILL AIDS TO BAN INTERNET GAMING

(Ms. BERKLEY asked and was given permission to address the House for 1 minute.)

Ms. BERKLEY. Madam Speaker, Congress is waiting for the Republican leadership to bring the Department of Defense authorization bill to the floor for a vote.

So what’s it about? Believe it or not, the Republican leadership wants to add a provision to the defense bill. To help the troops? No. To add to their salaries? No.

To help us buy equipment for them so they will have state of the art equipment? No.

It’s a provision to ban Internet gaming. And if you guessed that, you are absolutely right. A ban on Internet gaming in the defense bill. How ridiculous is that? At a time when we have brave American men and women fighting and dying in Iraq and Afghanistan, the Republican leadership is more worried about Americans playing poker on-line than in protecting our troops in the field.

The Republicans talk about patriotism and supporting our fighting men and women, but when it comes to voting for our Nation’s Defense Department, they are more interested in banning Internet gaming than they are in providing what our troops need in the field of battle.

This is a disgrace. Americans should be outraged and we should demand that...
we pass this Department of Defense authorization without any other additions that have nothing to do with defending our brave men and women.

MATERIAL SUPPORT BILL
(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Madam Speaker, Saturday’s New York Times ran an editorial headlined Punishing Refugees Twice, which describes a very real problem that deserves our attention. The PATRIOT Act and the REAL ID Act are important laws to keep out of the U.S. those who provide aid to terrorists. However, an excessively broad interpretation of the law has tied our hands when it comes to admitting harmless refugees into America. No distinction is made for people who have been coerced under duress to provide material support, including under threat of rape or death or at gunpoint.

In addition, the definitions make no exceptions for people or groups that our government supports or that support our government, such as those resisting despising by the dictatorship in Burma, or anti-Castro groups in Cuba, or the Montagnards.

H.R. 5918 would fix this problem by allowing us greater ability to distinguish between our friends and our enemies. The many terrorism-related bars on entry would still remain in place. I urge consideration and support of this bill.

IRAQ MAKING OVERALL TERRORISM PROBLEM WORSE—TIME FOR NEW DIRECTION
(Ms. SOLIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SOLIS. Madam Speaker, for 6 months now, President Bush has known that the Iraq war is making our efforts to fight global terrorism more difficult, yet he refuses to change the course. A top secret National Intelligence Estimate concluding that the Iraq war has made the overall terrorism problem worse should have set alarms off in the Bush administration. The document shows that the President’s stay-the-course strategy in Iraq is only undermining our prospects for winning the global war against terror.

The Bush administration knew that this was a possibility before it even went into Iraq. Another intelligence estimate that came out in January 2003 stated that the approaching war had the potential to increase support for political Islam worldwide and could increase support for some terrorist objectives. Yet the administration set aside these concerns and chose to attack instead.

Today, our Nation is suffering the consequences. As the intelligence report states, radical Islam has metastasized. It’s time for us to stop the growth of Islamic fanaticism by showing the world that we have no plans of occupying Iraq indefinitely.

RECAPPING REPUBLICAN SUCCESSES
(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON. Madam Speaker, as this legislative session draws to a close, it is appropriate to look back at House Republican successes and the accomplishments that have been achieved for the American people.

During the past few months, House Republicans have worked tirelessly to strengthen the economy, protect family values, address the energy crisis, secure our borders, and increase national security.

With the tax reconciliation bill, families are keeping $31 billion of their own money, as clearly promoted by the Lexington County Chronicle. We approved a border security package to secure our borders and restrict the flow of illegal aliens into our country. Just yesterday, we passed the Military Commission Act providing for the prosecution of suspected terrorists to help us secure victory in the global war on terrorism.

As we leave Washington and prepare to face the voters in November, we will be judged by our merits. I am proud House Republicans have a positive record of achievement on which to stand.

In conclusion, God bless our troops and we will never forget September 11.

ON THE VIETNAM DEMOCRACY MOVEMENT
(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute.)

Ms. LORETTA SANCHEZ. Madam Speaker, I rise today in support of the Vietnamese people who continue to work every day for a free and democratic Vietnam.

In April, 118 Vietnamese citizens signed the Manifesto on Democracy and Freedom for Vietnam. Making this public statement put these Vietnamese citizens and their families at great risk. The signers of the manifesto are part of a movement called the 8406 Democracy Movement, which refers to the date on which they signed the manifesto, the 8th of April of 2006.

On June 10, I personally spoke with the leaders of the 8406 Democracy Movement, Father Ly and Do Nam Hai, and it is clear to me from my conversations with them that the government of Vietnam continues to violate religious freedom, as well as the right to a free and independent media. These violations are unacceptable.

SENIORS ONCE AGAIN VICTIMS OF GOP’S COZY RELATIONSHIP WITH DRUG COMPANIES
(Mr. CARDOZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARDOZA. Madam Speaker, American seniors are facing their first full week of the donut hole. This gap in prescription drug coverage for thousands of seniors is the direct result of the Republicans’ dedication to increasing drug company profits.

As a clear giveaway to the big pharmaceutical companies, the Republican prescription drug benefit does not require that the Federal Government use its huge purchasing power to bargain for lower cost drugs. On three occasions since 2003, House Republicans had the opportunity to support Democratic amendments to reduce drug prices through bulk purchasing. Passage of our amendments would have provided Congress with the money to fill the gap in coverage and eliminate the donut hole.

I urge President Bush to convey the following message to the government of Vietnam during his travel there in November for the Asia-Pacific Economic Corporation Conference.

The U.S. supports the people of the 8406 Democracy Movement who are working toward a free and democratic Vietnam and strongly objects to any mistreatment of them.

THE GENTLEMAN FROM ILLINOIS
(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. As this session of Congress draws to a close, so draws to a close, also, the storied career of the Lion of the Right, Henry Hyde of Illinois. As the chairman of several major committees at the center of repeated national controversies, Henry Hyde, as Members on both sides of the aisle know, has been a paragon of dignity and civility and commitment to principle. I would add he has been a lion of the right to life and this Chamber will miss his roar.

I will offer legislation today to name the Rayburn International Relations Committee room after this storied legislator, and I urge my colleagues to support this measure.

When I think of Henry Hyde’s career, I think of Ulysses by Alfred Lord Tennyson who wrote: “Tho’ much is taken, much abides; and tho’ we are not now that strength which in old days moved heaven and earth, that which we are, are; one equal temper of heroic hearts, made weak by time and fate but strong in will to strive, to seek, to find, and not to yield.”

Let us honor this rare leader and may God bless the golden years of the gentleman from Illinois.
But, no. This would have eaten into drug company profits and threatened the friendship that exists between the Republicans and the drug companies.

Mr. Speaker, we can still correct this injustice visited upon our seniors before we recess. Today, we should give the American people back the power to negotiate those prices down and permanently close the donut hole.

America needs a new direction.

IN HONOR OF SMEAD MANUFACTURING ON THE OCCASION OF ITS 100TH ANNIVERSARY

Mr. KLINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. KLINE. Madam Speaker, there has been much celebration this year in the little town of Hastings, Minnesota. I rise today to recognize a small business icon in the State, a document management company with a rich heritage of innovation and quality.

This year, Smead Manufacturing celebrates its 100th anniversary. A cornerstone of the Hastings community, Smead is the world’s leading provider of filing and organizational products.

For 100 years, Smead has been committed to one purpose, keeping business organized. For the last 51 years, Smead has been a woman-owned company which now employs more than 2,700 workers in 15 plants. I have enjoyed the opportunity to visit the Hastings facility and meet many of the dedicated employees. On the occasion of this milestone achievement, I want to thank the men and women of Smead Manufacturing for their service to the community and the State of Minnesota. I commend the employees and leaders of this great institution and wish them much continued success.

TIME FOR A CHANGE

Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. ENGEL. Madam Speaker, this Republican Congress has failed the American people. Nobody can deny that this is the most do-nothing Congress in our history. On every front, from Medicare and Social Security, to balancing the budget, to fully implementing the 9/11 recommendations. It is time for a new direction.

THE NEED FOR ENERGY INDEPENDENCE

Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. KINGSTON. Madam Speaker, as my friend Mr. ENGEL from New York knows, gas prices are coming down. I am glad about it. A friend of mine, a son, actually filled up last weekend for $1.89 a gallon.

But Mr. ENGEL and I know that the pressure on supply brought about by new drivers in India and China and all over the world means increased demand with a very limited supply of oil. We have got to wean ourselves off of Middle East oil and foreign oil as much as possible.

Mr. ENGEL and I have introduced H.R. 4409, which moves us toward alternative fuels. Ethanol, hydrogen, biomass, technologies that are already out there. We just need to invest more money and accelerate our commitment towards fuel independence.

Imagine driving through a rural area, cornfields on both sides of you, with assurance that that is your next tank of gas. Would that not be great?

This is something that we can work on as Democrats and Republicans. Mr. ENGEL and I have put the bill forward. We are glad to have a lot of Democrats and a lot of Republicans on it. I hope we can get it to the floor for a vote because I think it is extremely important.

THE WORLD IS LESS SAFE

Mr. COSTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. COSTA. Madam Speaker, America is less safe today than before 9/11 attacks. That is according to the National Intelligence Estimate that was leaked out over the weekend. According to the report, the war in Iraq is actually fueling terror worldwide, undermining our efforts to fight terrorism, and making Americans less safe at home and abroad.

This is the second report that questioned our efforts in Iraq, by the GAO. The GAO reports raise specific questions that, unfortunately, this do-nothing Congress should be asking if we had not abdicated our role.

First, what are the key political, economic, and security conditions that must be achieved for U.S. forces to begin to withdraw? Americans want to know.

Two, why have security conditions continued to deteriorate in Iraq even though Iraq has reached political milestones and increased the number of trained and equipped security forces? The American people want to know.

And, three, if existing U.S. political, economic, and security measures are not reducing the violence in Iraq, what measures, if any, does the administration propose to end the violence? The American people want to know.

It is time that we make Americans safer and fully implement the 9/11 recommendations. It is time for a new direction.

FAILURES OF THE CONGRESS UNDER REPUBLICAN LEADERSHIP

Mr. COOPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. COOPER. Madam Speaker, we are in the final hours of this Congress. How will historians judge our work? Very harshly.

There has probably not been a more incompetent or corrupt Congress in modern times than this one. Don’t take my word for it. Look at the book called The Broken Branch, by Norm Orenstein and Thomas Mann. It chronicles the failures of this institution under its recent Republican leadership.

Another objective measure is the lack of workdays in this body. Norm Orenstein pointed out only yesterday that we will have worked only 60 real days this entire year. Sixty days, 2 months of work, and yet we draw 12 months of pay.

Where are the hearings? Where are the debates? Where is the action on American priorities? Where is the immigration bill? Where is the defense bill? And we are in the middle of two wars. Crucial, vital pieces of legislation for America, and this leadership says it simply does not have the time.

PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. HASTINGS of Washington. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 1045 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1045

Resolved, That it shall be in order at any time through the legislative day of September 29, 2006, for the Speaker to entertain motions that the House suspend the rules. The Speaker or his designee shall consult with the Minority leader or his designee on the designation of any matter for consideration pursuant to this resolution.
The SPEAKER pro tempore (Mrs. MILLER of Michigan). The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

Mr. HASTINGS of Washington. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. HASTINGS of Washington asked and was given permission to revise and extend his remarks.

Mr. HASTINGS of Washington. Madam Speaker, House Resolution 1045 provides that suspensions will be in order at any time through the legislative day of September 29, 2006. Further, it provides that the Speaker or his designee will consult with the minority leader or her designee on any suspension considered under the rule.

This is the last week before Congress will recess until November so that Members can return home and spend their time meeting and working with those who represent. Currently, there are several necessary and non-controversial bills that are waiting consideration by the House of Representatives. It is important that the House be able to consider these bills before adjourning.

The suspension authority provided in this resolution will ensure that Congress can complete some additional key work by allowing for consideration of a number of important bills through the legislative day of September 29, 2006.

I encourage my colleagues on both sides of the aisle to support this rule.

Madam Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Speaker, I thank the gentleman for yielding, and I yield myself such time as I may consume.

Madam Speaker, at the end of the week, this Congress will adjourn so that its Members can go home to campaign for their seats. I like to think of a campaign as a long job interview. Everyone in the body will have to convince his or her constituents that they are the best person for the job, that they have spent their time here in Washington doing whatever they can to better the lives of the people back home in their districts.

Madam Speaker, at the end of the week, this Republican Congress has not made that task easy. It isn’t just what the Congress has done with its time that is so disappointing, for example, yesterday’s passage of a military detainee bill that undermines some of our cherished and fundamental principles. It is also what the Congress has not done. All the challenges it has not addressed. The responsibilities it has not lived up to. It is all going to leave voters wondering what we have been doing these last 2 years.

The American people do not need us to tell them why their country is headed in the wrong direction. Every day that Congress fails to implement the critical recommendations of the 9/11 Commission, they feel less safe. Every day they struggle to get by on real wages that continue to decline, they feel less secure. And every day that seniors and others who cannot afford their prescription drugs, and students and their families lie awake worrying about how they are going to be able to afford college tuition payments, and that tens of millions of young workers trying to afford their drive to work in the morning, every day these problems remain unresolved, and people ask themselves why this Congress doesn’t seem to care about what really matters to them.

They need it to take their troubles and concerns seriously and for us to spend our time passing meaningful bills that will actually help them live their lives and provide for their families.

So today, my fellow Democrats and I are offering one last opportunity to our Republican colleagues to make the 109th Congress really mean something. This rule will give us the ability to consider suspensions and suspensions bills today and tomorrow. In that short amount of time, we can pass legislation that will go a long way towards giving our constituents and fellow citizens the help they need to live secure, to achieve their goals and ensure a brighter future for their children.

I want to briefly mention five goals that I firmly believe to be able to reach before we adjourn. Since 9/11, this administration and Republican Congress have tried to convince us that we are in a war for civilization. They used the urgency of that supposed fight to justify reductions in our fundamental liberties and wars that have cost our citizens dearly.

And yet, they have largely failed to implement the overwhelming majority of the 41 security recommendations made by the 9/11 Commission, recommendations designed to prevent another attack here at home. And as was made clear by the response to Hurricane Katrina, this government is not prepared to respond to disasters. Nor has it adequately addressed weaknesses in our security system that could be exploited at any time, weaknesses in our ports, in our energy infrastructure, at our banks, and in our intelligence community.

And that is why I call on this Congress to immediately pass legislation putting the commonsense recommendations of the 9/11 Commission into law. We have no reason for inaction, and the American people won’t accept any more excuses.

Threats to the security of our citizens do not come from the outside alone. Madam Speaker. They are threats to that security right here at home. Working families cannot hope to feel secure if they are living paycheck to paycheck and deeply in debt. And if those paychecks are not enough to live on, they do not have much cause for hope left. The real wages of America’s workers have fallen for years, squeezing the middle class and making it harder for our 7 million minimum wage workers to even get by. One way to address that problem would be to increase our minimum wage.

The majority leader bragged a few weeks ago that he has spent his entire career in Congress voting against minimum wage increases. And he isn’t alone. Under Republican control, Congress has refused to raise the minimum wage for 9 years, not even to adjust it for an increased cost of living. On the other hand, that cost-of-living adjustment has been made to the congressional salaries numerous times.

Well, enough is enough. My Democrat colleagues and I pledge here and now we will not support another congressional pay raise until we give America’s minimum wage workers a raise as well. There is just no way to do it. We can immediately pass Representative GEORGE MILLER’S Fair Minimum Wage Act or a similar amendment that Representative HOYER authored to the Labor, Health and Human Services bill. Doing so would have an immediate and profound effect on millions of lives.

Madam Speaker, the deeply flawed Medicare part D legislation rammed through Congress last year has already come home to roost. Millions of Americans face prescription drug premiums they cannot afford, a reality that weighs especially heavy on the elderly and the disabled.

This Congress should immediately give the Secretary of Health and Human Services the authority to negotiate for lower prescription drug prices. This would immediately help countless men and women get the lifesaving prescription drugs that they need. Or should we focus on the present. If we hope to secure a strong future for our country, we must make access to higher education a right instead of a privilege. In our increasingly competitive global economy, knowledge is power like never before, and a good education is more priceless than ever. And what a shame it is that so many of our soldiers serving us now have joined the Guard and Reserve simply to get it done.

During this Congress, Republicans reenacted this Congress’s failure by putting $12 billion in Federal aid student aid intended for our nation’s college students. It was a shortsighted and harmful decision, and it should be immediately reversed.

I hope all my colleagues on the other side of the aisle will join the Democrats in restoring higher-education funding and expanding the size and availability of Pell Grants. We can do it by passing an improved Labor-HHS bill, and the Democrats have the legislation to get it done.

Finally, Madam Speaker, while energy costs have compounded the daily

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troubles of so many ordinary people. Congress has handed out huge tax breaks to the Nation’s largest oil companies and done it while they have made some of the greatest profits ever earned by American corporations. Since Republicans passed an energy bill in 2001, unthorized in secret by the administration and those same companies, it has been clear whom the Republicans stand with on this issue. But the Democrats always fault for an energy agenda that works for all Americans, not just for the oil industry. We should immediately begin rolling back tax breaks for big oil and using the savings to invest in alternative fuels that would give us true national energy independence and real relief at the pump and force them to pay the royalties they owe this government for their use of public lands.

Madam Speaker, today and tomorrow we will be presenting bills that will accomplish all these goals. I ask my friends on the other side of the aisle to think about the questions they will be asked when they go home in October. I ask them to think about how they are going to respond to a constituent who asks what they have done to lower tuition prices, to make our ports and mass transit systems more safe, to get prescription drugs into the hands of those who need it, and to increase the quality of life for minimum wage earners. I ask them to no longer ignore these critical questions and these critical needs.

In 2 days, with just a few simple bills, this Congress can improve the lives of tens of millions of people. The only real question left to ask is, why would we let such a precious opportunity pass us by?

Madam Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Madam Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. McGovern).

Mr. McGovern. Madam Speaker, first let me thank the gentlewoman from New York, the ranking member of the Rules Committee, Ms. Slaughter, for yielding me time. Let me associate myself with her comments.

Normally a rule that would allow us to consider suspension bills today would not be controversial. Suspension bills, after all, are usually bills that if they do not pass unanimously, they pass pretty much close to unanimously. They are naming of post offices, there are things that quite frankly are nice but they are not crucial for this Nation.

And, you know, I come to the floor today, along with others, to object to this because this Congress is about to recess and then to do the people’s business. This Republican Congress has failed to make college education more affordable. This Republican Congress has failed on retirement security. This Republican Congress has failed on energy. It has failed on health care. It has failed on jobs and wages. And it has failed on Iraq and national security.

I mean, we are about to recess, and this Congress increased the Federal minimum wage. It is stuck at $5.15 an hour. I mean, Congress has not raised the minimum wage in 9 years. During that same period of time, Congress voted themselves a $31,600 pay raise. We do not have the time to increase our minimum wage, but we have time to increase our salaries by $31,600? Please, give me a break. Where are our priorities?

We have the time right now to raise the Federal minimum wage. I think that is more important than naming a post office before we recess before the elections.

On the issue of energy, I mean where is our energy policy? Where is our commitment to renewable and safe and clean energy? We are allowing the oil industry to bankrupt the future.

I mean, there is nothing. We have seen gas prices go way up. And, guess what? They are mysteriously coming down before the election. But I am going to make a bet with you that the next time they go back up again. You know, these oil executives, they are smart. They know where their bread is buttered. They do not want accountability. They do not want a Congress that is going to hold their feet to the fire when it comes to price gouging the American people.

On the issue of Iraq, a National Intelligence Estimate tells us that this war in Iraq has created more terrorists rather than decreased the number of terrorists. And yet what do we have going on here in this Congress? Nothing. There is no accountability with regard to this administration’s policy.

President Bush tells us to stay the course, which is code for stay forever. I think this was a mistake. Whether you supported it or opposed it, I think everybody can agree it has not unfolded as advertised. I mean, we are now a referee in a civil war.

We have spent hundreds of billions of dollars not on schools, not on senior citizens and retirement security, not on economic development, not on infrastructure, not even on reducing our enormous debt, we have spent it in a mistaken war in Iraq that gets worse and worse and yet this Congress, this Congress refuses to hold the administration accountable, refuses to do the oversight necessary to try to take this failed policy and bring it to an end.

I mean, we have lots and lots to do before we recess. We have important matters that every single person in this country cares about, whether they are a Democrat or a Republican. Instead, we are told, no, we do not have the time, we are going to come here and we are going to spend more of our time doing suspension bills.

I mean, there is a reason why this Congress only has a 25 percent approval rating by the American people. People get it. People know that this is a do-nothing Congress. People are frustrated that this Congress has become a place where trivial issues get debated passionately and important ones not at all.

People understand that there is something wrong when Congress cannot find the time to increase the Federal minimum wage and when they try to do it they play politics with it by attaching it to a tax cut to wealthy people.

There is something wrong when Congress cannot increase the national minimum wage, but we have time to vote ourselves a pay raise. There is a disconnect. I think the people are way ahead of us here in Washington. People understand that this Congress has failed them time and time and time again.

It is time for a new direction. It is time for a change, and it is time for Congress to behave in a mature, responsible fashion. And that means dealing with issues like the affordability of a college education. It means dealing with issues that people care about.

I urge my colleagues to vote against this rule. Mr. Hastings of Washington. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, there have been several references today and in the past few days about the issue of the minimum wage. I think that we need to set the record straight as exactly what this House has done regarding that issue, because the issue has been around some time.

Before we went on our district work period in August, the week before we left at the end of July, this House did pass, did pass and sent over to the Senate, an increase in the minimum wage. It was attached, or it was attached to other issues. That is not anything that is unusual in this body. That goes on all of the time. But what were those other issues? Those other issues provided tax relief for certain Americans. One of that was sales tax deductibility, for example, for States that do not have an income tax. My State happens to be one of those. Broad support in both Houses of the Congress.

The other was the, not the elimination, but extension of the death tax. That has support in both Houses. It unfortunately does not have the required filibuster-proof support in the other body. But that was part of that tax bill.

There is also a provision for research and development tax credits to keep our economy moving. That has broad support in both Houses. That was part of that tax bill. And then there were some other provisions in that also.

Attached to that, yes, was the minimum wage. I voted for that. I have to say, Madam Speaker, I am not one that is generally in favor of the minimum wage. But I felt coupling that together
Madam Speaker, this Congress will not care to its do-nothing label. Commission recommendations should be adopted by Mr. Hamilton, the adoption of the 9/11 Democrats agree with Mr. Kean and the lack of urgency across the board.

Where in the world has Congress been standing up to the 9/11 anniversary on a Congress chose to spend the week leading up to the 9/11 anniversary. As this do-nothing, do-over Congress, it is time for this Congress to stand up and do something. This Congress cannot continue to be the Congress that left security behind. Mr. Hastings of Washington, Madam Speaker, I reserve the balance of my time.

Ms. Slaughter, Madam Speaker, let me just point out that the minimum wage bill passed here was buried in a bill that gave billions in tax breaks to the Nation’s wealthiest. Madam Speaker, I yield 6 minutes to the gentleman from Mississippi (Mr. Thompson), the ranking member on Homeland Security.

Mr. Thompson of Mississippi. Madam Speaker, homeland security is not a red or blue State issue. It is a red, white and blue issue. It is an American issue. When al Qaeda struck us 5 years ago, it did not distinguish its victims. The terrorists did not care if you were red or blue State.

Party distinctions mattered little to terrorists. Mother nature, too, had little use for arbitrary partisan labels as we learned with Hurricane Katrina and Rita. Those terrible storms inflicted suffering on all the people of the gulf coast.

The American people expect that homeland security is one of our top national priorities, and the 9/11 Commission, the bipartisan panel we created, said it must be a priority. Congress told that panel to get to the bottom of what happened on 9/11 and give us a road map to guard against future attacks.

They did their part, Madam Speaker. This do-nothing, do-over Congress, squandered time and resources and is now trying to pass off do-little rhetoric as real action.

Where has all of that gotten us? Where in the world has Congress been for 5 years in those 93 days prior to leaving for the election. The do-nothing Congress met 111 days. That is 17 fewer days in session than the do-nothing Congress of 1948, which was famously derided by President Truman. Now, if we had done a lot of work in those 93 days one could say, well, we did not need to meet as much because we did a lot of substantive work. Let us look at the record.

Today on this House floor, we have the time to consider a bill recognizing the 225th anniversary of the American and French victory at Yorktown, Virginia, during the Revolutionary War. That was a critical juncture in our history and deserves recognition. Yet, we have still failed to enact a budget. We do not have a budget. Now Mr. and Mrs. Obama’s first budget year begins just 4 days from today, but we have not enacted a budget for the American people.

with these other important measures to keep our economy going, to take care of those taxpayers in States that do not enjoy broad parity with other States, I thought it was important.

So if the issue then is to pass a minimum wage, it seems to me the message sent to the other body, because that bill is still waiting over there. All they have to do in the final days of this session is to stop the filibuster and pass that bill over there, and we will have the minimum wage increase that we keep hearing over and over and over.

So, Madam Speaker, I just wanted to set the record straight that this House has acted on that, and I think in a very responsible way.

Madam Speaker, I reserve the balance of my time.

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Today on this House floor, we have time to consider a bill congratulating the Columbus Northern Little League Baseball Team from Columbus, Georgia. I think they are world champions. They deserve of recognition, I do not think the fact that we are doing that, God bless them. Congratulations. Yet, this Republican-controlled Congress has failed to enact the recommendations, as was pointed out by the gentleman from Mississippi, of the 9/11 Commission.

One of our most important responsibilities is keeping America and Americans safe. That is what the 9/11 Commission was about. Republicans and Democrats came together. Governor Kean, former Republican governor of New Jersey, and Lee Hamilton, distinguished former Member of this body, a Democrat, came together and made recommendations, said we can make America safer, but they have given us Fs and Ds on our performance. Today on this House floor, we have time to consider 12 post office renamings. I am sure that every American is concerned about the name of their post office. Me, too. Yet we have failed to enact a long overdue increase in the minimum wage, which has not been raised since 1997. People in America, the richest Nation on the face of the earth, 6.6 million working 40 hours a week and living in poverty, but we can rename 12 post offices.

We must real immigration reform to keep our borders safe, failed to address the fact that 46 million Americans have no health insurance. Yet we rename 12 post offices. And we have failed to enact legislation that moves us toward energy independence, a security issue, an economic issue and an environmental issue.

The truth is, Madam Speaker, this Republican Congress is failing the American people, and the fact that the Republican Speaker is here today to instruct us to consider noncontroversial bills while key priorities go unaddressed is the clearest evidence of that failure.

I go around this country and Americans tell me they want a change. They want to move in a new direction.

As Tom Mann, a congressional scholar at the Brookings Institution, and Norm Ornstein, one of the most respected congressional scholars in America from the American Enterprise Institute, wrote yesterday in the Los Angeles Times, “This Congress hit the ground stumbling and has not lifted itself into an upright position. The output of the 109th Congress:’ they went on to say, ‘is patently measured against its predecessors.” Republican and Democrat.

Mr. Speaker, this Republican rule is nothing less than a mission of failure and ineffectiveness. Even our Republican colleagues have a hard time denying it. Let me quote Jack Kingston from Georgia, who has been such a prominent part of the Republican leadership, who said it best earlier this week. I quote Republican Jack Kingston, part of the Republican leadership, “It is disappointing where we are, and I think Republicans need to be up front about this. We have not accomplished what we need to accomplish.” If we were in church, the people would say “Amen.”

It is time, Madam Speaker, for a new direction in America.

Ms. Slaughter. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I will be asking Members to vote “no” on the previous question so that I can amend the rule to provide that the House will immediately consider five important legislative initiatives that will actually do something to help American workers and their families.

Madam Speaker, I ask unanimous consent to insert the text of my amendment and extraneous materials immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. Slaughter. Madam Speaker, my amendment would provide for immediate consideration of five bills.

The next bill would provide for an increase in the minimum wage to $7.25 per hour. It is now 9 years since hardworking Americans have seen a change in the minimum wage, and this increase is long overdue.

The amendment would also allow the House to immediately consider a bill to provide authority to the Secretary of Health and Human Services to negotiate for lower prescription drug prices for senior citizens and persons with disabilities. Last week, megastores like Wal-Mart and Target announced that they will lower prescription drug prices due in part to their ability to negotiate with drug companies. Why should the government not be allowed to negotiate as well?

Under my amendment, we will also take up a bill to repeal the massive cuts in college tuition assistance imposed by the Congress and to expand the size and availability of Pell grants. And finally, a “no” vote on the previous question will provide for immediate consideration of a bill to roll back the massive tax breaks for large oil companies and to invest those savings in alternative fuels to achieve energy independence.

Madam Speaker, these are all measures that actually do something to help improve the quality of life for all Americans, and will make them safer as well. That is what we were sent here to do.

So vote “no” on the previous question so that we can consider these important bills today and show the people of this great Nation that they come first.

Madam Speaker, I yield back the balance of my time.

Mr. HASTINGS of Washington.

Madam Speaker, I just want to touch on the issue of issues brought up here, and hopefully set the record straight as to what has happened.

There has been talk about Medicare. I just remind my colleagues that the Medicare legislation that had the prescription drug benefit was passed by a prior Congress. To be sure, it was put in place and implemented during this Congress, and that was done because we were really blazing new ground with that Medicare prescription drug reform and the Medicare reform in general. I might add, too, Madam Speaker, for 40 years when the other side controlled this body, there was no prescription drug benefits available at all for anybody on Medicare. So this was new ground, and we put it into place. I think, very innovatively that, frankly, have proven to have been very well accepted by people across the country.

I think the most important part of this Medicare reform was that we made it voluntary program. To suggest that people once they turned 65 cannot make decisions, I think, is wholly underestimating senior citizens. In my district, for example, when the Medicare plan was fully implemented there were 30 plans to choose from in my district. Seniors had a number of choices. I had a forum where a number of seniors came up, asked questions and then made their decisions before the sign-up time. They will have another opportunity to sign up, again, of course in November.

While this program is only in place now for less than a year being implemented, by and large, across the country, it is being well accepted because it provides the coverage that was not available before, and I think that point needs to be emphasized.

I might add that when we reformed this program there was a lot of criticism about the cost of this program. Sure, anytime you have a Federal program, it is going to cost some money, but their substitute plan cost infinitely more than what our plan was that we put into place.

So I just wanted to set that record straight and I think it is important.

Secondly, I want to talk a bit about border security and the overall war on terror. I just remind ourselves, earlier this month, we passed the 5-year time period when we were brutally attacked by terrorists on 9/11/2001, and let us remind ourselves, we have not been attacked in this country since that time. Other countries have faced international terrorism in London, in Spain, and in Indonesia comes to mind right now in the top. Same people are behind this as international terrorist group.

So what we have done is to try to secure our country, and since we are involved in this war on terror, I think it
is clearly in our best interests to try to engage them on their turf. We have been successful thus far, but as President Bush has said, this is going to be a long, long process, but keep in mind, there is no question that the ultimate target in this international war on terrorism is not a matter of if, but when.

In response to that, we have secured our border. There is absolutely no question about that. In some cases, it was passed with bipartisan support, and in some cases, it was not, but the recognition, I think needs to be said, and that is that we are doing things to secure our border and make America safe.

The fact that we have not been attacked I think is credit to those that do that work to secure us on the homeland security, on the border, the first responders. They have all responded. Our intelligence community is much, much more robust than it was before and that has added to our security.

So, Speaker, there has been a lot that has been accomplished in this Congress, and I think that we can go into this break before the elections with a very high head.

The material previously referred to by Ms. Matsui is as follows:

PREVIOUS QUESTION FOR H. RES. 1045 PROVIDING FOR MOTIONS TO SUSPEND THE RULES

At the end of the resolution add the following new Sections:

Sec. 2. Notwithstanding any other provisions in this resolution and without interjection of any point of order it shall be in order immediately upon adoption of this resolution for the House to consider the bills listed in Sec. 3:

Sec. 3. The bills referred to in Sec. 2 are as follows:

(a) a bill to implement the recommendations of the 9/11 Commission.
(b) a bill to increase the minimum wage to $7.25 per hour.
(c) a bill to provide authority to the Secretary of Health and Human Services to negotiate for lower prescription drug prices for senior citizens and people with disabilities.
(d) a bill to roll back tax breaks for large oil companies.
(e) a bill to increase Pell Grants.
(f) a bill to provide funds for those who oppose the Republican majority for possible consideration of these items, such as the Homeland Security Surveillance Act of 1978, and the Homeland Security appropriations conference report for fiscal year 2007: Three very significant pieces of legislation that need to move through this body before we break for the October District Work Period.

It is imperative that we pass this same-day rule. This resolution lays the foundation so that the House can complete its business and send outstanding legislation to the Senate and to the President’s desk. And the President’s desk is for the President to move this process along toward the adjournment of the 109th Congress.

The House Committee on Rules will meet later today to provide the rules for possible consideration of these items, such as the Homeland Security appropriations bill, the legislation to deal with these violations of the laws of war, modernizing our approach to dealing with terrorists and those who plot to blow up airliners over the Atlantic, who fly planes into the symbols of our military power, the symbols of our economic power, those who would blow up our embassies, those who would target innocent civilians in a
way that is unprecedented in the history of modern warfare, as well as legislation to update and modernize the Foreign Intelligence Surveillance Act of 1978.

Obviously, you can tell by the title of the act, the Foreign Intelligence Surveillance Act of 1978, that it is badly in need of reauthorization. Clearly, technology changes, the sophistication of communications, and the diversity of the threats that face this Nation all beg for us to act and modernize that legislation so that law enforcement and intelligence agencies have the tools they need to prevent future attacks on American soil and to protect our forces and our civilians abroad.

I am pleased this same-day rule will facilitate the timely deliberation, discussion, debate of these important issues. I urge my colleagues to support this. This is a procedural motion that allows us to move forward with the meat and potatoes that are important for the safety and security of this country, those legislative items that will be considered later in the day.

So this is an important procedural obstacle that we need to clear out of the way to allow for consideration of these bills. Two of the three items allowed to come immediately to the floor were bills. Two of the three items allowed to come immediately to the floor were bills. Two of the three items allowed to come immediately to the floor were bills.

The majority has defeated multiple Democratic attempts at fixing these issues before we go home for the elections, but the majority has made it clear, through this rule, that the House leadership will not consider these priorities before leaving.

This is a procedural motion that allows us to consider a conference report for homeland security funding. But even after this agreement passes, massive holes will remain in our homeland.

We should restore the massive cuts to Federal student financial aid that Congress made earlier this year. And we have not had a clean vote to raise the minimum wage.

Democrats want to address each of these issues before we go home for the elections, but the majority has made it clear, through this rule, that the House leadership will not consider these priorities before leaving.

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Madam Speaker, we need to get the boots on the ground to secure our borders, the money for 1,200 new Border Patrol agents, new Customs officials, and the modernization and authorization for our intelligence and law enforcement to utilize the latest technology and the best communications to prevent and disrupt any potential plans to attack our homeland. Those are the items that are embodied in this bill that we are considering at this time. And, as I said, with her assistance we can move forward and then be able to again address the other issues that she mentioned, on top of the work that we have already done in passing three major energy bills in the past 18 months that deal not only with fossil fuels and the need to reduce our dependence on foreign oil, that deal with the expansion of refining capacity in this country, which was largely blocked by the other side of the aisle, an effort that provides the opportunity for the form of monetary grants to those innovative individuals around America who find the next big thing, who can innovate on a hydrogen type of fuel cell or the hybrid and continuing to build on the incentives that we passed through this body that encourage people to purchase hybrid vehicles, looking at renewables, solar, and wind.

All of those things, Madam Speaker, are part of the energy bills that we have passed in this House, and now we need to pass these items of important national security. That is what this bill does.

Madam Speaker, I continue to reserve the balance of my time.

Ms. MATSUI. Madam Speaker, I yield 5½ minutes to the gentleman from California (Mr. GEORGE MILLER), my good friend.

Mr. GEORGE MILLER of California. I thank the gentlewoman from California for yielding.

Madam Speaker, here we are, close to adjournment, maybe 48 hours from now the Congress will go home for the elections, and we will leave millions of Americans who work at the minimum wage, who are stuck at a poverty wage, with the government has been using to finance student aid programs, and we will leave millions of Americans who work at the minimum wage, who are stuck at a poverty wage, because of the failure of this Congress to address that issue.

What that means is that for those millions of Americans who go to work every day, all year long, at the end of the year they will end up poor. They end up with the inability to provide for their health care, to provide for their transportation and the education of their families.

Why is that so? Because for 10 years, the Republicans in the Congress have successfully blocked any increase in the minimum wage, and they have done it proudly. They believe that these people aren’t entitled to any more money than the minimum wage that they are receiving today. Now, that minimum wage is less purchasing power than at any time in the 50 years we have had the minimum wage. These people are falling behind every day, every month.

We just saw yesterday in the newspapers that health care costs went up 7 percent. We know what has happened to families with energy costs. We know what has happened with utility costs. We know what has happened with educational costs and with the price of groceries, and they haven’t gone up in these people’s lives, but what hasn’t gone up is the wages they work at.

The Republican Party is apparently perfectly content, even though we have the votes to pass the minimum wage, we have the votes in the Senate to pass the minimum wage, they are completely content to go home without an increase in the minimum wage.

It is shameful, it is sinful, the treatment of these people and the families in which they reside. The Republicans cannot see their way clear to put a clean vote on the minimum wage up or down on the floor of the Congress so that we can increase the financial capabilities of these families.

When you have the testimony of people like the Wal-Mart Corporation, which prides itself in presenting to America everyday low prices, theoretically, the least expensive place you can shop for the goods that they carry, they are now asking for an increase in the minimum wage because they say that the competition to their stores simply don’t have sufficient money to provide for the necessities of life. They don’t have the money to buy the necessities they need, even in their stores. That is an indication of how important an increase in the minimum wage is.

The other terrible tragedy is that the Republicans refuse to roll back the raid on student aid that they engaged in earlier this year, when they took $12 billion out of the student aid accounts. They didn’t put any money for the well-being of students to lessen the financial burden of families who are trying to put their children through school. They didn’t do any of that. They took that $12 billion and they put it over here to pay for the tax cuts to the wealthiest people in this Nation.

That is the investment they made. They took $12 billion that the Congress and the government has been using to finance student aid programs, and they took it into the wealthiest people in the country. They do that at a time when the basic Pell Grant for the most needy students, it only covers 30 percent of college costs today. When it was enacted, it covered 70 percent, and it has fallen behind.

The President had pledged to raise the Pell Grant to $5,100. Five years later, that hasn’t been done. The President has broken his promise. We have been asking that we increase the Pell Grant to $5,100 to make it easier for students to take the $12 billion they took out of the student aid account and recycle it into the loan programs for students so that we can continue to try to help students meet the cost of debt.

Congresswoman MATSUI talked about the average student today graduating with debt of some $17,500. We are now seeing a significant number of students who are perfectly qualified to go to college, to take advantage of college education, and they are not doing so, or they are postponing it because they are worried about whether or not they will be able to manage the debt when they graduate or whether they will be able to assemble the resources to go to college on a current basis.

That is a tragedy for this country. At a time when we talk about the competitiveness of this Nation, at a time when we talk about the need to have an educated population, to deal with innovation, to deal with discovery, to deal with the future economy, we are foreclosing the higher educational opportunity for hundreds of thousands of students because of the debt, because of the cost.

Because of the actions of the Republicans in this session of the Congress and the refusal to roll it back, students will have to pay their Pell Grants back by paying student loans instead of 3.4 percent. Parents will be paying 8.5 percent instead of 4.25 percent.

This is a tragedy. This is the tragedy of the Republicans’ failure to address the needs of middle-income Americans who are struggling to raise their families, to pay their energy bills, and minimum wage families who are simply struggling to survive in America today. It is a tragedy and a blight on this session of the Republican leadership in this Congress.

Mr. PUTNAM. Madam Speaker, I yield myself such time as may consume.

Madam Speaker, I think the gentleman protests too much because he failed to acknowledge that he had an opportunity to vote on the minimum wage on this floor in this body. He had an opportunity to vote for educational tax credits for research and development, something that is certainly important to California, his home State, the birthplace of the silicone revolution and which allows us to keep on the cutting edge of the economy.

The research and development tax credits allow us to compete in the global marketplace so that companies can be global headhunters and bring in the best talent from around the world, create jobs and build businesses here in this country. Not only did he vote against the minimum wage for the lowest end of the workforce spectrum, but he voted against extending those same incentives to invest in laboratories, to invest in innovation, to invest in intellectual capital in this country at the high end of the workforce spectrum as well.

He also denied the opportunity for 10 States in this country to be able to extend the sales tax deductibility, the
same type of State and local deductibility that other states enjoy on a regular basis in this country. And he denied hundreds of thousands of small businesses around this country and family farms the opportunity to keep what they have built, to allow their businesses to pass from one generation to another.

He has had the opportunity to vote on a minimum wage, and he chose to vote against it. I think he protests too much about the success of the agenda that this House has put forward.

When it comes to education, we have increased student loan limits from $3,500 for first-year students to $3,500 and to $4,500 for second-year students. There are now 1 million more students today receiving Pell grants than there were 5 years ago. That is substantial progress in higher education, investing in the future, investing in the intellectual capital of this country. That is the real story.

And what is it that prevents him from talking about the actual issue at hand? Why can’t we hear from the other side as much eloquence about the need to modernize the Foreign Intelligence Surveillance Act? Why don’t we hear the same eloquence about the need to complete our work on the Homeland Security appropriations bill, which will continue the work of securing our border, add 1,200 new Border Patrol agents, add new Customs agents, make our ports safer, continue to build on the good work that goes on throughout this country by hard-working men and women who are doing their best to prevent future terrorist attacks?

Why can’t he talk with the same eloquence, the same emotion, the same passion, about the need to pass meaningful legislation on tribunals to deal with those terrorists who have already been captured trying to do great harm to this country? Those are the issues before us, and that is the debate that is missing from the other side.

Madam Speaker, I reserve the balance of my time.

Mr. MATSUI. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, to correct the record, there has been no clean vote to raise the minimum wage, and it is that important.

Madam Speaker, I yield 3½ minutes to my good friend, the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. "Whatever you do for the least of your brothers, you do unto me," someone who was fairly important in the history of the world told us a long time ago.

But what has the Congress done for the least of our brothers and sisters? It is an indication of the values of those on the majority side of the aisle when they brag about the fact that they held the minimum wage increase hostage to their determination to give away $289 billion to the wealthiest 7,500 people in this country every year. Their deal was "we ain’t going to do nothing for the little people of this economy unless you first provide even more money in the pockets of the very wealthiest people in this country."

I defy you to show me two farms in any congressional district in the country that would pay the estate tax under the alternative that the Democrats proposed. You may not remember what the numbers were, but I do.

Mr. PUTNAM. Madam Speaker, will the gentleman yield?

Mr. OBEY. No. You have plenty of time.

Mr. PUTNAM. The gentleman asked me a question. I’m happy to answer. I’ll provide him a list of farms in Central Florida.

Mr. OBEY. Regular order. If you are going to manage a bill, you need to understand the rules of this House.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The gentleman from Wisconsin controls the time.

Mr. OBEY. You can answer on your time. I am answering you on my time. You answer on your time. Now, I would appreciate no further interference from the gentleman.

The gentleman wants to brag about the prescription drug proposal in the homeland security bill. The majority party nailed into that prescription drug bill last year a prohibition against the Federal Government negotiating for lower prices. So where did the seniors have to go? Wal-Mart finally announced they are going to provide lower drug prices.

I suggested in the conference in the Homeland Security bill that we add language to that bill which says notwithstanding any other provision of law, the Secretary of Health and Human Services shall enter into a contract immediately with Wal-Mart to negotiate on behalf of the United States Government with drug manufacturers and suppliers regarding prices to be charged for prescription drugs under Medicare Part D.

It is a sorry day when the majority party stands shoulder-to-shoulder with the pharmaceutical industry against the recipients under Medicare Part D, labeled "part dumb" by a lot of the seniors in my district. And it is a sorry day, it is a sorry day, when we have to rely on Wal-Mart in order to do what the public representatives of this Congress fought to do, which is to allow our own government to negotiate for lower prices, rather than relying on this Rube Goldberg monument that makes people go to Canada in order to get some mercy in terms of drug prices.

They want to freeze the minimum wage. They freeze the minimum wage. It doesn’t surprise me. The minimum wage is frozen almost as cold as their hearts.

Mr. PUTNAM. Madam Speaker, I have been on this floor a number of years longer than I have, and certainly he understands the rules. But he also understands it is normal procedure that when one Member asks a question of another Member, that surely it is appropriate for the other Member to rise and ask that the Member yield so they may be given the opportunity to answer.

I regret the personal tone that this debate has taken, because these are important issues, these are important challenges our Nation faces and the simple fact is, the gentleman doesn’t want me to answer those questions, because he knows that we have acted in each and every one of those cases.

Since the beginning of Medicare, the Democratic majority did not take advantage of the opportunity to modernize it so that it actually helped the people it was intended to serve by providing them a prescription drug benefit. It was this majority that provided that. Today, millions of Americans have access to pills who who did not have that same access under the old regime.

Why is there such a bitterness that Wal-Mart and Target and other chain drugstores who will undoubtedly follow have used the marketplace to lower drug costs? Are you so angry that the government didn’t force them to do it? Are you so angry that they responded to market conditions, and today millions of people will be able to get $4 pills without the government having to have intervened?

Does it require a fiat to make you feel fulfilled? The simple fact that they made a good business decision through competitive forces in the marketplace and they lowered prices and people will benefit and consumers will benefit, and they will be healthier and they will live longer lives, does it make you angry that they responded rather than the government having to have made forces work?

There are good things coming out of this body, but, more importantly, Madam Speaker, good things come from functioning markets in the marketplace and they lowered prices and people will benefit and consumers will benefit, and they will be healthier and they will live longer lives, does it make you angry that that did not come out of this body, that it didn’t come out of some decree? Is that what the bitterness comes from, that the market worked?

There are good things coming out of this body, but, more importantly, Madam Speaker, good things come from functioning markets. $4 pills by the largest retailer in the world that didn’t come out of legislation, that didn’t come by fiat, that didn’t come by decree. It came because market forces worked, and consumers benefit and patients are healthier and patients have access to pills at a lower cost than they would have before.

This is a same-day rule to deal with foreign intelligence surveillance, to
Madam Speaker, I reserve the balance of my time.

Ms. Matsui. Madam Speaker, in the words of my good friend from Florida is a great debater and orator on this floor and I will answer the gentleman that he knows the rules of this chamber and he knows that many times we ask the other side to yield and they do not. So there is no commentary on your understanding of the rules by not yielding to someone who is interjecting.

And I would simply say that I am prepared to discuss, as a member of the Homeland Security Committee, the failures of this body regarding security. The 9/11 Commission Report issued just years ago rendered to this body Ds and Fs for every aspect of homeland security you could ever imagine. And Abraham Lincoln said: We cannot escape history, right after the Civil War. 1862, his mission during the Civil War, we of this Congress and this administration will be remembered in spite of ourselves. No personal significance or insignificance can spare one or another of us.

And we will be doing the electronic surveilling that as we speak, the leaders of Hewlett-Packard are in our committee rooms in the Rayburn room discussing why they abused technology. There is nothing on the record that suggests that we cannot use the FISA proceedings to deal with securing America. We know that there have been 19,000 FISA requests and less than five refused by the tribunals. The only necessity is to restate the authorization of FISA. We share that it is utilized. But this body will come and try to take away the very rights and protection from privacy for the American people. That is not homeland security. There is no basis for abusing America’s military. When I say that, let me qualify it. By jeopardizing their status as an MIA and a POW, in this instance, a POW, in any conflict around the world by what we are doing with the military tribunal system here, which is, ignoring the Geneva Convention.

And might I just show to my colleagues the faces and faces of the fallen, pages and pages in the Nation’s newspapers of those who have lost their lives at the fronts lines in Iraq and Afghanistan. It is well documented in recent intelligence reports that have been declassified that we have created a pool for insurgency and terrorists, a breeding ground, in Iraq. So now my friends want to abuse the habeas corpus system of America. I want to ignore the Geneva Convention, which simply provides for no torture provisions and a respect for that incarcerated person.

Now we have called these people enemy combatants, but we are now prepared to suspend the habeas corpus for an indefinite period of time. We are prepared now to ensure that there is not any real protection against torture. And, of course, this bill will be an amended bill that will come here to the floor that we will be debating, but the question is the reasonableness in protecting those who are offering their lives. The Military Tribunal Commission bill will still put U.S. soldiers in harm’s way.

The SPEAKER pro tempore. The gentleman’s time has expired.

Ms. Matsui. Madam Speaker, we of this Congress and this administration have spent some time in the private sector dealing with the Federal Government, and I have observed two different types of contracts. And I think they very well represent the two concepts in providing for prescription drugs for our seniors.

If you look at a Federal negotiations for drug prices, essentially you are looking at sole source contracts. This is where the Federal Government goes out and says, okay, you are going to be the provider for this prescription drug, and then you want to know what the costs are and then we are going to give you a fair and reasonable profit margin on top of that.

Well, that philosophy has been used in Federal procurement for a very long time. In fact, during the 1980s, there was a lot of controversy during the expansion of our defense capabilities using sole source contracts. And when they reviewed these sole source contracts, the government found that in some cases, a hammer was being sold for $750. In other cases, a hammer was sold for $1,200 under, again, a sole source contract. They even had coffee pots that were costing $4,200, again, a sole source contract.

And there was a big shift in philosophy in the procurement side of the Department of Defense to competition, competitive contracts, having two companies bid against each other to provide the same service or object so that they could lower prices.

What we have done in Medicare part D is provide a market-based strategy where individual companies are competing for the lowest price out there for the consumer, the person who is receiving the pharmaceuticals. And what we have seen is a significant reduction in price. And the competition has gotten so strong now that the bigger companies in our economy are starting to weigh in, like Wal-Mart. Wal-Mart now has gone to these prescription manufacturers and the generic manufacturers, and they have come up with a new method of being more competitive than everyone else.
Now, some people say Wal-Mart is an evil company. It is exactly what is wrong with America. I don't. I think Wal-Mart has been significant in contributing to productivity. In fact, they contributed about 20 percent of the productivity growth, and they raised the standard of living across America. They have 1.3 million employees. They have done an excellent job. And, today, they are moving into the pharmaceutical market where they are going to cost price seniors by negotiating rates and prices, and by competing in the free market at the highest level.

So I think that we should be very thankful that we are not doing a sole source contract for pharmaceuticals, because the philosophy of having it cost plus profit says to the pharmaceutical companies: Bury stuff in your costs. Put more research and development, put your overhead in there, expand your profit, which is a percentage of cost, is actually going to encourage higher costs. It encourages you to go out and negotiate these sole source contracts with the drug companies.

So to have the Federal Government go out and negotiate these sole source contracts with pharmaceuticals encourages higher costs. It encourages companies to bury costs into the bottom line. And you then have additional people that you may or may not need, inflate those costs. Because when you do inflate those costs, then your profit, which is a percentage of cost, is actually going to be higher because it is applied to a larger base or the cost of the pharmaceuticals.

Competitive forces in pharmaceuti- cals are bringing the price down. We saw projections when we were looking at Medicare part D legislation about how high the costs were going to be. Today, in a comparison, the costs for the same pharmaceutical drugs that we had common have signifi- cantly been reduced.

And now we've heard some concerns now about people hitting the so-called donut hole and they have to pay more for prescription drugs than ever before. Well, that is not true. The price is lower. And, if you go back a couple of years, they were getting no help from Medicare part D. Today there is a donut hole; it does get some people, but there have been thousands and thousands of dollars per individual applied, including for my own family, where they have had help getting phar- maceuticals. And that has been an im- portant contribution to our culture and to our seniors.

Ms. MATSUI. Madam Speaker, I just want to make a comment that the De- partment of Veteran Affairs has been very successful lowering prescription drug prices by negotiating directly with the drug companies.

Madam Speaker, I would like to yield 3 minutes to the gentlewoman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Madam Speaker, I rise today to defeat the previous question on the rule so that the House can finally consider the real issues facing American families.

You know, many conservative writ- ters have called the Congress the less- than-do-nothing-congress, particularly at a time when there is concern on all parts of the political spectrum about the growth of the power of the Executive branch of the government. Our forefathers warned us about this. No oversight, no oversight as to what is happening.

Look at what happened in the Intern- ner Department in just the last 10 days. We have the report by Inspector General. That is a disgrace. And you can try to get us off track all you want, we are going to stay on track. This is not so much a question of less days, which we will be here, this is a question of the House progress more than anything else.

You tell me if it is not irresponsible 5 years after September 11, 2001, that this Republican Congress is set to adjourn without fully implementing the 9/11 Commission's recommendations to make our country safer. I am listening. You tell me if it is not irresponsible that this Republican Congress pays lip service to the importance of higher education, but then adjourn after making it harder to pay for college by cutting $12 billion over the next several years to student aid.

You tell me if it is not irresponsible that the Republican Congress has been another rubber stamp for the White House's Big Oil policies, and is set to adjourn without passing an energy plan that decreases dependence on foreign oil.

What is our answer? We are addicted to oil. Mr. President, you said in the State of the Union, and that is why we are going to drill off five States in this union. We lost our addiction, I guess, on the way.

It is irresponsible that this Congress is set to adjourn without increasing the minimum wage to $7.25 for up to 15 million hardworking Americans and their families. That is irresponsible. You attached it to another bill. You are good at it. You look back over the last several Congresses, you are good at attaching it to another bill.

It is indeed irresponsible that millions of Americans are suffering the economic injustice of working a full-time job and earning a wage that leaves them below the poverty line. You tell me if it is not irresponsible that wages are stagnant, and that we are $1,700 below the median income of 6 years ago. You tell me if that is re- sponsible. The fact is that it takes a minimum wage earner more than 1 day of work just to earn a full tank of gasoline.

The minimum wage is no longer a livable wage. Get it? As health care, grocery, energy and housing costs skyrocket for average Americans, house Republicans would rather help their CEO friends.

Madam Speaker, I urge the defeat of the previous question.

Mr. PUTNAM. Madam Speaker, I re- mind the gentleman again that the House had an opportunity to pass a minimum wage bill, and we passed it over the objections of the other side of the aisle. We passed it.

Mr. Speaker, I reserve the balance of my time.

Ms. MATSUI. Madam Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. RYAN).

Mr. RYAN of Ohio. Madam Speaker, I want to interject myself in the spirit of doing what we are having here and want to thank both sides for making this a bit more fun than normal. But we heard a couple of words here today, one of them was “bitterness,” one of them was “market forces,” and one was “business.” If you look at the Republican-con- trolled Congress and you look at run- ning the government like a business, I think you fail on all accounts. I think if you talk about losing $9 billion in Iraq, you are going to run this thing like a business. When you look at all of the waste, this government is being run like it is 1950 with misleading information. Now we are moving into a new economy, knowledge-based and information-based, and the government has not changed at all.

All of the guys who came in here with Newt Gingrich in 1994, you may remember the big Republican revolu- tion, we are going to balance the bud- get, we are going to run this thing like a business, we are going to have a smaller government, you are talking about a trillion dollar Medicare drug program, and you have to go back to your conservative base and you have to tell them that you passed it without any ability to negotiate down the drug prices.

Good luck in the next 5 weeks. You have to go back to them and say we are for free markets. But it is, that is not running government like a business. When you look at all of the waste, this government is being run like it is 1950 with misleading information.

There are a lot of contradictions going on here, and I think we need to point this out to the American people.

Another thing that I think is even more important, as you guys move away from what your rhetoric is, is that this President and this Congress has borrowed more money from foreign interests than every single President in Congress before you. That is not con- servative Republicanism. That is not running your government like a business.

If we don't get past all this rhetoric and doing something else, we are not going to be able to move the country forward. Of all these games, we are now competing with 1.3 billion citizens in China and 1 billion citizens in India; hard-core brutal competition, and we are not investing back into the American people. We cannot even give them a raise. When you look at Congress has given this Congress $30,000 in pay raises, you can't even raise the mini- mum wage.
We have to invest in these people. You can’t compete with 300 million people against the whole globe and say just a small fraction of our society is going to be able to compete. If you can afford to go to a good private university, if you can afford the tuition, then you are not just fine. But if you are a trust fund baby, you are going to be just fine.

Let us invest in the American people. We need everybody on the field playing for us. And I think Mr. Obey’s frustrations is that day in and day out, guys go to great lengths to walk the planks for your political donars. That’s the bottom line. You can’t argue away from negotiating down drug prices.

And thank God in your case for Wal-Mart. They saved you with Katrina bringing water down and making sure it got in. Thank God for Wal-Mart. If it was not for them, we would really be in a trick. Their $4 prescriptions are going to be helpful, and down in Katrina, they were the ones getting the water in when FEMA was like a three-ring circus.

That is not running government like a business. So get your actions to match your rhetoric, and we will all be able to get along a lot better.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LaTOURETTE). The Chair would remind all Members to address their remarks to the Chair.

Mr. PUTNAM. Mr. Speaker, I appreciate the gentleman’s remarks. I am glad he does not represent the collective view of some on the other side of the aisle in that he appreciates that market forces, not government decree or government fiat, are driving down prices. I am glad that he recognizes the role that free enterprise plays in delivering better, faster, cheaper health care to patients in need. This bill before us, though, Mr. Speaker, is about updating the Foreign Intelligence Surveillance Act, moving forward on homeland security appropriations, and moving forward on a tribunal issue so that we deal with the terrorists who have already waged war on American soil and those who have been collected in the battlefield in the subsequent conflicts. This is the issue before us.

While there has been a great deal of passion and bitterness thrown around this Chamber, this is a same-day rule to move forward on those three items.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Mr. Speaker, I couldn’t agree more with one of the statements from a colleague on the other side of the aisle when he said a lot of contradictions are going on here.

Here we are talking about a bill to bring to the floor now for national security purposes, that is what it is about, but we are hearing all of these other side of the aisle when he said a lot of contradictions are going on here.

I remind my colleagues on the other side of the aisle, it is this body that passed the minimum wage raise and it was the body down the hall that did not. I would encourage them if they could go make these same speeches down at the other end in the offices of the Democrats, then we might could get four out of all of those Democrats who are the Republicans and get that minimum wage bill passed, and we would be in good shape then, if that is what they feel.

The contradiction, though, when we talk about a lot of contradiction going on here, as my friend, Mr. Ryan, spoke a few moments ago, all I could think of was the contradiction in complaining about gas prices, what they are doing to people. Yes, they are hurtful. They hurt our country badly. But the contradiction was why they acted so bitterly when prices of gasoline went up. That is what they fought vehemently for all of these last 2 years that I have been here. No, this is exactly what they fought for when they opposed drilling in ANWR when the Democrats said, ‘It is exactly what they fought for when they opposed drilling in ANWR. It is exactly what they fought for when they opposed an energy policy bill finally getting through that went basically much on party-line vote.

And then after Katrina and Rita when we were so fearful about all of the refineries being in trouble, we knew we needed more refineries. We knew we needed alternative energy incentives. And what happened, we passed the energy bill in October, again basically on a party-line vote, that would create incentives for independent oil companies to build refineries, including away from the coast, would increase incentives for biofuels, alternative energy sources, and they were fighting over that.

So the contradiction is how you could fight against all of the things that would give us energy independence and then seem upset that the gas prices went higher.

Thank goodness the policies we set in place a year ago are starting to work because that is national security. The rest of national security are some of the things we are taking up for the good of our troops and this country, and I would urge the passing of this rule.

Ms. MATSUI. Mr. Speaker, I yield 10 seconds to the gentleman from Ohio (Mr. Ryan) to respond.

Mr. RYAN of Ohio. Just to clarify to the gentleman from Texas, our frustration is as the gas prices were high, you all were putting $12-15 billion in corporate subsidies to the oil companies while they were having record profits. That’s the frustration.

Mr. PUTNAM. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Georgia (Mr. Gingrey).

Mr. GINGREY. Mr. Speaker, I thank the gentleman, my colleague on the Armed Services Committee for yielding me this time.

As my colleague pointed out in his remarks, this is about a same-day rule.
Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I urge all Members to vote ‘no’ on the previous question. If the previous question is defeated, I will amend the rule so the House can immediately take up five important bills that actually do something to help Americans and make them safer.

Mr. Speaker, the majority is acting a long time ago. But there is still time. We have the opportunity to do something that will make our country safer and more secure. That is what we were sent here to do.

Mr. Speaker, in my short 6 years here, I don’t think I have ever seen so many votes on a same-day rule. It is, I think, a function of the calendar, a function of the end of the session where temperatures run high and passions are certainly in overdrive as we all are watching the clock wind down and wanting to make our points to the American people.

The points that are embodied in this legislation before us at this moment are keeping America secure. Most of the debate on this same-day rule has not been on that hand.

We have successfully passed Medicare modernization, something that was not accomplished in the previous 40 years.

It was this majority that accomplished that and gave seniors the modern access to prescription drugs that they did not have previously.

It was this Congress that delivered not one but three substantial energy independence bills.

□ 1235

Bills that would allow us to reduce our reliance on countries that often don’t like our economic methods. That this Nation requires, by expanding our own capacity, expanding exploration, expanding refining capacity, expanding renewables, putting an emphasis on American agriculture so that we can grow our way to energy independence, investing in renewables like solar and wind and hydroelectric, investing in long-term technologies like hydrogen. That was this Congress that passed those items in three different vehicles, including a passage that would have fixed the Clinton administration’s billion dollar giveaway to Big Oil in the Gulf. That was this Congress that passed that legislation, over the objections of the minority.

The issue at hand is homeland security, appropriating funds that are necessary to put boots on the ground on the border; to hire 1,200 new Border Patrol agents; to expand the Customs capabilities; to use the technology and communications capacity that this great country has to break up down, disrupt, and arrest terrorists who are plotting to do us harm. That is in this bill.

To update the Foreign Intelligence Surveillance Act of 1978. Surely, surely there must be agreement that this Foreign Intelligence Surveillance Act of 1978 should be modernized to reflect things like the cell phone, multiple access to the Internet, all the tools the terrorists use to plot against innocent women and children and civilians and our troops deployed at home and abroad. This is the vehicle to accomplish that. This is the vehicle that allows us to move those items that are so important to this agenda.

We have already moved the energy items they were talking about. Passed. We have already passed out of this body a minimum wage that they were so eloquent and so passionate about. Many voted against it, but it passed this body under this majority. We have passed the prescription drug plan. We have increased the number of students benefitting from Pell Grants.

But this piece of legislation that no one wants to talk about deals with national security, protecting our people. Let us pass the prescription drug plan. Let us pass the homeland security legislation.

Let us move this same-day resolution. Let us move this agenda to keep America safe, secure, and prosperous.

Let us continue to have a free society that creates free enterprise, that creates capitalism so that companies can choose to do things like lower drug prices on their own, not by government decree. Let us foster that type of environment. Let us foster the type of research and development and the investments that are required for research and development that were opposed by the other side when we moved the minimum wage bill. Let us continue to pass bills with that American agenda, the economic prosperity agenda, and embrace the free enterprise and entrepreneurs. That is the agenda that we are moving forward in this same day.

We have already moved the energy bills.

Mr. Speaker, I urge all Members to vote ‘no’ on the previous question.
vote on adopting the resolution * * * [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual. Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule * * * When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon.

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

Mr. PUTNAM. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LA TOURETTE). As we close this debate, the Chair would make a brief statement.

Members should bear in mind that the gavel that sounds at the expiration of their time is one of the most essential ingredients of the decorum that properly dignifies the proceedings of the House.

In addition, proper courtesy in the process of yielding and reclaiming time in debate, and especially in asking another to yield, helps to foster the spirit of mutual comity that elevates the deliberations here above mere arguments.

The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Ms. MATHUR, Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed.
Ohio changed their vote from “yea” to “nay.”

Messrs. OTTER, GARY G. MILLER of California, and Ms. PRYCE of Ohio changed their vote from “nay” to “yea.”

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The vote was taken by electronic device, and there were—aye...
CONGRESSIONAL RECORD — HOUSE

Mr. ROSS-LEHTINEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6198) to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran, as amended.

The Clerk read as follows:

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

SECTION 1. SHORT TITLE. This Act may be cited as the “Iran Freedom Support Act”.

SEC. 2. TABLE OF CONTENTS. The table of contents for this Act is as follows:

(a) Codification of sanctions.
(b) Waiver.
(c) Investigations.
(d) Imposition of sanctions.
(e) Termination of sanctions.
(f) Codification of sanctions.

TITLE II—AMENDMENTS TO THE IRAN AND LIBYA SANCTIONS ACT OF 1996 AND OTHER PROVISIONS RELATED TO INVESTMENT IN IRAN

SEC. 201. MULTILATERAL REGIME.

(a) WAIVER. —Section 4(c) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended to read as follows:

“(c) WAIVER.—

“(1) IN GENERAL.—The President, may, on a case by case basis, waive for a period of not more than six months the application of section 5(a) with respect to a national of a country, if the President certifies to the appropriate congressional committees at least 30 days before such waiver is to take effect that such waiver is vital to the national security interests of the United States.

“(2) SUBSEQUENT RENEWAL OF WAIVER.—If the President determines that with respect to a person upon receipt of the United States of credible information indicating that such person is engaged in investment activity in Iran as described in such section, not later than 180 days after an investigation initiated in accordance with paragraph (1), the President may, on the basis of such investigation, extend the period for which such a waiver is in effect for not more than six months each.

“(3) INVESTIGATIONS.—

“(1) IN GENERAL.—The President shall initiate an investigation into the possible imposition of sanctions against a person upon receipt of credible information indicating that such person is engaged in investment activity in Iran as described in such section.

“(2) Determination and notification. —Not later than 30 days after an investigation is initiated in accordance with paragraph (1), the President shall determine, pursuant to section 5(a), if a person has engaged in investment activity in Iran as described in such section and shall notify the appropriate congressional committees of the basis for such determination.

SEC. 202. IMPOSITION OF SANCTIONS.

(a) SANCTIONS WITH RESPECT TO DEVELOPMENT OF PETROLEUM RESOURCES. —Section 5(a) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended in the heading, by striking “TO IRAN” and inserting “TO THE DEVELOPMENT OF PETROLEUM RESOURCES.”

(b) SANCTIONS WITH RESPECT TO DEVELOPMENT OF WEAPONS OF MASS DESTRUCTION OR OTHER MILITARY CAPABILITIES. —Section 5(b) of such Act (50 U.S.C. 1701 note) is amended to read as follows:

“(b) MANDATORY SANCTIONS WITH RESPECT TO DEVELOPMENT OF WEAPONS OF MASS DESTRUCTION OR OTHER MILITARY CAPABILITIES.—The President shall impose two or more of the sanctions described in paragraphs (1) through (6) of section 5 if the President determines that such a waiver is vital to the national security interests of the United States. The President may exercise the authority set forth in the preceding sentence without regard to the notification requirement stated in paragraph (b) of such section. The President shall have the authority to implement any such waiver or other actions that result from such determination as he determines to be necessary to combat terrorism. Nothing in this Act shall affect any United States sanction, control, or regulation as in effect on January 1, 2006, relating to a determination under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2458(j)(1)), section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2171(a)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2789(d)) that the Government of Iran has been provided or had supported for acts of international terrorism.

TITLE III.—NONPROLIFERATION OF IRAN AND OTHER PROVISIONS RELATED TO PROMOTION OF DEMOCRACY FOR IRAN

SEC. 301. DECLARATION OF POLICY.

This Act may be cited as the “Iran-Free World Act.”
SEC. 202. TERMINATION OF SANCTIONS.

Section 8(a) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended—

(1) in paragraph (1)(C), by striking “and” at the end;
(2) in paragraph (2), by striking the period at the end and inserting “;” and;
(3) by adding at the end the following new paragraph:

“(3) is deemed to be a reference to the States national security, interests, or all—

SEC. 204. SUNSET.


SEC. 205. TECHNICAL AND CONFORMING AMENDMENTS.

(a) FINDINGS.—Section 2 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended by striking paragraph (A).

(b) DECLARATION OF POLICY.—Section 3 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended—

(1) by striking “(a) POLICY WITH RESPECT TO IRAN,”; and
(2) by striking subsection (b).

(c) TERMINATION OF SANCTIONS.—Section 8 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended—

(1) in subsection (a), by striking “(a) Iran,”; and
(2) by striking subsection (b).

(d) DURATION OF SANCTIONS; PRESIDENTIAL WAIVER.—Section 9(c)(2)(C) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended as follows—

“(C) an estimate of the significance of the provision of the items described in section 5(a) or section 5(b) to Iran’s ability, to, re- spectively, develop its petroleum resources or its weapons of mass destruction or other military capabilities; and—

(e) REPORTS REQUIRED.—Section 10(b)(1) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended by striking “Libya” each place it appears.

(f) LIMITATION ON ASSISTANCE.—Section 14 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended—

(1) in paragraph (9)—

(A) in the matter preceding subparagraph (A), by—

(1) striking “, or with the Government of Libya or a nongovernmental entity in Libya,”; and
(2) by striking “‘nongovernmental’” and inserting “‘nongovernmental’”;

(B) in subparagraph (A), by striking “or Libya (‘Libya’)”;

(2) by striking paragraph (12); and

(3) by redesigning paragraphs (13), (14), (15), (16), and (17) as paragraphs (12), (13), (14), (15), and (16), respectively.

(g) SHORT TITLE.—

(1) IN GENERAL.—Section 1 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended by striking “Libya”.

(2) REFERENCES.—Any reference in any other provision of law, regulation, document, or other record of the United States to the “Iran and Libya Sanctions Act of 1996” shall be deemed to be a reference to the “Iran Sanctions Act of 1996”.

TITLE III—PROMOTION OF DEMOCRACY IN IRAN

SEC. 301. DECLARATION OF POLICY.

(a) IN GENERAL.—Congress declares that it should be the policy of the United States—

(b) SENSE OF CONGRESS.—It should be the policy of the United States to promote, through peaceful and democratic means, freedom of speech, freedom of association, and freedom of religion.

(f) DURATION.—The authority to provide assistance under this section shall expire on December 31, 2011.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of State such sums as may be necessary to carry out this title.

TITLE IV—POLICY OF THE UNITED STATES TO FACILITATE THE NUCLEAR NONPROLIFERATION OF IRAN

SEC. 401. SENSE OF CONGRESS.

(a) SENSE OF CONGRESS.—It should be the policy of the United States to—

(b) DEFINITIONS.—In this section:

(1) AGREEMENT FOR COOPERATION.—The term “agreement for cooperation” has the meaning given that term in section 11 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(b)).

(2) ASSISTING THE NUCLEAR PROGRAM OF IRAN.—The term “assisting the nuclear program of Iran” means the intentional transfer to Iran by a government, or by a person subject to the jurisdiction of a government, of advanced conventional weapons and missiles to Iran, pending a decision by Iran to implement measures that would permit the President to make the determination described in paragraph (1); and

(3) TRANSFERRING ADVANCED CONVENTIONAL WEAPONS OR MISSILES TO IRAN.—The term “transferring advanced conventional weapons or missiles to Iran” means the intentional transfer to Iran by a government, or by a person subject to the jurisdiction of a government, of advanced conventional weapons and missiles to Iran, unless the President has determined that—

(1) Iran has suspended all enrichment-related and reprocessing-related activity (including uranium conversion and research and development, manufacturing, testing, and assembly relating to enrichment and reprocessing), has completely re-
TITLE V—PREVENTION OF MONEY LAUNDERING FOR WEAPONS OF MASS DESTRUCTION

SEC. 501. PREVENTION OF MONEY LAUNDERING FOR WEAPONS OF MASS DESTRUCTION.

Section 5318A(c)(2) of title 31, United States Code, is amended—
(1) by inserting “or both,” and inserting “or entities involved in the proliferation of weapons of mass destruction or missiles”; and
(2) in subparagraph (B)(1), by inserting “, including any money laundering activity by organized criminal groups, international terrorists, or entities involved in the proliferation of weapons of mass destruction or missiles” before the semicolon at the end.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from Oregon (Mr. BLUMENAUER) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida.

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

For decades, the Iranian regime, one of the world’s most dangerous political entities, has been pursuing a covert nuclear program. According to multiple reports of the International Atomic Energy Agency, the IAEA, Iran has been deceiving the world for two decades about its nuclear ambitions and has been violating international obligations dealing with the most sensitive aspects of the nuclear cycle.

Iran’s violation of the IAEA safeguards, the safe reporting to the International Atomic Energy Agency, the denial of the agency’s request for access to individuals and locations, the involvement of its military in parts of its nuclear program, as well as the Iranian regime’s continued support of terrorist activities around the globe contradict any assertion of the peaceful intent of the program.

It would be a critical mistake to allow a regime with a track record as bloody and as dangerous as Iran’s to obtain nuclear weapons. Iran drives Hezbollah extremist ideology and provides it with weapons and funding, estimated by some at more than $80 million per year. In turn, Hezbollah has helped advance Iranian interests through continued terrorist attacks against the United States and our allies in the region.

This bill before us, Mr. Speaker, H.R. 6198, as amended, will help prevent Iran from acquiring the technical assistance, the financial resources, and the political legitimacy to develop nuclear weapons and to support terrorism. This bill requires the imposition of sanctions on any entity that has exported, transferred, or otherwise provided to Iran any goods, services, technology, or other items that would materially contribute to Iran’s ability to acquire or develop unconventional weapons. This bill codifies U.S. sanctions imposed on Iran by Executive Order.

The bill also amends the Iran-Libya Sanctions Act by extending the authority in the bill until December 31, 2011. It also requires the President to certify to Congress that waiving the imposition of sanctions is vital to the national security interests of the United States.

Furthermore, the bill authorizes the provision of democracy assistance to eligible human rights and pro-democracy groups and broadcasting entities. Moreover, this legislation will allow the United States to use the necessary tools to contain Iran’s activities which are involved in the proliferation of weapons of mass destruction or missiles. This bill provides a comprehensive approach, providing U.S. officials with strong leverage to secure cooperation from our allies in order to counter the Iranian threat. The sanctions under title II of this bill seek to target the Iranian regime where it is most vulnerable: its energy sector. Knowledgeable experts agree that for Iran, a fuel импорter, sanctions could be crippling.

Thus, Mr. Speaker, this bill is not an alternative to diplomacy, but rather complementary to our multilateral efforts. We cannot afford to wait any longer as the potential consequences of further inaction could be catastrophic. I urge my colleagues to lend their support to this legislation.

Mr. Speaker, I am attaching an exchange of letters between Chairman HYDE and Chairman THOMAS concerning the bill H.R. 6198 “The Iran Freedom Support Act” for printing in the RECORD.

HON. HENRY J. HYDE,

HON. MICHAEL G. OXLEY,
Chairman, Committee on Financial Services, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter concerning H.R. 6198, the “Iran Freedom Support Act,” which is scheduled for floor action this week.

In recognition of the importance of this legislation and based on our two Committees’ agreement, the final text of the bill would not codify the import sanctions contained in Executive Order 13059. However, Sections 202(a) and 202(b) of the bill would give the President the statutory authority to ban imports against Iran and would terminate that authority with respect to Libya.

I concur in your assessment that these provisions, as well as provisions related to the waiver, termination, and sunset, have the effect of modifying and altering the application of an import ban and fall within the Rule X jurisdiction of the Committee on Ways and Means. I appreciate your willingness to forgo action on this bill. I also agree that your forgoing formal committee action does not in any way prejudice the Ways and Means Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

As I have requested, I will insert a copy of our exchange of letters on this matter into the Congressional Record.

Sincerely,

HENRY J. HYDE,
Chairman.

HON. MICHAEL G. OXLEY,
Chairman, Committee on Financial Services, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter concerning H.R. 6198, the Iran Freedom Support Act. As indicated by the referral of the bill to both of our committees, I concur that the bill contains language which falls within the Rule X jurisdiction of the Committee on Financial Services. This language is contained in portions of title II and in title V of the bill.

I agree that ordinarily the Committee on Financial Services would not act on the bill. However, I thank you for your support in moving this important legislation forward by agreeing that it is not necessary for your Committee to act further on the bill. Given the importance and timeliness of the Iran Freedom Support Act, I appreciate your willingness to work with us regarding these issues and to permit the legislation to proceed. I understand that by doing so, it should not be construed to prejudice the jurisdictional interest of the Committee on Financial Services or any other similar legislation and will not be considered as precedent for consideration of matters of jurisdictional interest to your Committee in the future.

Therefore, I request that these or similar provisions be considered in a conference with the Senate, I will...
request the Speaker to name members of the Committee on Financial Services to the conference committee. As you requested, I will be pleased to include a copy of this exchange of letters in the Congressional Record during the consideration of this bill if you have any questions regarding this matter, please do not hesitate to call me. I thank you for your consideration.

Sincerely,

HENRY J. HYDE
Chairman.

DEAR MR. CHAIRMAN: I am writing to confirm our mutual understanding with respect to the consideration of H.R. 6198, the Iran Freedom Support Act. This bill was introduced on September 27, 2006, and was referred to the Committee on International Relations as well as the Committee on Financial Services. I understand that the bill will be considered by the House in the near future.

Ordinarily, the Committee on Financial Services would be authorized to act on these matters within its jurisdiction, Title V and portions of title II. However, given the importance and timeliness of the Iran Freedom Support Act, and your willingness to work with us regarding the issues within this Committee's jurisdiction, further action in this Committee will not be necessary. I do so only with the understanding that this procedural route should not be construed to prejudice the jurisdictional interest of the Committee on Financial Services on these provisions under a similar legislation and will not be considered as precedent for consideration of matters of jurisdictional interest to my committee in the future. Furthermore, should these or similar provisions be considered in a conference with the Senate, I would expect members of the Committee on Financial Services to be appointed to the conference committee on these provisions.

Finally, I would ask that you include a copy of our exchange of letters in the Committee Report on H.R. 6198 and in the Congressional Record during the consideration of this bill. If you have any questions regarding this matter, please do not hesitate to call me. I thank you for your consideration.

Yours truly,

MICHAEL G. OXLEY
Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. BLUMENAUER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in the years since we enacted our attack against Iraq, the threat is only growing more difficult, and our capacity to meet that threat actually has diminished. It is one of the reasons many of us opposed that action against Iraq.

There is no question Iran's President is a dangerous man. He exploits Iranian national grievances to consolidate power and has openly expressed his desire to wipe Israel off the map. Well, our troops are bogged down in Iraq, placing them at risk should Iran launch a wave of terrorists that could not only break our global dependency on oil, the control of which gives Iran its greatest ability to blackmail other countries.

Now, I appreciate the good will and passion of the sponsors of this bill, bringing a critical issue before us. We have been at this point before. We passed an earlier version of this bill. The Senate sent it to the President to exercise the defense authorization. I appreciate that there have been some positive changes that have been made to this legislation. One is a sunset. The earlier bill would have made it permanent.

And I applaud it contains a provision that I authored that would prohibit assistance to groups who had appeared on the State Department's list of terrorist groups in the last 4 years. However, the problem is in this legislation points us in the direction of a solution. It is, if you will, a cruise missile aimed at a difficult diplomatic effort just as they are reaching their most sensitive point. The timing for this legislation could not be worse.

While the United States has largely been missing in action from the diplomatic game, the European Union and Iran have been making progress at developing a framework that could lead to the suspension of Iran's nuclear enrichment program and the start of serious negotiations. This bill specifically targets Russia, which may have some influence with Iran and which is critical to a unified effort.

This bill has another fundamental flaw besides sanctioning people whose help we need to reach a diplomatic solution. It gives equal weight to overthrowing the regime and everything as it does to nonproliferation. These two goals work against each other.

Yes, the regime's human rights record is atrocious, but preventing them from developing nuclear weapons should be our first priority. By not prioritizing behavior change over regime change, we pull the rug out from anyone in the Iranian leadership who values survival over the nuclear program and eliminates incentives for diplomatic solutions.

Now, in my opinion, Iran holds, if not the key, a key to many of the issues that confound us in the Middle East. Their cooperation ultimately is going to be critical if we are going to be able to deal with the mess that our policies have created in Iraq, the problems that we are facing in Afghanistan with a resurgence of the Taliban, and it is going to play a key role on issues that deal with Israel and Hamas. They are like a puzzle. And, sadly, Iran is one of the missing pieces.

After September 11, when the United States took action to overthrow the Taliban, our interest in and Iran's willingness to negotiate were not compatible to coordinate quietly but effectively. They were partners with us at some tough sessions in Bonn when we were having the negotiations that set up the Afghanistan government. And in the midst of this tentative effort at cooperation, President Bush decided to declare Iran part of the axis of evil and most hope for progress disappeared.

Mr. Speaker, the irony is that Iran is one of the few nations in the world where the majority of the people still have a positive view of the United States.

This is difficult. It is not easy. But to simply sanction potential partners and consider what our goals are with Iran, we are going to. By all means, have our sanctions but not be reckless in terms of the pressure we try to exert against the very people we are going to be necessary to help us with a diplomatic solution to prevent nuclear proliferation.

Mr. Speaker, I reserve the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent to yield 10 minutes of my time to the gentleman from California (Mr. LANTOS) and that he may be permitted to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I am proud to yield 3 minutes to the gentleman from Missouri (Mr. BLUNT), our distinguished majority whip, without whom we would not be here today considering a bill with strong bipartisan support as well as administration support. Thank you, Mr. BLUNT.

Mr. BLUNT. Thank you, Mr. Chairman. For yielding. I am pleased to join you and join our friend Mr. LANTOS in support of this bill.

I think that Iran has more potential than any other country to destabilize the world today. President Bush should be given the tools necessary to work toward a diplomatic solution in the crisis that we now face with Iran and that Iran, frankly, presents to the world.

I believe the solution to this problem is in this legislation. I think this does point us in a direction that can work.

The mandatory sanctions for any entity that is assisting Iran to have the potential for weapons of mass destruction are important. They don't have to be targeted at a country, but those countries who are helping make that happen need to get the attention of this Congress and this government.

This declares that we also intend as a Congress to avoid implementing agreements that will do nothing to help break dependence on oil in this area with Iran. This provides new tools to the President to prevent money laundering that can be used to
provide Iran and other dangerous countries with weapons that endanger our people.

Passage of this bill today sends a powerful message to Iran and to those who would support that country's weapons development, a program that we need to be sure that we punish that behavior.

I hope the President fully utilizes the new authority provided to him in this bill. I also urge not only that we approve that our allies and our partners around the world work along with us to implement similar measures and convince Iran to peacefully abandon its efforts to destabilize the world. We encourage the President in this bill to work with those groups that have been mentioned that do support openness and democracy in Iran.

I thank ILEANA ROS-LEHTINEN for her great leadership in this effort and TOM LANTOS for his leadership in this effort.

Mr. LANTOS. Mr. Speaker, I yield my time.

Mr. Speaker, I rise in strong support of this legislation. I first want to thank my good friends ILEANA ROS-LEHTINEN and GARY ACKERMAN for their tireless work on this critical legislation.

Mr. Speaker, the Iran Freedom Support Act will dramatically increase the economic pressure on the regime in Tehran to abandon its headlong pursuit of nuclear weapons. If we fail to use the economic and diplomatic tools available to us, the world will face a nightmare that knows no end, a despotic fundamentalist regime, wedded both to terrorism and to the most terrifying weapons known to man.

Iran's desire, Iran's determination to acquire nuclear weapons, is beyond dispute. For years it lied to the International Atomic Energy Agency, and even today it continues to deny access for IAEA inspectors to sensitive nuclear sites.

Mr. Speaker, a short while ago I had an extensive visit to IAEA headquarters in Vienna where I had discussions with some of the leaders of countries that are interested in this issue. They have no doubt that Iran is determined to pursue a military nuclear program.

Tehran has also defied the U.N. Security Council, which has demanded that it cease its enrichment of uranium. And now that Iran has been offered an incredibly generous package of benefits by the United States and our European allies in exchange for suspending uranium enrichment, the regime in Tehran is playing its usual cynical game, stalling for time.

Mr. Speaker, I meet with some frequency with Middle Eastern leaders, and there is not one who isn't deeply worried by the prospect of Iran's going nuclear. A nuclear Iran will touch off a bone chilling arms race in the Middle East, a long before that happens, before Iran threatens to fire a shot, as it were, virtually every nation within reach of Iranian missiles will recapture its foreign policies to make certain that it doesn't offend the region's new nuclear power, Iran, and that, Mr. Speaker, would be a disaster for U.S. foreign policy interests, for the Middle East and for the entire civilized world.

Some argue that our legislation will undermine the efforts of European allies who invest in Iran. But that argument, Mr. Speaker, is simply wrongheaded. Our legislation is intended to reinforce diplomacy with economics. We ask our allies to do what the United States cannot do alone, diversify from Iran's energy sector, the cash cow of the ayatollah's nuclear aspirations.

Nor is this legislation, Mr. Speaker, all stick and no carrot. By removing Libya from the list of the sanctioned, this legislation is an implicit invitation to Iran: mend your ways and your support for terrorism and your quest for weapons of mass destruction, and you will be welcomed back into the family of nations. Refuse to do so, and you will suffer accordingly.

The legislation before us will extend the Iran Sanctions Act for 5 years. It will boost congressional oversight over its implementation. The clear message of this legislation is that the administration now has to enforce the law fully.

Mr. Speaker, I would be delighted if our legislation were rendered redundant by serious Security Council action to impose international sanctions on Iran, but the attitudes shown by Russia and China thus far strongly suggest that meaningful U.N.-imposed sanctions are a most unlikely development.

In the meantime, we cannot shirk our responsibility to employ every peaceful means possible to defeat Iran's reckless nuclear military ambitions. That, in essence, is the reason for the urgency of passing H.R. 6198 today.

Mr. Speaker, I strongly support this bill, and for the sake of foiling a looming, long-term nuclear terrorist threat, I urge my colleagues to do so as well.

Mr. Speaker, I reserve the balance of my time.

Mr. BLUMENAUER. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Speaker, I thank the gentleman for yielding, and I thank the gentleman from Florida for allowing us to have this debate today.

The human condition on the planet requires that there be strong military power under certain circumstances, strong intelligence under certain circumstances, strong sanctions under certain circumstances, and strong dialogue.

The President recently spoke to the Iranian people through The Washington Post. Here is what he said: "I would like to pray to the Iranian people, we respect your history. We respect your culture. I recognize the importance of your sovereignty, that you are a proud nation. I understand that you believe it is in your interest, your sovereign interest, to have nuclear power for energy. I would work for a solution to meeting your rightful desires to have civilian nuclear power. I will tell the Iranian people that we have no desire for conflict."

If we hope to convince our allies and the international community that we are serious about resolving this matter diplomatically, the U.S. must open direct diplomatic channels with Tehran.

Mr. BLUMENAUER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, I thank the gentleman.

Mr. Speaker, it is important to go back a little bit in history here. The Iraq Accountability Act of 1998 was about funding a media propaganda machine which was, unfortunately, used to lay the groundwork for a war against Iraq. That act was about encouraging and funding opposition inside Iraq, unfortunately, to destabilize Iraq prior to a war.

You could call this bill the "Iran Accountability Act." This act funds media propaganda machines to lay the groundwork for a war against Iran. It encroaches and funnels resources inside Iran for that same purpose.

Notwithstanding what the words are in this bill, we have been here before. This administration is trying to create an international crisis by inflating Iran's nuclear ambitions as a prelude to covert nuclear development into an Iraq-type WMD hoax. "Iran is not an imminent threat," this from Dr. Hans Blitz, former Chief U.N. Weapons Inspector, speaking to our congressional oversight subcommittee the other day.

The International Atomic Energy Agency points out that Iran has an enrichment level of about 3.6 percent. You have to go to 90 percent to have weapons quality enrichment. Iran is not an imminent threat. Iran does not have nuclear weapons.

This is a time for us to engage Iran with direct talks, our President to their President. This is the time to give assurance to Iran that we are not going to attack them.

Unfortunately, this administration has chosen to conduct covert ops in Iran. This administration has chosen to select 1,500 bombing targets with the Strategic Air Command. This administration has chosen plans for a naval blockade of the Strait of Hormuz. This administration looked the other way when a congressional staff report basically claimed that Iran was trying to engage in nuclear escalation.

We don't need war, we need to talk, and that is what we ought to stand for here, not nuclear Iran.

THE END OF THE "SUMMER OF DIPLOMACY":
ASSESSING U.S. MILITARY OPTIONS ON IRAN
A CENTURY FOUNDATION REPORT

(By Sam Gardiner, Colonel, USAF (Ret.))

This report is part of a series commissioned by The Century Foundation to inform the public debate about Iran-related issues.

The views expressed in this paper are those of the author. Nothing written here is to be
construed as necessarily reflecting the views of The Century Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

"The doctrine of preemption remains sound and must remain an integral part of our national security strategy. We do not rule out the use of force before the enemy strikes."—Stephen Hadley, March 16, 2006.

Introduction

The summer is over. Diplomacy was a practice, and peace. The world must hold those governments that would defer to the use of force before the enemy strikes. The very ambiguity of the intelligence picture reflects twenty-four potential nuclear-related facilities, and there is some evidence of facilities being placed inside populated areas. The longer the United States waits, the harder the targeting.

We will talk. But enrichment appears to continue, and there are no direct discussions between the two main parties. Satisfied that nonmilitary leverage is not going to work, those who believe the seven nonmilitary options. The story, however, is more likely an exaggeration. Sanctions are being increasingly inserted in Iraq and being enforced. There is evidence that similar targeting is taking place at other facilities, and there is some evidence of facilities being placed inside populated areas. The longer the United States waits, the harder the targeting.

An American military strike on Iran could not be permitted to have the knowledge to make a weapon. He repeated the phrase in public.

By redrawing the red line in this manner, U.S. policymakers are creating pressure to act with Iran. If Iran could not be permitted to have the knowledge to develop nuclear weapons, the president used almost the exact words the Israeli Foreign Minister leaders have used since the fall of the Shah. Moreover, a senior State Department official said that Iran was near "the point of no return" on its nuclear program. Again, there is an exact echo in this, between Israeli officials. The Israeli pressure has worked.

Marketing the Military Option

I often hear from those who were strongly supportive of the Iraq invasion that the targeting of the Iranian facilities would be simple. If you understand the elements of the nuclear process, all you have to do is go after a small number of targets. The argument continues that Iran’s nuclear facilities could be devastated on a single night, in a single strike, by a small number of U.S. B-2 bombers. The apparent ease of the operation is another element of this pressure to go now: if the Iranian nuclear program is stopped in one night by a simple strike, why should the United States wait?

An American military strike on Iran’s nuclear capability, while it might be the stated aim for the United States, is only part of the objective. While the Iranian regime’s weapons program is a matter of real concern, American policymakers are also troubled by Iran’s interference in Iraq. Despite U.S. warnings, the Revolutionary Guard continues to supply weapons, money, and training to insurgents inside Iraq. Some proponents of attacking Iran feel that Tehran should be punished for supporting militias and insurgents in Iraq.

In addition to Iran’s role as an aspiring nuclear rogue and a supporter of the insurgency in Iraq, the country has been repeatedly portrayed as a key adversary in the war on terrorism. The United States has put Iran into a separate and new terrorism category, dubbing it the “Central Banker of Terrorism.” The next National Security Strategy says, “Any government that chooses to be an ally of terror, such as Syria or Iran, has chosen to be an enemy of freedom, justice, and prosperity, and therefore must be embraced by those regimes to account.” “Unnamed intelligence officials,” citing evidence from satellite coverage and electronic eavesdropping, have presssed that Iran is helping to fund and plan terrorist attacks.
Indeed, the case against the regime is so forceful, and so multifaceted, that it becomes clear that the goal is not simply to do away with the regime’s enrichment program. The goal is to do away with the regime itself.

And on top of all of those pressures—pressure from Israel, pressure from those worried about a nuclear Iran, Iran in Iraq, and Iran in the war on terrorism—is another, decisive piece of the puzzle: President George W. Bush. The argument takes several forms: the president is said to see himself as being like Winston Churchill, and to believe that the world will only appreciate him after he leaves office; he talks about the Middle East in more general ways, and he is said to have close to him that he has got to attack Iran because even if a Republican succeeds him in the White House, he will not have the same freedom of action that Bush enjoys. Most recently, someone high in the administration told a reporter that the president believes that he is the only one who can “do the right thing” with respect to Iran. One thing is clear: a major source of the pressure for a military strike emanates from the very man who will ultimately make the decision over whether to authorize such a strike—the president. And these various accounts of his motivations and rationales have in common that the president will not allow do-not-make-sense arguments to stand in the way of a good idea.

Below the CNN Line

Stay below the “CNN line.” That was the guidance given to the Air Component Commander, General Mike Mosley, as the secret air strikes began against Iran in operation SOUTHERN FOCUS. It was July 2002. This classified bombing campaign would involve strikes on almost 400 targets. It was initiated just after the president visited Europe where he announced numerous times, “I have no war plans on my desk.”

There was no UN resolution. The congressional authorization was not to come for four months. But the United States was starting the war.

All of the pressures described above are pushing for war with Iran, and increasingly, a public case for such a war is being made. But behind the scenes, military operations are already underway. (See Figure 1.) Most likely, the same guidance has been given to military commanders. The pattern is repeating.

When U.S. commandos began entering Iran—probably in the summer of 2004—their mission appears to have been limited. The objective was to find and characterize the Iranian nuclear program. From press reports, we know that the task force doing this mission appears to have been limited. The United States moved from intelligence collection inside Iran, to establishing contact with ethnic minorities, to being involved in—and likely conducting—direct action missions. Reports suggest that the United States is supporting militant groups in the Baluchistan region of Iran. There have been killings and kidnappings in this region. The Revolutionary Guard has been accused of supporting elements in Baluchistan. It is possible that Iran’s nuclear sites themselves are concentrations. The base of these installations inside Iran is coming from information provided by A.Q. Khan, the Pakistani dealer in black market nuclear material. The incursions were focused in the northeast, where the Iranian nuclear facilities are concentrated. The base of these incursions was most likely Camp War Horse in Iraq.

Israel also was conducting operations inside Iran in early 2004. The Israeli commandos reportedly were operating from a base in Iraq. These commandos also were implanting sensors. I expect the U.S. and Israeli operations to have been coordinated. At about this time the United States began operating remotely piloted vehicles inside Iran over nuclear facilities. (Although their nuclear targets are not mentioned to the Iranians, they mentioned the flights numerous times in their press.)

In 2005, the Bush administration was shifting in favor of those who were pushing for regime change in Iran. This was to result in the eventual creation of the Iran/Syria Operations Group inside the State Department, a request to Congress for $75 million, and the creation of a robust “democracy promotion” program. Meanwhile, the United States moved from intelligence collection inside Iran, to establishing contact with ethnic minorities, to being involved in—and likely conducting—direct action missions. Reports suggest that the United States is supporting militant groups in the Baluchistan region of Iran. There have been killings and kidnappings in this region. The Revolutionary Guard has been accused of supporting members of the Iraq-based MEK (Motahhedin-e Khalq) in Baluchistan.

I recently attended a Middle East security conference in Berlin. At dinner one night, I sat next to the Iranian ambassador to the International Atomic Energy Agency, Ali Asghar Soltanieh. I told him I had read that the Iranians were accusing the United States of supporting elements in Baluchistan. I asked him if there was any truth to this. Without any hesitation, Soltanieh told me that they have captured militants who confessed that they were working with the Americans.

The United States is also directly involved in supporting groups inside the Kurdish area of Iran. According to both western and Iranian reports, the Iranian Party of Free Life of Kurdistan (PJAK) has been allowed to operate from Iraq into Iran and has killed Revolutionary Guard soldiers. The Iranians have also accused the United States of being involved in shooting down two of their aircraft, an old C-130 and a Falcon jet, carrying Revolutionary Guard leaders.

NEXT STEPS: Above the CNN Line

How do we get the CNN line to the next step? The path is fairly clear. The United Nations Security Council will fall short of imposing serious sanctions on Iran. The United States, then, will look for a coalition of the willing to implement smart sanctions, focused on the Iranian leadership.

But the sanctions will be designed less to ensure compliance from the Iranians than to generate domestic and international support for the American position. I do not know an Iranian specialist who believes that the sanctions would cause the Iranians to abandon their nuclear program, any more than did the sanctions on India and Pakistan in 1998. The sanctions scenarios are designed to keep the United States in the war on terrorism; the sanctions will be used to raise the collective conscience that Iran is a threat, and to convince the world that the United States has tried diplomatic solutions.

If the experience of 1979 and other sanctions scenarios is a guide, sanctions will actually empower the conservative leadership in Iran. There is an irony here. It is a pattern that seems to be playing out in the selection of the military option. From diplomacy to sanctions, the administration is not making good-faith efforts to avert a war so much as going through the motions, eliminating other possible strategies of engagement, until the only option left on the table is the military one.

When imposing the sanctions fails to alter Tehran’s position, policymakers will revert to a strike on Iran’s nuclear facilities. One can imagine the words of a planner in the meeting: “If we are going to do this, let’s make certain we get everything they have.” I have done some rough “targeting” of nuclear facilities for which I can find satellite photos on the Web. By my calculation, an attack of relatively high certainty on nuclear targets would require 400 aim points. (An aim point is the specific location where an individual weapon is directed. Most targets would have multiple aim points.) I estimate seventy-five of these aim points would require penetrating weapons. (See Table 1, page 12.)

But it is unlikely that a U.S. military planner would want to stop there. Iran probably has two chemical weapons production plants. He would want to hit those. He would want to hit Iran’s medium-range ballistic missiles that have just recently been moved closer to Iraq. There are fourteen airfields with sheltered aircraft. Although the Iranian Air Force is not much of a threat, some of these airfields are less than fifteen minutes flying time from Baghdad. Military planners would want to eliminate that potential threat. The Pentagon would want to hit the assets that could be used to threaten Gulf shipping. That would mean targeting cruise missile sites, Iranian diesel submarines, and Iranian naval assets.

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<tr>
<th>Targets of Iran</th>
<th>Initial strikes</th>
<th>Follow-on strikes</th>
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<td>Nuclear facilities</td>
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<td>Revolutionary Guard bases,</td>
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<td>Air defense command and control</td>
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<td>Command and governance assets,</td>
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<td>Terrorist training camps</td>
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<td>Intelligence</td>
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<td>Chemical facilities</td>
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<td>Military command</td>
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<td>Medium-range ballistic missiles</td>
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<td>Radio and television</td>
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<td>2nd Corps, Air Defense Command</td>
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<td>Communications</td>
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<td>Gulf-threatening assets</td>
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<td>Security forces in Tehran.</td>
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<td>Anti-ship missiles</td>
<td>Leadership: targeted killing,</td>
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<td>Naval ships</td>
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<td>nuclear facility areas</td>
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<td>Small boats</td>
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After going through the analysis, I believe that the United States can and will conduct the operation by itself. There may be low-visibility support from Israel and the U.K., and France may be consulted. But it will be an American operation.

What about casualties? Although the United States would suffer casualties in the Iranian retaliation, the honest answer to the president if he asks about losses during the strike itself is that there probably will not be any. The only aircraft penetrating deep
Targeted Program? Or the Regime?

Air-target planners orchestrate strikes on the basis of desired target destruction criteria. In the case of an attack on Iran, after five nights of bombing, we can be relatively certain that our military capabilities are in place to implement our desired targets. It is possible to project the degree to which parts of the Iranian nuclear program would be set back. For example, using Web pictures of the Natanz facility, it is possible to see three years worth of construction. An attack on that construction might appear to set the program back three years. But it is hard to see what impact that would have.

Moqtada al-Sadr has publicly said that if the United States were to attack Iran, he would target U.S. forces in Iraq. Iran could channel more individuals and weapons into Iraq. Specifically, Iran could upgrade technology among Shiite militias, with weapons like the laser-guided anti-tank missile. Hezbollah had in Lebanon. We might even see more direct operations like missile attacks against U.S. forces.

Moqtada al-Sadr is a leader of the large Facilities Protection Service forces in Iraq. Some estimates put this force as large as 140,000. Among other things, they guard the oil pipelines. If Iran were to cut the flow of oil, Iraq is the best place to begin. Iran can and will cut off the flow. It has and will do so.

Iran's oil supplies would be in danger. Iran always has the capability, and we have seen some indications of the intention. It would be hard to judge. David Kay, the former top U.S. weapons inspector, observed during our discussions that the program we see, but there is also the program we do not see. Because of the gaps in U.S. intelligence on Iran, and specifically on Iran’s nuclear program, American military leaders are growing increasingly uneasy about the reliability and comprehensiveness of target selection. In other words, after the five-night military attack we would not be able with any degree of certainty to say how we had impacted the Iranian leadership.

If this uncertainty does not appear to worry the proponents of air strikes in Iran it is in part because the real policy objective is not merely to eliminate the nuclear program, but to overthrow the regime. It is hard to believe, after the misguided talk prior to Iraq of how American troops would be greeted with flowers and welcomed as liberators, but those inside and close to the administration who are arguing for an air strike against Iran actually sound as if they believe the regime in Tehran can be eliminated by air attacks.

In this case, the concept is not a ground force Thunder Run into Tehran of the sort used in Baghdad. It is a decapitation-based concept. Kill the leadership and enable the people of Iran to take over their government. More reasonable leadership will emerge.

Under this concept, the air operation would take longer than the five nights. The targets would expand. The Revolutionary Guard units would be attacked according to the argument they are the primary program that keeps the current regime in power and the regime maintained in units in Tehran. Most important, the U.S. operation would move into targeted killing, seeking to eliminate the leadership of Iran.

It sounds simple because planners always tell a good story. By the same token, they almost always fail short of their promises, even in strictly military terms. That was true in World War II. It was true in Vietnam. It is true in Iraq. It has just proved true with the Israeli attacks on Hezbollah. No serious expert on Iran believes the argument about regime change. On the contrary, whereas the presumed goal is to weaken or disable the leadership and then replace it with others who would improve relations between Iran and the United States, it is far more likely that such strikes would strengthen the clerical leadership and turn the United States into Iran’s permanent enemy.

Iran’s Response

Having demonstrated that air strikes are unlikely either to eliminate the nuclear program or to bring about the overthrow of the Islamic Republic of Iran, we must now turn to what, precisely, they would achieve. It is important to remember that some of Iran’s threats, demonstrations of new weapons, and military operations are designed to have a deterrent effect. As such we should not deduce too much about what Iran would do in the event of an attack on the basis of what it might say and do in advance of an attack. A former CIA Middle East Station Chief told me once that predicting the consequences of a strategic event in the Middle East was as difficult as predicting how an Alexander Calder mobile would come to rest after you flicked one of its hanging pieces.

It is possible to identify some high probability immediate consequences.

The Iranians would likely look to target Israel as a response to a U.S. strike, using Hezbollah as a guerilla reaction force. For Tehran, there is the added benefit that blaming Israel (even for a U.S. strike) would play well at home, and probably throughout the region.

Moqtada al-Sadr has publicly said that if the United States were to attack Iran, he would target U.S. forces in Iraq. Iran could channel more individuals and weapons into Iraq. Specifically, Iranian forces would be upgraded among Shiite militias. In 1991, when Iraq cut the flow of oil, Iran is the best place to begin. And the means are in place to take that action. The impact of interfering with Iraq’s oil supply would be an immediate increase in its own oil revenue.

Iran is not going to clean Iran from the map or force the United States to leave Iran. An air strike on Iran means Iran would still have a nuclear program. Iran can still achieve a degree of success. As we recently witnessed in the clash between Hezbollah and Israel, Iran can see successes by virtue of creating a climate of fear that making the United States and Israel seem weaker.

Round Two

Once the nature of the Iranian retaliation becomes known, it is likely the United States will not likely declare success and walk away from the problem. Clearly, the pressure will be to expand the targets and punish Iran even further. The longer the conflict goes, Iran may even see more direct operations like missile attacks against U.S. forces.

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As an obvious consequence of the instability resulting from a U.S. strike, the price of oil almost certainly will spike. The impact will depend on how high and how long. The longer the conflict goes, the higher the price. A former Kuwaiti oil minister privately suggested a plateau of $125 per barrel. The impact will depend on how high and how long. The longer the conflict goes, the higher the price. A former Kuwaiti oil minister privately suggested a plateau of $125 per barrel. The impact will depend on how high and how long. The longer the conflict goes, the higher the price. A former Kuwaiti oil minister privately suggested a plateau of $125 per barrel. The impact will depend on how high and how long. The longer the conflict goes, the higher the price. A former Kuwaiti oil minister privately suggested a plateau of $125 per barrel. The impact will depend on how high and how long. The longer the conflict goes, the higher the price. A former Kuwaiti oil minister privately suggested a plateau of $125 per barrel. The impact will depend on how high and how long. The longer the conflict goes, the higher the price. A former Kuwaiti oil minister privately suggested a plateau of $125 per barrel. The impact will depend on how high and how long. The longer the conflict goes, the higher the price. A former Kuwaiti oil minister privately suggested a plateau of $125 per barrel. The impact will depend on how high and how long. The longer the conflict goes, the higher the price. A former Kuwaiti oil minister privately suggested a plateau of $125 per barrel. The
preparations for Operation Desert Shield in 1990. The preparations will be much less visible than the movements to the region in early 2003. We will not read about discussions with the Iraqi government, despite permission. It will not be a major CNN event.

Instead, preparations will involve the quiet deployment of Air Force tankers to staging bases, and the addition of F-16s and F-15s to the region. The more significant indications will come from strategic influence efforts to establish domestic political support, and from presidential speeches on terrorism being a beginning, but I expect more. An emerging theme for the final marketing push seems to be that Iran threatens Israel. I do not expect the number of administration references to Iran to significantly increase and will see three themes—the nuclear program, terrorism, and the threat to Israel’s existence.

The issue of congressional approval plays into the timing question. Administration officials have been asked numerous times if the president would require authorization by Congress for a strike on Iran. Secretary Rice responded to that question before the Senate Foreign Relations Committee in October 2005 by saying we may not need any administration officials to see the threats to our allies in the Middle East and to the American people. But more importantly, it opens the way for an argument that a strike on Iran was part of the global war on terrorism already authorized by Congress.

In other words, approval by Congress does not necessarily have to be part of the calculation of when an attack could take place. If the determining factor of timing is neither the preparation of military forces nor congressional approval, one question remains: How much public support do decisionmakers believe their nation requires pulling the trigger? And that question brings us back to the beginning of the summer of diplomacy. Vice President Cheney had to be convinced that it was moving in the right direction. But more importantly, it opens the way for an argument that a strike on Iran was part of the global war on terrorism already authorized by Congress.

The window for a strike on Iran stands open.

Finally

Policymakers who begin with the seven ‘‘truths’’ of the situation can easily proceed down a path that leaves the military option as the only one on the table. There is a certain inevitability to the momentum toward war. The policymakers will say that the Iranians have forced us to go in this direction. But the path they take is their own choice. Policymakers are forcing the direction on themselves.

At the end of the path that the administration seems to have chosen, will the issues with Iran be resolved? No. Will the region be better off? No. Is it clear Iran will abandon its nuclear program? No. On the other hand, can Iran defeat the United States militarily? No.

Will the United States force a regime change in Iran? In all probability it will. Will the economy of the United States suffer? In all probability it will. Will the United States have weakened its position in the Middle East? Yes. Will the United States have reduced its influence in the world? Yes.

When I finished the 2004 Iran war game exercise, I summarized what I had learned in a New York Times op-ed piece with two simple sentences for policymakers: ‘‘You have no military solution for the issues of Iran. You have to make diplomacy work and have not changed my mind. That conclusion made sense then. It still makes sense today.’’

Mr. LANTOS. Mr. Speaker, I am delighted to yield 1-1/2 minutes to my dear friend and colleague on the International Relations Committee, the Congresswoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. Mr. Speaker, I thank my good friend Mr. LANTOS for yielding to me.

Mr. Speaker, I rise in strong support of this legislation. Each day brings something new from Iran, a new boast, a new rant, a new threat. Yet we have made little progress in convincing our allies that their alliance with Iran means business, and that business is funding and supplying terrorist organizations like Hezbollah, wiping Israel off the face of the map and denying the Holocaust.

We must not allow them to acquire the means to carry out their ambitions. It would be difficult to overstate the danger Iran represents. Unchecked Iranian nuclear proliferation, combined with increasing support for international terrorism, poses a grave threat to United States forces in the Middle East, moderate Islamic Arab countries in the region, the State of Israel. And a nuclear Iran poses just as much of a threat to Europe as it does to the countries in the Middle East. In comprehension, many of our allies seem oblivious to these dangers. Their strategy of negotiations, incentives, and concessions are not working. Stronger measures are necessary. This bill will ramp up the pressure on Iran. Mr. Speaker, to give up its nuclear ambitions and cooperate with the international community.

Iran is a radical fundamentalist country headed by a President who I believe is as dangerous to the world community in the 21st century as Hitler was in the 20th century. Every time this man opens his mouth, he proves it. We must deny Iran the technology and financial resources that will enable this regime to carry out its threats.

I urge support of this bill.

Mr. BLUMENAUER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. PAUL).

(Mr. PAUL asked and was given permission to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, I rise in strong opposition to this bill, and let me give you a few reasons why.

In the introduction to the bill, it says that its purpose is to hold the current regime in Iran accountable for its threatening behavior and to support a transition of its government; and I would just ask one question: Could it be possible that others around the world and those in Iran see us as participating in ‘‘threatening behavior’’?

Without this bill, we will be doing things from other people’s view as well.

I want to give you three quick reasons why I think we should not be going at it this way:

First, this is a confrontational manner of dealing with a problem. A country that is powerful and self-confident should never need to resort to confrontation. If one is confident, one should be willing to use diplomacy whether dealing with our friends or our enemies; I think the lack of confidence motivates resolutions of this type.

The second reason that I will give you for opposing this is that this is clearly seeing regime change in Iran. We are taking it upon ourselves that we do not like the current regime. I do not like Almadinyad, but do we have the responsibility and the authority to orchestrate regime change? We approach this by doing two things: Sanctions to penalize, at the same time giving to those groups that we expect to undermine the government. Do you know if somebody came into this country and paid groups to undermine our government, that is illegal? Yet here we are casually paying money, millions of dollars, unlimited sums of money to undermine that government. This is illegal.

The third point. This bill rejects the notion of the nonproliferation treaty. The Iranians have never been proven to be in violation of the nonproliferation treaty; and this explicitly says that they cannot enrich, uranium even for private and commercial purposes.

For these three reasons we obviously should reconsider and not use this confrontational approach. Why not try diplomacy? Oppose this resolution.

Mr. LANTOS. Mr. Speaker, I am pleased to yield 1-1/2 minutes to Mr. SHERMAN.

Mr. SHERMAN. Mr. Speaker, I rise in reluctant support of this bill and in strong support of its authors—who got what they could from a President who has a veto pen, and is determined to continue our ineffective policy toward Iran.

America has been blinded by the flash of this President’s overly aggressive response to Iraq’s tiny ‘‘weapons of mass destruction’’ program. So, as a result, we have settled for a loud but pitifully ineffectual effort, both toward North Korea’s nuclear program and toward Iran’s.

In this bill, I had an amendment that would have prohibited U.S. corporations from doing business with Iran through their foreign subsidiaries. That amendment was stripped in conference. So Halliburton is protected; the American people are not.

This bill extends the Iran-Libya Sanctions Act, which was so effective,
along with other measures, in getting Khadafi to change his policies. However, as toward Iran, the last administration and this administration has a policy of ignoring widely reported investments in the Iran oil sector. The bill says that supposed to world oil companies that invest even $40 million in Iran’s oil sector. When tens of billions of dollars of investments are announced in the Wall Street Journal, the President’s response is, he didn’t get that copy.

We have to pass this bill, but we have got to do a lot more. And we have got to make sure that, in our policy toward Russia and China about Moldova, Abkhazia, and currency controls, that we make it clear that support on Iran will lead to our change on those issues that are so important to Russia and China. We need linkage, and we need an effective policy.

Mr. BLUMENAUER. I yield 2 minutes to the gentleman from Washington (Mr. McDermott).

Mr. McDERMOTT. Mr. Speaker, the American people need to know the Republican majority today has created the House Failed Diplomacy Caucus.

The Republicans need another press release to go home, so we have 20 minutes to offer our thoughts on a bad bill sent to the floor by Republicans to show how tough they are.

Showing how smart we are would be a far better idea for dealing with nations around the world. But the Republicans say that diplomacy isn’t the staff of press releases; rhetoric is. So the Republicans have shut down debate by bringing legislation to the floor under a closed rule. They don’t want ideas or improvements for making the world a safer place. They want leaflets to drop during the campaign, and they are being printed en masse right now. It is the Republican Iran strategy all over again.

Different nation, same flawed approach.

Democrats have given us H.R. 6198, the We Run the World Act. There is no need for other nations to actually have governments, actually. We will send our press releases. Just follow along, Russia, Iraq, Iran, Pakistan, Lebanon, and anywhere else where we think we run them.

Democrats want Americans to point the finger and send along instructions. They are staging a campaign event right now on the floor. You watch it quick it makes its into the ads of television.

This is not, not, going to help America chart a path to deal with what is wrong with the Iranian government. No one disagrees with the fact that it is not a democratic and is not in control of that country. It will only entrench and bolster those who are wrong.

The press release won’t protect anybody. But, in fact, the Iranian dissidents in control of the money. Do you know why? Just like many Republicans today don’t want Bush to come into their district and put his arm around them in the midst of this campaign, the Iranian dissidents know that if it becomes American money, they are done. They will not be able to do what they need to. We need to vote “no” on this initiative.

Ms. ROS-LEHTINEN. Mr. Speaker, I am proud to yield time to my colleagues from Florida (Mr. Shaw).

Mr. SHAW. Mr. Speaker, I thank the gentlelady for yielding this time to me and congratulate the committee on both sides of the aisle.

I yield, however, when we look around and see some of the rhetoric that is going on, let’s take a look at what is happening.

We have probably one of the most dangerous countries in the world run by fanatics that is in the process of producing a nuclear weapon. We have the Iranians financing the terrorists in Iraq killing American soldiers. We have the Iranians in Iraq killing innocent Iraqis. We have the Iranians in Iraq killing innocent Lebanese with the Hezbollah. And we are standing here today trying to people to talk about press releases.

Come on, guys. Isn’t there something that can draw this Congress together? It already has brought together responsible Democrats and Republicans. But that is not what we have here. I think, however, when we look at this legislation is contrary to our interests, just as it is contrary to the interests of Iran, and so it should be rejected by this body.

Mr. LANTOS. Mr. Speaker, I am pleased to yield the balance of our time to the distinguished member of the International Relations Committee, Mr. Velozi, from New York.

Mr. ENGEL. I thank my distinguished friend from California for yielding to me, and I rise in strong support of this bill.

My colleagues, we have to deal with things as they are, not as what we wish them to be. I wish there was reasonableness among the government of Iran today, I wish there were people that we could talk to on a friendly basis and reason with them and come to some kind of a compromise.

But that is not what we have here. We have a belligerent regime that is pursuing nuclear weapons, that is hostile towards the United States, that is hostile towards the people, who are good friends of the American people, but they are trapped by a repressive government and a government that doesn’t have their best interest at heart let alone anybody else’s best interest.

So this is sort of a carrot-and-stick approach. We slap sanctions when sanctions are needed. We amend, also, we expand it. It is expiring if we don’t amend it, and it does what we know needs to be done.

Iran needs to be challenged. It cannot be allowed to have nuclear weapons.
This is the same policy, it is a centrist policy, it makes a lot of sense, and I urge strong bipartisan support for this bill.

Mr. BLUMENAUER. I yield 3 minutes to the gentleman from Iowa.

Mr. LEACH. I thank the gentleman for yielding.

First, let me stress, this bill has strong bipartisan support. It also has significant bipartisan opposition. And so it should be considered in the category of individual judgment, not politics.

On the plus side of the bill, let me note that it does stress sanctions, not military action, and it quite properly gives the executive discretion to lift these sanctions.

On the minus side, and this is the compelling point, it represents an escalation of tension, policy, and attitudinal friction with Iran.

□ 1345

It is an escalation that is guaranteed to fail. You might ask, Why is it guaranteed to fail? It is because unilateral sanctions don’t work, and there is no evidence that the other principal parties that are dealing with Iran will follow this example.

We can pour our chest all we want to suggest that a Russia or a China should follow our lead, but these kinds of suggestions from Congress simply carry no weight.

Secondly, no one should doubt that this complicates problems for our troops in Iraq today. That is an absolute utter circumstance that has to be dealt with, and we have to think it through.

Thirdly, this step implicitly undercuts and advances a diplomacy-less strategy. That is, the United States of America has advanced a no-talk-with-Iran strategy for more than this administration, for quite a number of years, and the question is does it work, or is it as hapless as our strategy towards certain other countries in the world, including Cuba.

In the backdrop is the issue of force, and also the issue of dominoes, dominoes in the sense of decisionmaking. Often policies that don’t work implicitly are followed by other policies that we hope will work. If this particular policy doesn’t work, do we then have to go to the force option?

There is a neocon desire, as has been written about extensively, to consider the idea of a preemptive strike. All I would say is there is a 3–3–100 set of principles that we have to think through.

The first “three” is there are three ways of obtaining nuclear weapons: one is to develop them; another is to steal them; and another is to buy them.

If we bomb Iran, there is no doubt whatsoever we will put back their capacity to develop. But it might also accelerate the capacity to steal or purchase.

The second “three” principle is that there are three weapons of mass destruction. We not only have nuclear; we have chemical and biological. And knocking back their nuclear certainly will accelerate the other two.

The third issue is the issue of a “hundred.” We have the idea that we can do a preemptive strike quickly and it will be over. But they are not going to do it, the other side respond. They might respond for 100 years.

I think it is time we talk about from the people’s House the issue of developing a robust-if-interested-not antiballistic, and we ought to move in the direction of realism instead of taking ideological steps that don’t fit the times.

Mr. BLUMENAUER. Mr. Speaker, I yield myself the balance of my time to close.

Mr. Speaker, I appreciate the gentleman’s work because the bill that we have before us, as I mentioned earlier, is, a substantial improvement over the one that was approved by the House earlier this session; it would come back to our committee because I think these issues are worthy of further discussion, and there is more fine-tuning we could do.

For instance, dealing with the provisions for termination of the promotion of democracy, reading the language that is in this bill, the Ayatollah Khomeini, in exile in France, would have qualified for U.S. assistance. We could have had a debacle like we had with Chalabi. I don’t think it is as tight and precise as we would like.

But most important, it fails to deal with the fundamental choice we need to make between whether we want regime change or whether we want to stop nuclear proliferation.

I deeply appreciate the points raised by the gentleman from Iowa (Mr. LEACH). We could end up actually making the situation worse.

I am deeply troubled that we are going to ratchet up the incentives of those very people who we most need for a diplomatic solution, the people like China and Russia who are going to be key to ultimately resolving it.

Mr. Speaker, part of the problem that we have great difficulty with is that some of the most disagreeable people, some of the most dangerous people, are people that we ignore at our peril. We should not do that. We should engage them directly, diplomatically and not under the auspices of this bill, which I hope that the House will reject.

Ms. ROS-LEHTINEN. Mr. Speaker, as recently as last month, Iran blatantly refused to respond to the August 31 deadline as set forth by the United Nations Security Council to stop enriching its uranium in exchange for a very generous incentives package.

We have tried to coax. We have tried to induce. We have tried to talk the Iranians into cooperating. Enough with the carrots; it is time for the stick.

We hope that all freedom-loving nations are allies in this struggle for nonproliferation efforts and would, out of their own volition, take the necessary steps to hold Iran accountable for its own behavior. However, sometimes even friends need a little prodding.

Writer Charles Krauthammer points out the chilling reality of the opportunity costs of not dealing effectively with Iran at this time. He says, “If we fail to prevent an Iranian regime run by apocalyptic fanatics from going nuclear, we will have reached the point of no return. It is not just Iran that might be the source of great concern, but that we will have demonstrated to the world that for those similarly inclined, there is no serious impediment.”

This bill will help contain the Iranian threat and will send a clear message that we will not tolerate flagrant violations of international nonproliferation obligations.

Mr. ACKERMAN. Mr. Speaker, I rise in strong support of H.R. 6198, legislation to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran. As an original co-sponsor of the legislation I am pleased that the House is considering it today.

The threat from Iran is plain. The Iranian mullahs have lied to the international community for more than 30 years. They have, again and again and again, defied the clear will of the international community that has demanded that they freeze their efforts to enrich uranium. Iran has been, and remains today, the most active state sponsor of terrorism in the world. Iran provides hundreds of millions of dollars to terrorist organizations, advanced military training and substantial political cover to Hezbollah, Hamas and other radical, violent Islamist groups in the Middle East. Their most senior officials continue to make pronouncements that call into question their attachment to reality. Supreme Leader Khamenei has confirmed that Iran would share its nuclear technology with other states. President Ahmadinejad has made a hobby out of Holocaust denial and at every opportunity violates the most fundamental tenet of international law by calling for the annihilation of Israel, a sovereign member of the international community.

In Iran, we have exactly what we thought we had in Iraq: a state with enormous wealth in natural resources; significant WMD capabilities and the means to deliver them; and the use of terrorist organizations as an instrument of state policy. But what will amaze the historians who look back on this period will be the stunning lack of urgency with which the Bush Administration and this Congress has approached this problem.

I will be the first to admit that our policy options toward Iran are unappealing at best. We have little diplomatic leverage, since we don’t talk with Iran directly, except in very limited circumstances. Any military operation beyond pinpoint air strikes is quite simply beyond our capacity at the moment, given our situation in Iraq. And we should honestly acknowledge that even a robust campaign of air strikes targeted at Iran’s nuclear facilities might have only a marginal effect on Iran’s nuclear program. We don’t know where all of it is hidden and we don’t know that it can’t be effectively attacked from the air. Further, since our intelligence is so incomplete, we would have a very limited ability to assess
how much damage our strikes had actually done to the Iranian program. In addition to questions about the direct affects, a decision to strike Iran, would have enormous diplomatic consequences for the United States, and would likely lead to Iranian retaliation against our already overextended troops in Iraq, and probably against Israel.

So without a viable military option, we are left with making multi-lateral diplomacy effective. This is the right course, but it is one that the Bush administration has been extremely loathe to pursue, and one at which they have shown themselves to be hopeless.

If a nuclear-armed Iran is “very de-stabilizing,” as the President has said it is—and I do believe it is—then we need to make that view, and the implications of that view, clear to Russia and China and even to our partners in Europe. Fortunately, this legislation provides the administration with new and useful tools that can be applied to help make that case. Our message must be that this urgent problem can be addressed if the will is there to do so.

In short, Iran needs to become urgent for the administration, it will be some urgent for anyone else. Only concerted, sustained multi-lateral pressure has any chance of convincing Iran to change course. And if Iran chooses not to change course, then the international community must be prepared to pursue economic and financial sanctions against the regime. Unfortunately, while the EU–3 shares our view that an Iran with nuclear weapons is not an acceptable outcome, it seems that Russia and China do not. If the administration can’t convince those nations that it is in their interest not to have nuclear weapons, then we need to start considering what options remain to us unilaterally, what the cost of the options would be and how we could go about containing a nuclear-armed Iran.

One last point Mr. Speaker, I am dis-appointed that the bill we are considering today does not contain the language regarding pension plans and mutual funds that would require the managers of such funds to notify investors if any of the assets of a particular fund are invested in an entity which has invested in an entity which has invested in an entity which has invested in an entity which has invested in Iran and may be subject to sanctions under the Iran sanctions regulations. As in Iraq, investors and would have prevented Americans from unwittingly fueling Iran’s drive to acquire nuclear weapons, simply by contributing to their 401(k’s). Nevertheless, I strongly urge my colleagues to support the bill.

Mr. STARK. Mr. Speaker, I rise to oppose the march to war with Iran. I am as concerned as the authors and supporters of this bill about Iran’s nuclear weapons program. But I do not believe that levying additional sanctions and encouraging regime change is the correct course. Instead, we should work with our allies to negotiate a diplomatic solution.

The “Iran Freedom Support Act”, H.R. 6198, will antagonize Iran’s government. Provisions calling for democracy promotion and “the expansion of civil society” in our ally, Israel. Iran is a multi-lateral diplomacy and may prompt Iran to desist from ongoing negotiations. Bilateral sanctions may also discourage France, Germany, Italy, and Spain from working to broker an international agreement. Our allies do not appreciate it when we “go it alone.”

Dissidents will also be hurt by our offer of financial and political assistance. As in Iraq, individuals and groups that ally with America will see their integrity questioned and their reputations for independence undermined. Iranian families will be hurt by sanctions that prohibit foreign investment in the country’s petroleum industries. Sanctions already in place have not impacted Iran’s behavior. Why would new prohibitions succeed where old sanctions have failed?

Finally, the American people will be less secure. Antagonizing Iran will not stop or even slow nuclear weapons development. Instead, sanctions will prompt Iran to redouble its efforts as a means of securing domestic and international face.

The Bush administration and Republicans in Congress have already made a mess of Iraq and allowed warlords to gain control of much of Afghanistan’s countryside. This legislation takes us a step closer to similar results in Iran. I urge my colleagues to vote “no”.

Mr. CROWLEY. Mr. Speaker, I rise in strong support of H.R. 6198, introduced by my colleagues on the House International Relations Committee.

The international community continues to look the other way as Iran claims they will move forward in the process of enriching uranium. The leaders of Iran decided the IAEA deadline did not apply to them and I strongly believe they have no interest in negotiating with the West.

The President of Iran was clear about his intentions to enrich uranium at the United Nations General Assembly a few weeks ago. His performance in New York and at the Council of Foreign Relations was a display of insanity. He continues to proudly defend his comments about the Holocaust being a myth and how Iran is not trying to acquire nuclear weapons even as more and more information comes out about their covert nuclear program that was helped along by AQ Khan’s black market nuclear network.

This is a man who was basically appointed by the Mullahs in Tehran. I say this because any reform minded candidate was removed from the ballot. Iran is not a democracy; the government of Iran is run by zealots using terrorism to meet their goals.

We need to support the people of Iran as they continue to be repressed by the Mullahs. The people of Iran deserve freedom and democracy.

I strongly support this bill and I urge all of my colleagues to support this important piece of legislation.

Mr. MARKEY. Mr. Speaker, I rise in opposition to H.R. 6198, the Iran Freedom Support Act, because this bill could very well derail the diplomatic efforts currently underway that are our best hope for ending the possibility of an Iranian nuclear weapon.

Let me be clear that I agree with the great majority of the bill’s provisions, that I believe that we should extend the Iran Libya Sanctions Act. I believe that we should support human rights in Iran. But as with so many things in life, Mr. Speaker, timing is everything. And this is the wrong time to pass this bill.

Crucial negotiations between Iran and the European Union in Berlin are reportedly closing in on a deal that would suspend Iran’s uranium enrichment program while multilateral talks commence. The Bush administration has so botted the issue of containing Iran’s nuclear ambitions that we have few choices left. These negotiations were just suspended for a week, and it would surprise no one if Iran did not return to the table. But make no mistake: as bad as the negotiation option may turn out to be, it remains our best chance of stopping Iran from ever building a nuclear weapon.

We need to support these negotiations, not undermine them. For the Congress to pass language which essentially makes regime change in Iran the official policy of the United States and which would counteract these negotiations in Berlin remain promising.

I could support this bill at another time, but not now, not when its passage could kill the ongoing negotiations.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and pass the bill, H.R. 6198, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SECURE BORDER INITIATIVE FINANCIAL ACCOUNTABILITY ACT OF 2006

Mr. ROGERS of Alabama. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6162) to require financial accountability with respect to certain contract actions related to the Secure Border Initiative of the Department of Homeland Security.

The Clerk read as follows:

H.R. 6162

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

SECTION 1. SHORT TITLE.
This Act may be cited as the “Secure Border Initiative Financial Accountability Act of 2006”.

SEC. 2. SECURE BORDER INITIATIVE FINANCIAL ACCOUNTABILITY.
(a) In General.—The Inspector General of the Department of Homeland Security shall review each contract action related to the Department’s Secure Border Initiative having a value greater than $20,000,000, to determine whether each such action fully complies with applicable cost requirements, performance objectives, program milestones, including findings regarding any cost overruns, significant delays in contract execution, lack of rigorous contract management, insufficient departmental financial oversight, bundling that limits the
Mr. ROGERS of Alabama. Mr. Speaker, I rise in strong support of H.R. 6162, the Secure Border Initiative Act of 2006.

This bipartisan legislation will help the American public with some certainty about where their money is going. This bill also will allow the Inspector General to immediately review any Secure Border Initiative contract valued at $20 million or more. By requiring a review of this amount once it has been triggered, the Inspector General can immediately review the cost requirement, performance objectives and timelines for the SBI project.

This trigger builds accountability into every contract made for the Secure Border Initiative and will provide the American public with some certainty about where their money is going. This bill will also allow the Inspector General to express its concerns if they find unsatisfactory practices early on.

They will not have to wait until all the money is out the door and excuses are being made before they get involved in the oversight of this multi-billion dollar project.

Mr. Speaker, I also want to emphasize that this bill takes an important step in the assessment of the inclusion of small, minority, and women-owned businesses in any subcontracting plans, an area of constant challenge for the Department.

The bill further requires that the Homeland Security Inspector General report to the Secretary of Homeland Security on cost overruns, significant delays in contract execution, lack of rigorous contract management, insuffi- cient financial oversight, and other high-risk business practices.

The Secretary of Homeland Security is then required to notify the Congress and take immediate steps to rectify the problems within 30 days.

To carry out this vigorous oversight, the bill includes a provision by Mr. THOMPSON that would authorize additional funds. SBI.net will involve numerous large and small Federal contractors to implement the technology required to successfully secure our Nation’s borders.

We look forward to working with the chairman of the Committee on Government Reform, Mr. TOM DAVIS, in the coming months to ensure that we have the necessary tools in place to ensure SBI.net is cost effective.

A “yes” vote on this legislation will send a strong message to the contractor and to the Department that Congress intends to “hold their feet to the fire” in fulfilling these contract requirements.

Mr. Speaker, I reserve the balance of my time.

Mr. MEEK of Florida. Mr. Speaker, I yield such time as he may consume to Mr. THOMPSON of Mississippi, the ranking member of the Committee on Homeland Security.

Mr. THOMPSON of Mississippi. Mr. Speaker, I thank the ranking member of the subcommittee for allowing me to speak on this bill.

Mr. Speaker, I want to thank Mr. ROGERS for his commitment to stemming waste, fraud and abuse in the Department of Homeland Security.

This bill, H.R. 6162, would require the Department of Homeland Security Inspector General to immediately review any Secure Border Initiative contract valued at $20 million or more. By requiring a review of this amount once it has been triggered, the Inspector General can immediately review the cost requirement, performance objectives and timelines for the SBI project.

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Mr. Speaker, I also want to emphasize that this bill takes an important step in the assessment of the inclusion of small, minority, and women-owned businesses in any subcontracting plans, an area of constant challenge for the Department.
I rise to support the Secure Border Initiative Financial Accountability Act and offer that there is an overall vision that this is a very important component of, and I hope that as we move this legislation along we still may have a window of opportunity to put into the Secure Border Initiative that even with the Financial Accountability Act, we are still missing and need to move forward on: More agents to patrol our borders, secure our ports of entry and enforce immigration laws; expanded detention and removal capabilities to eliminate "catch and release" and for all; a comprehensive and systematic upgrading of the technology used in controlling the border, including increased manned aerial assets, expanded use of UAVs, and next-generation technologies; increased investment in infrastructure improvements at the border, providing additional physical security to sharply reduce illegal border crossings; and greatly increased interior enforcement of our immigration laws, including improving, including improving, more robust work site enforcement; and, of course, an earned access to legalization.

We must not frighten America. Let them know that we are doing the job. But we can account for everyone that is inside our borders, and we can work to protect and secure our northern and southern border. This initiative, the Financial Accountability, is crucial because it gives the Inspector General oversight and we, as the Management Subcommittee of the Homeland Security Committee, have seen the fractures in the oversight of spending money. This is an important way to provide the Department of Homeland Security’s Inspector General to immediately secure Border Initiative contract valued at $20 million or more.

Let me thank the two gentlemen, Mr. ROGERS and Mr. MEEK, who spent hours and hours reviewing some of the mistakes that have occurred with contracts that have not fulfilled the responsibility of securing America, contracts that have violated our trust. They have not had the right equipment, the technology. It hasn’t worked. They haven’t had the right staff and technology.

This way, the Inspector General can make findings, including cost overruns, delays in contract execution, lack of rigorous contract management, insufficient Department oversight, and limitations on small business participation, which now will be able to be reported under this particular bill. Within 30 days of receiving the Inspector General’s report, the Secretary must submit a corrective action plan to Congress, and as well we must ensure open opportunity.

Let me congratulate the ranking member, Mr. THOMPSON, and I joined him on these amendments that will highlight small businesses, automatically triggers oversight based on the award of contracts once a certain monetary amount has been reached, requires that the Inspector General conduct a review during the pendency of the project, and the Inspector General assess the inclusion of small, minority, and women-owned businesses in the SBI subcontracting plans as a factor in its review.

If that is not one of the larger pieces, everywhere we go, as this Department has grown larger and larger, Homeland Security spends more and more money, the question is, why can’t the homegrown people do the job, the small businesses, the women-owned businesses, the minority-owned businesses? And the answer is a blank. We don’t have an answer.

This committee has been in the leadership realm, this Subcommittee with Chairman ROGERS and Ranking Member MEEK. You have been in the driver’s seat on pushing the Homeland Security Department and our subcommittee in ensuring that the little guys get the work.

We are now suffering in Louisiana and the Gulf Region because the little guys have been ignored, and the jurisdictions down there say we have got the little guys willing to work but the big guys have thrown us out the door and not allowed us to be able to do an efficient, cost-efficient, good job. It has been the layered contracts with multi-nationals, and it never gets down to small business persons.

So I rise to support this initiative, the Secure Border Initiative Financial Accountability Act, and I want to thank Cherri Branson and Rosaline Cohen for their leadership of staff.

I thank the ranking member for yielding to me, and I ask my colleagues to support it. But our work is yet undone until we finish comprehensive immigration reform.

Mr. Speaker, I rise today in support of H.R. 6162, requiring financial accountability with respect to certain contract actions related to the Secure Border Initiative (SBI) of the Department of Homeland Security.

The Secure Border Initiative, SBI, is a comprehensive multi-year plan to secure America’s borders and reduce illegal migration.

Homeland Security Secretary Michael Chertoff has announced an overall vision for the SBI which includes: more agents to patrol our borders, secure our ports of entry and enforce immigration laws; expanded detention and removal capabilities to eliminate “catch and release” once and for all; comprehensive and systemic upgrading of the technology used in controlling the border, including increased manned aerial assets, expanded use of UAVs, and next-generation detection technology; increased investment in infrastructure improvements at the border—providing additional physical security to sharply reduce illegal border crossings; and greatly increased interior enforcement of our immigration laws—including more robust work site enforcement.
Mr. Speaker, an earlier version of this important bill passed the House as part of a border security measure in December 2005. Furthermore, the language of this bill also appears in fiscal year 2007 DHS authorization measure that passed the Committee on Homeland Security.

This bill requires the DHS’s Inspector General to immediately and automatically review any Secure Border Initiative contract valued at more than $20 million. This review necessarily entails examining the cost requirements, performance objectives, and program timelines set by the Department for the SBI project and requires an assessment of the inclusion of small, minority and women-owned businesses in any subcontracting plans.

The Inspector General’s review must be completed within 60 days after its initiation and reported to the Secretary of DHS. Within 30 days of receiving the Inspector General’s report, the Secretary of DHS must submit to the Committee on Homeland Security a report on the Inspector General’s findings and the corrective action plan the Secretary has taken and plans to take.

This automatic triggering of oversight by the Inspector General for contracts greater than $20 million is critical to minimize the waste, abuse, and fraud, which unfortunately has plagued many of DSH’s contracts. In addition, this requires drumming the pendulum of the project rather than at its termination to minimize waste and ensure redemptive steps are taken expeditiously. The Inspector General’s findings will include cost overruns, delays in contract execution, lack of rigorous Department contract management, insufficient Department financial oversight, limitations on small business participation, and other high risk business practices.

Moreover, this bill requires that the Inspector General assess the inclusion of small, minority and women-owned businesses in the SBI subcontracting plans as a factor in its review. Historically, small, minority and women-owned businesses have been disadvantaged in seeking and winning these types of contracts. There may be inherent disadvantages for these businesses, but it is clear that their potential is tremendous. It is critical that DHS ensures that these businesses have the ability to compete fairly for these lucrative opportunities.

I am very proud that my district, Harris County and Houston ranks sixth and Texas ranks fifth in the country for the largest number of African-American owned firms, following New York, California, Florida, and Georgia. Minority and women-owned businesses across the country will appreciate the effort to preserve their opportunity to compete for these contracts. As my colleagues to remember that there are a great many barriers to minority and women business professionals, and provisions such as these preserve equal access and open opportunities.

In the aftermath of Hurricanes Katrina, Rita and Wilma, small, minority and disadvantaged businesses from the region were shut out of disaster-related contracts because goals and preferences were not in place. Since the late 1960s, it has been the policy of the Federal Government to assist small businesses owned by minorities and women to become fully competitive, profit making concerns. As a result, the Small Business Administration has set forth government-wide goals to level the playing field for small and minority businesses seeking Federal Government contracts. Leveling the playing field continues to be a central concern for me and should continue to be a central concern for this Congress.

The oversight required in this bill is integral because SBI is expected to be a $2.5 billion program, and the contracts allocated through SBI will be substantial. For example, last week, DHS awarded a contract valued at $80 million to a team led by Boeing under the SBI program. Furthermore, the predecessors to SBI—ISIS and American Shield—fell far short of expectations. The Department spent over $423 million and protected 4 percent of the border, which is about $100 million for every 1 percent of the border.

Similarly, the Inspector General has found that the Department’s failure in these past programs has been due to poor planning, lax program management, inappropriate equipment purchases and spotty implementation. This bill is the first step in requiring effective oversight. Realistically, effective oversight cannot be the sole province of Inspectors General. It is Congress’s constitutional duty to conduct oversight of the programs and activities of the executive branch. Just as the Department cannot contract out its responsibilities, neither can we.

Consequently, I urge my colleagues to support this important measure.

Mr. MEEK of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think we have identified the true essence of this bill; and I think also that it is very, very important. I want to take from not only Ms. JACKSON-LEE but also Mr. ROGERS and Ranking Member BENNIE THOMPSON in saying in this area, when we look at management and oversight of one of the fastest-growing Departments and the largest Department in the history of the world, that we have to put these parameters in place because we have the responsibility of article I, section 1 of the U.S. Constitution to make sure that we have the level of oversight that is needed.

I think the record reflects for itself that when oversight is not paramount the taxpayers lose; and I hope, like Mr. THOMPSON said, that we can expand this kind of theme throughout other programs in the Department of Homeland Security.

Now, the people that are happy today are members on this committee and, hopefully, the Members when they vote for this piece of legislation. But the Inspector General, especially in the Department of Homeland Security, writes these reports, submits them to Congress, and then there is a foot-dragging process at the Department of Homeland Security.

Within this piece of legislation within 30 days they have to respond as it relates to corrective action. And it would hopefully bring about the kind of accountability not only that we look for on the economic side, Mr. Speaker, but also look for as it relates to protecting our borders. Two programs before this program, well over $400 million, $429 million, was spent. We are going back again with a contract with a different company that would take us to $2.5 billion. We had the Secretary before the full committee just yesterday, or the day before last, and this was the line of my questioning. Because we do not want to be after the fact; we want to be before it.

So, Mr. Speaker, I encourage the Members to vote an affirmative on this very good piece of legislation; and hopefully, just hopefully, Mr. Speaker, we could head further into other contracting matters not only within the Department of Homeland Security but I would also add the Department of Defense and other departments like it so we can do away with waste and having individuals watching over the shoulders of individuals that may not hold the taxpayers’ dollars as high as we do as it relates to accountability.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROGERS of Alabama. Mr. Speaker, I yield myself the balance of my time.

I would like to sum up by emphasizing that it is critically important for the Members to recognize that we need to put these kinds of accountability measures in place so that we can ensure that as we go forward with the massive expenditures we are going to make to secure our borders that we don’t have a repeat of the waste, fraud, and abuse that we have seen in the past.

With that, Mr. Speaker, I urge an ‘aye’ vote for H.R. 6162.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama (Mr. Rogers) that the House suspend the rules and pass the bill, H.R. 6162. The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CHILDREN’S HOSPITAL GME SUPPORT REAUTHORIZATION ACT OF 2006

Mr. DEAL of Georgia. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 5574) to amend the Public Health Service Act to reauthorize support for graduate medical education programs in children’s hospitals.

The Clerk read as follows:

The Clerk reads as follows:

Senate amendment: Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE. This Act may be cited as the “Children’s Hospital GME Support Reauthorization Act of 2006”.

SEC. 2. PROGRAM OF PAYMENTS TO CHILDREN’S HOSPITALS THAT OPERATE GRADUATE MEDICAL EDUCATION PROGRAMS.

(a) In General.—Section 340F of the Public Health Service Act (42 U.S.C. 256e) is amended—
(1) in subsection (a), by inserting “and each of fiscal years 2007 through 2011” after “for each of fiscal years 2000 through 2005”; 
(2) in subsection (e)(1), by striking “26” and inserting “11”; 
(3) in subsection (f)(1)(A)—
(A) in clause (ii), by striking “and at the end; 
(B) in clause (iii), by striking the period at the end and inserting “;” and; and; and 
(C) by adding at the end the following:
“(iv) for each of fiscal years 2007 through 2011, $110,000,000.”; and 
(4) in subsection (f)(2)—
(A) in the matter before subparagraph (A), by striking “(f)(1)(A)” and inserting “(b)(1)(B)”; 
(B) in subparagraph (B), by striking “and at the end; 
(C) in subparagraph (C), by striking the period at the end and inserting “;” and; and 
(D) by adding at the end the following:
“(D) for each of fiscal years 2007 through 2011, $220,000,000.”.

(b) REDUCTION IN PAYMENTS FOR FAILURE TO FILE ANNUAL REPORT.—Subsection (b) of section 340E of the Public Health Service Act (42 U.S.C. 256e) is further amended—
(1) in paragraph (1), in the matter before subparagraph (A), by striking “paragraph (2)” and inserting “paragraph (1)” and “(3)”;
(2) by adding at the end the following:
“(3) ANNUAL REPORTING REQUIRED.—
(A) REDUCTION IN PAYMENT FOR FAILURE TO REPORT.—
“(i) IN GENERAL.—The amount payable under this section to a children’s hospital for a fiscal year (beginning with fiscal year 2008 and after taking into account paragraph (2)) shall be reduced by 25 percent if the Secretary determines that—
“(I) the hospital has failed to provide the Secretary, as an addendum to the hospital’s application under this section for such fiscal year, the report required under subparagraph (B) for the previous fiscal year; or 
“(II) such report fails to provide the information required under any clause of such subparagraph.
“(ii) NOTICE AND OPPORTUNITY TO PROVIDE MISSING INFORMATION.—Before imposing a reduction under clause (i) on the basis of a hospital’s failure to provide information described in clause (i)(II), the Secretary shall provide notice to the hospital of such failure and the Secretary’s intention to impose such reduction and shall provide the hospital with the opportunity to provide the required information within a period of 30 days following the date of such notice. If the hospital provides such information within such period, no reduction shall be made under clause (i) on the basis of the previous failure to provide such information.
“(B) ANNUAL REPORT.—The report required under this subparagraph for a children’s hospital for a fiscal year is a report that includes (in a form and manner specified by the Secretary) the following information for the residency academic year completed immediately prior to such fiscal year:
“(i) The types of resident training programs that the hospital provided for residents described in subparagraph (C), such as general pediatrics, internal medicine/pediatrics, and pediatrics, subspecialties including, but not limited to, extraneous material on the bill. 
Mr. Speaker, I would also like to specifically commend Chairman DEBORAH PRYCE of Ohio and Chairman NANCY JOYCE of Connecticut for their strong and continued leadership on this important issue.
I encourage my colleagues to support the legislation.
Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.
I also rise in support of H.R. 5574, the Children’s Hospital Graduate Medical Education Support Reauthorization Act of 2006, which is legislation to reauthorize the Children’s Hospital Graduate Medical Education Payment Program for another 5 years.
Without question, Children’s Hospitals are integral part of our Nation’s health care delivery system. They improve health outcomes by providing a unique set of specialized health care services and treatment options for children. The Children’s Hospital Graduate Medical Education Payment Program is designed to provide financial assistance to children’s teaching hospitals, which do not receive significant Federal support for their resident and intern training programs through Medicare because of their low Medicare patient volume.
By reauthorizing this important but relatively young program, we are able to help ensure that the mission of these teaching hospitals is continued.
Mr. Speaker, I am proud to say that this legislation makes improvements to the program by strongly encouraging the participating hospitals to report important new data measures to the Department of Health and Human Services.
As my colleagues are aware, we originally considered this bill under suspension of the rules on June 21, and the legislation passed by a strong bipartisan vote of 421–4. We are here today to reconsider this legislation because the Senate passed this bill with an amendment by unanimous consent on Tuesday.
This legislation will keep the important reporting requirement reforms embodied in the House bill. I encourage my colleagues to support this bill today so that we can send this important legislation to the President for his signature.
I would like to thank the chairman of the Senate Health, Education, Labor and Pensions Committee, Senator ENZI of Wyoming, for his leadership and hard work in moving this bill through the Senate. I would like to thank the 20 members of the Energy and Commerce Committee who joined me as original cosponsors of the bill.
Mr. Speaker, I would also like to specifically commend Chairman DEBORAH PRYCE of Ohio and Chairman NANCY JOYCE of Connecticut for their strong and continued leadership on this important issue.
I encourage my colleagues to support the legislation.
Mr. Speaker, I reserve the balance of my time.

Mr. DEAL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this item and to insert extraneous material on the bill.
THE SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. DEAL) and the gentleman from New Jersey (Mr. PALLONE) each will control 20 minutes.
The Chair recognizes the gentleman from Georgia.

Mr. DEAL of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this item and to insert extraneous material on the bill.
THE SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?
There was no objection.

Mr. DEAL of Georgia. Mr. Speaker, I yield myself such time as may also rise in support of H.R. 5574, the Children’s Hospital Graduate Medical Education Support Reauthorization Act of 2006, which is legislation to reauthorize the Children’s Hospital Graduate Medical Education Payment Program for another 5 years.
Without question, Children’s Hospitals are integral part of our Nation’s health care delivery system. They improve health outcomes by providing a unique set of specialized health care services and treatment options for children. The Children’s Hospital Graduate Medical Education Payment Program is designed to provide financial assistance to children’s teaching hospitals, which do not receive significant Federal support for their resident and intern training programs through Medicare because of their low Medicare patient volume.

Mr. Speaker, I am proud to say that this legislation makes improvements to the program by strongly encouraging the participating hospitals to report important new data measures to the Department of Health and Human Services.
As my colleagues are aware, we originally considered this bill under suspension of the rules on June 21, and the legislation passed by a strong bipartisan vote of 421–4. We are here today to reconsider this legislation because the Senate passed this bill with an amendment by unanimous consent on Tuesday.
This legislation will keep the important reporting requirement reforms embodied in the House bill. I encourage my colleagues to support this bill today so that we can send this important legislation to the President for his signature.
I would like to thank the chairman of the Senate Health, Education, Labor and Pensions Committee, Senator Enzi of Wyoming, for his leadership and hard work in moving this bill through the Senate. I would like to thank the 20 members of the Energy and Commerce Committee who joined me as original cosponsors of the bill.
Mr. Speaker, I would also like to specifically commend Chairman Deborah Pryce of Ohio and Chairman Nancy Joyce of Connecticut for their strong and continued leadership on this important issue.
I encourage my colleagues to support the legislation.
Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.
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Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.
The legislation, as you know, reauthorizes the Children's Hospital Graduate Medical Education program until 2011 to fund residency programs in Children's Hospitals. This program is designed to help Children's teaching hospitals that do not receive significant Medicare or Medicare-accepted payments, or prior to the enactment of this program, independent Children's teaching hospitals did not have a similar program to fund their resident training programs for physicians.

Thankfully, Congress recognized this inequity and the financial disadvantage it placed on Children's Hospital. Now, Mr. Speaker, money from this program helps to support the broad teaching goals of Children's teaching hospitals teaching health care professionals, providing rare and specialized clinical services, and innovative clinical care, providing care to the poor and underserved, and conducting biomedical research.

Teaching hospitals have higher costs than other hospitals because of the special services they provide. This legislation seeks to alleviate that burden. On June 21, 2005, the House overwhelmingly passed legislation authorizing $100 million a year for fiscal years 2007 through 2011 to offset direct medical education costs of graduate medical education in Children's Hospitals.

The Senate amended this legislation and increased that authorization for direct costs to $110 million a year for fiscal years 2007 through 2011.

The Senate also increased the funds authorized for the indirect medical education costs of graduate medical education by $20 million, providing $220 million for fiscal years 2007 through 2011.

These commendable changes will provide needed funds to the Children's Hospital Graduate Medical Education program. Again, I want to thank the chairman who is here on the floor, our Republican chairman, Mr. DEAL, because this did end up being a bipartisan effort. I know you played a major role in making it a consensus bill. I urge all of my colleagues to support the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield 4 minutes to the gentleman from Connecticut (Mrs. JOHNSON), a long-time supporter of this program.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman from Georgia for yielding me time.

I rise in enthusiastic support of H.R. 5574, legislation that reauthorizes the Children's Hospital Graduate Medical Education program.

It is a little recognized fact that we support medical education through Medicare payments. And since there are not a lot of Medicare patients in Children's Hospitals, we found that we were providing inadequate support for the training of pediatricians, and especially as pediatrics became a specialty with the same spectrum of subspecialties as are common in the rest of medicine.

So in 1998 Congresswoman PRYCE from Ohio and I authored this program, and I really appreciate the good work of Chairman NATHAN DEAL from Georgia in bringing it to the floor with bipartisan support to reauthorize it for another 5 years.

When we first started this program, Federal GME support for Children's Hospitals was at .5 percent of what Medicare was providing for other teaching hospitals. Thanks to the legislation and the support over the years that Congress has given it, today Federal GME supports 80 percent of the cost of residencies in Children's Hospitals.

That is a wonderful thing, because as a result of that, Children's Hospitals have been able to increase the number of residents they train, including both general pediatricians and pediatric specialists, increase the number of training programs, improve the quality of the training programs, and strengthen the caliber of the residents they train.

The program works. It is improving the care available to our children across the country. The Children's GME Hospitals accounted for more than 80 percent of the growth in pediatric subspecialty training programs in the country, and more than 65 percent of the growth in the number of pediatric subspecialists trained. That has been critical at the time when many regions of the country, including major metropolitan areas, have experienced shortages of pediatric subspecialists: pediatric cardiologists, pediatric oncologists, and so it goes.

In Connecticut, the pediatric residency program at the University of Connecticut School of Medicine is currently training 57 residents at Connecticut's Children's Medical Center. These residents provide care to children in all hospital settings, including primary care, emergency care, inpatient care, critical care and subspecialty clinics.

Mr. Speaker, I want to thank my colleagues for authorizing this program for the full 5 years and recognize my colleague from Ohio, Congresswoman Pryce, for her leadership in this work over the last 7 years. It has been a huge success for children across America, and we salute those hospitals that specialize in the complex care of children with very serious illnesses as we pass this legislation today.

Mr. PALLONE. Mr. Speaker, I have no additional speakers and yield back the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I have no other request for time.

In closing, I would like to express my appreciation to Mr. PALLONE, who was an original cosponsor of this legislation. And it is true that we have made a bipartisan effort. I think that is the way we should do more things around here. I appreciate the cooperative spirit with which this bill has now moved through both bodies.

Ms. PRYCE of Ohio. Mr. Speaker, I rise today in support of H.R. 5574, legislation that will continue the Children's Hospital Graduate Medical Education program.

I want to thank Chairman BARTON and Chairman DEAL for their commitment to prioritizing this important measure this year—it's been a great team effort and I appreciate the Speaker's support for children's health.

I also want to extend a special thanks to Congresswoman NANCY JOHNSON of Connecticut. We've been strong partners over the years on children's health issues—enactment of Children's Hospital GME back in 1999 is one of my proudest moments working together.

We've had great success increasing the Federal investment in this program ever since—from Members on both sides of the aisle.

The Ohio delegation has helped lead the charge—in no small part thanks to the efforts of our esteemed Chairman of the Labor HHS Appropriations Subcommittee, RALPH REGULA.

I am extremely fortunate to have an extraordinary children's hospital in my hometown of Columbus, OH. Strong leadership, a clear vision, and a compassionate team of medical professionals has made Columbus Children's one of the best hospitals in the nation caring for sick children.

The CHGME program has helped the hospital—and hospitals all across America—do what they do best—provide the best training to doctors to deliver the best patient care possible. And we can all agree that our children deserve nothing short of the very best.

A vote in favor of H.R. 5574 will send it to the President's desk and reauthorize this important program for another 5 years. I urge my colleagues to support this measure.

Mr. DEAL of Georgia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. DEAL) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 5574.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

RYAN WHITE HIV/AIDS TREATMENT MODERNIZATION ACT OF 2006

Mr. DEAL of Georgia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6143) to amend title XXVI of the Public Health Service Act to revise and extend the program for providing life-saving care for those with HIV/AIDS, as amended.

The Clerk reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
TITLE I—EMERGENCY RELIEF FOR ELIGIBLE AREAS

SEC. 101. Establishment of program; general eligibility for grants.

SEC. 102. Type and distribution of grants; formula grants.

SEC. 103. Type and distribution of grants; supplemental grants.

SEC. 104. Timeframe for obligation and expenditure of grant funds.

SEC. 105. Use of amounts.

SEC. 106. Authorization of amendments to part A.

SEC. 107. New program in part A; transitional grants for certain areas ineligible under section 2601.

SEC. 108. Authorization of appropriations for part A.

TITLE II—CARE GRANTS

SEC. 201. General use of grants.

SEC. 202. AIDS Drug Assistance Program.

SEC. 203. Distribution of funds.

SEC. 204. Additional amendments to subpart I of part B.

SEC. 205. Supplemental grants on basis of need.

SEC. 206. Emerging communities.

SEC. 207. Timeframe for obligation and expenditure of grant funds.

SEC. 208. Authorization of appropriations for subpart I of part B.

SEC. 209. Early diagnosis grant program.

SEC. 210. Certain partner notification programs; authorization of appropriations.

TITLE III—EARLY INTERVENTION SERVICES

SEC. 301. Establishment of program; core medical services.

SEC. 302. Eligible entities; preferences; planning and development grants.


SEC. 304. Confidentiality and informed consent.

SEC. 305. Provision of certain counseling services.

SEC. 306. General provisions.

TITLE IV—WOMEN, INFANTS, CHILDREN, AND YOUTH

SEC. 401. Women, infants, children, and youth.

SEC. 402. GAO Report.

TITLE V—GENERAL PROVISIONS


SEC. 502. Fiscal leverage.

SEC. 503. Demonstration and training.

SEC. 504. AIDS education and training centers.

SEC. 505. Codification of minority AIDS initiative.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. Hepatitis; use of funds.

SEC. 702. Certain references.
be considered to meet the standard described in clause (1) or (2). No other eligible area or portion thereof may be considered to meet such standard.

(9) RELIEVING STATES.—For purposes of subsection (a), the States specified in this subsection are the following: Alaska, Alabama, Arkansas, Arizona, Colorado, Florida, Indiana, Iowa, Kansas, Louisiana, Maine, Minnesota, Mississippi, Missouri, North Carolina, North Dakota, Nebraska, New Jersey, New Mexico, New York, Nevada, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Wisconsin, West Virginia, Wyoming, Guam, and the Virgin Islands.

(10) RULES OF CONSTRUCTION REGARDING ACCEPTANCE OF REPORTS.—

(1) CASES OF AIDS.—With respect to an eligible area that is subject to the requirement under clause (1) and is not in compliance with the requirement for names-based reporting of living non-AIDS cases of HIV, the Secretary shall, notwithstanding such non-compliance, accept reports of living cases of AIDS that are in accordance with such clause.

(2) APPLICABILITY OF EXEMPTION REQUIREMENTS.—The provisions of clauses (ii) through (viii) may not be construed as having any legal effect for fiscal year 2011 or any subsequent fiscal year and accordingly, the status of a State for purposes of such clauses may not be considered after fiscal year 2010.

(3) PROGRAM FOR DETECTING INACCURATE OR FRAUDULENT REPORTING.—The Secretary shall carry out a program to monitor the reporting of names-based cases for purposes of this subparagraph and to detect instances of inaccurate reporting, including fraudulent reporting.

(c) COB-RELATED AREAS; LIMITATION ON INCREASE IN GRANT.—

(1) IN GENERAL.—For each of the fiscal years 2007 through 2010, if code-based reporting (within the meaning of subparagraph (C)(vi)) applies in an eligible area or any portion thereof as of the beginning of the fiscal year, the Secretary shall carry out a program to monitor the reporting of names-based cases for purposes of this subparagraph and to detect instances of inaccurate reporting, including fraudulent reporting.

(2) OBSESSION BY END OF GRANT YEAR.—

(A) in the matter preceding subparagraph (A), by striking “Not later than” and all that follows through the comma (as so in effect) and inserting the following: “Subject to sub- section (a)(4)(B)(1) and section 2610(d), the Secretary shall:

(B) in subparagraph (B), by striking “demonstrates the severe need in such area” and inserting “demonstrates the need in such area, on an objective and quantified basis,”;

(C) by striking subparagraph (F) and inserting the following:

(1) demonstrates the inclusiveness of affected communities and individuals with HIV/AIDS;

(2) DETERMINATION OF UNOBLIGATED BALANCE.—Effective for fiscal year 2007 and subsequent fiscal years, if a grant award made pursuant to subsection (a) or (b) for a fiscal year are available for obligation by the eligible area involved through the end of the one-year period beginning on the date in such fiscal year on which funds from which the award was made become available to the area (referred to in this section as the ‘grant year for the award’), except as provided in paragraph (3)(A)

(3) SUPPLEMENTAL GRANTS; CANCELLATION OF UNOBLIGATED BALANCE OF GRANT AWARD.—

(A) The Secretary shall cancel that unobligated balance of the award, and shall re- quire funds from which the award was made to be returned to the Secretary as additional amounts for grants pursuant to subsection (b) for the first fiscal year beginning after...
the fiscal year in which the Secretary obtains the information necessary for determining that the balance is required under subparagraph (A) to be canceled, except that the amount of funds from such grants is subject to subsection (a)(4) and section 2610(d)(2) as applied for such year.

(3) FORMULA GRANTS; CANCELLATION OF UNOBILITATED BALANCE OF GRANT AWARD; WAIVER PERMITTING CARRYOVER.—

(A) IN GENERAL.—Effective for fiscal year 2007 and subsequent fiscal years, if a grant award made pursuant to subsection (a)(4) is determined by the Secretary to be subject to subsection (b) for such first fiscal year, at the end of the grant year for the award, the Secretary shall cancel that portion of the grant that is subject to subsection (b) of the award, and shall require the eligible area to return any amounts from such balance that have been disbursed to the area, unless—

(i) before the end of the grant year, the chief elected official of the area submits to the Secretary a written application for a waiver of the cancellation, which application includes a description of the purposes for which the area intends to expend the funds involved; and

(ii) the Secretary approves the waiver.

(B) END OF CARRYOVER YEAR.—With respect to a waiver under subparagraph (A) that is approved for a balance that is unobligated as of the end of a grant year for an award—

(i) the unobligated funds are available for expenditure by the eligible area involved for the one-year period beginning upon the expiration of the grant year (referred to in this subsection as the ‘carryover year’).

(ii) if the funds are not expended by the end of the carryover year, the Secretary shall cancel the unexpended balance of the award, and shall require the eligible area to return any amounts from such balance that have been disbursed to the area.

(C) USE OF CANCELLED BALANCES.—In the case of any balance of a grant award that is cancelled under subparagraph (A) or (B), the grant funds involved shall be made available by the Secretary as additional amounts for grants pursuant to subsection (b) for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that the balance is required under such subparagraph to be canceled, except that the availability of the funds for such grants is subject to subsection (a)(4) and section 2610(d)(2) as applied for such year.

(D) CORRESPONDING REDUCTION IN FUTURE GRANTS.—

(i) IN GENERAL.—In the case of an eligible area for which a balance from a grant award under subsection (a) is unobligated as of the end of the grant year for the award—

(I) the Secretary shall reduce, by the same amount as such unobligated balance, the amount of the grant under such subsection for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that such balance was unobligated as of the end of the grant year (which requirement for a reduction applies without regard to whether a waiver under subparagraph (A) has been approved with respect to such balance); and

(ii) the grant funds involved in such reduction shall be made available by the Secretary as additional amounts for grants pursuant to subsection (b) for the fiscal year involved, subject to subsection (a)(4) and section 2610(d)(2); except that this clause does not apply to the eligible area if the amount of the unobligated balance is $10,000 or less.

(ii) RELATION TO INCREASES IN GRANT.—A reduction under clause (i) for an eligible area for a fiscal year may not be taken into account in applying subsection (a)(4) with respect to the area for the subsequent fiscal year.

SEC. 105. USE OF AMOUNTS.

Section 2604 of the Public Health Service Act (42 U.S.C. 300ff-14) is amended to read as follows:

**SEC. 2604. USE OF AMOUNTS.**

(a) REQUIREMENTS.—The Secretary may not make a grant under section 2604(a) to the chief elected official of an eligible area unless such political subdivision agrees that—

(1) subject to paragraph (4), the allocation of funds and services within the eligible area will be made in accordance with the priorities established, pursuant to section 2602(b)(4)(A), by the services planning council that serves such eligible area;

(2) funds provided under section 2604 will be expended only for—

(A) core medical services described in subsection (c);

(B) support services described in subsection (d); and

(C) administrative expenses described in subsection (h); and

(3) the use of such funds will comply with the requirements of this section.

(b) DIRECT FINANCIAL ASSISTANCE TO APPROPRIATE ENTITIES.—

(1) IN GENERAL.—The chief elected official of an eligible area shall use amounts from a grant award to provide direct financial assistance to entities described in paragraph (2) for the purpose of providing core medical services and support services.

(2) APPROPRIATE ENTITIES.—Direct financial assistance may be provided under paragraph (1) to public or nonprofit private entities, or private or nonprofit entities if such entities are the only available provider of quality HIV care in the area.

(c) REQUIRED FUNDING FOR CORE MEDICAL SERVICES.—

(1) IN GENERAL.—With respect to a grant under section 2601 for an eligible area for a grant year, the chief elected official of the area shall, of the portion of the grant remaining after reserving amounts for purposes of paragraphs (1) and (5) of subsection (b) of such grant, use not less than 75 percent to provide core medical services that are needed in the eligible area for individuals with HIV/AIDS who are identified and eligible under this title (including services regarding the co-occurring conditions of the individuals).

(2) WAIVER.—

(A) IN GENERAL.—The Secretary shall waive the application of paragraph (1) with respect to a chief elected official for a grant year if the Secretary determines that, within the eligible area involved—

(i) there are no lists for AIDS Drug Assistance Program services under section 2616; and

(ii) core medical services are available to all individuals with their AIDS identified and eligible under this title.

(B) NOTIFICATION OF WAIVER STATUS.—When informing the chief elected official of an eligible area that a grant under section 2601 is being made for the area for a grant year, the Secretary shall inform the official whether a waiver under subparagraph (A) is in effect for such grant year.

(c) CORE MEDICAL SERVICES.—For purposes of this subsection, the term ‘core medical services’, with respect to an individual with HIV/AIDS and the co-occurring conditions (if any) of the individual, means the following services:

(A) Outpatient and ambulatory health services;

(B) AIDS Drug Assistance Program treatments in accordance with section 2616.

(C) AIDS pharmaceutical assistance.

(D) Oral health care.

(E) Early intervention services described in subsection (e).

(F) Health insurance premium and cost sharing assistance for low-income individuals in accordance with section 2615.

(G) Home health care.

(H) Medical nutrition therapy.

(I) Hospice services.

(J) Home and community-based health services as defined under section 2614(e).

(K) Mental health services.

(L) Substance abuse outpatient care.

(M) Medical case management, including treatment adherence services.

(d) SUPPORT SERVICES.—

(1) IN GENERAL.—For purposes of this section, the term ‘support services’ means services subject to the approval of the Secretary, that are needed for individuals with HIV/AIDS to achieve their medical outcomes (such as respite care for persons caring for individuals with HIV/AIDS, outreach services, medical transportation, linguistic services, and referrals for health care and support services).

(2) MEDICAL OUTCOMES.—In this subsection, the term ‘medical outcomes’ means those outcomes affecting the HIV-related clinical status of an individual with HIV/AIDS.

(e) EARLY INTERVENTION SERVICES.—

(1) IN GENERAL.—For purposes of this section, the term ‘early intervention services’ means HIV/AIDS early intervention services described in section 2651(e), with follow-up referral provided for the purpose of facilitating the access of individuals receiving the services to HIV-related health services. The entities through which such services may be provided under the grant include public health departments, emergency rooms, substance abuse and mental health treatment programs, detoxification centers, detention facilities, clinics regarding sexually transmitted diseases, homeless shelters, HIV/AIDS counseling and testing sites, health care points of entry specified by eligible areas, federally qualified health centers, and entities described in section 2622(a) that constitute a point of access to services by maintaining referral relationships.

(2) CONDITIONS.—With respect to an entity that proposes to provide early intervention services under paragraph (1), such paragraph shall apply only if the entity demonstrates to the satisfaction of the chief elected official for the eligible area involved that—

(A) Federal, State, or local funds are otherwise inadequate for the early intervention services the entity proposes to provide; and

(B) the entity will expend funds pursuant to such paragraph to supplement and not supplant other funds available to the entity for the provision of early intervention services for the fiscal year involved.

(f) PRIORITY FOR WOMEN, INFANTS, CHILDREN, AND YOUTH.—

(1) IN GENERAL.—For the purpose of providing health and support services to infants, children, youth, and women with HIV/AIDS, including treatment measures to prevent the perinatal transmission of HIV, the chief elected official of an eligible area, in accordance with the established priorities of the planning council, shall for each of such populations for the eligible area use from the grants made for the area under section 2601(a) for a fiscal year, not less than the percentage constituted by the ratio of the perinatal transmission rate (in the case of children, youth, or women in such area) with HIV/AIDS to the general population in such area of individuals with HIV/AIDS.

(2) EXCEPT AS OTHERWISE PROVIDED.—With respect to the population involved, the Secretary may provide to the chief elected official of an eligible area...
area a waiver of the requirement of paragraph (1) if such official demonstrates to the satisfaction of the Secretary that the population is receiving HIV-related health services under the State children’s health insurance program under title XIX of the Social Security Act, the State’s children’s health insurance program under title XXI of such Act, or other Federal health benefits program.

(g) Requirement of Status as Medicaid Provider.—

(1) Provision of Service.—Subject to paragraph (2), the Secretary may not make a grant under section 260(a) for the provision of services under this section in a State unless, in the case of any such service that is available pursuant to the State plan approved under title XIX of the Social Security Act for the State—

(A) the political subdivision involved will provide the service directly, and the political subdivision has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

(B) the political subdivision will enter into an agreement with a public or nonprofit private entity under which the entity will provide the service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

(2) Waiver.—

(A) In General.—In the case of an entity making an agreement pursuant to paragraph (1)(B) regarding the provision of services, the requirement established in such paragraph shall be waived by the HIV health services planning council for the eligible area if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

(B) Determination.—A determination by the HIV health services planning council of whether an entity referred to in subparagraph (A) is an eligible entity under this part shall be made without regard to whether the entity accepts voluntary donations for the purpose of providing services to the public.

(h) Administration.—

(1) Limitation.—The chief elected official of an eligible area may use not more than 10 percent of amounts received under a grant under this part for administrative expenses.

(2) Allocations by Chief Elected Official.—The chief elected official of an eligible area allocates amounts received by the official under a grant under this part to any entity that the chief elected official deems to be a part of an eligible area allocates amounts received by the official under a grant under this part to any entity that the chief elected official deems to be a part of an eligible area, subject to the same provisions regarding the allocation of grant funds as apply under subsection (c) of such section.

(3) Reporting of cases.—

(a) General.—With respect to grants under subpart I for fiscal year 2006 but not under subpart I for fiscal year 2007, a metropolitan area that is a transitional area until the metropolitan area fails, for three consecutive fiscal years, to meet the requirements for continued status as a transitional area, and is not a qualified transitional area for the fiscal year 2007, a metropolitan area that is a transitional area until the metropolitan area fails, for three consecutive fiscal years, to meet the requirements.

(b) Determination.—The chief elected official of an eligible area shall report to the Secretary and the HIV health services planning council under section (b), a metropolitan area that is a transitional area until the metropolitan area fails, for three consecutive fiscal years, to meet the requirements for continued status as a transitional area.

(c) Certain Eligibility Rules.—

(1) Fiscal year 2007.—With respect to grants under subpart I for fiscal year 2007, a metropolitan area that received funding under subpart I for fiscal year 2006 but does not for fiscal year 2007 qualify under such subpart as an eligible area and does not qualify under subsection (b) as a transitional area shall, notwithstanding subsection (b), be considered a transitional area.

(2) Transitional areas.—For purposes of this section, the term ‘‘transitional area’’ means, subject to subsection (c), a metropolitan area for which there has been reported to and confirmed by the Director of the Centers for Disease Control and Prevention a cumulative total of at least 1,000, but fewer than 2,000, cases of AIDS during the most recent period for which such data are available.

(3) Certain Eligibility Rules.—

(1) Fiscal year 2007.—With respect to grants under subpart I for fiscal year 2007, a metropolitan area that received funding under subpart I for fiscal year 2006 but does not for fiscal year 2007 qualify under such subpart as an eligible area and does not qualify under subsection (b) as a transitional area shall, notwithstanding subsection (b), be considered a transitional area.

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(2) Transitional areas.—For purposes of this section, the term ‘‘transitional area’’ means, subject to subsection (c), a metropolitan area for which there has been reported to and confirmed by the Director of the Centers for Disease Control and Prevention a cumulative total of at least 1,000, but fewer than 2,000, cases of AIDS during the most recent period for which such data are available.

(3) Certain Eligibility Rules.—

(1) Fiscal year 2007.—With respect to grants under subpart I for fiscal year 2007, a metropolitan area that received funding under subpart I for fiscal year 2006 but does not for fiscal year 2007 qualify under such subpart as an eligible area and does not qualify under subsection (b) as a transitional area shall, notwithstanding subsection (b), be considered a transitional area.

(2) Transitional areas.—For purposes of this section, the term ‘‘transitional area’’ means, subject to subsection (c), a metropolitan area for which there has been reported to and confirmed by the Director of the Centers for Disease Control and Prevention a cumulative total of at least 1,000, but fewer than 2,000, cases of AIDS during the most recent period for which such data are available.
apply for a fiscal year if the metropolitan area involved qualifies under subpart I as an eligible area.

(2) **APPLICATION OF CERTAIN PROVISIONS OF SUBPART I.**

(1) **ADMINISTRATION; PLANNING COUNCIL.**

(A) **IN GENERAL.**—The provisions of section 2602 apply with respect to a grant under subsection (b) of this section to a transitional area to the same extent and in the same manner as such provisions apply with respect to a grant under subpart I for an eligible area, except that:

(i) the chief elected official of the transitional area may elect not to comply with the provisions of section 2602(b) if the official provides documentation in a manner that details the process used to obtain community input (particularly from those with HIV) in the transitional area for formulating the overall plan for priority setting and allocating funds from the grant under subsection (a).

(ii) **EXCEPTION.**—For each of the fiscal years 2007 through 2009, the exception described in subparagraph (A) does not apply if the transitional area involved received funding under subpart I for fiscal year 2006.

(B) **FORMULA GRANTS; INCREASE IN GRANT.**—For purposes of subparagraph (A), section 2602(a)(4) does not apply.

(C) **SUPPLEMENTAL GRANTS; SINGLE PRO-GRAM WITH SUBPART I PROGRAM.**—With respect to section 2603(b) as applied for purposes subparagraph (A):

(i) The Secretary shall combine amounts available pursuant to such subparagraph with amounts available for carrying out section 2603(b) and shall administer the two programs as a single program.

(ii) In the single program, the Secretary has discretion in allocating amounts between eligible areas under subpart I and transitional areas under this section, subject to the eligibility criteria that apply under such section, and subject to section 2609(c) (relating to priority in making grants).

(iii) Pursuant to section 2603(b)(1), amounts for the single program are subject to use under section 2603(a)(4) and 2603(b)(4).

(3) **APPLICATION; TECHNICAL ASSISTANCE; DEFINITIONS.**—The provisions of sections 2605, 2606, and 2607 apply with respect to grants under subsection (a) to the same extent and in the same manner as such provisions apply with respect to grants under subpart I.

(b) **CONFORMING AMENDMENTS.**—Subpart I of part A of the Public Health Service Act, as designated by subsection (a)(1) of this section, is amended by striking “this part” each place such term appears and inserting in this substitute.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS FOR PART A.

Part A of title XXVI of the Public Health Service Act (42 U.S.C. 300ff) is amended by adding at the end the following:

**"Subpart III—General Provisions**

**SEC. 2610. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—For the purpose of carrying out this part, there are authorized to be appropriated $694,000,000 for fiscal year 2007, $626,300,000 for fiscal year 2008, $659,500,000 for fiscal year 2009, $675,000,000 for fiscal year 2010, and $685,500,000 for fiscal year 2011. Amounts appropriated under the preceding sentence for a fiscal year are available for obligation by the Secretary until the end of the second succeeding fiscal year.

(b) **RESERVATION OF AMOUNTS.**

(1) **FISCAL YEAR 2007.**—Of the amount appropriated under subsection (a) for fiscal year 2007, the Secretary shall reserve:

(A) $145,310,000 for grants under subpart I; and

(B) $145,690,000 for grants under section 2609.

(2) **SUBSEQUENT FISCAL YEARS.**—Of the amount appropriated under subsection (a) for fiscal year 2008 and each subsequent fiscal year—

(A) the Secretary shall reserve an amount for grants under subpart I; and

(B) the Secretary shall reserve an amount for grants under section 2609.

(c) **TRANSFER OF CERTAIN AMOUNTS: CHANGE IN STATUS AS ELIGIBLE AREA OR TRANSITIONAL AREA.**—Notwithstanding subsection (b):

(1) If a metropolitan area is an eligible area under subpart I for a fiscal year, but for a subsequent fiscal year ceases to be an eligible area by reason of section 2609(a)(1)—

(A)(i) the amount reserved under paragraph (1)(A) or (2)(A)(ii) of this subsection for the fiscal year of not being an eligible area is deemed to be reduced by an amount equal to the amount of the grant made pursuant to section 2603(a) for the metropolitan area for the preceding fiscal year;

(ii) the amount reserved under paragraph (1)(A) or (2)(A)(ii) of this subsection for the subsequent fiscal year of not being an eligible area is deemed to be reduced by an amount equal to the amount of the grant made pursuant to section 2603(a) for the metropolitan area for the preceding fiscal year; and

(iii) if the metropolitan area qualifies for such first subsequent fiscal year as a transitional area under section 2609, an amount equal to the amount of such reduction is, notwithstanding subsection (a), transferred and made available for grants pursuant to section 2603(a)(1), in addition to amounts available for such grants under section 2623;

(2) **If a grantee transfers over to a Metro- politan area for such first subsequent fiscal year that has discretion in allocating amounts be- tween such areas under this section, subject to section 2611(a)(1), in addition to amounts available for such grants under section 2623; and

(B) **If a transfer under subparagraph (A)(ii)(I) is made with respect to the metropolitan area for such first subsequent fiscal year, then—

(i) the amount reserved under paragraph (1)(A) or (2)(A)(ii) of subsection (a) of this section for such year is deemed to be reduced by an additional $600,000; and

(ii) an amount equal to the amount of such additional reduction is, notwithstanding subsection (a), transferred and made available for grants pursuant to section 2603(a); and

(B) **If a metropolitan area is a transitional area under section 2609 for a fiscal year, but for a subsequent fiscal year ceases to be such an area by reason of section 2609(b)(1) or 2609(c)(2), respectively, rather than applying to a single such series.**

**TITLE II—CARE GRANTS**

SEC. 2601. GENERAL USE OF GRANTS.

(a) **IN GENERAL.**—Amounts appropriated under the Public Health Service Act (42 U.S.C. 300ff–22) are amended to read as follows: **"SEC. 2612. GENERAL USE OF GRANTS.**

(1) **core medical services described in sub- section (c); and

(2) support services described in sub- section (c); and

(3) **administrative expenses described in section 2618(b)(1) and (b) **REQUIRED FUNDING FOR CORE MEDICAL SERVICES.**

(1) **IN GENERAL.**—With respect to a grant under section 2611(a)(1) for a fiscal year, the State shall, of the portion of the amount remaining after reserving amounts for purposes of subparagraphs (A) and (B)(i)(I) of this subsection, allocate not less than 75 per- cent to provide core medical services that are needed in the State for individuals with HIV/AIDS who are identified and eligible for assistance under this part, considering the co-occurring conditions of the individuals.
“(2) WAIVER.—

(A) IN GENERAL.—The Secretary shall waive the application of paragraph (1) with respect to a State for a grant year if the Secretary determines that, within the State, there are no waiting lists for AIDS Drug Assistance Program services under section 2616; and

(B) NOTIFICATION OF WAIVER STATUS.—When the Secretary waives the application of paragraph (1) under subparagraph (A), the Secretary shall inform the State whether a waiver under subparagraph (A) is in effect and the duration of the waiver.

(3) CORE MEDICAL SERVICES.—For purposes of this subsection, the term ‘core medical services’, with respect to an individual infected with HIV/AIDS (including the co-occurring conditions of the individual) means:

(A) Outpatient and ambulatory health services.

(B) AIDS Drug Assistance Program treatments in accordance with section 2616.

(C) AIDSPHARMaceutical assistance.

(D) Oral health care.

(E) Medical case management, including treatment adherence services.

(F) Health insurance premium and cost sharing assistance for low-income individuals in accordance with section 2615.

(G) Home health care.

(H) Medical nutrition therapy.

(I) Hospice services.

(J) Home and community-based health services as defined under section 2614(c).

(K) Mental health services.

(L) Substance abuse outpatient care.

(M) Medical nutrition therapy, including treatment adherence services.

(N) SUPPORT SERVICES.—

(1) IN GENERAL.—For purposes of this subsection, the term ‘support services’ means services—subject to the approval of the Secretary—that are needed for individuals with HIV/AIDS and eligible under this title.

(2) CONDITIONS.—For purposes of this subsection, the term ‘support services’ means services—subject to the approval of the Secretary—that are needed for individuals with HIV/AIDS (including the co-occurring conditions of the individual) means:

(A) Outpatient and ambulatory health services.

(B) AIDS Drug Assistance Program treatments in accordance with section 2616.

(C) AIDS pharmaceutical assistance.

(D) Oral health care.

(E) Medical case management, including treatment adherence services.

(F) Health insurance premium and cost sharing assistance for low-income individuals in accordance with section 2615.

(G) Home health care.

(H) Medical nutrition therapy.

(I) Hospice services.

(J) Home and community-based health services as defined under section 2614(c).

(K) Mental health services.

(L) Substance abuse outpatient care.

(M) Medical nutrition therapy, including treatment adherence services.

(N) SUPPORT SERVICES.—

(1) IN GENERAL.—For purposes of this subsection, the term ‘support services’ means services—subject to the approval of the Secretary—that are needed for individuals with HIV/AIDS and eligible under this title.

(2) CONDITIONS.—For purposes of this subsection, the term ‘support services’ means services—subject to the approval of the Secretary—that are needed for individuals with HIV/AIDS (including the co-occurring conditions of the individual) means:

(A) Outpatient and ambulatory health services.

(B) AIDS Drug Assistance Program treatments in accordance with section 2616.

(C) AIDS pharmaceutical assistance.

(D) Oral health care.

(E) Medical case management, including treatment adherence services.

(F) Health insurance premium and cost sharing assistance for low-income individuals in accordance with section 2615.

(G) Home health care.

(H) Medical nutrition therapy.

(I) Hospice services.

(J) Home and community-based health services as defined under section 2614(c).

(K) Mental health services.

(L) Substance abuse outpatient care.

(M) Medical nutrition therapy, including treatment adherence services.

(N) SUPPORT SERVICES.—

(1) IN GENERAL.—For purposes of this subsection, the term ‘support services’ means services—subject to the approval of the Secretary—that are needed for individuals with HIV/AIDS and eligible under this title.

(2) CONDITIONS.—For purposes of this subsection, the term ‘support services’ means services—subject to the approval of the Secretary—that are needed for individuals with HIV/AIDS (including the co-occurring conditions of the individual) means:

(A) Outpatient and ambulatory health services.

(B) AIDS Drug Assistance Program treatments in accordance with section 2616.

(C) AIDS pharmaceutical assistance.

(D) Oral health care.

(E) Medical case management, including treatment adherence services.

(F) Health insurance premium and cost sharing assistance for low-income individuals in accordance with section 2615.

(G) Home health care.

(H) Medical nutrition therapy.

(I) Hospice services.

(J) Home and community-based health services as defined under section 2614(c).

(K) Mental health services.

(L) Substance abuse outpatient care.

(M) Medical nutrition therapy, including treatment adherence services.

(N) SUPPORT SERVICES.—

(1) IN GENERAL.—For purposes of this subsection, the term ‘support services’ means services—subject to the approval of the Secretary—that are needed for individuals with HIV/AIDS and eligible under this title.

(2) CONDITIONS.—For purposes of this subsection, the term ‘support services’ means services—subject to the approval of the Secretary—that are needed for individuals with HIV/AIDS (including the co-occurring conditions of the individual) means:

(A) Outpatient and ambulatory health services.

(B) AIDS Drug Assistance Program treatments in accordance with section 2616.

(C) AIDS pharmaceutical assistance.

(D) Oral health care.

(E) Medical case management, including treatment adherence services.

(F) Health insurance premium and cost sharing assistance for low-income individuals in accordance with section 2615.

(G) Home health care.

(H) Medical nutrition therapy.

(I) Hospice services.

(J) Home and community-based health services as defined under section 2614(c).

(K) Mental health services.

(L) Substance abuse outpatient care.

(M) Medical nutrition therapy, including treatment adherence services.

(N) SUPPORT SERVICES.—

(1) IN GENERAL.—For purposes of this subsection, the term ‘support services’ means services—subject to the approval of the Secretary—that are needed for individuals with HIV/AIDS and eligible under this title.

(2) CONDITIONS.—For purposes of this subsection, the term ‘support services’ means services—subject to the approval of the Secretary—that are needed for individuals with HIV/AIDS (including the co-occurring conditions of the individual) means:

(A) Outpatient and ambulatory health services.

(B) AIDS Drug Assistance Program treatments in accordance with section 2616.

(C) AIDS pharmaceutical assistance.

(D) Oral health care.

(E) Medical case management, including treatment adherence services.

(F) Health insurance premium and cost sharing assistance for low-income individuals in accordance with section 2615.

(G) Home health care.

(H) Medical nutrition therapy.

(I) Hospice services.

(J) Home and community-based health services as defined under section 2614(c).

(K) Mental health services.

(L) Substance abuse outpatient care.

(M) Medical nutrition therapy, including treatment adherence services.

(N) SUPPORT SERVICES.—

(1) IN GENERAL.—For purposes of this subsection, the term ‘support services’ means services—subject to the approval of the Secretary—that are needed for individuals with HIV/AIDS and eligible under this title.

(2) CONDITIONS.—For purposes of this subsection, the term ‘support services’ means services—subject to the approval of the Secretary—that are needed for individuals with HIV/AIDS (including the co-occurring conditions of the individual) means:

(A) Outpatient and ambulatory health services.

(B) AIDS Drug Assistance Program treatments in accordance with section 2616.

(C) AIDS pharmaceutical assistance.

(D) Oral health care.

(E) Medical case management, including treatment adherence services.

(F) Health insurance premium and cost sharing assistance for low-income individuals in accordance with section 2615.

(G) Home health care.

(H) Medical nutrition therapy.

(I) Hospice services.

(J) Home and community-based health services as defined under section 2614(c).

(K) Mental health services.

(L) Substance abuse outpatient care.

(M) Medical nutrition therapy, including treatment adherence services.
to sufficiently accurate and reliable names-based reporting of living non-AIDS cases of HIV; or

(bb) all statutory changes necessary to provide for State purposes of such clause reporting of such cases had been made; and

(ii) The State had agreed that, by April 1, 2008, the State will begin accurate and reliable reporting of such cases except that such agreement is not required to provide that, as of such date, the system for such reporting be fully sufficient with respect to accuracy and reliability throughout the area.

(iv) REQUIREMENT FOR EXEMPTION AS OF FISCAL YEAR 2008.—For each of the fiscal years 2008 through 2010, exempted under clause (ii) of this paragraph, a State applies only if, as of April 1, 2008, the State is substantially in compliance with the agreement under clause (iii)(D).

(v) PROGRESS TOWARDS NAMES-BASED REPORTING.—For fiscal year 2009 or 2010, the Secretary may terminate an exemption under clause (ii) for a State if the State submitted a plan under clause (ii)(I)(aa) and the Secretary determines that the State is not substantially following the plan.

(vi) COUNTING OF CASES IN AREAS WITH EXEMPTED REPORTING.—(I) IN GENERAL.—With respect to a State that is under a reporting system for living non-AIDS cases of HIV that is not names-based (referred to in this subparagraph as ‘‘code-based reporting’’), the Secretary shall, for purposes of this subparagraph, modify the numerator of such cases reported by the State in order to adjust for duplicative reporting in and among systems that use code-based reporting.

(ii) AVERAGE FISCAL YEAR RATES.—The adjustment rate under subclause (I) for a State shall be a reduction of 5 percent in the number of living non-AIDS cases of HIV reported for the State.

(vii) LIST OF STATES MEETING STANDARD REGARDING DECISION DECEMBER 31, 2005.—(I) IN GENERAL.—If a State is specified in subclause (II), the State shall be considered to meet the standard described in clause (ii)(I). No other State may be considered to meet such standard.

(II) NUMBER OF STATES.—For purposes of subclause (I), the States specified in this subclause are the following: Alabama, Alaska, Arizona, Arkansas, Colorado, Florida, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Missouri, Mississippi, North Carolina, North Dakota, Nebraska, New Jersey, New Mexico, New York, Nevada, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Wisconsin, West Virginia, Wyoming, Guam, and the Virgin Islands.

(vIII) RULES OF CONSTRUCTION REGARDING ACCEPTANCE OF REPORTS.—(I) CASES OF AIDS.—With respect to a State that is subject to the requirement under clause (i) and is not in compliance with the requirement for names-based reporting of living non-AIDS cases of HIV, the Secretary shall, notwithstanding such non-compliance, accept reports of living cases of AIDS that are in accordance with such clause.

(vIII) APPLICABILITY OF EXEMPTION REQUIREMENTS.—(i) In general.—For purposes of clause (ii) through (vii) may not be construed as having any legal effect for fiscal year 2011 or any subsequent fiscal year, and accordingly, the statute allowing for the appointment of additional persons pursuant to such paragraph as the State for the preceding fiscal year may not be considered after fiscal year 2010.

(ii) PROGRAM FOR DETECTING INCORRECT OR FRAUDULENT COUNTING.—The Secretary shall establish or contract for a program to monitor for purposes of subparagraph (A) reporting of names-based cases for purposes of this subparagraph and to detect instances of inaccurate reporting, including fraudulent reporting.

(vIII) NON-EMA DISTRIBUTION FACTOR.—Section 261(a)(2)(C) of the Public Health Service Act (42 U.S.C. 300ff-26(a)(2)(C)) is amended—

(A) in clause (i), by striking ‘‘estimated number of living cases of acquired immune deficiency syndrome’’ each place such term appears and inserting ‘‘number of living cases of HIV/AIDS’’; and

(B) in clause (ii), by amending such clause to read as follows:

[(i) a number equal to the sum of—

[(A) the total number of living cases of HIV/AIDS that are within areas in such State that are eligible areas under subpart I of part B for the fiscal year involved, which individually for each such number is the number that applies under section 2601 for the area for such fiscal year; and

(B) the total number of such cases that are within areas in such State that are tran-

sient areas under section 2609 for such fiscal year, which individual for each such number is the number that applies under such section for the fiscal year.].

(b) FORMULA AMENDMENTS GENERALLY.—Section 261(a)(2) of the Public Health Service Act (42 U.S.C. 300ff-26(a)(2)) is amended—

(1) in subparagraph (A), by striking ‘‘The amount referred to in the matter preceding clause (i) and all that follows thereof is the amount referred to in clause (i) and inserting the following: ‘‘For purposes of the amount referred to in this paragraph for a State (including a territory) for a fiscal year is subject to subparagraphs (E) and (F)’’;

(E) CODE-BASED STATES; LIMITATION ON FISCAL YEARS.—(i) By inserting after subparagraph (D) the following—

[(E) by adding at the end the following:

[(F) an amount equal to the amount made available under section 2623 for the fiscal year involved for grants pursuant to paragraph (1), subject to subparagraph (G); and

(ii) in clause (ii), by insertion ‘‘80’’ and inserting ‘‘0.76’’;

(B) by inserting ‘‘and’’ at the end;

(iii) in subparagraph (II), by inserting ‘‘non-EMA’’ after ‘‘respective’’;

and

(B) by striking the period and inserting ‘‘;’’ and

(iii) by adding at the end the following:

[(III) If the State does not for such fiscal year contain any area that is an eligible area for such fiscal year that is a transitional area under section 2609 (referred to in such paragraph as a ‘‘non-EMA State’’), the product of 0.05 and the ratio of the number of cases that applies for the State under subparagraph (D) to the sum of the respective numbers of cases that shall apply for all non-EMA States,];’’

(2) by striking subparagraphs (E) through (H);

(iii) by inserting after subparagraph (D) the following subparagraphs:

[(E) APPOINTMENT OF ADDITIONAL PERSONS AND LIMITATION ON INCREASE IN GRANT.—

[(i) IN GENERAL.—For each of the fiscal years 2007 through 2010, if code-based reporting (within the meaning of subparagraph (D)(v)) applies in a State as of the beginning of the fiscal year involved, then notwith-

standing any other provision of this para-

graph, the amount of the grant pursuant to paragraph (1) for the State may not for the fiscal year involved exceed by more than 5 percent the amount of the grant pursuant to paragraph (1) for the State for the pre-

ceding fiscal year, except that the limitation under this clause may not result in a grant pursuant to paragraph (1) for a fiscal year in an amount that applies to the State under such paragraph for such fiscal year.

(iv) USE OF AMOUNTS INVOLVED.—For each of the fiscal years 2007 through 2010, amounts available as a result of the limitation under clause (i) shall be made available by the Secretary for the addition to the amounts pursuant to section 2620, subject to subparagraph (H).]

(F) SEVERITY OF NEED.—(I) FISCAL YEARS BEGINNING WITH 2011.—If, by January 1, 2010, the Secretary notifies the appropriate committees of Congress that the Secretary has developed a severity of need index, in accordance with clause (v), the pro-

visions of subparagraphs (A) through (E) shall not apply for fiscal year 2011 or any fiscal year thereafter, and the Secretary shall use the severity of need index (as defined in clause (iv)) for the determinations of the formula allocations, subject to the Congressional Review Act.

(ii) SUBSEQUENT FISCAL YEARS.—If, on or before any September 30, the Secretary notifies the appropriate committees of Congress that the Secretary has developed a severity of need index, in accordance with clause (v), for each succeeding fiscal year, the provisions of subparagraphs (A) through (D) shall apply for the subsequent fiscal year or any fiscal year thereafter, and the Secretary shall use the severity of need index (as defined in clause (iv)) for the determination of the formula allocations, subject to the Congressional Review Act.

(iv) DEFINITION OF SEVERITY OF NEED INDEX.—In this subparagraph, the term ‘‘se-

verity of need index’’ means the index of the relative needs of individuals within the State, as identified by a variety of different factors, and is a factor that is multiplied by the number of living cases of AIDS in the State, providing different weights to those cases based on their needs.

(v) REQUIREMENTS FOR SECRETARIAL NOTIFICATION.—When the Secretary notifies the appropriate committees of Congress that the Secretary has developed a severity of need index, the Secretary shall provide the following information:

(I) Methodology for and rationale behind developing the severity of need index, including information related to the field testing of the severity of need index.

(II) An independent contractor analysis of activities carried out under subclause (I).

(III) Expected changes in funding alloca-

tions given the application of the severity of need index and the elimination of the provi-

sions of subparagraphs (A) through (D).

(IV) Information regarding the process by which the Secretary received community input regarding the application and development of the severity of need index.

(V) Timeline and process for the imple-

mentation of the severity of need index to ensure that it is applied in the following fiscal year.

(VI) ANNUAL REPORTS.—Not later than 1 year after the date of the Secretary’s notification, the Ryan White HIV/AIDS Treatment Modernization Act of 2006, and annually thereafter until the Secretary notifies Congress that the Secre-

tary has developed an updated severity of need index in accordance with this subparagraph, the Secretary shall prepare and submit to the

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appropriate committees of Congress a report—

"(i) that updates progress toward having client level data;

(ii) that monitors the progress toward hav-
ing a severity of need index, including infor-
mation related to the methodology and proc-
ess for obtaining community input; and

(iii) that, if feasible, states whether the Sec-

(3) in paragraph (2) (as so redesignated)

(C) by redesignating subparagraphs (B) and

(B) by striking paragraphs (3) and (4) and

inserting paragraphs (2) and (3); and

(E) by adding at the end the following:

"(4) in paragraph (4) (as so redesignated)—

(A) by striking paragraph (6) and insert-
ing "(5)"; and

(B) by striking "(paragraphs (3) and (4))" and

inserting "(paragraphs (2) and (3))".

(f) REALLOCATION.—Any portion of a grant
made to a State under section 2611 for a fiscal year that has not been obligated as
required by paragraph (c) (as so redesignated), may not be considered administr-
tive expenses for purposes of the limitation established in subparagraph (A) of
paragraph (3).

(g) DEFINITIONS; OTHER TECHNICAL AMEND-
MENTS.—Section 2618(a) of the Public Health Service Act (42 U.S.C. 300ff-28(a)) is amended—

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

(B) by redesigning subsection (C) as subsection (B).
(4) in paragraph (2)(C)(1), by striking "or territory"; and
(5) by striking paragraph (3).

SEC. 201. ADDITIONAL AMENDMENTS TO SUBPART B.
(a) REFERENCES TO PART B.—Subpart I of part B of title XXVI of the Public Health Service Act (42 U.S.C. 300f-31 et seq.) is amended by—
(1) by redesignating section 2620 as section 2621; and
(2) by inserting after section 2619 the following:

"SEC. 2620. SUPPLEMENTAL GRANTS.
"(a) IN GENERAL.—For the purpose of providing services described in section 2612(a), the Secretary shall make grants to States to—
"(1) to determine the need for services as determined under section 2617(b); and
"(2) to make grants to States for the coordination of programs under this part.

(b) AMOUNT.—(1) The amount of a grant under subsection (a) shall be determined on the basis of—
"(A) the need for such services, as determined under section 2617(b);
"(B) the rate at which such programs have been implemented; and
"(C) the amount of the grant made pursuant to section 2618 to the State for the fiscal year to which the grant applies.

(c) LIMITATION ON APPROPRIATIONS.—Notwithstanding any other provision of law, the amount made available to a State pursuant to section 2618 for the fiscal year shall be equal to the product of—
"(1) the amount made available to the State for the fiscal year pursuant to section 2612(a) and
"(2) the ratio of the amount of the grant made to the State for the fiscal year pursuant to section 2612(a) to the amount made available to the State for the fiscal year pursuant to section 2618.

(d) APPLICABILITY OF GRANT AUTHORITY.—For purposes of this section, the term "emerging community" means a metropolitan area or region that has—
"(1) the amount available under section 2623(b)(1) for the fiscal year; and
"(2) a percentage equal to the ratio of the amount available under section 2623(b)(1) to the amount available for grants made in fiscal year 2002 for such area.

SEC. 202. TIMEFRAME FOR OBLIGATION AND EXPENDITURE OF GRANT FUNDS.
Subpart I of part B of title XXVI of the Public Health Service Act (42 U.S.C. 300f-31 et seq.), as amended by section 205, is further amended by adding at the end the following:

"SEC. 202. TIMEFRAME FOR OBLIGATION AND EXPENDITURE OF GRANT FUNDS.
"(a) OBLIGATION BY END OF GRANT YEAR.—Effective for fiscal year 2007 and subsequent fiscal years, each grant award made to a State for a fiscal year pursuant to section 2612(a)(1) or 2613(a)(2)(G), or under section 2620 or 2621, is available for obligation by the State through the end of the one-year period beginning on the date in such fiscal year on which funds from the award first become available to the State (referred to in this section as the "end date") and such funding necessary for determining that unobligated balance of the award, and shall require the State to return any amounts from such grants that have been disbursed to the State; and
"(2) the funds involved shall be made available by the Secretary as additional amounts for grants pursuant to section 2620 for the fiscal year in which the Secretary obtains the information necessary for determining that unobligated balance of the award is sufficient to meet the needs of the State and other States for which amounts are still available.

SEC. 203. EMERGING COMMUNITIES.
Subpart I of part B of title XXVI of the Public Health Service Act, as redesignated by section 205(1) of this Act, is amended—

SEC. 204. ADDITIONAL AMENDMENTS TO SUBPART B.
(a) REFERENCES TO PART B.—Subpart I of part B of title XXVI of the Public Health Service Act (42 U.S.C. 300f-31 et seq.) is amended—
"(1) by redesignating section 2618 as section 2621; and
"(2) by inserting after section 2619 the following:

"SEC. 2620. SUPPLEMENTAL GRANTS.
"(a) IN GENERAL.—For the purpose of providing services described in section 2612(a), the Secretary shall make grants to States to—
"(1) to determine the need for services as determined under section 2617(b); and
"(2) to make grants to States for the coordination of programs under this part.

(b) AMOUNT.—(1) The amount of a grant under subsection (a) shall be determined on the basis of—
"(A) the need for such services, as determined under section 2617(b);
"(B) the rate at which such programs have been implemented; and
"(C) the amount of the grant made pursuant to section 2618 to the State for the fiscal year to which the grant applies.

(c) LIMITATION ON APPROPRIATIONS.—Notwithstanding any other provision of law, the amount made available to a State pursuant to section 2618 for the fiscal year shall be equal to the product of—
"(1) the amount made available to the State for the fiscal year pursuant to section 2612(a) and
"(2) the ratio of the amount of the grant made to the State for the fiscal year pursuant to section 2612(a) to the amount made available to the State for the fiscal year pursuant to section 2618.

(d) APPLICABILITY OF GRANT AUTHORITY.—For purposes of this section, the term "emerging community" means a metropolitan area or region that has—
"(1) the amount available under section 2623(b)(1) for the fiscal year; and
"(2) a percentage equal to the ratio of the amount available under section 2623(b)(1) to the amount available for grants made in fiscal year 2002 for such area.

SEC. 205. SUPPLEMENTAL GRANTS ON BASIS OF DEMONSTRATED NEED.
Subpart I of part B of title XXVI of the Public Health Service Act (42 U.S.C. 300f-31 et seq.) is amended—

SEC. 206. EMERGING COMMUNITIES.
Subpart I of part B of title XXVI of the Public Health Service Act, as redesignated by section 205(1) of this Act, is amended—

SEC. 207. TIMEFRAME FOR OBLIGATION AND EXPENDITURE OF GRANT FUNDS.
Subpart I of part B of title XXVI of the Public Health Service Act (42 U.S.C. 300f-31 et seq.), as amended by section 205, is further amended by adding at the end the following:

"SEC. 202. TIMEFRAME FOR OBLIGATION AND EXPENDITURE OF GRANT FUNDS.
"(a) OBLIGATION BY END OF GRANT YEAR.—Effective for fiscal year 2007 and subsequent fiscal years, each grant award made to a State for a fiscal year pursuant to section 2612(a)(1) or 2613(a)(2)(G), or under section 2620 or 2621, is available for obligation by the State through the end of the one-year period beginning on the date in such fiscal year on which funds from the award first become available to the State (referred to in this section as the "end date") and such funding necessary for determining that unobligated balance of the award, and shall require the State to return any amounts from such grants that have been disbursed to the State; and
"(2) the funds involved shall be made available by the Secretary as additional amounts for grants pursuant to section 2620 for the fiscal year in which the Secretary obtains the information necessary for determining that unobligated balance of the award is sufficient to meet the needs of the State and other States for which amounts are still available.
SEC. 208. AUTHORIZATION OF APPROPRIATIONS;
SUBPART I OF PART B.

Subpart I of part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-21 et seq.), as amended by section 207, is further amended by adding at the end the following:

SEC. 2623. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—For the purpose of carrying out this subpart, there are authorized to be appropriated $1,195,500,000 for fiscal year 2007, $1,239,500,000 for fiscal year 2008, $1,280,000,000 for fiscal year 2009, and $1,361,700,000 for fiscal year 2011. Amounts appropriated under the preceding sentence for a fiscal year are available until expended by the Secretary until the end of the second succeeding fiscal year.

(b) RESERVATION OF AMOUNTS.—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary shall reserve $5,000,000 for grants under section 2621.

(2) SUPPLEMENTAL GRANTS.—

(A) In General.—Of the amount appropriated under subsection (a) for a fiscal year in excess of the 2006 adjusted amount, the Secretary shall reserve 1% for grants under section 2620, except that the availability of the reserved funds for such grants is subject to section 2618(a)(2)(H) as applied for such fiscal year, and nothing in this paragraph (1) or (2) affects the availability of funds under any other provision of law for such fiscal year.

(B) 2006 ADJUSTED AMOUNT.—For purposes of subparagraph (A), the term '2006 adjusted amount' means the amount appropriated for fiscal year 2006 under section 267(b)(2) (as such section was in effect for such fiscal year), excluding any amount appropriated for such year exclusively for carrying out section 2616 (and, accordingly, distributed under section 2616(a)(2)(H), as so in effect).

SEC. 209. EARLY DIAGNOSIS GRANT PROGRAM.

Section 2626 of the Public Health Service Act (42 U.S.C. 300ff-23) is amended to read as follows:

SEC. 2625. EARLY DIAGNOSIS GRANT PROGRAM.

(a) In General.—In the case of States whose laws or regulations are in accordance with subsection (b), the Secretary, acting through the Centers for Disease Control and Prevention, shall make grants to such States for the purposes described in subsection (c).

(b) DESCRIPTION OF GRANT PROGRAM.—For purposes of subsection (a), the laws or regulations of a State are in accordance with this section if the State's laws or regulations (including programs carried out pursuant to the discretion of State officials), both of the policies described in paragraph (1) are in effect, of which the policies described in paragraph (2) are in effect, as follows:

(1) (A) Voluntary opt-out testing of pregnant women.

(B) Universal testing of newborns.

(2) (A) Voluntary opt-out testing of clients at sexually transmitted disease clinics.

(B) Voluntary opt-out testing of clients at substance abuse treatment centers.

(c) USE OF FUNDS.—The grants under this section shall be used for implementing the policies described in paragraph (1).

(d) TREATMENT OF DRUG REBATES.—For purposes of this section, funds that applying rebates referred to in section 2616(g) may not be considered part of any grant award referred to in subsection (a).

SEC. 208. AUTHORIZATION OF APPROPRIATIONS;
SUBPART I OF PART B.
of the grant remaining after reserving amounts for purposes of paragraphs (3) and (5) of section 2664(g), use not less than 75 percent to provide core medical services that are necessary to grant if the Secretary determines that, within the service area of the applicant—

(ii) there are no waiting lists for AIDS Drug Assistance Program services under section 2616; and

(iii) core medical services are available to all individuals with HIV/AIDS identified and eligible under this title.

‘‘(B) Notification of Waiver Status.—When informing an applicant that a grant under subsection (a) is being made for a fiscal year, the Secretary shall inform the applicant whether a waiver under subparagraph (A) is in effect for the fiscal year.

‘‘(3) CORE MEDICAL SERVICES.—For purposes of this subsection, the term ‘core medical services’, with respect to an individual with HIV/AIDS (including the co-occurring conditions of the individual) means the following services:

(A) Outpatient and ambulatory health services.

(B) AIDS Drug Assistance Program treatments under section 2616.

(C) AIDS pharmaceutical assistance.

(D) Oral health care.

(E) Early intervention services described in subsection (e).

(F) Health insurance premium and cost sharing assistance for low-income individuals in accordance with section 2615.

(G) Home health care.

(H) Medical nutrition therapy.

(I) Hospice services.

(J) Home and community-based health services as defined under section 2614(c).

(K) Mental health services.

(L) Substance abuse outpatient care.

(M) Medical case management, including treatment referrals.

(d) SUPPORT SERVICES.—

(1) IN GENERAL.—For purposes of this section, the term ‘support services’ means services, including approval of the Secretary, that are necessary for individuals with HIV/AIDS to achieve their medical outcomes (such as respite care for persons caring for individuals with HIV/AIDS, outreach services, medical transportation, linguistic services, and referrals for health care and support services).

(2) DEFINITION OF MEDICAL OUTCOMES.—In this section, the term ‘medical outcomes’ means those outcomes affecting the HIV-related clinical status of an individual with HIV/AIDS.

(e) SPECIFICATION OF EARLY INTERVENTION SERVICES.—

(1) IN GENERAL.—The early intervention services referred to in this section are—

(A) counseling individuals with respect to HIV/AIDS in accordance with section 2662;

(B) testing individuals with respect to HIV/AIDS, including tests to confirm the presence of the disease, tests to diagnose the extent of the deficiency in the immune system, and tests to provide information on appropriate therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from HIV/AIDS;

(C) core medical services referred to in paragraph (2);

(D) other clinical and diagnostic services regarding HIV/AIDS, and periodic medical evaluations of individuals with HIV/AIDS; and

(E) providing the therapeutic measures described in subparagraph (B).

‘‘(2) Referral Services.—The services referred to in paragraph (1)(C) are referrals of individuals with HIV/AIDS to appropriate providers of health and support services, including, as appropriate—

(A) to entities receiving amounts under part A or B for the provision of such services; or

(B) to biomedical research facilities of institutions of higher education that offer experimental treatment for such disease, or to community-based organizations or other entities that provide such treatment; or

(C) to grantees under section 2671, in the case of a pregnant woman.

‘‘(3) REQUIREMENT OF AVAILABILITY OF ALL EARLY INTERVENTION SERVICES THROUGH EACH GRANTEE.—

‘‘(A) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that each of the early intervention services specified in paragraph (2) will be available through the grantee. With respect to compliance with such agreement by a grantee, the Secretary may expend the grant to provide the early intervention services directly, and may expend the grant to enter into agreements with public or nonprofit private or for-profit entities if such entities are the only available provider of quality HIV care in the area, under which the entities provide the services.

‘‘(B) OTHER REQUIREMENTS.—Grantees described in—

(i) subparagraphs (A), (D), (E), and (F) of section 2652(a)(1); and

(ii) subparagraphs (B) and (C) of section 2652(a)(1) shall expend at least 50 percent of the amount of such a grant to provide the services described in subparagraphs (A), (B), (D), and (E) of paragraph (1) directly and on-site; and

(iii) no other primary care services are rendered; and

(iv) subparagraphs (B) and (C) of section 2652(a)(1) shall ensure the availability of early intervention services through a system of linkages to community-based primary care providers, and to establish mechanisms for the referrals described in paragraph (1)(C), and for follow-up concerning such referrals.

(b) ADMINISTRATIVE EXPENSES; CLINICAL QUALITY MANAGEMENT PROGRAM.—

Section 2664(c) of the Public Health Service Act (42 U.S.C. 300ff–64(c)) is amended—

(1) in paragraph (1),—

(A) by striking subparagraph (A), by striking ‘‘HIV’’; and

(B) in subparagraph (B), by striking ‘‘HIV’’ and inserting ‘‘HIV/AIDS’’; and

(2) in paragraph (3),—

(A) by striking ‘‘or under served communities’’ and inserting ‘‘or under served populations’’.

SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

Section 2655 of the Public Health Service Act (42 U.S.C. 300ff–55) is amended by striking “$235,100,000 for fiscal year 2009, $243,800,000 for fiscal year 2010, and $252,800,000 for fiscal year 2011”, and inserting “$218,600,000 for fiscal year 2009, $226,700,000 for fiscal year 2010, and $235,100,000 for fiscal year 2011”.

SEC. 304. CONFIDENTIALITY AND INFORMED CONSENT.

Section 2651 of the Public Health Service Act (42 U.S.C. 300ff–61) is amended to read as follows:

‘‘SEC. 2651. CONFIDENTIALITY AND INFORMED CONSENT.

‘‘(a) CONFIDENTIALITY.—The Secretary may not make a grant under this part unless, in the case of any entity applying for a grant under section 2651, the entity agrees to ensure that information regarding the receipt of early intervention services pursuant to this grant is maintained confidentially in a manner not inconsistent with applicable law.

‘‘(b) INFORMED CONSENT.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, in testing an individual for HIV/AIDS, the applicant will test an individual only after the individual confirms that the decision of the individual with respect to undergoing such testing is voluntarily made.”

SEC. 305. PROVISION OF CERTAIN COUNSELING SERVICES.

Section 2653 of the Public Health Service Act (42 U.S.C. 300ff–62) is amended to read as follows:

‘‘SEC. 2653. PROVISION OF CERTAIN COUNSELING SERVICES.

‘‘(a) COUNSELING OF INDIVIDUALS WITH NEGATIVE TEST RESULTS.—The Secretary may..."
not make a grant under this part unless the applicant for the grant agrees that, if the results of testing conducted for HIV/AIDS indicate that an individual does not have such condition, the grant will provide the individual information, including—

(1) measures for prevention of, exposure to, and transmission of HIV/AIDS, hepatitis B, hepatitis C, and other sexually transmitted diseases;

(2) the accuracy and reliability of results of testing for HIV/AIDS, hepatitis B, and hepatitis C;

(3) the significance of the results of such testing, including the potential for developing AIDS, hepatitis B, or hepatitis C; and

(4) the appropriateness of further counseling, testing, and education of the individual regarding HIV/AIDS and other sexually transmitted diseases.

(5) If diagnosed with chronic hepatitis B or hepatitis C co-infection, the potential of developing hepatitis-related liver disease and its impact on HIV/AIDS; and

(6) information regarding the availability of hepatitis B vaccine and information about hepatitis treatments.

(b) Counseling of Individuals with Positive Test Results.—The Secretary may not make a grant under this part unless the applicant agrees that, if the results of testing for HIV/AIDS indicate that the individual has such condition, the applicant will provide to the individual appropriate counseling regarding the condition, including—

(1) information regarding—

(A) measures for prevention of, exposure to, and transmission of HIV/AIDS, hepatitis B, and hepatitis C;

(B) the accuracy and reliability of results of testing for HIV/AIDS, hepatitis B, and hepatitis C; and

(C) the significance of the results of such testing, including the potential for developing AIDS, hepatitis B, or hepatitis C;

(2) reviewing the appropriateness of further counseling, testing, and education of the individual regarding HIV/AIDS and other sexually transmitted diseases; and

(3) providing counseling—

(A) on the availability, through the applicant, of early intervention services;

(B) on the availability in the geographic area of health care, mental health care, and social support services, including providing referrals for such services, as appropriate;

(C) information regarding the benefits of locating and counseling any individual by whom the infected individual may have been exposed to HIV/AIDS, hepatitis B, or hepatitis C; and any individual whom the infected individual may have been exposed to HIV/AIDS, hepatitis B, or hepatitis C; and

(ii) that emphasizes it is the duty of infected individuals to disclose their infected status to their sexual partners and their partners in the sharing of hypodermic needles; that provides advice to infected individuals on how such disclosures can be made; and that emphasizes that it is the continuing duty of the individuals to avoid any behaviors that will expose others to HIV/AIDS, hepatitis B, or hepatitis C; and

(D) on the availability of the services of public health authorities with respect to locating and counseling any individual described in subparagraph (C);

(4) if diagnosed with chronic hepatitis B or hepatitis C co-infection, the potential of developing hepatitis-related liver disease and its impact on HIV/AIDS; and

(5) information regarding the availability of hepatitis B vaccine.

(c) Additional Requirements Regarding Appropriate Counseling.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, in counseling individuals with respect to HIV/AIDS, the applicant will ensure that the counseling is provided under conditions appropriate to the needs of individuals.

(1) Counseling of Emergency Response Employees.—The Secretary may not make a grant under this part to a State unless the State agrees that, if the State determines to be necessary to carry out this part, the grant will—

(A) in paragraph (1), by striking “and” and inserting a semicolon; and

(B) by adding at the end the following:

(2) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

(1) in paragraph (1), by striking “and” and inserting “and”;

(2) in subparagraph (B), by striking “and” and inserting “and”;

(3) by adding at the end the following:

(i) The applicant agrees to provide additional counseling to the individual regarding the process used to obtain community input into the design and implementation of activities related to such grant; and

(ii) The grantee agrees to report, for every 2 years, to the Lead State agency under section 2617(b)(4) audits, consistent with Office of Management and Budget circular A133, regarding the availability of this title and shall include necessary client-level data to complete unmet need calculations and Statewide coordinated statements of need prepared under section 2617(b)(4).

(c) Additional Requirements Regarding Appropriate Counseling.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, in counseling individuals with respect to HIV/AIDS, the applicant will ensure that the counseling is provided under conditions appropriate to the needs of the employees regarding the counseling.

(e) Rule of Construction Regarding Counseling Without Testing.—Agreements made pursuant to this subsection may not be construed to prohibit any grantee under this part from expending the grant for the purpose of providing counseling services described in this section to an individual who does not undergo testing for HIV/AIDS as a result of the grantee or the individual determining that such testing of the individual is not appropriate.

SEC. 206. GENERAL PROVISIONS.

(a) Applicability of Certain Requirements.—Section 2663 of the Public Health Service Act (42 U.S.C. 300ff-63) is amended by striking “(A) the accuracy and reliability of results of testing for HIV/AIDS, hepatitis B, and hepatitis C;” and inserting the following:

(1) the accuracy and reliability of results of testing for HIV/AIDS, hepatitis B, or hepatitis C; and

(2) the accuracy and reliability of results of testing for HIV/AIDS, hepatitis B, or hepatitis C.

(b) Additional Required Agreements.—Section 2664(a) of the Public Health Service Act (42 U.S.C. 300ff-64(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking “and” at the end; and

(B) in subparagraph (B), by striking “and” at the end; and

(C) by adding at the end the following:

(2) by adding the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

(1) makes provisions for the grantee to make a grant under this part unless the applicant provides an agreement that includes the following:

(i) The applicant will coordinate activities under the grant with other providers of health care services under this Act, and under title V of the Social Security Act, including programs promoting the reduction and elimination of risk of HIV/AIDS for youth.

(2) The applicant will participate in the statewide coordinated statement of need under part B (which has been initiated by the public health agency responsible for administration under part B) and in revisions of such statement.

(3) The applicant will every 2 years submit to the lead State agency under section 2617(b)(4) audits regarding the expenditures of the grantee in accordance with this title and shall include necessary client-level data to complete unmet need calculations and Statewide coordinated statements of need prepared under section 2617(b)(4).

(4) The proposal of information and education on opportunities to participate in HIV/AIDS-related clinical research.

(c) Coordination With Other Entities.—A grant awarded under subsection (a) may be made only if the applicant provides an agreement that includes the following:

(i) The applicant will coordinate activities under the grant with other providers of health care services under this Act, and under title V of the Social Security Act, including programs promoting the reduction and elimination of risk of HIV/AIDS for youth.

(2) The applicant will participate in the statewide coordinated statement of need under part B (which has been initiated by the public health agency responsible for administration under part B) and in revisions of such statement.

(3) The applicant will every 2 years submit to the lead State agency under section 2617(b)(4) audits regarding the expenditures of the grantee in accordance with this title and shall include necessary client-level data to complete unmet need calculations and Statewide coordinated statements of need prepared under section 2617(b)(4).

(4) Administrative, Application.—A grant may only be awarded to an entity under subsection (a) if an application for the grant is submitted to the Secretary and the application is in such form, is in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section. Such application shall include the following:

(1) Information regarding how the expected expenditures of the grant are related to the planning process for localities funded under part A (including the planning process described in section 2622) and for States funded under part B (including the planning process described in section 2617(b)); and

(2) a specification of the expected expenditures and expenditures will improve overall client outcomes, as described in the State plan under section 2617(b)(4).

(2) In paragraph (2), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

(1) the applicant agrees to provide additional counseling to the individual regarding the process used to obtain community input into the design and implement-
"(1) REVIEW REGARDING ACCESS TO AND PARTICIPATION IN PROGRAMS.—With respect to a grant under subsection (a) for an entity for a fiscal year, the Secretary shall, not later than the close of such fiscal year, provide for the conduct and completion of a review of the operation during the year of the program carried out under such subsection (a). The purpose of such review shall be the development of recommendations, as appropriate, for improvements in the following:

(A) administration by the entity to allocate opportunities and services under subsection (a) among patients of the entity who are women, infants, children, or youth.

(B) policies of the entity regarding the participation of such individuals in such program.

(2) EVALUATIONS.—The Secretary shall, directly or through contracts with public and private entities, provide for evaluations of programs carried out pursuant to subsection (a).

(3) ADMINISTRATIVE EXPENSES.—

(1) LIMITATION.—A grantee may not use more than 10 percent of amounts received under a grant awarded under this section for administrative expenses.

(2) CLINICAL QUALITY MANAGEMENT PROGRAM.—A grantee under this section shall implement clinical quality management program to assure the extent to which HIV health services provided to patients under the grant are consistent with the most recent clinical guidelines for treatment of HIV/AIDS and related opportunistic infection, and as applicable, to develop strategies for ensuring that such services are consistent with the guidelines for improvement in the access to and quality of HIV health services.

(4) TRAINING AND TECHNICAL ASSISTANCE.—In this section:

(A) an emergency or disaster declared by the President pursuant to the National Emergencies Act or the Robert T. Stafford Disaster Relief and Emergency Assistance Act; or

(B) a public health emergency declared by the Secretary pursuant to section 319.

(c) UNOBLIGATED FUNDS.—If funds under a grant under this section are not expended for an emergency in the fiscal year in which the emergency is declared, such funds shall be returned to the Secretary for reallocation under sections 2620(b) and 2620.

SEC. 2684. PROHIBITION ON PROMOTION OF CERTAIN ACTIVITIES.

None of the funds appropriated under this title shall be used to promote AIDS programs, or to develop materials, designs, brochures or other materials to encourage, directly, intravenous drug use or sexual activity, whether homosexual or heterosexual. Funds authorized under this title may be used to promote and support services for individuals with HIV.

SEC. 2685. PRIVACY PROTECTIONS.

(a) IN GENERAL.—The Secretary shall ensure that any information submitted to, or collected by, the Secretary under this title excludes any personally identifiable information.

(b) DEFINITION.—In this section, the term ‘personally identifiable information’ has the meaning given such term under the regulations promulgated under section 1881 of the Health Insurance Portability and Accountability Act of 1996.

SEC. 2686. GAQ REPORT.

The Comptroller General of the Government Accountability Office shall biennially submit to the appropriate committees of Congress a report that includes a description of the operation, State, and local barriers to HIV program integration, particularly for racial and ethnic minorities, including activities carried out under subpart III of part F, and recommendations for enhancing the continuity of care and the provision of prevention services for individuals with HIV/AIDS.
or those at risk for such disease. Such report shall include a demonstration of the manner in which funds under this subpart are being expended and to what extent the services provided are increasing access to prevention and care services for individuals with HIV/AIDS and build stronger community linkages to address HIV prevention and care for racial and ethnic minority communities.

"SEC. 2687. DEFINITIONS.

(1) AIDS.—The term ‘AIDS’ means acquired immune deficiency syndrome.

(2) CO-OCCURRING CONDITIONS.—The term ‘co-occurring conditions’ means one or more additional conditions in an individual with HIV/AIDS, without regard to whether the individual has AIDS and without regard to whether the conditions arise from HIV.

(3) COUNSELING.—The term ‘counseling’ means such counseling provided by an individual trained to provide such counseling.

(4) FAMILY-CENTERED CARE.—The term ‘family-centered care’ means the system of services described in this title that is targeted specifically to the special needs of infants, children, women and families. Family-centered care shall be based on a partnership between parents, professionals, and the community designed to ensure an integrated, coordinated, culturally sensitive, and community-based system of care for children, women, and families with HIV/AIDS.

(5) FAMILIES WITH HIV/AIDS.—The term ‘families with HIV/AIDS’ means families in which one or more members have HIV/AIDS.

(6) HIV.—The term ‘HIV’ means infection with the human immunodeficiency virus.

(7) HIV/AIDS.—(A) In general.—The term ‘HIV/AIDS’ means HIV, and includes AIDS and any condition arising from AIDS.

(B) COUNTING OF CASES.—The term ‘lives’ of individuals with HIV/AIDS, with respect to the counting of cases in a geographic area during a period of time, means the sum of—

(i) the number of living non-AIDS cases of HIV in the area; and

(ii) the number of living AIDS cases in the area.

(C) NON-AIDS CASES.—The term ‘non-AIDS cases’ means a case of HIV to a case of HIV, means that the individual involved has HIV but does not have AIDS.

(D) HUMAN IMMUNODEFICIENCY VIRUS.—The term ‘human immunodeficiency virus’ means the etiologic agent for AIDS.

(E) OFFICIAL POVERTY LINE.—The term ‘official poverty line’ means the poverty line established by the Secretary of the Department of Health and Human Services in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

(F) PERSON.—The term ‘person’ includes one or more individuals, governments (including the Federal Government and the government of any State, territory, or other political subdivision, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, and any unincorporated organization) of the United States.

(G) STATE.—’(A) In general.—The term ‘State’ means each of the 50 States, the District of Columbia, and each of the territories.

(B) TERRITORY.—The term ‘territory’ means each of American Samoa, Guam, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, the Republic of Palau, and the Marshall Islands, the Federated States of Micronesia, and Palau.

"SEC. 2688. AIDS EDUCATION AND TRAINING.

(A) AMENDMENTS REGARDING SCHOOLS AND CENTERS.—Section 2692(a)(2) of the Public Health Service Act (42 U.S.C. 300ff–111(a)(2)) is amended—

(i) in subparagraph (A)—

(A) by inserting ‘‘and Native Americans’’ after ‘‘minority individuals’’; and

(B) by striking ‘‘and’’ at the end;

(ii) in subparagraph (B), by striking the period and inserting ‘‘; and’’; and

(iii) by adding at the end the following:

(C) train or result in the training of health professionals and allied health professionals to provide treatment for hepatitis B or co-infected individuals;

(b) AUTHORIZATIONS OF APPROPRIATIONS FOR SCHOOLS, CENTERS, AND DENTAL PROGRAMS.—Section 2692(c) of the Public Health Service Act (42 U.S.C. 300ff–111(c)) is amended to read as follows:

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) SCHOOLS; CENTERS.—For the purpose of awarding grants under subsection (b), there is authorized to be appropriated $34,700,000 for each of the fiscal years 2007 through 2011.

(2) CERTAIN ACTIVITIES.—

(a) IN GENERAL.—For the purpose of carrying out activities under this section to evaluate and address the disproportionate impact of HIV/AIDS on, and the disparities in access, treatment, care, and outcomes for, racial and ethnic minorities (including African Americans, American Indians, Asian Americans, Native Hawaiians, and Pacific Islanders), there are appropriated $131,200,000 for each of the fiscal years 2007, 2008, and 2009.

(b) ALLOCATIONS AMONG ACTIVITIES.—

(1) SCHOOLS; CENTERS.—(A) Emergency assistance under part A; (B) care grants under part B; (C) early intervention services under part C; (D) services through projects for HIV-related care under part D; and (E) activities through education and training centers under part E.

(ii) Allocations among activities.—Activities under paragraph (1) shall be carried out by the Secretary in accordance with the following:

(A) For competitive, supplemental grants to improve HIV-related health outcomes for reducing existing racial and ethnic health disparities, the Secretary shall, of the amount appropriated under subsection (a) for a fiscal year, reserve the following, as applicable:

(i) For fiscal year 2007, $13,800,000.

(ii) For fiscal year 2008, $14,000,000.

(iii) For fiscal year 2009, $14,000,000.

(iv) For fiscal year 2010, $14,000,000.

(v) For fiscal year 2011, $20,000,000.

(B) For competitive grants used for supplemental support education and outreach services to increase the number of eligible racial and ethnic minorities who have access to care through the grant program, the Secretary may provide for peer-based technical assistance for grantees funded under this part.

SEC. 2689. AIDS EDUCATION AND TRAINING CENTERS.

(A) AMENDMENTS REGARDING SCHOOLS AND CENTERS.—Section 2692(a)(2) of the Public Health Service Act (42 U.S.C. 300ff–111(a)(2)) is amended—

(i) in subparagraph (A)—

(A) by inserting ‘‘and Native Americans’’ after ‘‘minority individuals’’; and

(B) by striking ‘‘and’’ at the end;

(ii) in subparagraph (B), by striking the period and inserting ‘‘; and’’; and

(iii) by adding at the end the following:

(C) train or result in the training of health professionals and allied health professionals to provide treatment for hepatitis B or co-infected individuals;
The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. DEAL of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 6143, the Ryan White HIV/AIDS Treatment Modernization Act of 2006, because I believe that we must reform the unacceptable status quo for the benefit of those suffering from HIV/AIDS across our great Nation.

As my colleagues are aware, the Ryan White CARE Act was first authorized in 1990 and was reauthorized in 1996 and 2000. And although the legislative authority expired on September 30, 2005, the program continues to operate at its current funding level. The outcomes and treatments for HIV and AIDS have changed over the years, and so have the needs of those who suffer from this disease. For example, persons with HIV now live longer due to advances in drug therapies.

However, many patients are on waiting lists for these life-saving drugs, because Ryan White funds are being spent on other needs. These include services not covered for Medicare or Medicaid beneficiaries, including buddy and companion services, dog walking, therapeutic touching, and housing assistance.

Dog walking? Therapeutic touching? Is this what the Federal Government really wants to pay for? The Ryan White CARE Act program is designed to provide needed medical services to people suffering from HIV/AIDS. If we do not pass this bill, the status quo will remain.

The AIDS Drug Assistance Program, ADAP, provides needed life-saving therapies to those suffering from HIV/AIDS. These are crucial medications that extend our patients' lifetimes. Next year, funds to supplement States' ADAP spending will be used for hold-harmless payments based on an old, inaccurate case count. Patients will not receive needed drug therapies if the status quo remains. Currently, there is a 50 percent difference in funding for AIDS cases for some areas of the country over other areas due to outdated formulas.

Some States cannot find enough doctors to write prescriptions for needed medications, while others are paying for buddy and companion services. If we do not pass this legislation, the status quo will remain.

Mr. Speaker, the status quo to me is unacceptable, and I think it is unacceptable to the taxpayers, and it is unacceptable to those suffering from HIV/HIV/AIDS.

Mr. Speaker, I urge my colleagues to support this needed and timely legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, it is with great regret that I rise in opposition to this bill. Unlike previous reauthorizations of the Ryan White CARE Act, I believe the legislation before us has the potential to do great harm to systems of care across the country and place HIV/AIDS patients at risk.

In my home State of New Jersey, for example, we have tremendous need for CARE Act dollars. We have the highest proportion of cumulative AIDS cases in women. We rank third in cumulative AIDS cases, and we are number one in cumulative AIDS cases.

Ever since then, we have remained at the forefront of this battle working hard to provide the medical and support services HIV/AIDS patients need to live longer.

But that will all change if this bill is enacted. This bill will punish States like New Jersey for keeping people alive and preventing new infections. It sets up a very perverse disincentive. It says to States: you will be penalized for doing a good job. This is not the message that Washington should be sending back home.

Mr. Speaker, there are a number of reasons why this bill is flawed. The most obvious is that it is woefully underfunded. As a result, it sets up a situation of winners and losers. This bill pits AIDS against HIV, urban centers against rural communities. This is not how you treat a public health emergency.

If Republicans would stop draining the Treasury to help pay for the tax cuts, we would have the resources necessary to adequately address this epidemic. Ultimately this bill is flawed, Mr. Speaker. It has no business being considered in the waning days of the session on this Suspension Calendar.

Mr. Speaker, it needs to be fixed so that every State has the resources to treat their HIV/AIDS patients. I urge my colleagues to oppose this bill. Instead, let’s pass a temporary reauthorization that holds every State harmless so that we can work out these problems.

Mr. Speaker, I reserve the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield 4 minutes to the gentlewoman from California (Mrs. Bono), the original sponsor of this legislation.

Mrs. BONO. Mr. Speaker, I rise today in strong support of the Ryan White HIV/AIDS Treatment Modernization Act. Its consideration on the floor today is testament to the bipartisan nature of this legislation.

HIV/AIDS is a disease that has virtually touched all of us in all parts of our great Nation. Since its inception, the purpose of the Ryan White CARE Act has been to provide care.

As we discuss this specifics of this legislation, and the more technical aspects of the funding formulas, it is my
Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. WAXMAN), who has been a leader on this Ryan White CARE Act from the very beginning.

Mr. WAXMAN. Mr. Speaker, I rise in very relevant opposition to this Ryan White HIV/AIDS Treatment Modernization Act of 2006.

I was the original sponsor of the legislation, and I have been a long-time supporter of it, but I think we find ourselves in a tragic situation today because the basis of the problem is that the population of those needing services has grown, but the funds for the Ryan White program have not grown with it. This program is chronically underfunded.

Well, that means if we want to give to some people who are very deserving, we are going to have to take it from others who are very deserving. This should not be the choice of the body in Congress today.

I recognize that a failure to pass the legislation could put many States, like my own, that have been collecting HIV data by code, at a severe risk of a loss of funding. Obviously, this is a situation in which we wish we did not find ourselves in, but if we adopt this bill we are agreeing to a long-term system of the default States which must now begin to implement a whole new system for finding and reporting persons with HIV.

The bill favors States and cities that collected HIV data by name over those that collected it by code; and, as a result, many areas of the country will see drastic losses of funding. This is unfair.

Large and diverse code-based States, like California, would have to start from scratch, converting their approximately 40,000 code-based cases of HIV to names, and under California law, these cases cannot simply be retalled under a new names-based system. The State would have to contact 40,000 individuals, do not think California will be able to get all of those individuals entered into the names-based system in 3 years.

So I cannot support legislation that would take critical dollars away from California simply because its data system is incomplete. We will have the same number of persons with HIV needing services. They should not lose needed services because of an unrealistic data requirement.

I would support this bill. I would support it if this problem could be addressed, and I am hopeful that when this bill gets to the Senate and there are further deliberations we can get a better bill. I do not want to see no bill pass, particularly with the threat that we are hearing from the administration that they are going to penalize the code-based States, but I do not want to vote for a bill that I do not think is a good enough bill.

The Ryan White program has had a long history of bipartisan support. It did not pit interests of one area of the country against another. It did not ask cities and States to give up critical funds to treat people in their areas. Ultimately, we must find the will to direct the necessary dollars to this problem. People who continue to suffer from this epidemic deserve no less.

Mr. Speaker, I have to be reluctant and vote “no” and hope that we can get a better bill when this legislation passes the House and there are further deliberations with the Senate.

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that I be permitted to revise and extend my remarks.

Mr. BARTON of Texas. Mr. Speaker, I rise in support of H.R. 6143, the Ryan White HIV/AIDS Treatment Modernization Act of 2006. This legislation was introduced by Congresswoman BONO. It is the product of a year of bipartisan, bicameral negotiations. The bill reauthorizes and redefines the Ryan White program, the Federal Government’s largest discretionary grant program specifically designed for people with HIV/AIDS.

We know that HIV/AIDS disproportionately affects people in poverty and racial/ethnic populations who are underserved by health care and prevention systems. We know that the most likely users of Ryan White services are persons with no or limited sources of health care. We know that Ryan White services keeps these people out of hospitals, increases their access to health care and improves their quality of life.

Here is what we also know about the current Ryan White program. We know that due to outdated, hold-harmless and double-counting provisions in the current law persons are not treated similarly across this country. We know that, under the current formula, there is a 50 percent difference in funding per AIDS case for some areas of the country over other areas of the country who get no increase or little increase at all. We know that sometimes this huge inequity occurs within the same State. We know that one city in particular is greatly advantaged by an outdated, hold-harmless formula, one that may allow even for deceased persons, someone who is no longer living, counted for current funding purposes. I do not think anyone would think that is right. In fact, I would say that is not right.

The Ryan White program was established to be the payor of last resort for
needed medical services for those suffering from HIV/AIDS. Then and now, that is a noble cause and one worth supporting. However, we know that in many States, including my own State of Texas, Ryan White dollars, Federal taxpayer dollars, are being used for nonphilanthropy. Where do these services go? For example, buddy/companion services, child care services, housing, transportation and many other types of services similar to these are being provided with Ryan White dollars. While some of these services may, arguably, be necessary to get people to health care and keep people in health care, others are misuses of Ryan White dollars under the current formula and need to be fixed.

The use of Ryan White funds for such services should be put into check. We should be asking the question, why are there waiting lists in some parts of the country to get lifesaving drugs? And why in some parts of the country are there two physicians to even write prescriptions for these lifesaving drugs? Again, this is just not right. It is not fair.

The bill before us would begin to right those wrongs. The bill before us would force people across the country in a fair and equitable fashion so that, no matter where you live, if you are eligible for Ryan White assistance, you will get access to health care, you will get access to treatment, you will get access to drugs.

This bill requires cities, States and providers to start making the right decisions when it comes to how to spend their Ryan White dollars by requiring that they spend at least 75 percent on core medical services. HIV/AIDS is, first and foremost, a medical condition and providing medical care should be the primary focus of the Federal bill. I know that both the amendment in the other body for Senator Enzi in the other body for their hard work on this consensus bill to reauthorize the program.

At the staff level, I want to thank John Ford on the minority staff and Melissa Bartlett on the majority staff for their hard work in dedicating themselves during the last several months and the last year to produce the legislation that is before us today.

Finally, I want to thank the Legislative Counsel’s office and, in particular, Pete Goodloe. He has worked very, very hard on this.

It is critical that we act today in a positive fashion so that we can prevent the cuts that go into effect 3 days from today.

The bill before us passed the Energy and Commerce Committee on a 38-10 margin last week. If it passes this body under suspension, it will go to the other body, and we will work very hard to get it passed over there in the next 2 days. Because it is on suspension, it takes a two-thirds vote, which, if everyone is present and voting, we will need 291 Members to vote in favor of reauthorization of the Ryan White HIV/AIDS Act. I hope we get that vote later this afternoon.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL asked and was given permission to revise and extend his remarks.

Mr. ENGEL. Mr. Speaker, I thank my friend from New Jersey for yielding to me; and, first of all, Mr. Speaker, I want to express my extreme displeasure that this bill comes here today. This bill will save more than $2 billion in this bill and we have 40 minutes to debate it. This is not a bill that should be under a suspension calendar. This is a bill that should have full and open debate among the Congress with not a 40-minute time limit. That was.

This is not a consensus bill. This is a contentious bill, and many of us are very, very upset. We are upset about the bill, and we are upset at the manner that this leadership brings this bill to the House floor.

This bill will destabilize established systems and care and will have a devastating effect on the ability of high-prevalent communities to address need; and, unfortunately, as home to 17 percent, which is one-sixth of the Nation’s AIDS population, New York is just so upset that this bill has come out the way it has. This is profoundly important to our State. That is why all 29 Members of the New York delegation, Democrats and Republicans alike, have signed a letter opposing this bill and pledging to vote against the bill.

New York remains the epicenter of the HIV/AIDS crisis, leading the Nation with the most persons living with HIV/AIDS and number of new cases of HIV/AIDS each year.

But what does this bill do? It has been estimated that New York State stands to lose more than $78 million in the first 4 years of the reauthorization. New York City will likely lose $17 million in the first year alone.

This bill will result in deep cuts in medications and services for people living with HIV/AIDS throughout the State.

It reminds me of homeland security. Sometimes we need to use a little common sense. Homeland security, everyone knows, unfortunately, that New York City remains the number one terrorist target and Washington number two. So what did we have when we had the Department of Homeland Security come up with its budget? New York City by 30 percent and cut Washington by 30 percent. The two biggest terrorist threats. That made no sense at all.

What happens here? New York City remains the epicenter of the AIDS epidemic, and what does this bill do? It cuts $78 million for New York and $17 million for New York City. It is shameful and disgraceful.

And despite what some may say, the HIV/AIDS epidemic has not shifted. It has expanded. One-half of all people living with AIDS reside in five States: New York, New Jersey, Florida, Texas, and California. Three of these States, New York, New Jersey and Florida, will face devastating losses under this reauthorization.

There is no question that other States have mounting epidemics and they are absolutely entitled and deserving of more funding. A good Ryan White bill would have ensured that every State had enough money to meet their needs; that every State would be held harmless; that every State would not be a winner or a loser, but that every State would have the resources needed to combat the scourge of AIDS.

Mr. Speaker, the Committee on Appropriations has moved to increase funding for the bill with Mr. Towns, Ms. Eshoo, and Mrs. Capp. It failed on essentially a party-line vote. So I strongly urge my colleagues to vote against this bill.

Where are our spending priorities? We continue to pass irresponsible tax cuts in a time of war, and yet shortchange cities and states who are just trying to provide lifesaving services. We’re truly talking about life and death
here, and it is shameful that we are pitiless states against each other for scarce funding.

Compounding the funding problem is that a proposed Severity of Need Index, expected to be implemented in this reauthorization, may consider state and local resources in determining how much federal funding to grant to states.

This is not the right message to send to NY that has more HIV/AIDS cases than any other state in the nation and spends more of its state funds for HIV/AIDS patients than any other state in the nation. We have always viewed caring for our HIV/AIDS patients as a partnership between the local, state and federal governments. The Severity of Need Index is a powerful disincentive for states and local areas to take action.

It is with great sadness that I will vote against this bill today. But NY needs to make sure that we can keep helping the nearly 110,000 people living in our state with HIV/AIDS.

We act as if we are not talking about human beings. New York State would lose $17 million. And, of course, the Governor of the State has said he is against the bill and the mayor of the city indicated that he is against the bill. And every Member of the New York State delegation, New York City delegation has indicated that they are actually against this legislation.

I don’t understand why we have to rush this and put this kind of bill on suspension. It seems to me that this is the kind of bill that would give people an opportunity to amend it and make it as strong as possible, because we are talking about lives. So the reauthorization does not have to be brought up this kind of way.

And let us be candid, Brooklyn itself would lose approximately $3 million, and that is the epicenter of the disease. So I don’t understand why we can’t take our time and provide help for the people that truly need help. Of course I am against this bill in every way, and I am hoping that my colleagues understand that we can do a much better job and that we need to do a much better job. What we have to do now is to defeat it and then let us go back and try to come up with a bill that is going to improve the quality of life for people that need it. I hope the Members of this body will understand that.

These States that are losing, and there are quite a few of them, I think that we need to do something about it and improve the quality of life for the people that need it. I urge my colleagues to vote “no” on this bill.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Ms. KELLY).

Mr. KELLY. Mr. Speaker, I rise in strong support of the Ryan White CARE Act and the great care that it offers for those suffering from HIV/AIDS. But today I reluctantly rise in opposition to the reauthorization because it contains flawed provisions with harsh and negative effects for New York’s Hudson Valley and New York State.

I represent Dutchess County, New York, and the eligible metropolitan area in that county. If this bill is passed, Dutchess County would lose up to 5 percent the first year, and then incrementally more in the second and third year. And by the fourth year, all funds for title I would be eliminated for Dutchess.

Title I money goes for support and services for people living with HIV/AIDS. The patients benefiting from these services simply will not get their needed medication because the program won’t exist. If the funds to Dutchess County disappear, there is absolutely nowhere near where the HIV/AIDS patients would be able to go for support, services, and medication because the entire State is suffering from the cuts for New York that this bill calls for.

This means over 1,600 people in Dutchess County alone will lose out with the passage of the Ryan White CARE Act in its current form. This is unacceptable, and that is why I reluctantly ask that you vote against H.R. 6143 at this time. This legislation should be brought up under regular order so that amendments can be offered.

And while I strongly support the Ryan White Act, the HIV/AIDS problem is a problem that requires resources to fight. While we recognize the need to direct attention to those communities where this is an emerging problem, we must need to recognize the need of the places that need it the most. People in my district and the people of New York need these lifesaving funds. Please don’t take away from them. Vote against H.R. 6143.

Mr. PALLONE. Mr. Speaker, I yield to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I am not reluctant to vote against this bill. I voted against it in committee because it is not the right measure we should be approving today. In fact, I supported some of our alternative amendments that were presented by folks on our side of the aisle. For my community, this is devastating. We see an increase in communities like East Los Angeles, the hub of the Hispanic community in the San Gabriel Valley, that fought over 20 years to combat this disease, yet it is now declining, we must take away very important funding and reappropriate it to other parts of the country.

We need to expand the pie. We need to make sure people are covered everywhere. And I am glad to hear from my colleagues that while we know that this is not a good solution, but we are really working toward a deadline of October 1, we should hold off, make some rational decisions, and when we come back, we will do the right thing for those afflicted by this disease.

I am very concerned, because a large number of Latinas, almost 20 to 25 percent, are now faced with this disease, and it is through heterosexual relationships. We have yet to understand what the cultural dichotomies are that exist in our communities. We have to understand that, get information tools out there, a campaign to combat this disease, and put all the resources that are necessary for there.

I am glad that we were able to get some semblance of these concepts in the bill, but it is still not good enough. Places like Los Angeles and San Francisco and other epicenters that we heard of in New York and Miami, they are affected. Our communities need this funding.

So I just want to say to my colleagues that don’t know much about this, because it is on suspension, take a very close look at what is going on in your district. All of my groups, the minority groups that I represent, are saying that they also are urging us to vote “no” on this bill.
The reauthorization of the Ryan White CARE Act has enormous implications for people living with HIV and AIDS, and the communities providing related health services.

The communities I represent in East Los Angeles and the San Gabriel Valley have fought this disease since its onset over 20 years ago.

Los Angeles is an epicenter of the HIV and AIDS epidemic, with between 50,000 and 60,000 persons living with HIV/AIDS.

As the epidemic grows, communities of color are disproportionately at risk.

Although only 14 percent of the U.S. population, Latinos constitute almost 20 percent of the AIDS cases diagnosed since the start of the epidemic.

I am proud of the work that has been accomplished to codify the Minority AIDS Initiative in this reauthorization, a priority of the TriCaucus.

I am pleased that the committee agreed to report language recognizing the importance of language services to persons with limited English proficiency at risk of and living with HIV and AIDS.

However, I cannot support this legislation.

We are being pushed to vote on this legislation because of an arbitrary October 1 deadline.

We could move to extend this deadline and create better, sounder policy, as my good friend Mr. PALLONE has suggested, but instead we are being pushed to vote on legislation that risks too much for the health of too many.

This bill considers language services a support service, when in reality, for many racial and ethnic minorities, language services are necessary to ensure proper HIV/AIDS related health care.

This bill also bases future funding levels on questionable runs and conflicting data.

I believe that, while we need to address the increasing incidence of HIV and AIDS in the south and rural areas, we must do this without risking those communities such as mine which have historically had large populations and which continue to struggle.

The position we are in today is not enviable, but we have an opportunity to work through the needs of our States and communities by rejecting the arbitrary deadlines.

I am rejecting this risky bill and encouraging my colleagues to join with me. Let's give our suffering communities a better policy for a brighter, healthier future.

Mr. BARTON of Texas, Mr. Speaker, may I inquire as to the time remaining.

The SPEAKER pro tempore. The gentleman from Texas has 4 1/2 minutes remaining.

Mr. BARTON of Texas. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I want to put into the RECORD a letter dated September 19, 2006, from the County of Los Angeles signed by Reginald Todd, the Chief Legislative Representative for that county to Congresswoman BONO, where he states strong support of the current bill before us, and I want to read one sentence from this letter:

"The County understands that absent this legislation the Health Resources and Services Administration will count only HIV cases for States with mature named-based HIV reporting systems in allocating Federal fiscal year 2007 Ryan White CARE Act funds. This would have a devastating fiscal impact on California and the County of Los Angeles. The proposed CARE Act reauthorization legislation would allow states, such as California, which have converted or are converting to a names-based HIV reporting system to use the data collected through their code-based HIV reporting systems. As you know, this is extremely important for California and Los Angeles County, which is the nation's second most HIV/AIDS impacted local jurisdiction. As you know, the Centers for Disease Control and Prevention (CDC) currently does not count California's HIV cases, as it does not consider the State's name-based HIV reporting system to be mature. While hard work lies ahead for California to fully implement its names-based HIV reporting system, we are confident that this provision in the legislation will ensure that we protect existing systems of care for its residents who live with HIV and AIDS."

The County understands that, absent this legislation, the Health Resources and Services Administration (HRSA) will count only HIV cases for states with mature name-based HIV reporting systems in allocating Federal Fiscal Year 2007 Ryan White CARE Act funds. This would have a devastating fiscal impact on California and the County.

The proposed CARE Act reauthorization legislation would allow a state to count, in addition to named-based cases, also what are called code-based cases, where individuals still have to be counted, but they are not collectively sent to HHS.

Mr. PALLONE. Mr. Speaker, I yield 2 minutes to the gentleman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I thank the gentleman from New Jersey for the time.

Mr. Speaker, I came to this floor really intending to support this bill. But, you know, I am not going to do it. I am not going to support this bill. It is not worth the paper it is written on.

Here we are fighting with each other, people from New York and California and places fighting with people from the South because we have a piece of legislation that is pitting us against each other instead of funding what needs to be funded with HIV and AIDS.

Over 1 million people in the United States have HIV/AIDS. African Americans are only 13 percent of the population, but we account for a half of all the new AIDS cases. African American women represent 71 percent of the new AIDS cases among African Americans, and African American teenagers represent 66 percent of the new AIDS cases among teenagers.

The Congressional Black Caucus has been struggling and working, and I have been working on this for 15 years. We are spending $2 billion a week in Iraq. We only need $1 billion more to fund all of these programs adequately. What are we doing? Let's not play with this. Don't accept this. Don't pit yourself against your friends and your colleagues. Tear it up. It is not worth the paper it is written on. Vote "no" on this bill. Throw it out and let's start all over again next year.

I am with my friends from New York. I am with the Southern Democrats and let's not be scrambling over pennies. People are dying. And don't tell me we don't have the resources to deal with it. Even if you didn't spend $2 billion a week in Afghanistan, in Iraq, we would be able to fund this adequately.

Somebody does not care that Americans are dying. Somebody doesn't give a darn that it is decimating black populations. Let's stop playing the game. Let's stop it today. Stop this bill. Don't think you're so desperate you have to vote for anything in order to get a little something. Throw it out. It's not worth it.

Mr. BARTON of Texas. Mr. Speaker, I yield myself 30 seconds.

I appreciate the gentlewoman's passion, but I just want to point out the facts. If we don't pass this bill today, the City of Los Angeles, in 3 days, is going to lose over $41 million, and the State is going to lose over $6 million. The State could lose up to 21 percent of its AIDS funds.

Now, those are the facts.
Mr. PASCRELL. I rise today, Mr. Speaker, in strong opposition to the legislation before us. It reduces vital funding for States that are most heavily impacted.

I absolutely disagree with the Chair. He is wrong, as he seems to think this problem has shifted. The epidemic has expanded. It has not shifted. There are more areas that are involved, and we should be fair to all areas besides New York, California, Florida, Texas and New Jersey. I can’t support that idea. If Resources are to follow this epidemic, they must continue to flow to all jurisdictions, and be increased.

It is irresponsible to take an already inadequate pot of money and cover new areas with it, taking it away from the areas of need. If you don’t understand what the need is in those five States that I recognize, I will give you the flat statistics: They are not diminishing in any sense of the imagination whatsoever. I really don’t know what facts you are looking at.

Under the proposed bill in the House, Mr. Speaker, funding for New Jersey will be cut by $13 million. I looked at the numbers in New Jersey. I have worked on this problem for 15 years. I don’t know where this gentleman is coming from when he says that the problem is less in those five States that I mentioned and increased in other areas. It just is not so. It is not true. Sixty thousand of these dollars will go directly to the two counties that I am involved in, a cut of 40 percent in the funding.

I urge you to vote against this proposed legislation. It will hurt all EMA and the States most affected by the devastating effects of HIV.

Mr. BARTON of Texas. Mr. Speaker, I reserve my time.

Mr. FALLONE. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I think if you have listened to those in opposition to this bill, you recognize that there is not a consensus. One of the things that disturbs me the most today is that this is on the suspension calendar. This does not belong on the suspension calendar because it is obviously a very controversial piece of legislation.

Let me tell you, I heard my colleague from New Jersey (Mr. PASCRELL). I went to one of the centers in my State in my district that treats AIDS and HIV patients, and I want to tell you, people are scared about this. They are very, very concerned that if this legislation passes in its current form that we are just not going to have the funding to deal with the AIDS and HIV cases in my State.

Really, when you have a situation where so many people are worried about the impact this is going to have, and we have clear indication that this is not going to be enough money, this is simply not the way to go.

I have no reason to believe if this bill goes to the other body that it is actually going to end up in something that goes to the President’s desk. It is simply a mistake to deal with this on the suspension calendar with all the controversy that exists over it.

Mr. Speaker, again, I want to stress again those of us who are in opposition to this bill, why I feel so strongly about it. The problem is that it is woefully underfunded. No one is suggesting that more money doesn’t need to go to other parts of the country, that maybe the formula needs to be changed in some fashion. But the problem is there just isn’t any money to go around. So you have a situation where we are pitting one State against another or even different parts of the State of one State against another. It just isn’t right.

My colleagues on this side of the aisle have pointed out over and over again how we are spending money in Iraq, we are spending money on tax cuts. The problem here is the Republicans, those on the other side of the aisle, are not prioritizing funding where it is needed. They should go to health care. It should go in this case to not only the AIDS patients but also those with HIV.

The problem is we tried many times in committee to add through various amendments that would increase the funding, hold harmless those States and those localities that need this funding under the current formula. Every time we tried to do that we were not successful because the Republicans have abandoned the opposition, if you will, to the suggestions that we were making.

I can’t stress enough, there is not enough funding in this bill. We really should go back to day one. One of the amendments that I had was simply reauthorize the program the way it is for another year and hold us harmless for a year as we tried to find a solution that would be acceptable to everyone. That did not happen; and, instead, instead of having a normal debate and allowing amendments on the floor in the normal course of procedure, we stand here today with this bill on the suspension calendar.

It shouldn’t be here. The consensus doesn’t exist. I urge my colleagues to vote against this legislation, and let’s bring it back on an occasion when we can actually have a full debate and have amendments.

Mr. Speaker, I yield back the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I will include for the RECORD a list of over 20 organizations that have endorsed the bill, as well as a letter from the AIDS Institute dated September 28, 2006, signed by Dr. Gene Copello.

Mr. Speaker, I want to read from the AIDS Institute endorsement letter that was dated September 28 by Dr. Gene Copello. I do not want to quote the letter, but I want to read parts of it.

It says, “Dear Representative: The AIDS Institute,” and this is a non-partisan institute, “urges you to vote ‘yes’ today on the Ryan White HIV/AIDS Treatment Modernization Act, H.R. 6143.

“While no bill that is crafted through a series of compromises is perfect, the AIDS Institute strongly supports its implementation because it would better direct limited resources throughout the country in a more equitable fashion. Additionally, it contains a number of important reforms that seek to update the law to better reflect the epidemic.

“If the bill is not passed this week, a number of States and the District of Columbia will lose funding, and the important reforms contained in the bill will not be allowed to be implemented for the coming year.”

Mr. Speaker, the bill before us is the result of bipartisan, bicameral negotiations over a several year period. It is not perfect, but it is a better bill and better legislation than current law. It appropriately allocates the funds not just for AIDS patients but also for HIV patients.

The States that lose in the new formula are guaranteed 95 percent of their current year funding for 3 years, 95 percent. And then, in the fourth or fifth year, they are allowed to petition through a supplemental fund to make up for these losses under the old baseline formula.

This is a very fair compromise. It begins to treat all States on an equal footing; and it also, for the first time, begins to count HIV cases as well as AIDS cases. It deserves to be supported.

Please vote “yes.” We do need a two-thirds vote to pass this, because it is on the suspension calendar. So we need more than a majority vote.

Please vote “yes” on H.R. 6143.

ORGANIZATIONS THAT SUPPORT THE RYAN WHITE HIV/AIDS TREATMENT MODERNIZATION ACT

- AbsoluteCare Medical Center
- ADAP Coalition
- AIDS Action Coalition; Huntsville, AL
- AIDS Alabama, Inc.
- AIDS Healthcare Foundation
- AIDS Outreach of East Alabama Medical Center
- Alaska Native Tribal Health Consortium
- American Academy of HIV Medicine
- American Dietetic Association
- Am I My Brother’s Keeper, Inc., Brother 2 Brother
- CarePoint Adult, Child and Family
- Catholic Charities Diocese of Fort Worth
- First Ladies Summit
- Harabee Empowerment Center
- HIV Medicine Association
- Latino Coalition
- League of United Latin American Citizens (LULAC)
- Log Cabin Republicans
- Lowcountry Infectious Diseases
- Montgomery AIDS Outreach
- National Black Chamber of Commerce
- National Coalition of Pastors Spouses
- National Minority Health Month
- New Black Leadership Coalition
- President’s Advisory Council on HIV/AIDS
- Rep. Linda Upmeyer (Iowa State Rep, District 12)
- South Alabama Cares.
Re: Vote “yes” on Ryan White HIV/AIDS Treatment Modernization Act.

Dear Representative: The AIDS Institute urges you to vote “yes” today on the Ryan White HIV/AIDS Treatment Modernization Act (H.R. 6143). This important bill would re-authorize the Ryan White CARE Act for the next five years. Ryan White CARE Act programs provide lifesaving medical care, drug treatment, and support services to over 350,000 low-income people living with HIV/AIDS. The bill is the result of three long years of work and has been carefully crafted in an unprecedented bi-partisan, bicameral fashion.

While the bill is crafted through a series of compromises is perfect, The AIDS Institute strongly supports its immediate passage because it would bring about focused, better directed, and more equitable limited resources throughout the country in a more equitable fashion. Additionally, it contains a number of important reforms that seek to update the law to better reflect today’s epidemic.

The bill prioritizes medical core services, including medications, takes into account HIV care in relation to AIDS cases, and addresses such issues as co-morbidities, unspent funds, accountability, and coordination of services. While at the same time, the existing current services and the AIDS service infrastructure together with the social service component of AIDS care and treatment remain.

If the bill is not passed this week, a number of states and the District of Columbia will lose funding, and the important reforms contained in the bill will not be allowed to be implemented for this coming year.

This reauthorization process has been long and divisive for all those involved. Unfortunately, it has pitted HIV/AIDS patients from one part of the country against another. Congress has to do what is best for the entire nation — not just one state or region.

The AIDS Institute urges you to vote “yes” on H.R. 6143.

We thank you for your interest in this legislation, and look forward to working with you to adequately fund Ryan White CARE Act programs to meet the growing domestic need for HIV/AIDS care and treatment. The AIDS Institute stands ready to work with you and the Appropriations Committee on issues that will affect our shared vision of adequacy. The bill provides absolutely no increase next year for the nation’s AIDS Drug Assistance Programs (ADAPs). We hope you will join us in requesting and supporting the necessary funding for ADAP in FY07 as part of the Labor, HHS Appropriations bill.

Should you have any questions or comments, please feel free to contact me or Carl Schmid, Director, Federal Affairs for The AIDS Institute at (202) 462-3042 or cschmid@aidsinstitute.org.

Sincerely,

Dr. A. Genie Copello
Executive Director, The AIDS Institute

Ms. Lee, Mr. Speaker, I must reluctantly oppose to H.R. 6143, the Ryan White HIV/AIDS Treatment Modernization Act of 2006. Mr. LANTOS. Mr. Speaker, I rise in reluctant opposition to H.R. 6143, the Ryan White HIV/AIDS Treatment Modernization Act of 2006. The Ryan White Comprehensive AIDS Resources Emergency (CARE) Act is the centerpiece of the federal government’s response to the HIV and AIDS epidemic. H.R. 6143 woefully under-funds the HIV/AIDS reauthorization of the CARE Act provides; this bill is a deeply flawed shadow of what it could and should be.

The Chairman has argued here today that the epicenter of the AIDS epidemic has shifted, and that the number of AIDS cases is on the wane. Therefore, he says, fewer resources are needed to fight the disease, and those funds can be spread around. I don’t know where he gets his figures, Mr. Speaker. The Chairman is flatly wrong. The fact is that New York State has the most AIDS cases in the United States. New York City accounts for almost 17 percent of HIV/AIDS cases nationwide. More than half of people living with HIV in the United States reside in five states—New York, Florida, Texas, California, and New Jersey. The fact is that New York City is the oldest, largest, and densest concentration of HIV/AIDS epidemic in the United States. New York City accounts for one in every six reported AIDS cases in the United States, and each year reports more AIDS cases than Los Angeles, San Francisco, Miami, and Washington, D.C. combined. And the reality is that the CARE Act provides those funds to rural and suburban areas faced with an increase in the number of HIV/AIDS patients.

I am very concerned that all of those in need receive the necessary and appropriate treatment whether they live in urban, suburban, or rural communities. I firmly believe that the localities facing this increasing challenge should get the funds they need to care for their citizens. However, that should not come at the cost of taking away from cities like San Francisco, which has the highest per capita prevalence of people living with AIDS, and other cities such as Los Angeles, Chicago or New York. Saving our neighbors and loved ones from this epidemic should not come from a policy of robbing Peter to pay Paul.

The Ryan White Act and all of those affected by HIV/AIDS needs our attention and our support for additional funds. Short-changing this program insults its namesake, it insults the millions who have died from AIDS, it insults those who are currently living with it, and it insults the families. There are millions of Americans who rely on this program to receive the services they so desperately need to live. I recognize that they are not just from San Francisco or New York, but they are also from Dubuque and Omaha, Charleston and Beaufort. I echo the question of the need for services and care. Geography should not determine whether you live or die from AIDS and that is why we should do more than simply shift money around.

Mr. Speaker, I had hoped that we would be able to succeed in passing legislation that would have benefited all the victims of this illness. Instead, a bill may pass today that does not accomplish this goal. Rather it will help some and hurt others, especially I fear in the San Francisco Bay area. I urge my colleagues to take the needed time and bring a bill we can all support wholeheartedly knowing that it will benefit all Americans with HIV/AIDS.

Mr. NADLER. Mr. Speaker, I rise today in reluctant opposition to H.R. 6143, the Ryan White HIV/AIDS Treatment Modernization Act of 2006. The Ryan White Comprehensive AIDS Resources Emergency (CARE) Act is the centerpiece of the federal government’s response to the HIV and AIDS epidemic. H.R. 6143 woefully under-funds the HIV/AIDS reauthorization of the CARE Act provides; this bill is a deeply flawed shadow of what it could and should be.
Mr. Speaker, my district has been on the frontline of the fight of this epidemic for over 20 years. I know a good approach when I see one, and the bill we are debating on the floor today isn't it. I urge a “no” vote on H.R. 6143.

Mr. McGOVERN. Mr. Speaker, it's hard to believe it has been 25 years since the first AIDS case was reported in the United States. Growing from a cluster of cases in Los Angeles in 1981, this disease spread throughout every segment of our society—no one was left untouched, and we were all forced to watch helplessly as AIDS transformed into a worldwide pandemic. The impact of this epidemic on our society has been unprecedented. The Ryan White CARE Act, the changes that have been made under the Ryan White CARE Act, and our fight to defeat AIDS. It has provided critical support to the hardest-hit areas of the country, in general, and the State and cities of California in particular.

The problem is not that one part of the country gets too much money and some other parts of the country are left behind. Instead, people suffering from this disease—and those caring for them—are being forced to compete for pieces of an ever-shrinking pie.

For these reasons, I oppose H.R. 6143, and I will submit the entirety of my state-sidelessness for people who live with HIV/AIDS. It has provided critical support to the cities that have been the center of the epidemic, and to States that have been funding critical programs to treat the disease. This cut in funding to San Francisco means a loss in services for patients receiving primary medical care, a lack of access to counseling, support, outreach services, transitional and emergency housing and emergency payments for health care costs.

Where do these people go? What do we tell them when their ability to receive support to fight HIV/AIDS is cut off?

In prior reauthorizations of the Ryan White CARE Act, the changes that have been made were made at the margins in order to deal with emerging problems and developments; these changes did not, however, disrupt an initiative that was working.

Unlike those past reauthorizations, this bill would have a drastic destabilizing effect on many of the hardest-hit areas of the country, including California.

A basic goal of this reauthorization must be to ensure that the actions we take do not destabilize systems already in place. Unfortunately, the bill fails to meet this goal and jeopardizes the critical funding of areas throughout the country, in general, and the State and cities of California in particular.

In addition, the bill prematurely incorporates HIV reporting into the allocation formula, eliminates the hold harmless provision just when San Francisco and California need it the most, and allows the Administration to devise and implement a whole new funding formula without Congressional approval.

It is for these reasons, I must oppose this bill. And I will submit the entirety of my state-sidelessness for people who live with HIV/AIDS.
across jurisdictions. The 2000 reauthorization of the Act included a requirement that HIV cases be incorporated into the funding distribution by no later than 2007. At that time, HIV reporting systems were in various stages of development across the country; although some states and cities had been reporting HIV cases since 1985, others had not even implemented an HIV-reporting system at all. Given this landscape, the drafters understood the need to provide sufficient time to allow states and cities to begin collecting HIV cases. At the time, they believed seven years to be adequate for such a transition. As it turns out, it was not.

As HIV reporting systems were developed, variations among these systems across jurisdictions emerged. Some areas reported HIV by the individual’s name along with other identifying information. Others, like California, as a means of protecting the individual’s confidentiality, opted not to report the person’s name at all, and instead included only a unique code identifying the individual. The 2000 reauthorization of the Ryan White Act did not specify which type of reporting system jurisdictions were required to use and nothing in the law prohibited this kind of variation. So long as the Secretary found that the data on HIV cases were required to use and nothing in the law was prohibitive for such a transition. As it turns out, it was not.

Those numbers purport to show need—any scientific way of counting cases and a method to which jurisdiction depending on how much the grantee estimated. What assurance is there that the GAO numbers will be used to allocate funds in fiscal year 2007 and the out years? This does not pass the test of good government.

Under the proposed language, the case count used in 2010 and 2011 in making the allocation to San Francisco will be substantially less than the actual number of HIV positive individuals who currently live in San Francisco. Simply this is unfair and is not good policy.

Because HIV reporting systems across the country remain in a state of flux, it is critical that this reauthorization protect against severe losses in funding when the bill requires that the funding be based on HIV cases. The most effective way to accomplish this protection is to incorporate a hold-harmless provision for the entire life of the bill. Unfortunately, the current bill protects a jurisdiction’s funding for only the first 3 years. This is not enough.

California faces the most drastic cuts at the very time in the bill comes to an end. By California’s estimates, the State stands to lose nearly 25 percent of its total Ryan White Care Act funding during the 5th year of the bill alone. Our State simply cannot sustain these kinds of losses. In year 5, when transition to names-based reporting becomes mandatory, California (and all other jurisdictions moving to names-based reporting) will lose substantially. The amount of loss is difficult to ascertain, because it will depend entirely upon how quickly California and other jurisdictions can transition to names-based reporting.

The elimination of the hold harmless will have a devastating impact on the provision of HIV/AIDS services in San Francisco. The hold harmless was adopted to protect the epicenters of this disease from experiencing drastic reductions in CARE funding from year to year that would disrupt the systems of care in place, and eliminating it now would cause this very consequence. As you may know, the city of San Francisco consistently has invested local funds into the fight against this disease and the care of those living with HIV/AIDS. San Francisco has been conscientiously preparing to absorb cuts as a result of the eventual loss of the hold harmless, but the more than one-third cut in funding proposed is punitive and will eliminate critical care for thousands of people living with HIV/AIDS.

Finally, I cannot support the bill’s inclusion of the so-called “seventy of need index” (SONI). The bill requires the Secretary to develop a SONI to measure the needs of individuals living with HIV/AIDS, but fails to specify the factors that should be incorporated into this index, leaving it entirely up to the Secretary. Further, the bill then permits the Secretary to completely discard the current funding formula and design the basis of this SONI beginning as early as FY 2011 without Congressional action. This is unacceptable. Congress—not the Administration—should be solely responsible for making such a drastic shift in the way funds are distributed under the Act.

Mr. GENE GREEN of Texas. I rise in support of this legislation to reauthorize the Ryan White CARE Act. Initially enacted in 1990, the Ryan White CARE Act provides critical medical and mental health care to individuals living with HIV/AIDS. The Ryan White program is essentially a payer of last resort and specifically targets uninsured and medically underserved individuals living with HIV and AIDS.

In my community in Harris County, our Hospital District utilizes more than $26 million each year to coordinate essential health care and support services for more than 21,000 individuals in our community living with HIV and AIDS. The importance of this program cannot be overestimated; without CARE Act funds, many Americans living with HIV and AIDS would have no other source for treatment.

This reauthorization bill includes an important change in the criteria used to formulate funding under the Ryan White program. Thus far, funding was determined based on a grantee’s estimated number of living AIDS cases, with a jurisdiction’s number of HIV cases not included in funding determinations.

As the HIV/AIDS epidemic has shifted geographically, our funding formulas must change to meet increased needs for care in certain areas. Southern States and rural areas are seeing higher numbers of individuals with HIV, for whom treatment is necessary. I wholeheartedly support the use of HIV counts in CARE Act funding formulas to provide advantages to the states who develop appropriate systems of care. However, it is important that the funding formula recognize that urban areas—particularly those in New York—continue to be the epicenter of the AIDS epidemic. Unfortunately, this bill does not provide the necessary assurances that communities with a high prevalence of HIV/AIDS will have the resources to maintain their systems of care.

In this kind of formula fight, the battle lines are drawn geographically rather than ideologically. I appreciate the work of Chairman BARTON, Ranking Member DINGELL, and their staffs, who worked tirelessly for more than 6 months to develop a bi-partisan, consensus bill that sought to address great need in every corner of the country. As currently written, this type of bill there are always winners and losers. This bill contains more winners than losers, and my State of Texas comes out a winner, relatively speaking. For that reason, I am happy to support this legislation and encourage my colleagues to do the same.
Today, as we debate the Ryan White HIV/AIDS Treatment Modernization Act of 2006, we must take into account one fact: the fact that New York is the epicenter of the HIV/AIDS epidemic, and while New York has the highest prevalence of HIV/AIDS in the country, they have made the most progress in battling this disease.

Now, in a normal situation, New York would be rewarded with more funds to battle this epidemic, and be set as an example for the rest of the country; however, under this bill, they would not be. In fact, the opposite would occur. The current proposal states that New York City would lose a whopping $17 million the first year, and New York State would lose an estimated total of $78 million over the course of the 4 years of the reauthorization.

My district, in New York, has one of the highest prevalence of HIV/AIDS in all of New York City. This bill would take precious funds away from individuals in my districts, as well as New York State, California, New Jersey, and Florida and other states that are on the front line of this fight.

To make matters worse, the Republicans on the Appropriations Committee refused to include this bill due diligence it deserves. Instead they are debating this bill under Suspension of the rules, with no opportunity for Members to offer amendments and a short debate schedule.

This bill, although unacceptable for New York, this is unacceptable for Florida, and most importantly this is unacceptable for the millions of people who will have to suffer as a result.

I urge my colleagues to vote "no" on this legislation. Instead let's continue to negotiate so New York, New Jersey, Florida and other states that stand to lose millions can be spared.

Mr. SOUDER. Mr. Speaker, as the nation's largest AIDS-specific care program, the Ryan White CARE Act plays a critical role in providing HIV/AIDS treatment and support equally to all U.S. citizens needing such medical care. Ryan White, as many of you know, was a fellow Hoosier and a heroic young man and this program that so many depend upon to stay healthy and alive is a great tribute to him.

Currently, the federal government is funding wasteful and unnecessary programs that would otherwise be held in check if this reauthorization had already been law. This bill would require that 75 percent of CARE Act funds be spent on primary medical care and medication. This is important because in the past, funds were misspent on unnecessary and dubious programs while thousands living with HIV were on waiting lists for AIDS medications.

Let me give a recent example of government waste that would have been better spent treating those with HIV but without access to treatment.

According to the Department of Health and Human Services, $405,000 in federal funds was provided this month to the National Minority AIDS Council for its annual U.S. Conference on AIDS. Held at a beachside resort in Hollywood, Florida, the conference featured a "sizzling" fashion show, beach party, and "Latin Fiesta." Indirect costs are not yet available from HHS regarding the costs including 67 employees from Centers for Disease Control and Prevention, 5 employees from the National Institutes of Health (NIH), and one NIH contractor.

While such spending strikes one as strange, the examples don't end there. The New York Times reported that New York was paying for dog walking and candle-lit dinners with AIDS funds, while other areas of the country do not even have sufficient funds to pay for medications for those living with HIV. Hot lunches, haircuts, and Broadway show tickets were financed by federal funding.

Indeed, although the federal government spends over $21 billion on HIV/AIDS annually, up to a staggering 59 percent of Americans with HIV are not in regular care. This misallocation of funds is great cause for concern and should motivate Members of Congress to respond by supporting the reauthorization of the Ryan White CARE Act. By doing so, greater oversight in funding would be provided.

The reauthorization of this act would prioritize medical care and treatment over less essential services and programs. I ask my colleagues to support this reauthorization.

Ms. ESHOO. Mr. Speaker, when Congress passed the Ryan White CARE Act in 1990, we sent hope to millions of Americans who were living under a death sentence that came with a diagnosis of HIV or AIDS. In large part because of Ryan White, outcomes have dramatically improved.

This bill fails to uphold the hopeful tradition of the original legislation because it creates a system of winner and losers in the allocation of federal resources. This major reauthorization of our federal HIV/AIDS policy is also being considered under suspension of the rules, with the Republican leadership offering amendments to address the serious deficiencies in the bill.

Last week, I offered an amendment with several of my colleagues from the California, New York and New Jersey delegations to increase the overall authorization levels in the bill which would help address the needs of communities more recently affected by the epidemic. Our amendment also extended the hold harmless provisions of the bill by two years to ensure that the historic epicenters of the disease do not experience precipitous declines in funding levels from year to year. Our amendment was defeated by a single vote.

Today we can't offer that amendment or any other. Instead, we're left with a "take it or leave it" proposition that doesn't adequately respond to the real needs of people suffering from HIV and AIDS.

Congress has responsibility to address the imminent crisis facing emerging communities, but we can't abandon the infrastructure of care already in place. By eliminating the hold harmless protections for three years in order to freeze funding for emerging communities, some localities will experience sharp funding declines.

The bill also doesn't allow sufficient time for states to transition HIV code-based reporting systems to the more efficient names-based system. Although California is making enormous strides to comply, Governor Schwarzenegger reports that the state will likely miss the 2009 deadline, sustaining a loss of up to $50 million, or 23 percent, of its total funding in FY2011. Such a loss has the potential to severely hinder state's HIV/AIDS care system.

Given my serious concerns about the ability of this bill to preserve current infrastructure of care while extending assistance to areas of the country newly affected by the HIV/AIDS epidemic, and with no opportunity to address these concerns with amendments, I reluctantly oppose this bill.

The SPEAKER pro tempore. Mr. TERRY. The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 6143, as amended.

The question was taken.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

FORT MCDOWELL, INDIAN COMMUNITY WATER RIGHTS SETTLEMENT REVISION ACT OF 2006

Mr. HAYWORTH. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2464) to revise a provision relating to a repayment obligation of the Fort McDowell Yavapai Nation under the Fort McDowell Indian Community Water Rights Settlement Act of 1990, and for other purposes.

The Clerk read as follows:

S. 2464

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

SECTION 1. SHORT TITLE. This Act may be called as the “Fort McDowell Indian Community Water Rights Settlement Revision Act of 2006.”

SEC. 2. DEFINITIONS. In this Act:


(2) NATION.—The term “Nation” means the Fort McDowell Yavapai Nation, formerly known as the “Fort McDowell Indian Community.”

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

SEC. 3. CANCELLATION OF REPAYMENT OBLIGATION.

(a) CANCELLATION OF OBLIGATION.—The obligation of the Nation to repay the loan made under section 488(e) of the Fort McDowell Water Rights Settlement Act (104 Stat. 4489) is cancelled.

(b) EFFECT OF ACT.—

(1) RIGHTS OF NATION UNDER FORT MCDOWELL WATER RIGHTS SETTLEMENT ACT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), nothing in this Act alters or affects any right of the Nation under the Fort McDowell Water Rights Settlement Act.

(B) EXCEPTION.—The cancellation of the repayment obligation under subsection (a) shall be considered—

(i) to fulfill all conditions required to achieve the full and final implementation of the Fort McDowell Water Rights Settlement Act; and

(ii) to relieve the Secretary of any responsibility or obligation to obtain mitigation
property or develop additional farm acreage under section 416 the Fort McDowell Water Rights Settlement Act (104 Stat. 4490).

(2) ELIGIBILITY FOR SERVICES AND BENEFITS.—(a) In General.—Nothing in this Act alters or affects the eligibility of the Nation or any member of the Nation for any service or benefit provided by the Federal Government to federally recognized Indian tribes or members of such Indian tribes.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. HAYWORTH) and the gentleman from New Jersey (Mr. PALLONE) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2464, or the Fort McDowell Indian Community Water Rights Settlement Revision Act, is companion legislation to H.R. 5299, a bill I introduced on May 4 of this year. This legislation codifies an important agreement struck between the Fort McDowell Yavapai Indian Community and the Secretary of the Interior through the Bureau of Reclamation and will provide a financial savings to both parties involved. The House Resources Committee held a legislative hearing on H.R. 5299 on July 12 of this year, at which time both the Arizona and the Bureau of Reclamation expressed their strong support for this bill.

This agreement represents the last step to full implementation of the Fort McDowell Indian Community Water Rights Settlement Act of 1990. The 1990 Act requires the Department of the Interior to comply with all applicable environmental laws throughout implementation of the Act and to bear the cost of mitigation associated with that compliance.

Subsequently, the Secretary removed 227 acres originally included in the settlement as a result of review conducted under the National Environmental Policy Act. The Department of the Interior acknowledges that it has not yet complied with its obligation to provide and develop its swift passage land for the tribe. The Department currently estimates the cost of developing the 227 acres lost through the NEPA process at $5.6 million.

Mr. Speaker, the agreement before us today provides for the cancellation of the Department’s obligation to supply the 227 replacement acres currently estimated at the aforementioned $5.6 million in exchange for the tribe being granted loan forgiveness on a 50-year, no-interest loan extended to the tribe as part of the 1990 Act. The Congressional Budget Office estimates the worth of this 50-year loan at $4 million.

Mr. Speaker, this bill makes sense. It saves the Fort McDowell community money. It saves American taxpayers money. It provides swift passage.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

(Mr. PALLONE asked and was given permission to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, S. 2464 will allow the Fort McDowell Yavapai Nation and the Department of the Interior to revise their respective responsibilities under the 1990 Fort McDowell Indian Water Rights Settlement Act in a mutually acceptable way.

I want to indicate that I have been actually at the Fort McDowell Reservation and we support this legislation and have given it its swift passage today.

Mr. Speaker, I yield back the balance of my time.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my friend from New Jersey for visiting us in Arizona from time to time. I would also note that President Raphael Bear of the Fort McDowell community worked very hard on this, coming to see me personally and giving great testimony here on July 12.

Mr. Speaker, I have no additional speakers, would urge passage of this legislation and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. HAYWORTH) that the House suspend the rule, the gentleman from Arizona (Mr. HAYWORTH) and the gentleman from New Jersey (Mr. PALLONE) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House Rules Committee held a legislative hearing on H.R. 4545, championed by our colleague (Mr. HAYWORTH) that the House suspend the rule, the gentleman from Arizona (Mr. HAYWORTH) and the gentleman from New Jersey (Mr. PALLONE) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

H.R. 4545 authorizes the Secretary of the Interior, in cooperation with the Los Angeles and San Gabriel Rivers Watershed Council, to participate in the design, planning, and construction of the Los Angeles County Water Supply Augmentation Demonstration Project in Southern California. To meet the needs of future population growth in this arid region, capturing stormwater runoff and recharging groundwater could substantially increase local water supplies. I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

(Mr. PALLONE asked and was given permission to revise and extend his remarks.)

Mr. PALLONE. We strongly support H.R. 4545, championed by our colleague from Lakewood, California (Ms. LINDA T. SÁNCHEZ). This authorization will authorize Federal financial assistance for a unique water reuse and conserva- tion project in the Los Angeles area. The project will demonstrate that small-scale neighborhood projects can be built to increase local water supplies and reduce urban water pollution.

SECTION 1. AUTHORIZATION OF LOS ANGELES COUNTY WATER SUPPLY AUGMENTATION DEMONSTRATION PROJECT

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act Amendment, authorized to participate in the planning, design, construction, and assessment of a neighborhood demonstration project to—

(1) demonstrate the potential for infiltration of stormwater runoff to recharge groundwater by retrofitting one or more sites in the Los Angeles area with features such as stormwater recharge Demonstration Project in the Los Angeles area.

(2) COST SHARING.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

(3) LIMITATION.—No Federal funds shall be used for the operation and maintenance of the project described in subsection (a). For purposes of this subsection, pre- and post-development monitoring and the facility that the House suspend the rule, the gentleman from Arizona (Mr. HAYWORTH) and the gentleman from New Jersey (Mr. PALLONE) each will control 20 minutes.

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Projects like this can help residents of southern California increase local water supplies and reduce their dependence on imported water from northern California and the Colorado River.

This is an innovative project and a good example of our support. Again, I want to congratulate my friend, LINDA SÁNCHEZ, for her hard work on this bill.

Mr. HAYWORTH. Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I would now yield as much time as she would consume to the gentleman who is the sponsor of the bill.

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, let me begin by thanking Resources Committee Chairman RICHARD POMBO and Ranking Member NICK RAHALL as well as Water and Power Subcommittee Chairman GEORGE RADANOVICH for recognizing the importance of this bill, H.R. 4545, the Southern California Water Augmentation Study.

I would also like to especially thank my colleague GRACE NAPOLITANO, the ranking member of the Water and Power Subcommittee. She has served in that position with distinction and established herself as an advocate for sound water policy in her home State of California and across the Nation. Representative NAPOLITANO has supported this bill, and she has utilized many efforts in shepherding it through the legislative process.

I became interested in this effort because California and other parts of this country need to move forward on two very important issues: First, we must increase our groundwater drinking supplies, and we can do this by improving the safe infiltration of surface water. And, second, we must reduce urban stormwater runoff that can carry trash and contamination to our beaches and oceans.

This water augmentation study was created to address important economic and scientific questions about water quality and water supply. Simply put, this project is about taking the water that we lose and turning it into water that we can use.

This study will assess the potential of urban stormwater infiltration to augment water supplies. This water augmentation study will determine the benefits, costs, and risks of infiltration. It would also understand what conditions we need to make infiltration work and assess the potential for larger water supply. At the same time, it will show us how to reduce water pollution and create additional environmental and social benefits.

Mr. Speaker, this bill is designed to make southern California more water self-sufficient and less reliant on imported water from our neighbors in the central and northern parts of our State. I am also very pleased that President Bush has included funding for the water augmentation study in his last three budgets, including this year. This is a bipartisan effort in which there is agreement on the merits of the project throughout our government.

Also, the California staff of the Bureau of Reclamation has been very supportive of this project. In fact, they helped create it this year, because they see it as helping solve a real problem we face in California and, shall I say, other water-challenged States across the country.

Again, I would like to thank Chairman POMBO and Ranking Member RAHALL, as well as representatives on the House Resources Committee, and to Representative NAPOLITANO for her unyielding support of this bill. I urge all my colleagues to join us in supporting H.R. 4545.

Mr. PALLONE. Mr. Speaker, I have no additional speakers. I would yield back my time.

Mr. HAYWORTH. Likewise, Mr. Speaker, with that note of unanimity, being from a water-challenged State, thegentlewoman from California spoke of earlier, I would simply like to say I likewise have no additional speakers.

I yield back the balance of my time.

The SPEAKER pro tempore. The SPEAKER pro tempore. The SPEAKER pro tempore.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, ordered to the table.

GENERAL LEAVE

Mr. HAYWORTH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the two bills just considered. 'Now, is there objection to the request of the gentleman from Arizona? There was no objection.

WOODROW WILSON PRESIDENTIAL LIBRARY AUTHORIZATION ACT

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4846) to authorize a grant for contributions toward the establishment of the Woodrow Wilson Presidential Library, as amended. The Clerk read as follows:

H.R. 4846

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

SECTION 1. GRANTS FOR ESTABLISHMENT OF THE WOODROW WILSON PRESIDENTIAL LIBRARY.

(a) GRANTS AUTHORIZED.—Subject to subsections (b), (c), and (d), the Archivist of the National Archives and Records Administration may make grants to contribute funds for the establishment of a library in Staunton, Virginia, of a library to preserve and make available materials related to the life of President Woodrow Wilson and to provide interpretive and educational services that communicate the meaning of the life of Woodrow Wilson.

(b) LIMITATION.—A grant may be made under subsection (a) only from funds appropriated to the Archivist specifically for that purpose.

(c) CONDITIONS ON GRANTS.—(1) MATCHING REQUIREMENT. —A grant under subsection (a) may not be made until such time as the entity selected to receive the grant certifies to the Archivist that funds have been raised from non-Federal sources for use to establish the library in an amount equal to at least double the amount of the grant.

(2) RELATION TO OTHER WOODROW WILSON SITES AND MUSEUMS.—The Archivist shall further condition a grant under subsection (a) on the agreement of the grant recipient to operate the resulting library in cooperation with other Federal and non-Federal historic sites, parks, and museums that represent significant locations or events in the life of Woodrow Wilson. Cooperative efforts to promote and interpret the life of Woodrow Wilson may include the use of cooperative agreements, cross references, cross promotions, and shared exhibits.

(d) PROHIBITION OF CONTRIBUTION OF OPERATING FUNDS.—Grant amounts may not be used for the maintenance or operation of the library.

(e) NON-FEDERAL OPERATION.—The Archivist shall have no involvement in the actual operation of the library, except at the request of the non-Federal entity responsible for the operation of the library.

(f) AUTHORITY THROUGH FISCAL YEAR 2011.—The Archivist may not use the authority provided under subsection (a) after September 30, 2011.

Mr. Speaker, I ask unanimous consent that all Members be granted five legislative days to mark up and include extraneous material on the two bills just considered. Is there objection to the request of the gentleman from Georgia? There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. WESTMORELAND) and the gentleman from Florida (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

GENERAL LEAVE

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia? There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I might consume.

Woodrow Wilson was this Nation’s 28th President, and today I rise in support of a bill that honors his life and his legacy.

As both a statesman and a scholar, President Wilson was a champion of democracy and freedom. He was a fierce advocate of using diplomacy as a tool for national policy, and when he led America to fight against Germany in World War I, he did so saying, “The world must be safe for democracy.”

H.R. 4846, as amended, will enable the construction of a Presidential Library and Museum at President Wilson’s birthplace in Staunton, Virginia. This facility would provide educational services honoring the ideals and beliefs President Wilson promoted throughout
World War I and President Wilson

service to honor the life of Woodrow Wilson. I would like to yield 4 minutes to the gentleman from the Commonwealth of Virginia (Mr. GOODLATTE). Mr. GOODLATTE. Mr. Speaker, I rise to respond to the bill under consideration today. Mr. Speaker, in order to increase the awareness and understanding of the life and principles and accomplishments of the 28th President of the United States, I ask that you join me in voting for this legislation in the 150th anniversary of Woodrow Wilson's birth year. I would also like to thank the Woodrow Wilson Library Foundation for their help in this cause, including Eric Vetter, Wilson, honorary officer, board members and trustees. I want to thank House leadership for scheduling this bill today, cosponsors, which includes the entire Virginia delegation and the staff of the Government Reform Committee and the Office of Legislative Counsel for their assistance in crafting this bill.

Mr. GOODE. Mr. Speaker, I rise in support of H.R. 4846, which authorizes a grant for contributions toward the establishment of the Woodrow Wilson Presidential Library in Staunton, Virginia.

Thomas Woodrow Wilson was born in Staunton, Virginia on December 28, 1856. He later lived in Charlottesville, Virginia while studying law at the University of Virginia. When elected President of the United States in 1912, Wilson became the eighth person born in Virginia to ascend to the Presidency, more than any other state in the nation.

Mr. Speaker, I urge all Members to support the passage of H.R. 4846, as amended, and I yield back the balance of my time.

Mr. WESTMORELAND. Mr. Speaker, I rise to support the Senate bill (S. 2146) to extend relocations test programs for Federal employees. The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. EXTENSION OF RELOCATION EXPENSES TEST PROGRAMS FOR FEDERAL EMPLOYEES.

I commend the gentleman from Virginia, Mr. GOODLATTE, for this legislation and urge my colleagues to support H.R. 4846.
The Chair recognizes the gentleman from Georgia.

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill in consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of S. 2146, which was introduced by Homeland Security and Government Affairs Committee Chairwoman Susan Collins last December.

This legislation would extend the authority for the General Services Administration to conduct relocation expenses test programs for Federal employees, for an additional 4 years.

The Customs and Border Patrol agency has long supported this legislation to help them relocate Border Patrol agents in a cost-efficient and timely manner, thereby allowing the transfers to get settled and focused on the new assignment as soon as possible. The capability to efficiently relocate personnel, while simultaneously minimizing costs, would be a significant benefit to the Federal agencies as they continue to recruit and retain a highly skilled workforce.

Mr. Speaker, I would also like to note that the CBO estimates an extension of the pilot program reauthorization would produce savings to the Federal Government of approximately $15 million annually.

It is rare within the Federal personnel world to come across a program that produces a savings for the government and is valued by the workforce.

I urge my colleagues to support S. 2146.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2146. This bill would provide the authority of the General Services Administration to extend pilot programs on the relocation expenses of Federal employees for an additional 4 years. The Federal Government spends more than $800 million each year to relocate its employees, and reducing those expenses has long been a goal of Congress.

Under the pilot program, agencies are given the flexibility to experiment on how to reimburse relocation expenses. Two agencies are currently participating in the pilot program. These agencies generally provide lump-sum payments so employees are not required to keep receipts and then be reimbursed.

This test program has shown promise in reducing relocation expenses so the House should join the Senate in extending this pilot. I urge my colleagues to support S. 2146.

Mr. Speaker, I yield back the balance of my time.

Mr. WESTMORELAND. Mr. Speaker, I urge Members to support passage of S. 2146, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from Georgia (Mr. WESTMORELAND) that the House suspend the rules and pass the Senate bill, S. 2146.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

SUPPORTING THE GOALS AND IDEALS OF GYNECOLOGIC CANCER AWARENESS MONTH

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 473) supporting the goals and ideals of Gynecologic Cancer Awareness Month.

The Clerk read as follows:

H. CON. RES. 473

Whereas the Gynecologic Cancer Foundation marks its 15th anniversary in 2006; Whereas the Gynecologic Cancer Foundation was founded by the Society of Gynecologic Oncologists in 1991; Whereas the mission of the Gynecologic Cancer Foundation is to raise awareness about the prevention, early detection, and treatment of reproductive cancers; Whereas the Gynecologic Cancer Foundation raises funds to support training and research grants; Whereas over 77,000 American women will be diagnosed with a reproductive cancer in 2006; Whereas there are screening tests and warning signs for reproductive cancers, and early detection leads to improved survival for all female reproductive cancers; Whereas gynecologic oncologists are board-certified obstetrician-gynecologists with an additional three to four years in training in the comprehensive care of women with reproductive cancers; Whereas the Gynecologic Cancer Foundation works with gynecologic oncologists, survivors, and advocates throughout the year to increase knowledge about reproductive cancers, so that these cancers can be prevented or detected at their earliest, most curable stage; and Whereas September is widely recognized as Gynecologic Cancer Awareness Month: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) supports the goals and ideals of Gynecologic Cancer Awareness Month; and (2) requests that the President issue a proclamation calling upon the people of the United States to observe Gynecologic Cancer Awareness Month with appropriate educational programs and activities.

The SPEAKER pro tempore. Pursuant to the request of the gentleman from Georgia (Mr. WESTMORELAND) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the concurrent resolution currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, research indicates that more than 77,000 women in the United States will be diagnosed with reproductive cancer in 2006. The Gynecologic Cancer Foundation works with oncologists, cancer survivors and advocates so that one day these cancers can be prevented or detected at their earlier stages.

I am pleased to speak on behalf of this resolution honoring the 15th anniversary of the Gynecologic Cancer Foundation as well as this mission to raise awareness about the prevention, early detection, and treatment of reproductive cancers.

I urge all Members to join me in supporting the goals and ideals of Gynecologic Cancer Awareness Month by agreeing to H. Con. Res. 473.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

The mission of the Gynecologic Cancer Foundation is to ensure public awareness, early diagnosis, and proper treatment of gynecologic cancer prevention and to support research and training related to gynecologic cancers.

For 15 years, GCF has advanced this mission by increasing public and private funds that aid in the development and implementation of programs to meet these worthy goals.

This year, over 77,000 American women will be diagnosed with a reproductive cancer. In 2002, more than 27,000 women died from some form of gynecologic cancer. GCF works with gynecologic oncologists, survivors, and advocates throughout the year to increase the public’s knowledge about reproductive cancers, so that these cancers can be either prevented or detected at their earliest and most curable stage.

September is Gynecologic Cancer Awareness Month, so it is an appropriate time to recognize the efforts of the GCF, gynecologic oncologists, and all those who work to save lives by educating Americans about gynecologic cancers. This is indeed a worthy piece of legislation.

I urge my colleagues to support this resolution.

Mr. Speaker, I yield back the balance of my time.
Mr. WESTMORELAND. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. ISSA).

Mr. ISSA. Mr. Speaker, it is with pride I rise today in support of H. Con. Res. 473, supporting the goals and ideals of Gynecologic Cancer Awareness Month and particularly the Gynecologic Cancer Foundation.

This marks the 15th anniversary in 2006 of the Gynecologic Cancer Foundation. It is a foundation that has such a long and proud history of serving women in America through educational programs and to provide up-to-date information on the prevention and early detection and treatment of these reproductive cancers, cancers that will affect over 77,000 American women this year alone.

It was in 1999 that September was first declared Gynecologic Cancer Awareness Month. If each and every woman since then the Gynecologic Cancer Foundation has embarked on an intensive education program to reach women with an important message:

First, learn your family history. Second, conduct a cancer-risk assessment. Third, ask questions, educate yourself about these deadly cancers. Last, make an appointment for an annual gynecologic cancer screening test.

Mr. Speaker, every 7 minutes a woman is diagnosed with gynecologic cancer. In 2006, over 77,000 women will be diagnosed with gynecologic cancer; and, unfortunately, over 27,000 women will die, many of them because they didn’t have early diagnosis. Too many women are dying because of the lack of early diagnosis. Education and early detection are the keys to saving women’s lives and reducing this terrible statistic. Fortunately, in the early stages, the 5-year survival rates for these cancers are over 95 percent.

Mr. Speaker, this is an important awareness program. We have done a wonderful job throughout the years as Americans focusing light on these deadly diseases, including breast cancer; but this remains a silent killer.

I thank the gentleman from Georgia (Mr. WESTMORELAND), I thank the Speaker of the House, and urge passage of this bill.

Mr. WESTMORELAND. Mr. Speaker, I yield to my friend Dr. GINGREY 1 minute.

Mr. GINGREY. Mr. Speaker, I thank my colleague from Georgia for yielding.

I just wanted to come down quickly and support Representative ISSA and H. Con. Res. 473, this resolution regarding gynecologic cancer.

I submit to the Congress and bring some recognition to this dreaded disease.

Mr. ISSA and I were talking earlier today about ovarian cancer. In particular, and how difficult it is to detect. It is commonly thought you can do a blood test, but it is not a good screening test for ovarian cancer. There are other things that we can do, and we need to be sure that the American public and our colleagues in the Congress are aware of that. It costs money, certainly, but it saves lives.

I wanted to drop in for a few seconds, and I appreciate the gentleman yielding to me. I urge all Members to support the adoption of House Concurrent Resolution 473, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. WESTMORELAND) that the House suspend the rules and agree to the concurrent resolution.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

SUPPORTING THE GOALS AND IDEALS OF INFANT MORTALITY AWARENESS MONTH

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 402) supporting the goals and ideals of Infant Mortality Awareness Month, as amended.

The Clerk read as follows:

H. Res. 402

Whereas infant mortality refers to the death of a baby before it reaches its first birthday;

Whereas the United States ranks 26th among industrialized nations in the rate of infant mortality;

Whereas in the United States, infant mortality increased in 2002 for the first time in more than four decades;

Whereas in 2002 the rate reached 7 deaths per 1,000 live births, which was the first increase since 1958;

Whereas the recent increase is a significant and troubling public health issue, especially for African American families, Native American families, and Hispanic families;

Whereas the mortality rate among African American women is more than double that of Caucasian women, according to a report produced by the National Healthy Start Association and by a related group supported by the health department of Allegheny County, in the State of Pennsylvania;

Whereas the Secretary of Health and Human Services has designated 2010 as the year by which certain objectives should be met with respect to the health status of the people of the United States;

Whereas such objectives, known as Healthy People 2010, include an objective regarding a decrease in the rate of infant mortality;

Whereas September 1, 2007, is the beginning of a period of months during which there will be several national observances that relate to the issue of infant mortality, including the observance of October as Sudden Infant Death Awareness Month and November as Prematurity Awareness Month;

Whereas it would be appropriate to observe September 2007 as Infant Mortality Awareness Month; Now, therefore, be it

Resolved, That the House of Representatives supports the goals of Infant Mortality Awareness Month in order to—

(1) increase national awareness of infant mortality and its contributing factors; and

(2) facilitate activities that will assist local communities in their efforts to meet the objective, as established by the Secretary of Health and Human Service in Healthy People 2010, to decrease infant mortality in the United States be reduced to a rate of no more than 4.5 infant deaths per 1,000 births.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. WESTMORELAND) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in 2002 infant mortality rates increased in the United States for the first time in more than four decades. There are approximately seven deaths per every 1,000 live births, and this recent increase is absolutely a troubling development.

The Secretary of Health and Human Services has designated 2010 as a year by which several health objectives should be met, including objectives to decrease infant mortality rates.

Mr. Speaker, the Nation currently observes the month of October as Sudden Infant Death Awareness Month and November as Prematurity Awareness Month. It is fitting to observe September of 2006 as Infant Mortality Awareness Month. I urge my colleagues to support House Resolution 402, as amended, to do just that.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the term “infant mortality rate” is given to the number of infant deaths during the first 12 months of life for every 100,000 births.

In the United States, infant mortality increased in 2002 for the first time in more than four decades. The rate reached seven deaths per 1,000 live births, which was the first increase since 1958.

American babies are three times more likely to die during their first month of life than children born in
Japan, and newborn mortality is 2½ times higher in the United States than in Finland, Iceland, or Norway. Only Latvia, with six deaths per 1,000 live births, has a higher death rate for newborns than the United States, and Latvia shares the bottom of that list with industrialized nations, tied with Hungary, Malta, Poland, and Slovakia with five deaths per 1,000 births.

Newborn death rates are higher among American minorities and disadvantaged groups. For African Americans, the mortality rate is nearly double that of the United States as a whole, with 9.3 deaths per 1,000 births. The primary causes of infant mortality are premature birth and low birth weight. A common reason for low birth weight infant mortality includes respiratory distress syndrome, which may involve a collapsed lung, low oxygen absorption, and high carbon dioxide level.

All children, regardless of where they are born and regardless of their race or ethnic group, deserve a healthy start in life. Mr. Speaker, I have always been told that mortality rates are high, it means that the quality of life is low. If infant mortality rates are low, then it means that the quality of life is high.

It is pretty obvious, Mr. Speaker, that we need to do more to deal effectively across the board with the quality of life for people in our country, a great Nation, in an effort to make it even greater. I strongly support this resolution and urge all of my colleagues to do so.

Mr. Speaker, I yield back the balance of my time.

Mr. WESTMORELAND, Mr. Speaker, I yield 3 minutes to my distinguished colleague from Georgia, Dr. Gingrey.

Mr. Speaker, I thank the gentleman for yielding. I know I talk slow, but I hope I won’t take 3 minutes. But I appreciate the opportunity.

I mentioned just a moment ago that my specialty was gynecology, but there is another part to that, and it is the obstetrical part, the birth and babies part. So it is an honor and a pleasure to be here and to support H. Res. 420; and I want to thank my physician colleague in this House and another OB/GYN, MIKE BURGESS, Representative BURGESS from Texas, who also practiced OB/GYN for 17 years, for bringing this resolution; and also, of course, my colleague from Georgia, Representative WESTMORELAND; and my good friend from Chicago, Illinois, Mr. Davis.

Mr. Davis just said it perfectly. When you lose babies in the first year of life at the rate of 7 per 1,000 live births and we are 28th among industrialized nations and we brag about the fact that we have the greatest health care system in the world, there is something wrong with that picture. And, as he pointed out, it is even worse for African American minorities; and the big problem, of course, is lack of prenatal care. Deaths occur because of Sudden Infant Death Syndrome. We are still struggling to figure out why that occurs, but we clearly know why premature babies and low birth weight babies that Representative Davis was talking about, and we can do something about that.

So this resolution is very timely, supporting the goals and ideals of Infant Mortality Awareness Month; and I just want to thank the gentleman for letting me put in my 2 cents worth in regard to this very, very important issue.

Mr. WESTMORELAND, Mr. Speaker, I urge all Members to support the adoption of House Resolution 402, as amended.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. Speaker, I move to suspend the rules and agree to the resolution, H. Res. 402, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

RECOGNIZING THE 225TH ANNIVERSARY OF THE AMERICAN AND FRENCH VICTORY AT YORKTOWN DURING THE REVOLUTIONARY WAR

Whereas the victory at Yorktown, Virginia, during the Revolutionary War and the surrender of Lieutenant General Charles Cornwallis and nearly 7,100 British soldiers and sailors, ending nine days of siege operations against the British army; Whereas the victory at Yorktown concluded the last major battle of the American Revolution, effectively ending the war and securing for the colonies their independence by providing a military conclusion to the political declaration of independence issued five years earlier; Whereas Virginia, as the largest and most populous of the original 13 colonies and the home of General Washington, Thomas Jefferson, Patrick Henry, Thomas Nelson, Jr., and other leaders of the American Revolution, is blessed with a rich history of noteworthy contributions to the struggle to secure liberty and democracy; Whereas in 1983 the Virginia General Assembly designated the 19th day of October of each year to be Yorktown Day and celebrated Yorktown Day throughout the Commonwealth of Virginia; and Whereas the 2006 observance of Yorktown Day celebrated the 225th anniversary of the American and French victory at Yorktown: Now, therefore, be it

Resolved, That the House of Representatives recognizes the 225th anniversary of the American and French victory at Yorktown, Virginia, during the Revolutionary War and reminds the American people of the debt the United States owes to its armed forces and the important role Yorktown and the Commonwealth of Virginia played in securing the democracy.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. WESTMORELAND) and the gentleman from Illinois (Mr. Davis) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I may consume.

On October 19, 1781, Mr. Speaker, Lieutenant General Charles Cornwallis and nearly 7,100 British soldiers surrendered to General George Washington in Yorktown, Virginia. This surrender almost 225 years ago ended the American and French 9-day siege against the British troops, and it signaled the end of the last major battle of the American Revolution.

This day in history also solidified the political declaration of independence made by the colonies 5 years later, and it opened the door to America becoming the democracy our forefathers envisioned.

We are most fortunate to live in this Nation, and I urge all Members to join me in supporting this resolution recognizing the 225th anniversary of the American and French Victory at Yorktown.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Yorktown was established by Virginia’s colonial government in 1691 to regulate trade and to collect taxes on both imports and exports for Great Britain. Over time, the waterfront with wharves, docks, storehouses, and businesses developed. On the bluff above the waterfront, stately homes lined Main Street. Taverns and shops were scattered throughout the town. By the early 1700s, Yorktown had emerged as a major Virginia port and economic center.

Today, Yorktown is best known as the site where the British army under General Charles Lord Cornwallis was forced to surrender on October 19, 1781, to General George Washington’s combined American and French army. Upon hearing of their defeat, British Prime Minister Frederick Lord North is reputed to have said, “Oh, God, it’s
Mr. WESTMORELAND. Mr. Speaker, I yield back the balance of my time.

Mr. WESTMORELAND. Mr. Speaker, I yield such time as she may consume to my distinguished colleague from the Commonwealth of Virginia, Mrs. DAVIS.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise today in support of my resolution, H. Res. 748, recognizing the 225th anniversary of the American and French victory at Yorktown, Virginia, during the Revolutionary War.

I am very proud to represent America’s First Congressional District. While next year my district will be host to the 400th anniversary celebration of the founding of Jamestown, this month marks another significant anniversary in our Nation’s history: the victory at Yorktown.

It is a privilege every year on October 19 to celebrate Yorktown Day. The Revolution secured independence for the United States and significantly changed the course of world history.

The American Revolution took place from Maine to Florida, and as far west as Arkansas and Louisiana, but it was Yorktown battlefield that saw the final battle of the American Revolution, with Cornwallis’s British army to General George Washington’s American-French allied army in October, 1781.

By the end of September, 1781, Washington’s army of 17,600 Continental soldiers and French allies had surrounded Cornwallis’ 8,300 British, German, and Loyalist troops and laid siege to Yorktown, leading to the surrender of Cornwallis on October 19, 1781. And my colleague from Illinois said it best when he quoted Lord North when he said, “Oh, God, it’s all over.” The allied victory at Yorktown effectively ended the war.

In 1951, Dr. Ray Lyman Wilbur, Secretary of the Interior, commented, “To declare independence is one thing; to achieve it is another. Here it was actually achieved. . . The victory at Yorktown gave us that independence which the American patriots had boldly proclaimed to the world.”

Mr. Speaker, it is that independence that we so cherish and enjoy here in the United States of America today. It is our freedoms that our wonderful men and women in the military continue to fight for today, and it started back in 1781 with the victory at Yorktown.

Mr. Speaker, with that, I urge all of my colleagues to support this resolution honoring a significant historical event in our Nation’s history.

Mr. Speaker, I yield the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. WESTMORELAND) that the House suspend the rules and agree to the resolution, H. Res. 748.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution agreed to.

A motion to reconsider was laid on the table.

SUPPORTING THE GOALS AND IDEALS OF NATIONAL PREGNANCY AND INFANT LOSS REMEMBRANCE DAY

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 222) supporting the goals and ideals of National Pregnancy and Infant Loss Remembrance Day, as amended.

The Clerk read as follows:

H. CON. RES. 222

Whereas each year, approximately one million pregnancies in the United States end in miscarriage, stillbirth, or the death of a newborn baby;

Whereas it is a great tragedy to lose the life of a child;

Whereas even the shortest lives are still valuable, and the grief of those who mourn the loss of these lives should not be trivialized;

Whereas during the past 3 years, Governors of all 50 States have signed proclamations designating October 15 as Pregnancy and Infant Loss Remembrance Day;

Whereas the legislatures of the States of Arkansas, Kansas, Kentucky, Louisiana, Missouri, New York, Rhode Island, and South Dakota have passed concurrent resolutions recognizing October 15th of each year as Pregnancy and Infant Loss Remembrance Day;

Whereas the observance of Pregnancy and Infant Loss Remembrance Day may provide validation to those who have suffered a loss through miscarriage, stillbirth, or other complications;

Whereas recognizing Pregnancy and Infant Loss Remembrance Day would enable the people of the United States to consider how, as individuals and as a community, we meet the needs of bereaved mothers, fathers, and family members, and work to prevent the causes of these deaths; and

Whereas October 15th of each year is an appropriate day to observe National Pregnancy and Infant Loss Remembrance Day:

Now, therefore, be itResolved by the House of Representatives (the Senate concurring), That the Congress—

(1) supports the goals and ideals of National Pregnancy and Infant Loss Remembrance Day; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe such day with appropriate programs and activities.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. WESTMORELAND) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

GENEAL LEAVE

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is an enormous tragedy to lose the life of a child, and it is a sad statistic that each year approximately 1 million pregnancies in the United States end in miscarriage, stillbirth, or the death of a newborn baby.

As this resolution states, even the shortest of lives are of great value, and the grief of the parents who lose their children cannot be underestimated. The Governors of all 50 States have joined together in designating October 15, 2006, as Pregnancy and Infant Loss Remembrance Day; and I hope all Members will join me in supporting the goals and ideals of this day as well.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when any baby or child dies, there is deep grief for the hopes, dreams, and wishes that will never be. Left behind are a sense of loss and a need for understanding.

Every year, many lives are touched by miscarriage or the death of an infant or child. According to a 1996 study by the Center for Disease Control, 6 percent of the more than 6 million pregnancies that year ended in either a miscarriage or a stillbirth, and 26,784 births ended in infant death.

Pregnancy and Infant Loss Day, which will be held on October 15, will assist in bringing the process of healing to families and will help to heal families who are coping with and recovering from a miscarriage, stillbirth, or the loss of an infant.

Families will always struggle to cope with the devastating crisis of a miscarriage or loss of an infant child. Parents often cry, feel ill or depressed, or have other emotional responses for months or years after a death. The pain is a normal part of grieving. Parents often want to talk about their pain and are pleased when others take the time to listen. People who come in contact with a grieving family have a role in helping to resolve the family’s grief. The role of each person will be determined by his or her relationship with the family and the family’s stage of grief. As a community, we should remember that we can all take the pain away from a grieving family. We can, however, provide comfort, sympathy, and understanding.

There will always be the need for compassionate support for grieving families, and I hope that all Americans will join together on October 15 to show their compassion for families that have experienced the loss of an infant or a child.
I urge all of my colleagues to support this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. WESTMORELAND. Mr. Speaker, I yield such time as he may consume to my friend and a distinguished member of this House from the State of Iowa (Mr. LATHAM).

Mr. LATHAM. Mr. Speaker, each year approximately 1 million pregnancies in the United States end in miscarriage, stillbirth or the death of a newborn baby. Most Americans are not aware of this startling statistic, because many of those affected grieve in silence, sometimes never coming to terms with their loss.

We can help by giving all parents, grandparents, siblings, relatives and friends a special day of remembrance. In addition, bringing attention to this issue will foster greater understanding in our communities of how to meet the needs of bereaved family members and focus and efforts to prevent pregnancy loss and newborn deaths.

The Governors of all 50 States have signed proclamations recognizing October 15 as Pregnancy and Infant Loss Remembrance Day, and the legislatures of at least eight States have passed resolutions recognizing this day each year on a permanent basis.

Congress can bring even greater national awareness to this important issue by proclaiming its support for Pregnancy and Infant Loss Remembrance Day. Taking this action will mean something special to millions of Americans that have been affected, especially the mothers.

I commend the resolution’s 54 bipartisan co-sponsors and the many citizens throughout the country and in my home State of Iowa whose efforts have made consideration of this resolution possible.

Mr. Speaker, I urge all Members to support the adoption of this resolution which will offer the support to individuals and families who have lost a child through miscarriage, stillbirth or other complications.

Mr. WESTMORELAND. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank the gentleman for yielding me time.

I thank the gentleman for bringing this resolution to the floor and stressing the importance to make people understand that a million babies lose a year, in addition to probably another million or so that are aborted deliberately, is a lot of lost lives.

Mr. Speaker, I think the importance of this resolution is to let people know that when couples have a miscarriage, it is a child. It might be for some people, well, it is just a miscarriage. They were only 6 weeks or they were only 9 weeks, and they did not even know whether it was a boy or girl.

But in the minds of that couple in many instances it is their very first pregnancy, and they are already thinking about that little boy or the little girl and what the name is going to be and the clothes that they are going to pick out and the joy that are going to have sending their child to school and raising it and seeing it play sports and become an adult some day and contribute to our great society.

We tend to forget that. And this was brought home to me very vividly recently by a family, pregnant with their first child, found out at 10 weeks that the baby did not have a heartbeat. And so that baby was lost. And she went on, of course, and miscarried. And that loss will be with them forever. And so I think it is just so important for us all to realize that when somebody, when you hear about somebody having a miscarriage, do not think, well, it was just a miscarriage, it is not like losing a child or an older child, which we do not know that anything compares to that.

But this is a significant loss. And that is why this resolution today is so important. I thank the gentleman for yielding. I thank Congressman LATHAM for bringing this forward and Congresswoman DAVIS as well.

Mr. WESTMORELAND. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. BILBRAY).

Mr. BILBRAY. Mr. Speaker, I rise today to thank Mr. LATHAM and both the majority and the minority for presenting this resolution today.

I do not talk about a situation that occurred over 22 years ago in my family. Actually it was 22 years, 2 months ago that my wife and I lost our child at 3 months to crib death.

I am sure you have got to believe that 22 years should be able to cover up the pain and the hurt and the scar. But it does not. And though we have been blessed with children, which we will always have that missing spot that that little 3-month-old baby filled.

But I want to thank you for today, and I stand up here today and speak of this matter to represent the men and women who have gone through what my family has gone through, and thank you for this.

If I may leave you with one message: more important than us grieving for our losses of those young ones that have died and are not here today, the best way for us to really remember them is to appreciate and worship and thank God for the blessings of having healthy children and babies that we can take care of.

Because they truly are the best memorial for our babies that we have lost, by preserving and protecting the treasures that God has given us in healthy children.

Mr. PAUL. Mr. Speaker, I am pleased to support H. Con. Res. 222, a resolution conveying the goals and ideals of National Pregnancy and Infant Loss Remembrance Day. As a practicing OB/GYN for almost 40 years, I know there are few things more devasting than losing a child to medical complications such as a miscarriage or a stillbirth. Americans should take every opportunity to provide comfort and support to people who have suffered such a grievous loss.

I also wish to pay tribute to the efforts of Mrs. Robyn Bear, who played a seminal role in redefining this issue before Congress.

Mrs. Bear’s story is an inspirational example of how a dedicated individual can make something good come from even the most tragic circumstances. After suffering six first trimester miscarriages between 1997 and 1999, Mrs. Bear began working to create a national system for parents who lost their children because of medical complications during or shortly after pregnancy. Largely due to her efforts, Governors of all 50 States have signed proclamations recognizing National Pregnancy and Infant Loss Remembrance Day. Mrs. Bear has also been instrumental in founding several online support groups for families that have suffered the loss of an unborn or newborn child. Mrs. Bear’s efforts were also the inspiration for this legislation. I am pleased to let my colleagues know that today Mrs. Bear is the proud mother of a 6-year-old girl and 3-year-old twins.

In conclusion, Mr. Speaker, I once again urge my colleagues to support this bill. I also extend my thanks to Mrs. Robyn Bear for all her efforts to help parents who have lost a child due to a miscarriage, stillbirth, or other medical complications.

Mr. WESTMORELAND. Mr. Speaker, I have no further speakers. I want to urge all Members to support the adoption of House Concurrent Resolution 222, as amended, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. WESTMORELAND) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 222, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

CONGRATULATING COLUMBUS NORTHERN LITTLE LEAGUE BASEBALL TEAM ON ITS 2006 LITTLE LEAGUE WORLD SERIES VICTORY

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 991) congratulating the Columbus Northern Little League Baseball Team from Columbus, Georgia, on its victory in the 2006 Little League World Series Championship games.

The Clerk read as follows:

H. Res. 991
Whereas on Monday, August 28, 2006, the Columbus Northern Little League baseball team from Columbus, Georgia, defeated the Japanese Little League team by a score of 2-1, as the 2006 Little League World Series Championship at South Williamsport, Pennsylvania;
Whereas, although Columbus Northern had taken 1 loss in the series, they did not give up, and although the Championship game was delayed a day by rain, the Columbus Northern team continued to press hard to come from behind to win the Championship game:

Whereas a team from the State of Georgia had not won the world title in more than 20 years:

Whereas the 2006 Columbus Northern Little League World Championship team consists of players Kyle Carter, Brady Hamilton, Matthew Hollis, Matthew Kuhlenberg, Josh Lester, Ryan Lang, Mason Meyers, J.T. Phillips, Kyle Rovig, Patrick Stallings, and Cody Walker:

Whereas the 2006 Columbus Northern Little League World Championship team is led by Coach Richard Carter, Manager Randy Morris, Team Mother Lyzane Phillips, and President Curt Thompson:

Whereas the championship victory of the Columbus Northern Little League Baseball Team sets an example of sportsmanship, dedication, and a “never give up” spirit for men and women all across the country; and

Whereas the achievement of the Columbus Northern Little League Baseball Team is the cause of enormous pride for the Nation, the State of Georgia, and the city of Columbus: Now, therefore, be it

Resolved, That the House of Representatives congratulates the Columbus Northern Little League Baseball Team from Columbus, Georgia, on its victory in the 2006 Little League World Series Championship games.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. WESTMORELAND) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

GENERAL LEAVE

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to read and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to offer House Resolution 991, to congratulate the boys of Columbus Northern of winning the Little League World Series. Thousands upon thousands of kids across the Nation take to the baseball fields each year to enjoy America’s pastime.

The best of the best get a chance to compete for the title of U.S. Champion. The team that claims that mantle gets the chance to represent the Nation in the world championship game. This year, the American champions hailed from Columbus in Georgia’s Eighth Congressional District.

While all of my colleagues from Georgia are certainly proud that the world champions are from our State, all of the Members of the House can take pride in their significant accomplishment.

Columbus Northern fought hard through the American playoffs. They lost one game, but they did not lose their fighting spirit. They came back with a vengeance and captured the American championship. Then they faced a strong Japanese team in the grand finale in Williamsport, Pennsylvania.

It was a defensive struggle, and pitcher Kyle Carter held the Japanese batters to one run, and catcher Cody Walker provided the winning margin, hitting a two-run homer.

The boys of Columbus showed that they are winners not only on the field, but also off the field. They demonstrated sportsmanship and Southern hospitality after the game by going to the Japanese dugout and inviting their opponents to run the victory lap around the field with them.

A historical perspective puts the significance of this victory into better focus. Though this country is the home of Little League Baseball, it is not often that the American Little League team hoists the world championship trophy.

Since 1947, only eight U.S. teams have won. I might add here, Mr. Speaker, that two of those teams hailed from Georgia. For Georgia, this victory shows the world that our athletes and coaches are among the best that play the game. The coaches and players of Columbus Northern can take pride in knowing that they have become the symbol of Georgia’s athletic prowess.

But even more important than that, the boys of Columbus Northern will have memories to last a lifetime. They have had the extraordinary opportunity to inspire and instill pride in every American boy who has ever slipped on a glove or swung a bat.

Mr. Speaker, I urge my colleagues to join me in congratulating Columbus Northern, the American and World Champions, by supporting House Resolution 991.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, let me congratulate Mr. WESTMORELAND and all of his neighbors and friends and residents of Columbus. I can imagine the tremendous sense of pride that that entire community feels and how proud they are of the accomplishments of their young people.

Mr. Speaker, Little League Baseball is the world’s largest organized youth sports program with a million adult volunteers throughout the United States and in dozens of other countries. No other youth support comes close to having the same level of participation.

On August 28, 2006, the Columbus Northern Little League team defeated the Kawaguchi Little League team of Japan by a score of 2-1. Both teams played an excellent game and represented their country and their league well.

In the end, the Columbus Northern Little League team concluded its season with an impressive record of 20 wins and only one loss. Columbus Northern is Georgia’s second team to win the Little League World Series.

The 11 young men of the Columbus Northern team should be proud of their accomplishment. Pitcher Lyle Walker made history by striking out 11 batters and became the first pitcher in history to win four times in the Little League World Series.

Mr. Walker knocked a two-out pitch over the right field fence for the two runs that won the game over Japan.

Manager Randy Morris and Coach Richard Carter deserve recognition for guiding these young and committed players to victory.

Mr. Speaker, while we congratulate the Columbus Northern team, and while I urge passage of H. Res. 991, I can tell you there is no better sight to see during spring or summer, when you can see groups of young people out participating in an organized sport with their parents and neighbors and friends watching.

I want to congratulate you, Mr. Speaker, if we had more Little League teams, we would have fewer young people in juvenile delinquency settings, and our prisons could get emptied down, if not out.

Again, I commend the Columbus Northern team and especially all of the coaches and volunteers and people of the community who really made it possible.

Mr. Speaker, I yield back the balance of my time.

Mr. WESTMORELAND. Mr. Speaker, I would like to thank my colleague for those kind words and remarks. The gentleman is exactly right about the number of youth that should be playing Little League.

Mr. Speaker, I yield 4 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank my colleague. I am sitting here listening to the two gentlemen, and I am ready to grab my bat and glove and hat and furthermore take me off the streets so I can go out and play ball again.

But they are absolutely right. This is a fantastic achievement from this team from Columbus, Georgia. I am especially proud to share a few moments, because I have part of Columbus in my district. This team is from Representative WESTMORELAND’s district, but what a great community Columbus is, Muscogee County, and the great people there. I know they are so proud of this young ball team and the coaches.

Of course we have already mentioned names. I am sure that one of those names is already famous from Japan to join in that victory lap. That is the kind of sportsmanship that is developed by these men and women that volunteer their time to work with our youth and achieve such great results.

Mr. Speaker, Congressman WESTMORELAND, mentioned that we had another team from Georgia. Indeed, back in 1983, and my nurse,
I was, of course, in medical practice at the time. Her son was the third baseman on that team.

And he today is a medical doctor, a radiologist. But he was a great little ball player. And I think one of the players on that team was a dominant pitcher just like in this year; they took them to victory. He ultimately was a major league baseball pitcher.

But what happens with most of these kids, of course, is that they go on to other careers, like Adam Olmsted. Ken and I have given up, as I say, a doctor now. And they go on to be very successful careers. And it is not often that they go on to become Major League Baseball players.

But the ideals, the sportsmanship, the determination, the relationship they have with their teammates is the thing that they learn, that they take with them through life. And it makes their lives successful no matter what endeavor they pursue.

So I wanted to recognize these young players at Georgia Tech halftime, University of Georgia halftime. I want to say to any of them that go on and play college baseball, do not go to Auburn or Alabama just to cross the river.

Stay in Columbus, go to LaGrange College, University of Georgia. Bulldogs, Georgia Tech, Kennesaw State University. We have got some great baseball teams in Georgia, and that is where we want them to play.

Mr. DAVIS of Illinois. Mr. Speaker, I ask unanimous consent to reclaim my time and then to yield such time as he may need and use to another son of Georgia (Mr. BISHOP). The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection. Mr. BISHOP of Georgia. Mr. Speaker, I thank the gentleman for yielding.

I rise today certainly in support of H. Res. 991, with my other colleagues from Georgia, and with great pride of the 2006 Little League World Champions, the Northern Little League team of Columbus, Georgia.

The victory by our Northern Little Leaguers over the undefeated Kawaguchi City team representing the country of Japan makes them only the second team from Georgia to ever qualify for this event in the entire 60-year history, and we are very proud of that.

As a Member of Congress representing Columbus and Muscogee County, where most of the young men live, I cannot tell you how proud we are of these fine, young men and the character and discipline that they exhibited.

The entire city, the surrounding area, our State and, indeed, people all over the country were thrilled by the success of our young people. The Northern Little League players are not only world champions, they are certainly hometown heroes, and they are celebrities. You should have seen them with the class and dignity as they spoke with the media, as they commended their opponents and as they generously signed the thousands of autographs surrounding the celebration of their victory.

These young men represented the city of Columbus, they represented the State of Georgia, and they represented the United States of America in the finest tradition of Little League and what it stands for and for what it represents: teamwork, sportsmanship, and camaraderie. We are proud of them.

The spirit of sportsmanship was no more apparent than it was this year. After they won the game, and you have heard, the entire Columbus team walked over to the opponents’ dugout and beckoned for them to join them in taking the victory lap around the field. It really made us all look at the world and see side by side two teams scoop up dirt from the infield to keep as souvenirs.

And I also want to pay tribute to the parents and the coaches of these young people. They pay for a Little League baseball player, for that matter, football, soccer or other sports, has to know and appreciate the love and the commitment that is needed.

Let me pay tribute to the dedicated fans in Columbus. Hundreds of whom took the 900-mile trip to Williamsport from Columbus to support our team, as well as the other Little League teams in the Columbus area, and the many volunteers, sponsors and supporters who have dedicated themselves to Little League sports year after year.

Throughout the World Series, it was clear that Northern was well-schooled and well-prepared which, in large part, points to the hard work and the dedication of the team’s manager, Randy Morris, and coach, Richard Carter.

It was the team itself who had to put it all together on the field, and I would like to pay special tribute to each one of the team members individually, including Brady Hamilton, No. 6; Ryan Lang, No. 18; Josh Lester, No. 4, the most valuable player; Matthew Hollis, No. 10; Patrick Stallings, No. 25; Mason Meyers, No. 16; Kyle Rovig, No. 8; Matthew Kuhlenberg, No. 7; Cody Walker, No. 21; Kyle Suther, No. 19; and J.T. Phillips, No. 22.

Babe Ruth once said that, “Baseball was, and is always will be to me the best game in the world.” Indeed, for the millions of Little League fans around the world, the 2006 Little League Championship game will go down as one of the best single games in the history of the event.

We are so proud of our Little Leaguers. Northern Little League, congratulations for a job well done.

Mr. WESTMORELAND. Mr. Speaker, I have no more speakers. I want to urge all Members to support the adoption of H. Res. 991, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. WESTMORELAND) that the House suspend the rules and agree to the resolution.

The question was taken; and the two-thirds having voted in favor thereof the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

LANCE CORPORAL ROBERT A. MARTINEZ POST OFFICE BUILDING

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5108) to designate the facility of the United States Postal Service located at 1213 East Houston Street in Cleveland, Texas, as the ‘Lance Corporal Robert A. Martinez Post Office Building’.

The Clerk read as follows:

H.R. 5108

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

SECTION 1. LANCE CORPORAL ROBERT A. MARTINEZ POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 1213 East Houston Street in Cleveland, Texas, shall be known and designated as the ‘Lance Corporal Robert A. Martinez Post Office Building’.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Lance Corporal Robert A. Martinez Post Office Building”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. WESTMORELAND) and the gentleman from Illinois (Mr. DAVIS) each will control 2 minutes.

The Chair recognizes the gentleman from Georgia.

GENERAL LEAVE

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection. Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a native Texan, Robert Martinez, known as Robbie, was a young Marine with the 2nd Battalion, 7th Marine Regiment, 1st Marine Division. He was based at the Marine Corps Air Ground and Combat Center in Twenty-nine Palms, California.

Lance Corporal Martinez was a dedicated soldier who wanted nothing more than to serve his country and make a difference in the world. Upon commencement of his senior year of high school, he had already signed up for the
Marines. Two days after his high school graduation, in 2003, he left for basic training.

Before his second deployment, Lance Corporal Martinez was stationed for 7 months in Iraq on the border of Syria. It was late in his second deployment to Iraq, the city of Fallujah when he and nine fellow Marines were killed by an improvised explosive device. The date of this attack was December 1, 2005; and, tragically, he was only weeks from returning home to his family and friends.

In honor of this soldier’s great courage and patriotism, which will not be forgotten, I ask all Members to join me in supporting H.R. 5108.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, H.R. 5108, introduced by Representative Poe, designates the facility of the United States Postal Service located at 1213 East Houston Street in Cleveland, Texas, as the Lance Corporal Robert A. Martinez Post Office Building.

This measure was unanimously reported by the Government Reform Committee on September 21, 2006.

A native of Texas, Robert Martinez was a young Marine serving his second deployment to Iraq where he was killed by an improvised explosive device on December 1 while conducting combat operations in Fallujah, Iraq.

Mr. Speaker, here is another instance where a young person who had completed one tour of duty, engaged in his second tour, gave the very best and the most that one could possibly give, and that is his life, for the benefit of creating, hopefully, a different and a better world. I can think of no better way to remember him than to have people in his community and in his hometown know of his diligence, of his exploits and of his courage than to name a post office in his honor.

Mr. Speaker, I have no further requests for time, and I yield back the balance of our time.

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 5108.

The SPEAKER pro tempore. The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill passed.

A motion to reconsider was laid on the table.

SEC. 206. Reports.
Sec. 205. Evaluation.
Sec. 204. Administration.
Sec. 201. Elder abuse prevention and services.

Some people live an entire lifetime and wonder if they have ever made a difference in the world, but the Marines don’t have that problem.” Fine words from our former President.

Lance Corporal Martinez was working to make a difference in the world when he gave his life, and his bravery and dedication, his patriotism will not ever be forgotten by his friends, certainly not by his family, and all freedom-loving people throughout this world.

His Nation made the call, and he responded without hesitation, and he served his country with honor and distinction. He wanted to be in the Marines since he was 12 years of age.

So, Mr. Speaker, I ask for the adoption of this bill to name this small post office in Cleveland, Texas, after one of the sons of America.

Mr. WESTMORELAND. Mr. Speaker, we have no other speakers, and I urge all Members to support the passage of H.R. 5108. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. WESTMORELAND) that the House suspend the rules and pass the bill, H.R. 5108.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

President Ronald Reagan once said, “Some people live an entire lifetime and wonder if they have ever made a difference in the world, but the Marines don’t have that problem.” Fine words from our former President.

Lance Corporal Robert “Robbie” Alexander Martinez was a member of this fine fighting organization; and, as mentioned, he was killed in December, 2005, while fighting and serving our Nation in Iraq. He volunteered to join the Marines, and he volunteered to go to Iraq. He was a member of the 2nd Battalion, 7th Marine Regiment, the 1st Marine Division, based at the Marine Air Corps Ground and Combat Center, Twentynine Palms, California.

Lance Corporal Martinez was 20 years of age when he died. He was on his second tour of Iraq, and he had spent 7 months on the Syrian border. He went to Iraq and Fallujah after 2004, and then he and nine other Marines were killed last December when a roadside bomb exploded next to them.

Lance Corporal Martinez was scheduled to come home to Texas within a week of his death, but at the last minute his tour was extended for over a month and a half.

Just before his death, Robert Martinez had called his mother and asked her to buy him a diamond ring because he was going to propose to his girlfriend, Taylor Wilkenson, as soon as he got back. He called her his “love at first sight.”

He went to a little, small high school, Cleveland High School in Cleveland, Texas, and he graduated there in 2003. While in high school, he was known as the peacemaker. By the time he started his senior year, he had already signed up for the Marine Corps, but they would not take him until he was old enough. His pre-enlistment at the age of 17 would be activated as soon as he graduated from high school.

He was an outstanding baseball pitcher at Cleveland High School and dreamed of getting a degree in education and being a high school baseball coach, but he put all those dreams on hold so he could join the United States Marine Corps. He went to basic training 2 days after his high school graduation.

Lance Corporal Martinez’s stepfather, Jeremy Hunt, called Robbie his “diamond in the rough” and one of the greatest things that ever came into the life of his family. He loved being in the Marine Corps, and he was proud telling folks he was just a Marine. He knew there was a reason for resolving the situation in Iraq, and he looked forward to coming back to Texas.

While overseas, he requested bags and bags of candy and care packages, but this candy was not for him because he would split it up and give it out to little kids in Iraq.

Robbie’s mother, Kelly Hunt, said words from our former President.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Older Americans Act Amendments of 2006”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—GENERAL PROVISION

Sec. 101. Definitions.

Sec. 201. Elder abuse prevention and services.

Sec. 202. Functions of the Assistant Secretary.

Sec. 203. Federal agency consultation.

Sec. 204. Administration.

Sec. 205. Evaluation.

Sec. 206. Reports.

Sec. 207. Contracting and grant authority; private pay relationships; appropriate use of funds.

Sec. 208. Nutrition education.
Sec. 209. Pension counseling and information programs.

Title III—Grants for State and Community Programs on Aging

Sec. 301. Purpose; administration.
Sec. 302. Definitions.
Sec. 303. Authorization of appropriations; uses of funds.
Sec. 304. Allotments.
Sec. 305. Organization.
Sec. 306. Area plans.
Sec. 307. State plans.
Sec. 308. Payments.
Sec. 309. Nutrition services incentive program.
Sec. 310. Consumer contributions.
Sec. 311. Supportive services and senior centers.
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Title IV—Activities for Health, Independence, and Longevity

Sec. 401. Title.
Sec. 402. Grant programs.
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Title V—Older American Community Service Employment Program

Sec. 501. Community Service Senior Opportunities Act.
Sec. 502. Effective date.

Title VI—Native Americans

Sec. 601. Clarification of maintenance requirement.
Sec. 602. Native Americans caregiver support program.

Title VII—Allotments for Vulnerable Elder Rights Protection Activities

Sec. 701. Vulnerable elder rights protection activities.
Sec. 702. Elder abuse, neglect, and exploitation.
Sec. 703. Native American organization provisions.
Sec. 704. Elder justice programs.
Sec. 705. Rule of construction.

Title VIII—Federal Youth Development Council

Sec. 801. Short title.
Sec. 802. Establishment and membership.
Sec. 803. Duties of Council.
Sec. 804. Coordination with existing interagency coordination entities.
Sec. 805. Assistance of staff.
Sec. 806. Powers of the Council.
Sec. 807. Report.
Sec. 808. Termination.
Sec. 809. Authorization of appropriations.

Title IX—Conforming Amendments

Sec. 901. Conforming amendments to other Acts.
to direct and control the individual's receipt of such services, are assessed by the area agency on aging (or other agency designated by the area agency on aging) involved;

(2) based on the assessment made under subparagraph (C), the area agency on aging (or other agency designated by the area agency on aging) develops together with such individual and the individual's family, caregiver, or legal representative (as defined in paragraph (18)(B)), or legal representative—

(i) a plan of services for such individual that specifies which services such individual will require, the person or persons responsible for directing; and

(ii) a determination of the role of family members (and others whose participation is sought by such individual) in providing services under such plan for—

(iii) a budget for such services; and

(E) the area agency on aging or State agency provides for oversight of such individual's self-directed receipt of services, including steps to ensure the quality of services provided and the appropriate use of funds under this Act.

The term ‘self-neglect’ means an adult's inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including—

(A) obtaining essential food, clothing, shelter, and personal hygiene;

(B) obtaining goods and services necessary to maintain physical health, mental health, or general safety; or

(C) performing or obtaining any other legal financial affairs.

The term ‘State system of long-term care’ means the Federal, State, and local programs and activities administered by a State that provide, support, or facilitate access to long-term care for individuals in such State.

The term ‘integrated long-term care’ means—

(A) means and services that consist of—

(1) with respect to long-term care—

(i) long-term care items or services provided under a State plan for medical assistance under the Medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); including nursing facility services, home and community-based services, personal care services, and case management services provided under the plan; and

(ii) any other supports, items, or services that are available under any federally funded long-term care program; and

(2) the Medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

(B) the State plan for medical assistance under the Medicaid program; or

(III) any other federally funded health care program; and

(B) includes items or services described in subparagraph (A) that are provided under a public or private managed care plan or through any other service provider.

(b) REDIRECTION AND REORERRING OF DEFINITIONS.—Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002) is amended—

(1) in subsection (a)—

(i) by redesignating paragraphs (1) through (5) as paragraphs (5)(A) through (5)(E) as follows:

(ii) by striking paragraph (1) and inserting the following:

(iii) by striking paragraph (5)(A) and inserting the following:

(iv) by striking paragraph (5)(D) and inserting the following:

(ii) in paragraph (5)(D), by striking paragraph (12) and inserting the following:

(2) by redesignating paragraphs (1) through (5) as paragraphs (5) through (10) as follows:

(i) in paragraph (5), by inserting ‘‘assistance technology,’’ after ‘‘housing,’’;

(ii) by redesignating paragraph (12) and inserting the following:

(iii) by striking paragraph (13) and inserting the following:

(iv) by striking paragraph (14) and inserting the following:

(3) by redesignating paragraphs (1) through (5) as follows:

(i) in paragraph (1), by striking ‘‘gaps in’’ and inserting—

(ii) in paragraph (2), by inserting ‘‘assistance technology,’’ after ‘‘housing,’’;

(iii) in paragraph (3), by striking paragraph (12) and inserting the following:

(iv) by striking paragraph (13) and inserting the following:

(v) by striking paragraph (14) and inserting the following:

(4) in paragraph (5), by inserting ‘‘assistance technology,’’ after ‘‘housing,’’;

(5) by redesignating paragraphs (1) through (5) as paragraphs (5) through (10) as follows:

(i) in paragraph (5), by inserting ‘‘assistance technology,’’ after ‘‘housing,’’;

(ii) by redesignating paragraph (12) and inserting the following:

(iii) by striking paragraph (13) and inserting the following:

(iv) by striking paragraph (14) and inserting the following:

(6) by redesignating paragraphs (1) through (5) as follows:

(i) in paragraph (1), by striking ‘‘gaps in’’ and inserting—

(ii) in paragraph (2), by inserting ‘‘assistance technology,’’ after ‘‘housing,’’;

(iii) by redesignating paragraph (12) and inserting the following:

(iv) by striking paragraph (13) and inserting the following:

(v) by striking paragraph (14) and inserting the following:

(7) in paragraph (5), by inserting ‘‘assistance technology,’’ after ‘‘housing,’’;

(8) by redesignating paragraphs (1) through (5) as paragraphs (5) through (10) as follows:

(i) in paragraph (5), by inserting ‘‘assistance technology,’’ after ‘‘housing,’’;

(ii) by redesignating paragraph (12) and inserting the following:

(iii) by striking paragraph (13) and inserting the following:

(iv) by striking paragraph (14) and inserting the following:
(II) by inserting “(including services that would permit such individuals to receive long-term care in home and community-based settings)” after “individuals”; and

(ii) in subsection (E), by striking “and” at the end;

(E) in paragraph (27) —

(I) in subparagraph (B), by adding “and” at the end;

(ii) by striking subparagraph (D); and

(F) by adding at the end following:

“(28) make available to States, area agencies on aging, and service providers information and technical assistance to support the provision of evidence-based disease prevention and health promotion services;

(2) by striking subsections (b) and (c), and inserting the following:

“(b) To promote the development and implementation of comprehensive, coordinated systems at Federal, State, and local levels that enable older individuals to receive long-term care in home and community-based settings as appropriate, for a representative or advisor of the individual, to direct and control the receipt of supportive services provided; or

(1) for the individual to direct and control the receipt of supportive services provided;

or

(1) as appropriate, a representative of the individual) to develop a plan for long-term support, including selecting, budgeting for, and purchasing home and community-based long-term care and supportive services;

(5) provide for the Administration to play a leading role in States concerning home and community-based long-term care, including —

(A) directing (as the Secretary or the President designee) or otherwise participating in departmental and interdepartmental activities concerning long-term care;

(B) reviewing and commenting on departmental rules, regulations, and policies related to providing long-term care; and

(C) making recommendations to the Secretary, or the President designee, as appropriate, on the provision of evidence-based programs and service options, including recommendations based on findings made through projects conducted under paragraph (2);

(6) promote, in coordination with other appropriate Federal agencies —

(A) enhanced awareness by the public of the importance of planning in advance for long-term care; and

(B) the availability of information and resources to assist in such planning;

(7) ensure access to, and the dissemination of, evidence-based disease prevention and health promotion programs; and

(8) implement in all States Aging and Disability Resource Centers.

(A) to serve as visible and trusted sources of information on the full range of long-term care options, including both institutional and home and community-based care, which are available in the community;

(B) to provide personalized and consumer-friendly assistance to empower individuals to make informed decisions about their care options;

(C) to provide coordinated and streamlined access to all publicly supported long-term care options so that consumers can obtain the care they need through a single intake, assessment, and eligibility determination process;

(D) to help individuals to plan ahead for their future long-term care needs; and

(E) to assist (in coordination with the entities identified in section 3004(a)(1) of title 42) in implementing the Medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), including the availability of integrated long-term care; the Medicare Prescription Drug, Improvement, and Modernization Act of 2005;

(9) establish, either directly or through grants or contracts, national technical assistance programs, and other entities and programs available in the community, including selecting, budgeting for, and purchasing home and community-based long-term care systems, including evidence-based programs; and

(10) evidence-based disease prevention and health promotion services programs; and

(11) develop, in collaboration with the Administrator of the Centers for Medicare & Medicaid Services, performance standards, and methodologies for use by States to determine the extent to which their State systems of long-term care fulfill the objectives described in this subsection; and

(12) conduct activities as the Assistant Secretary determines to be appropriate.

(“c) The Assistant Secretary, in consultation with the Chief Executive Officer of the Corporation for National and Community Service, shall...

(1) encourage and permit volunteer groups (including organizations carrying out national service programs and including organizations of youth in secondary or postsecondary school) that offer supportive services and civic engagement to participate and be involved individually or through representative groups in supportive service and civic engagement activities to the maximum extent feasible;

(2) develop a comprehensive strategy for utilizing older individuals to address critical local needs (including the engagement of older individuals in the activities of public and nonprofit organizations such as community-based organizations, including faith-based organizations; and

(3) encourage other community capacity-building initiatives involving older individuals, with particular attention to initiatives that demonstrate effectiveness and cost savings in meeting critical needs.”; and

(3) in subsection (e)(1)(A), by striking the semicolon at the end and inserting a period.

SEC. 203. FEDERAL AGENCY CONSULTATION.

Section 203 of the Older Americans Act of 1965 (42 U.S.C. 3031) is amended —

(1) in subsection (a) —

(A) by striking “with particular attention to low-income minority older individuals and other individuals residing in rural areas” and inserting “with particular attention to low-income minority older individuals, including low-income minority older individuals, other individuals with limited English proficiency, and older individuals residing in rural areas”;

(B) by striking “section 507” and inserting “section 518”;

(2) in subsection (b) —

(A) in paragraph (17), by striking “and” at the end;

(B) in paragraph (18), by striking the period and inserting “,” and “;

and

(C) by adding at the end following:

“(19) sections 4 and 5 of the Assistive Technology Act of 1986 (29 U.S.C. 3003, 3004);”;

(3) by adding at the end following:

“(c) The Secretary, in collaboration with the Federal officials specified in paragraph (1), shall establish an Interagency Coordinating Committee on Aging (referred to in this subsection as the ‘Committee’) focusing on the coordination of agencies with respect to aging issues.

“(2) The officials referred to in paragraph (1) shall include the Secretary of Labor and the Secretary of Housing and Urban Development, and may include, at the direction of the President, the Attorney General, the Secretary of Transportation, the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Homeland Security, the Commissioner of Social Security, and such other Federal officials as the President determines. An official referred to in this paragraph may appoint a designee to carry out the official’s duties under paragraph (1).

“(3) The Secretary of Health and Human Services shall serve as the first chairperson of the Committee, for 1 term, and the Secretary of Housing and Urban Development shall serve as the chairperson for the following term. After that following term, the Committee shall select a chairperson from among the members of the Committee, and any member may serve as the chairperson. No member may serve as chairperson for more than 1 consecutive term.

“(4) For purposes of this subsection, a term shall be a period of not less than once each year.

“(5) The Committee shall meet not less than once each year.

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‘‘(6) The Committee shall—

(‘‘A) share information with and establish an ongoing system to improve coordination among Federal agencies with responsibility for programs for older individuals and recommend improvements to such system with an emphasis on—

(i) improving access to programs and services available; and

(ii) maximizing the impact of federally funded programs and services for older individuals by increasing the efficiency, effectiveness, and delivery of such programs and services;

(iii) planning and preparing for the impact of demographic changes on programs and services available to older individuals;

(iv) reducing or eliminating areas of overlap and duplication by Federal agencies in the provision and accessibility of such programs and services;

‘‘(B) identify, promote, and implement (as appropriate), best practices and evidence-based program and service models to assist older individuals in meeting their housing, health care, and other supportive service needs, including—

(i) consumer-directed care models for home- and community-based care and supportive services that link housing, health care, and other supportive services that that facilitate aging in place, enabling older individuals and their families and communities as the individuals age; and

(ii) innovative technologies (including assistive technology devices and information and communication technologies) that give older individuals access to information on available services or that help in providing services to older individuals;

(C) collect and disseminate information about older individuals and the programs and services available to the individuals to ensure that the individuals can access comprehensive information;

(D) work with the Federal Interagency Forum on Aging-Related Statistics, the Bureau of the Census, and member agencies to ensure the continued collection of data relating to the housing, health care, and other supportive service needs of older individuals and to support efforts to identify and address unmet data needs;

(E) actively seek input from and consult with nongovernmental experts and organizations, including public health interest groups, and researchers and foundations about the activities described in subparagraphs (A) through (F);

(F) identify any barriers and impediments, including barriers and impediments in statutory and regulatory law, to the access and use by older individuals of federally funded programs and services; and

(G) work with States to better provide housing, health care, and other supportive services to older individuals by—

(i) holding meetings with State agencies; and

(ii) providing ongoing technical assistance to States about better meeting the needs of older individuals; and

(“Iii) working with States to designate liaisons, from the State agencies, to the Committee.

(7) Not later than 90 days following the end of each term, the Committee shall prepare a report to the Committee on Financial Services of the House of Representatives, the Committee on Education and the Workforce of the House of Representatives, the Committee on Energy and Commerce of the House of Representatives, the Committee on Ways and Means of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Special Committee on Aging of the Senate, a report that—

‘‘(A) describes the activities and accomplishments of the Committee in preparing and keeping abreast of the overall coordination of federally funded programs and services for older individuals; and

‘‘(B) in preparing the report required under subparagraph (A) which describes the barriers and impediments, including barriers and impediments in statutory and regulatory law (as the chairperson of the Committee determines to be appropriate for such purposes), to the access and use by older individuals of programs and services administered by such agency; and

‘‘(C) makes such recommendations as the chairperson determines to be appropriate for actions to meet the needs described in paragraph (6) and for coordinating programs and services designed to meet those needs.

‘‘(8) On the request of the Committee, any Federal Government employee may be detailed to the Committee without reimbursement, and such detail shall be without interference or loss of civil status or privilege.’’.

SEC. 204. ADMINISTRATION.

Section 205 of the Older Americans Act of 1965 (42 U.S.C. 3016) is amended—

(1) in subsection (a)–

(A) in paragraph (1)–

(i) in subparagraph (C), by adding ‘‘and’’ at the end;

(ii) in subparagraph (D), by striking ‘‘and’’ and inserting ‘‘or’’; and

(iii) in subparagraph (E); and

(B) in paragraph (2)–

(i) in subparagraph (A)–

(I) by amending clause (i) to read as follows—

‘‘(i) designing, implementing, and evaluating evidence-based programs to support improved nutrition and physical activity for older individuals;’’;

(II) by amending clause (ii) to read as follows—

‘‘(ii) conducting outreach and disseminating evidence-based information to nutrition service providers about the benefits of healthful diets and regular physical activity, including information about the most current Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5521) and the Food Guidance System of the Department of Agriculture, and advances in nutrition science;’’;

(III) in clause (vii), by striking ‘‘and’’ at the end; and

(iv) by striking clause (viii) and inserting the following:

‘‘(viii) disseminating guidance that describes strategies for improving the nutritional quality of meals provided under title III, including strategies for increasing the consumption of whole grains, lowfat dairy products, fruits, and vegetables;’’;

(ix) developing and disseminating guidelines for conducting nutrient analyses of meals provided under subparts 1 and 2 of part C of title III, including guidelines for averaging key nutrients over an appropriate period of time; and

(x) providing technical assistance to the region in coordination with ENSURING APPROPRIATE USE OF FUNDS.

(2) any amount of payment to the recipient to an individual or entity seeking to receive such services—

(A) the individuals and entities may only purchase such services at their fair market rate;

(B) all costs incurred by the recipient in providing such services (and not otherwise reimbursed under paragraph (1)) are reimbursed to such recipient; and

(C) the recipient shall report the rates for providing such services under such agreement to the Committee in annual reports. The rates must be consistent with the prevailing market rate for provision of such services in the relevant geographic area as determined by the State agency or agency on aging (as applicable); and

(3) any amount of payment to the recipient under the agreement that exceeds reimbursement under this subsection of the recipient’s costs is used to provide, or support the provision of, services under this Act.

SEC. 205. EVALUATION.

The first sentence of section 206(g) of the Older Americans Act of 1965 (42 U.S.C. 3017(g)) is amended to read as follows: ‘‘From the amount appropriated for each fiscal year to carry out title III, the Secretary may use such sums as may be necessary, but not more than 1 percent of such amount, for purposes of conducting evaluations under this section, either directly or through grants or contracts.’’.

SEC. 206. REPORTS.

Section 207(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3018(b)(2)) is amended—

(1) in subparagraph (B), by striking ‘‘Labor and Human Resources’’; and

(2) in subparagraph (C), by striking ‘‘Labor’’.

SEC. 207. CONTRACTING AND GRANT AUTHORITY; PRIVATE PAY RELATIONSHIPS; APPROPRIATE USE OF FUNDS.

(1) Section 212 of the Older Americans Act of 1965 (42 U.S.C. 3026c) is amended to read as follows:

‘‘(a) IN GENERAL.—Subject to subsection (b), this Act shall not be construed to prevent the recipient to pay part or all of a cost incurred by the recipient in developing and carrying out such agreement, such agreement guaranteeing that the cost is reimbursed to the recipient;

(b) if such agreement provides for the provision of 1 or more services, of the type provided under this Act by or on behalf of such recipient, to an individual or entity seeking to receive such services—

(A) the individuals and entities may only purchase such services; and

(B) all costs incurred by the recipient in providing such services (and not otherwise reimbursed under paragraph (1)) are reimbursed to such recipient; and

(C) the recipient reports the rates for providing such services under such agreement to the Committee in annual reports. The rates must be consistent with the prevailing market rate for provision of such services in the relevant geographic area as determined by the State agency or agency on aging (as applicable); and

(3) any amount of payment to the recipient under the agreement that exceeds reimbursement under this subsection of the recipient’s costs is used to provide, or support the provision of, services under this Act.

APPROPRIATE USE OF FUNDS.—An agreement described in subsection (a) may not—

(1) be made without the prior approval of the State agency (or, in the case of a grantee under title V, the prior approval of the Assistant Secretary), after timely submission of all relevant documents related to the agreement including information on all costs associated with such services; and

(2) directly or indirectly provide for, or have the effect of, paying, reimbursing, subsidizing, or otherwise compensating an individual or entity in an manner that exceeds the fair market value of the services subject to such agreement;
“(3) result in the displacement of services otherwise available to an older individual with greatest social need, an older individual with greatest economic need, or an older individual whose need is at risk for institutional placement; or

“(4) in any other way compromise, undermine, or be inconsistent with the objective of serving older individuals, as determined by the Assistant Secretary.

“(c) MONITORING AND REPORTING.—To ensure that any agreement described in subsection (b) complies with the requirements of this section and other applicable provisions of this Act, the Assistant Secretary shall develop and implement uniform monitoring and reporting requirements, and promulgate regulations consistent with the provisions of subparagaphs (A) through (E) of section 338(a)(15) in consultation with the State agencies and area agencies on aging. The Assistant Secretary shall annually prepare and submit to the chairpersons and ranking members of the appropriate committees of Congress a report analyzing all such agreements, and the costs incurred and services provided under the agreements. This report shall contain information on the number of the agreements, summaries of all the agreements, and information on the type of organizations participating in the agreements, types of services provided under the agreements, and the net proceeds from, and distribution (through public education campaigns, Aging and Disability Resource Centers, area agencies on aging, service providers, and such other entities as the State determines to be appropriate) of funds spent and reimbursed, under the agreements.

“(d) Payments.—All reimbursements made under this section shall be made in a timely manner, according to standards specified by the Assistant Secretary.

“(e) Cost.—In this section, the term ‘cost’ means an expense, including an administrative expense, incurred by a recipient in developing and implementing an agreement described in subsection (a), whether the recipient contributed funds, staff time, or other plant, equipment, or services to meet the expense.

SEC. 208. NUTRITION EDUCATION.

Section 214 of the Older Americans Act of 1965 (42 U.S.C. 3020e) is amended to read as follows:

“SEC. 214. NUTRITION EDUCATION.

“The Assistant Secretary, in consultation with the Secretary of Agriculture, shall conduct outreach and provide technical assistance to organizations and agencies that serve older individuals to assist such agencies and organizations to carry out integrated health promotion and disease prevention programs that—

“(1) are designed for older individuals; and

“(2) include—

“(A) nutrition education;

“(B) physical activity; and

“(C) other activities to modify behavior and to improve health literacy, including providing information on optimal nutrient intake, nutrition education and nutrition assessment and counseling, in accordance with section 339(c)(2).”

SEC. 209. PENSION COUNSELING AND INFORMATION PROGRAMS.

Section 215 of the Older Americans Act of 1965 (42 U.S.C. 3020e–1) is amended—

“(1) in subsection (e)(1)(J), by striking “and low income retirees” and inserting “low-income retirees, and older individuals with limited English proficiency”;

“(2) in subsection (f), by striking paragraph (2) and inserting—

“(2) The ability of the entity to perform effective outreach to affected populations, particularly populations with limited English proficiency; and other populations that are identified as in need of special outreach.”;

“(3) in subsection (h)(2), by inserting “(including individuals with limited English proficiency)” after “individuals”.

SEC. 210. AUTHORIZATION OF APPROPRIATIONS.

Section 216 of the Older Americans Act of 1965 (42 U.S.C. 3020f) is amended—


“(2) in subsections (b) and (c), by striking “year” and all that follows through “years 2007, 2008, 2009, 2010, and 2011”;

“(3) by adding at the end the following:

“(4) organizations that have experience in providing training, placement, and stipends for volunteers or participants who are older individuals (such as organizations carrying out Federal service programs administered by the Corporation for National and Community Service), in community service settings.”.

SEC. 202. DEFINITIONS.

Section 302 of the Older Americans Act of 1965 (42 U.S.C. 3021(a)(2)) is amended—

“(1) by adding at the end the following:

“(4) ‘the term ‘family caregiver’ means an adult family member, or another individual, who is an informal provider of in-home and community care to an older individual or to an individual with Alzheimer’s disease or a related disorder with neurological and organ-specific brain impairment who—

“(A) implementing (through area agencies on aging, service providers, and such other entities as the State determines to be appropriate) a coordinated system that enables older individuals to receive long-term care in home and community-based settings.

“(B) participating in any State government activities concerning long-term care, including reviewing and commenting on any rules, regulations, and policies related to long-term care;

“(C) conducting analyses and making recommendations with respect to strategies for modifying the State system of long-term care to better—

“(i) respond to the needs and preferences of older individuals and their family caregivers;

“(ii) target services to individuals at risk for institutional placement, to permit such individuals to remain in home and community-based settings; and

“(iii) facilitate the provision, by service providers, of long-term care in home and community-based settings; and

“(4) facilitating (through area agencies on aging, service providers, and such other entities as the State determines to be appropriate) evidence-based programs to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals; and

“(E) providing for the availability and distribution (through public education campaigns, Aging and Disability Resource Centers, area agencies on aging, and other appropriate means) of information relating to—

“(i) the need to plan in advance for long-term care and life care planning; and

“(ii) the full range of available public and private long-term care (including integrated...
long-term care) programs, options, service providers, and resources.”

SEC. 306. AREA PLANS.

Section 306 of the Older Americans Act of 1965 (42 U.S.C. 3026) is amended—

(1) in subsection (A) in paragraph (1)—

(i) by striking “with particular attention to low-income minority individuals and older individuals residing in rural areas” and inserting “(i) in clause (i), by striking “with particular attention to low-income minority older individuals, older individuals residing in rural areas” and inserting “(ii) by inserting “with particular attention to low-income minority individuals” and inserting “with particular attention to low-income older individuals, including low-income minority older individuals, older individuals residing in rural areas”; and

(ii) by inserting “(with particular attention to low-income minority individuals) and inserting (‘with particular attention to low-income older individuals, including low-income minority older individuals, older individuals residing in rural areas’)”;

(II) by striking “(with particular attention to low-income minority individuals)” and inserting “(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals residing in rural areas)”;

(2) in paragraph (2)(A)—

(i) by inserting “transportation,” the following: “health services (including mental health services),” and—

(ii) by inserting “and assistance” the following: “which may include information and assistance to consumers on availability of services under part B and how to receive benefits under and participate in publicly supported programs for which the consumer may be eligible”;

(C) in paragraph (4)—

(i) in subparagraph (A)—

(II) by inserting “the area agency on aging shall, consistent with this section, facilitate the area-wide development and implementation of a comprehensive, coordinated system for providing long-term care in home and community-based settings, in a manner responsive to the needs and preferences of older individuals and their family caregivers,” by—

“(A) collaborating, coordinating activities, and consulting with other local public and private agencies and organizations responsible for administering programs, benefits, and services related to providing long-term care;”;

(B) conducting analyses and making recommendations with respect to strategies for modifying the local system of long-term care to—

(i) respond to the needs and preferences of older individuals and family caregivers;”;

“(ii) facilitate the provision, by service providers, of long-term care in home and community-based settings;”;

(iii) target services to older individuals at risk for institutional placement, to permit such individuals to remain in home and community-based settings;”;

“(C) implementing, through the area agency or service providers, evidence-based programs to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals;”;

“(D) providing for the availability and distribution (through public education campaigns, Aging and Disability Resource Centers, the area agency on aging itself, and other appropriate means) of information relating to—

“(i) the need to plan in advance for long-term care;”;

“(ii) the full range of available public and private long-term care (including integrated long-term care) programs, options, service providers, and resources;”;

“(G) by redesignating paragraph (14) as paragraph (15);”;

(H) by redesignating paragraph (16) as paragraph (14); and

(i) by adding at the end the following:—

“(15) provide that the area agency on aging shall, consistent with self-directed care; and

“(17) include information detailing how the area agency on aging will coordinate activities and develop long-range emergency preparedness plans, with local and State emergency response agencies, relief organizations, local and State governments, and any other institutions that have responsibility for disaster relief service delivery.”;

(3) by inserting after subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f); and

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

“(b)(1) An area agency on aging may include in the area plan an assessment of how prepared the area agency on aging and service providers in the planning and service area are for any anticipated change in the number of older individuals in the 5-year period following the fiscal year for which the plan is submitted.

“(2) Such assessment may include—

“(A) the projected change in the number of older individuals in the planning and service area;

“(B) an analysis of how such change may affect such individuals, including individuals with low incomes, individuals with greatest economic need, minority older individuals, older individuals residing in rural areas, and older individuals with limited English proficiency;

“(C) an analysis of how the programs, policies, and services provided by such area agency can be improved, and how resource levels can be adjusted to meet the needs of the changing population of older individuals in the planning and service area; and

“(D) an analysis of how the change in the number of individuals age 85 and older in the planning and service area is expected to affect the need for supportive services.

“(2) An area agency on aging shall, in cooperation with government officials, State agencies, tribal organizations, or local entities, make recommendations to government officials in the planning and service area and the State, on actions determined by the area agency to build the capacity in the planning and service area to meet the needs of older individuals for—

“(A) health and human services;

“(B) land use;

“(C) housing;

“(D) transportation;

“(E) public safety;

“(F) workforce and economic development;

“(G) recreation;

“(H) education;

“(I) civic engagement;”;

“(J) emergency preparedness; and

“(K) any other service as determined by such agency.”

SEC. 307. STATE PLANS.

Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a) as amended—

(1) in paragraph (2)(C), by striking “section 306(b)” and inserting “section 306(c)”; and

(2) in paragraph (4), by striking “with particular attention to low-income minority individuals and older individuals residing in rural areas” and inserting “(with particular attention to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)”;

(3) by striking paragraph (15);
percent of the cost of the services specified in such section 304(d)(1)(D).

SEC. 309. NUTRITION SERVICES INCENTIVE PROGRAM.

Section 7(c) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)) is amended—

(1) in subsection (b), by adding at the end the following:

'(2) Such assessment may include—

(A) the identification of the number of low-income minority older individuals in the State, including the number of low-income minority older individuals with limited English proficiency; and

(B) describe the methods used to satisfy the service needs of the low-income minority older individuals described in subparagraph (A), including the plan to meet the needs of low-income, minority older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)

(2) in subsection (c), by inserting “including bonus commodities” after “commodities”;

(3) in subsection (d), by adding at the end the following:

'(d)(1) Amounts provided under subsection (b) shall be available only for the purchase, by State agencies, recipients of grants and contracts from the State agencies (as applicable), and title VI grantees, of United States agricultural commodities and other foods for their respective nutrition projects, subject to paragraph (2).

(2) An entity specified in paragraph (1) may, at the option of the entity, use part or all of the amounts received by the entity under subsection (b) to pay a school food authority (within the meaning of the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) to obtain United States agricultural commodities for such entity’s nutrition projects, in accordance with an agreement between the entity and the school food authority, under which such payments—

(A) shall cover the cost of such commodities; and

(B) may cover related expenses incurred by the school food authority, including the cost of transporting, distributing, processing, storing, and handling such commodities.

(3) in subsection (e), by striking “2001” and inserting “2007”;

(4) in subsection (f)—

(A) in the matter preceding paragraph (1), by striking “the Secretary of Health and Human Services and the Assistant Secretary and the Secretary of Agriculture”;

(B) by striking paragraphs (1) and (2) and inserting the following:

'(1) school food authorities participating in programs authorized under the Richard B. Russell National School Lunch Act within the geographic area served by each such State agency, area agency on aging, and provider; and

(2) Federal funds available to such State agencies, area agencies on aging, and providers under subsection (c).

SEC. 310. CONSUMER CONTRIBUTIONS.

Section 315 of the Older Americans Act of 1965 (42 U.S.C. 3030d) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(1) by striking “provided that” and inserting “it”;

and

(b) by adding at the end the following:

Such contributions shall be encouraged for individuals whose self-declared income is at or above 150 percent of the poverty line, at contribution levels based on the actual cost of services.'; and

(2) in paragraph (4)(E), by inserting “and to supplement (not supplant) funds received under this Act” after “green”; and

(3) in subsection (d), by striking “with particular attention to low-income minority older individuals and older individuals residing in rural areas)” and inserting “(with particular attention to low-income minority older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)”.

SEC. 311. SUPPORTIVE SERVICES AND SENIOR CENTERS.

Section 321(a) of the Older Americans Act of 1965 (42 U.S.C. 3030d(a)) is amended—

(1) in paragraph (8), by inserting “(including mental health screening)” after “screening”;

(2) in paragraph (11), by striking “services” and inserting “(services including provision of assistive technology services and assistive technology devices)”;

(3) in paragraph (14)(B) by inserting “(including mental health screening)” after “health”;

(4) in paragraph (21)—

(A) by striking “school-age children” and inserting “students”;

and

(B) by inserting “services for older individuals with limited English proficiency and” after “including”;

(5) in paragraph (22) by striking the period at the end and inserting a semicolon;

(6) by redesignating paragraph (23) as paragraph (25); and

(7) by inserting after paragraph (22) the following:

“(23) services designed to support States, area agencies on aging, and local service providers in carrying out activities for older individuals with respect to mental health services, including outreach for, education concerning, and screening for mental health services, and referral to such services for treatment;

(24) activities to promote and disseminate information about life-long learning programs, including opportunities for distance learning; and”.

SEC. 312. NUTRITION SERVICE.

After the part headed of part C of title III of the Older Americans Act of 1965 (42 U.S.C. 3030b et seq.), insert the following:

SEC. 330. PURPOSES.

The purposes of this part are—

(1) to reduce hunger and food insecurity;

(2) to promote socialization of older individuals; and

(3) to promote the health and well-being of older individuals by assisting such individuals to gain access to nutrition and other disease prevention and health promotion services to delay the onset of adverse health conditions resulting from poor nutritional health or sedentary behavior.”.

SEC. 313. CONGREGATE NUTRITION PROGRAM.

Section 331 of the Older Americans Act of 1965 (42 U.S.C. 3030c) is amended—

(1) by striking “projects—” and inserting “projects that—”;

(2) by inserting “(with particular attention to low-income minority older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)” after “it”;

and

(3) by adding at the end the following:

Such contributions shall be encouraged for individuals whose self-declared income is at or above 150 percent of the poverty line, at contribution levels based on the actual cost of services.”; and
(2) in paragraph (1), by striking “which,”; (3) in paragraph (2), by striking “which”; and (4) by striking paragraph (3), and inserting the following:

“(3) provide nutrition education, nutrition counseling, and other nutrition services, as appropriate, based on the needs of meal participants that may include:

- (i) a dietitian or other individual with comparable expertise in the planning of nutrition services, and aging, shall
- (ii) a dietitian or other individual with comparable expertise in nutrition services, as appropriate, based on the needs of meal recipients.”.

SEC. 315. CRITERIA.

Section 337 of the Older Americans Act of 1965 (42 U.S.C. 3030g) is amended to read as follows:

“SEC. 337. CRITERIA.

The Assistant Secretary, in consultation with recognized experts in the fields of nutrition science, dietetics, meal planning, and food service management, and aging, shall develop uniform criteria of efficiency and quality for the furnishing of home delivered meal services for projects described in section 336.

SEC. 316. NUTRITION.

Section 339 of the Older Americans Act of 1965 (42 U.S.C. 3030g–21) is amended—

(1) in paragraph (1), to read as follows:

“(1) on 5 or more days a week (except in a rural area where such frequency is not feasible (as defined by the Assistant Secretary by rule) and a lesser frequency is approved by the State agency) at least 1 home delivered meal per day, which may consist of hot, cold, frozen, dried, canned, fresh, or supplemental meals, and any additional meals that the recipient of a grant or contract under this subpart elect to provide; and

(2) nutrition education, nutrition counseling, and other nutrition services, as appropriate, based on the needs of meal recipients.”.

(2) in paragraph (2),—

(A) in subparagraph (A)—

(i) a dietitian or other individual with comparable expertise in the planning of nutrition services, and aging, shall

(ii) a dietitian or other individual with comparable expertise in nutrition services, as appropriate, based on the needs of meal recipients.

SEC. 317. STUDY OF NUTRITION PROJECTS.

(a) STUDY.—

(1) in general.—The Assistant Secretary for Action shall use funds allocated in section 206(g) of the Older Americans Act of 1965 (42 U.S.C. 3017(g)) to enter into a contract with the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences, for the purpose of establishing an independent panel of experts that will conduct an evidence-based study of the nutrition projects authorized by such Act.

(2) study.—Such study shall, to the extent data are available, include—

(A) an analysis of the evaluation of the nutrition projects authorized by such Act on—

- (i) improvement of the health status, including nutritional status, of participants in the projects;

- (ii) prevention of hunger and food insecurity of the participants; and

- (iii) continuation of the ability of the participants to live in their homes.

(B) a cost-benefit analysis of nutrition projects authorized by such Act, including the potential to affect costs of the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

(C) an analysis of how and recommendations for how nutrition projects authorized by such Act may be modified to improve the outcomes described in subparagraph (A), including recommendations for improving the nutritional quality of the meals provided through the projects and undertaking other potential strategies to improve the nutritional status of the participants.

(b) REPORTS.—

(1) REPORT TO THE ASSISTANT SECRETARY.—The panel described in subsection (a)(1) shall submit to the Assistant Secretary a report containing the results of the evidence-based study described in subsection (a), including any recommendations described in subsection (a)(2)(C).

(2) REPORT TO CONGRESS.—The Assistant Secretary shall submit a report containing the results described in paragraph (1) to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

SEC. 318. SENSE OF CONGRESS RECOGNIZING THE CONTRIBUTION OF NUTRITION TO THE HEALTH OF OLDER ADULTS.

(a) FINDINGS.—Congress finds that—

- (1) good health and a diet based on the Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture, and

- (2) the current Diabetic Guidelines for Americans, published by the Secretary and the Secretary of Agriculture, and

(1) comply with the most recent Dietary Guidelines for Americans, published by the Department of Health and Human Services, for the purpose of establishing an adequate diet for adult and senior residents of nursing homes and community-residing persons age 65 and older, including recommendations for improving the nutritional quality of the meals provided through the projects; and

(b) in subparagraph (D), by inserting “joint after “encourages”;

(C) in subparagraph (G), to read as follows:

“(G) ensures that meal providers solicit the advice and expertise of—

- (i) a dietitian or other individual described in paragraph (1),

- (ii) meal participants, and

- (iii) other individuals knowledgeable with regard to the needs of older individuals.”;

(D) in subparagraph (H), by striking “and accompany”;

(E) in subparagraph (I), by striking “and” at the end; and

(F) by striking subparagraph (J) and inserting the following:

“(J) when nutrition screening and nutrition education, nutrition assessment and counseling if appropriate, and

“(K) encourages individuals who distribute nutrition services under subpart 2 to provide, to homebound older individuals, available medical information approved by health care professionals through informational brochures and information on how to get vaccines, including vaccines for influenza, pneumonia, and shingles, in the individuals’ community, and

SEC. 319. IMPROVING INDOOR AIR QUALITY IN BUILDINGS WHERE OLDER INDIVIDUALS CONgregate.

Section 361 of the Older Americans Act of 1965 (42 U.S.C. 3030m) is amended by adding at the end the following:

“(g) The Assistant Secretary shall work in consultation with qualified experts to provide information on methods of improving indoor air quality in buildings where older individuals congregate.”.

SEC. 320. CAREGIVER SUPPORT PROGRAM DEFINITIONS.

Section 372 of the National Family Caregiver Support Act (42 U.S.C. 3030s) is amended—

(1) in paragraph (1), by inserting “who is an individual with a disability” after “age”; and

(2) in paragraph (9),—

(A) by striking “a child by blood or marriage” and inserting “a child by blood, marriage, or adoption”; and

(B) by striking “60” and inserting “55”;

(c) the Assistant Secretary shall work in consultation with qualified experts to provide information on methods of improving indoor air quality in buildings where older individuals congregate.”.

SEC. 321. CAREGIVER SUPPORT PROGRAM.

Section 373 of the National Family Caregiver Support Act (42 U.S.C. 3030s–1) is amended—

(1) in paragraph (1), by inserting “who is an individual with a disability” after “age”; and

(2) in paragraph (4),—

(A) by inserting “In this subpart—” at the beginning of paragraph (1); and

(B) by redesignating paragraph (2) as paragraph (3);

(d) by adding at the end the following:

“(b) RULE.—In providing services under this subpart—

- (1) for family caregivers who provide care for individuals with Alzheimer’s disease and related disorders with neurological and or related brain dysfunction, the State shall give priority to caregivers who provide care for older individuals with such disease or disorder; and

- (2) for grandparents or older individuals who are relative caregivers, the State involved shall give priority to caregivers who provide care for children with severe disabilities.”.

SEC. 322. NUTRITION AND COUNSELING IF APPROPRIATE, AND

(3) in paragraph (2), by striking “caregivers to assist” and all that follows through the end and inserting the following: “assist...
the caregivers in the areas of health, nutrition, and financial literacy, and in making decisions and solving problems relating to their caregiving roles;”;

(ii) in the case of each grant application or request for assistance under paragraph (1)(B), by striking “subparagraph (2) or (3) or (6) of section 303 of the Older Americans Act” and inserting “subparagraph (2) or (3) or (6) of section 303 of the Older Americans Act, after a period of not more than 5 years”;

(iii) by striking “and” at the end of subsection (a) and inserting “and” after “health services,”; and

(iv) by striking “least 18 years of age” and inserting “less than 18 years of age”

(n) in section 403 of the Older Americans Act of 1965 (42 U.S.C. 3032) is amended to read as follows:

“SEC. 403. CAREER PREPARATION FOR THE FIELD OF AGING.

Section 412(a) of the Older Americans Act of 1965 (42 U.S.C. 3032a(a)) is amended to read as follows:

“(a) GRANTS.—The Assistant Secretary shall make grants to institutions of higher education, including historically Black colleges or universities, Hispanic-serving institutions, and Hispanic Centers of Excellence in Applied Gerontology, to provide education and training that prepares students for careers in the field of aging.”;

“SEC. 404. HEALTH CARE SERVICE DEMONSTRATION PROJECTS IN RURAL AREAS.

Section 414 of the Older Americans Act of 1965 (42 U.S.C. 3032b) is amended—

(1) in subsection (a), by inserting “mental health services,” after “care,”; and

(2) in subsection (c), by inserting “mental health,” after “health,”.

“SEC. 405. TECHNICAL ASSISTANCE AND INNOVATION TO IMPROVE TRANSPORTATION FOR ELDERLY INDIVIDUALS.

Section 416 of the Older Americans Act of 1965 (42 U.S.C. 3032c) is amended to read as follows:

“SEC. 416. TECHNICAL ASSISTANCE AND INNOVATION TO IMPROVE TRANSPORTATION FOR OLDER INDIVIDUALS.

(a) In General.—The Secretary may award grants to nonprofit organizations to improve transportation services for older individuals.

(1) USE OF FUNDS.—A nonprofit organization receiving a grant or contract under subsection (a) shall use the funds received through such grant or contract to carry out a demonstration project, or to provide technical assistance to assist local transit providers, area agencies on aging, senior centers, and local senior support groups, to encourage and facilitate coordination of Federal, State, and local transportation services and resources for older individuals. The organization may use the funds to develop and carry out an innovative transportation demonstration project to create transportation services for older individuals.

(2) SPECIFIC ACTIVITIES.—In carrying out a demonstration project, the organization may carry out activities that include—

“(A) developing innovative approaches for improving access by older individuals to transportation services, including volunteer driver programs, economically sustainable transportation programs, and programs that allow older individuals to transfer their automobiles to a provider of transportation services in exchange for the services;

“(B) preparing, informing, and promoting transportation options and resources for older individuals and organizations serving such individuals, and disseminating the information by establishing and operating a toll-free telephone number;

“(C) developing models and best practices for providing comprehensive integrated transportation assistance, including service plans, and programs of services administered by the Secretary of Transportation, by providing on-going technical assistance to agencies providing services under title III and by assisting in coordinating public and community transportation services; and

“(D) providing special services to link older individuals to transportation services not provided under title III.

“(e) ECONOMICALLY SUSTAINABLE TRANSPORTATION.—In this section, the term ‘economically sustainable transportation’ means demand responsive transportation for older individuals—

“(1) that may be provided through volunteer programs; and

“(2) that the provider will provide without receiving Federal or other public financial assistance, after a period of not more than 5 years of providing the services under this section.”;

“SEC. 406. DEMONSTRATION, SUPPORT, AND RESEARCH PROJECTS FOR MULTIGENERATIONAL ACTIVITIES AND CIVIC ENGAGEMENT ACTIVITIES.

Section 417 of the Older Americans Act of 1965 (42 U.S.C. 3032f) is amended to read as follows:

“SEC. 417. DEMONSTRATION, SUPPORT, AND RESEARCH PROJECTS FOR MULTIGENERATIONAL ACTIVITIES AND CIVIC ENGAGEMENT ACTIVITIES.

(a) GRANTS AND CONTRACTS.—The Assistant Secretary shall award grants and enter into contracts with eligible organizations to carry out projects that—

(1) provide opportunities for older individuals to participate in multigenerational activities and civic engagement activities designed to address critical community needs, and use the full range of available public and private sector resources for the purpose of engaging and supporting older individuals, including demonstration and support projects that—

“(A) provide support for grandparents and other older individuals who are relative caregivers raising children (such as kinship navigator programs); or

“(B) involve volunteers who are older individuals who provide support and information to families who have a child with a disability or chronic illness, or other families in need of such family support;

“(2) coordinate multigenerational activities and civic engagement activities, promote volunteerism, and facilitate development of and participation in multigenerational activities and civic engagement activities.

(b) USE OF FUNDS.—An eligible organization shall use funds made available under a grant awarded, or a contract entered into, under this section to—

“(1) carry out a project described in subsection (a) of this section; and

“(2) evaluate the project in accordance with subsection (f).

(3) PREFERENCE.—In awarding grants and entering into contracts or grants under section (a), the Secretary shall give preference to—
“(1) eligible organizations with a demonstrated record of carrying out multigenerational activities or civic engagement activities;

“(2) eligible organizations proposing multigenerational activity projects that will serve older individuals and communities with the greatest need (with particular attention in clauses (a) and (b) to low-income minority individuals, older individuals with limited English proficiency, older individuals residing in rural areas, and low-income minority communities);

“(3) eligible organizations proposing civic engagement projects that will serve communities with the greatest need; and

“(4) to low-income minority individuals, older individuals with limited English proficiency, older individuals residing in rural areas, and low-income minority communities.

“(d) APPLICATION.—To be eligible to receive a grant or enter into a contract under subsection (a), an organization shall submit an application to the Assistant Secretary at such time, in such manner, and accompanied by such information as the Assistant Secretary may require.

“(e) ELIGIBLE ORGANIZATIONS.—Organizations eligible to receive a grant or enter into a contract under subsection (a)—

“(1) shall evaluate the capacity to develop meaningful roles and assignments that use the time, skills, and experience of older individuals to serve public and non-profit organizations;

“(2) shall carry out activities described in subsection (a)(2), shall be organizations with the capability to conduct the coordination, promotion, and facilitation described in subsection (a)(2), through the use of multigenerational coordinators;

“(3) DATA.

“(A) in subsection (b)(1), by striking the term “multigenerational activity” and inserting the following:

“multigenerational coordinator

“(5) in subsection (c)(2), by redesignating paragraphs (A) and (B) of paragraph (1) with the following:

“(A) in subsection (b), by redesigning paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

“(B) in subsection (c), by redesigning paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

“(C) by aligning the margins of the subparagraphs described in subparagraphs (A) and (B) with the margins of subparagraphs (iv) of section 418(a)(2)(A) of such Act.

“(3) APPLICATION. 

“(A) in subsection (b), by redesigning paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

“(B) in subsection (c), by redesigning paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

“(C) by aligning the margins of the subparagraphs described in subparagraphs (A) and (B) with the margins of subparagraph (D) of section 420(a)(1) of such Act.

“(4) in subsection (b), by striking “(a)” and all that follows through “The” and inserting the following:

“(A) MULTIGENERATIONAL CENTERS AND MULTIDISCIPLINARY SYSTEMS.—

“(1) PROGRAM AUTHORIZED.—The term “multigenerational center” means an area agency on aging that is a fiscal agent for services and programs in planning and service areas in the State. In allocating the funds to area agencies on aging to carry out this subsection in planning and service areas in the State.

“(2) USE OF FUNDS.—

“(A) by striking the following:

“(1) use of funds. —and inserting the following:

“(2) USE OF FUNDS.—and inserting the following:

“(3) DATA.—and inserting the following:

“(4) DATA.

“(B) by striking “section (a)” and inserting “paragraph (1)”;

“(C) by striking “section (a)” and inserting “paragraph (1)”;

“(D) by striking “section (a)” and inserting “paragraph (1)”;

“(E) by striking “this section” and inserting “this subsection”;

“(F) in paragraph (a) (as so redesignated)—

“(1) by inserting “diverse perspectives of older individuals living in urban communities,” after “minority populations,”;

“(2) by inserting “, including information about best practices in long-term care service delivery, housing, and transportation” before the semicolon at the end;

“(ii) in clause (vi)—

“(I) by striking “consultation and”;

“(II) by inserting “and other technical assistance to States” after “reporting”; and

“(iii) by striking “and the end” and inserting “; and”; and

“(iv) by adding at the end the following:

“(viii) provide training and technical assistance to support the provision of community-based mental health services for older individuals;” and

“(8) by adding at the end the following:

“(b) MULTIDISCIPLINARY HEALTH SERVICES IN COMMUNITIES.

“(1) PROGRAM AUTHORIZED.—The Assistant Secretary shall make grants to States, on a competitive basis, for the development and operation of—

“(A) systems for the delivery of mental health screening and treatment services for older individuals who lack access to such services; and

“(B) programs to—

“(i) increase public awareness regarding the benefits of prevention and treatment of mental disorders in older individuals;

“(ii) reduce the stigma associated with mental disorders in older individuals and other barriers to the diagnosis and treatment of the disorders; and

“(iii) reduce age-related prejudice and discrimination regarding mental disorders in older individuals.

“(2) APPLICATION.—To be eligible to receive a grant under this subsection for a State, a State agency shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may require.

“(3) STATE ALLOCATION AND PRIORITIES.—A State agency that receives funds through a grant made under this subsection shall allocate the funds to area agencies on aging to carry out this subsection in planning and service areas in the State. In allocating the funds, the State agency shall give priority to planning and service areas in the State for—

“(A) that are medically underserved; and

“(B) in which there are large numbers of older individuals.

“(4) AREA COORDINATION OF SERVICES WITH OTHER PROVIDERS.—In carrying out this subsection, to more efficiently and effectively deliver services to older individuals, each area agency on aging shall—

“(A) coordinate services described in subparagraphs (A) and (B) of paragraph (1) with such services or similar or related services of other community agencies, and voluntary organizations; and

“(B) by the greatest extent practicable, integrate outreach and educational activities with such activities of existing (as of the date of the integration) social service and health care (including mental health) providers serving older individuals in the planning and service area involved.

“(5) RELATIONSHIP TO OTHER FUNDING SOURCES.—Funds made available under this subsection shall supplement, and not supplant, Federal, State, local, and other funds expended by a State or unit of general purpose local government (including an area agency
on aging) to provide the services described in subparagraphs (A) and (B) of paragraph (1).

“(b) GRANTS.—(1) ELIGIBLE ORGANIZATION.—To be eligible to receive a grant under subsection (b) for a project, an entity shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may require.

“(2) CONTENTS.—The application shall include:

(A) a detailed description of the entity’s experience in providing services to older individuals in age-integrated settings;

(B) a definition of the contiguous service area within the project area in which the older individuals reside or carry out activities to sustain their well-being;

(C) the results of a needs assessment that identifies—

(i) existing (as of the date of the assessment) community-based health and social services available to individuals residing in the project area;

(ii) the strengths and gaps of such existing services in the project area;

(iii) the needs of older individuals who reside in the project area;

(iv) services not being delivered that would promote aging in place and contribute to the well-being of older individuals residing in the project area;

(D) a plan for the development and implementation of an innovative model for service coordination and delivery within the project area;

(E) a description of how the plan described in subparagraph (D) will enhance existing services described in subparagraph (C)(i) and support the goal of this section to promote aging in place;

(F) a description of proposed actions by the entity to prevent the duplication of services funded under this Act, other than this section, and a description of how the entity will cooperate, and coordinate planning and services (including any formal agreements), with agencies and organizations that provide publicly supported services for older individuals in the project area, including the State agency and area agencies on aging with planning and service areas in the project area;

(G) an assurance that the entity will seek to establish cooperative relationships with interested local or regional public or private agencies and businesses that provide health and social services, housing entities, community development organizations, philanthropic organizations, foundations, and other non-Federal entities;

(H) a description of the entity’s protocol for referral of residents who may require long-term care services, including coordination with local agencies, including area agencies on aging and Aging and Disability Resource Centers that serve as single points of entry to public services;

(I) a description of how the entity will offer opportunities for older individuals to be involved in the governance, oversight, and operation of the project;

(J) an assurance that the entity will submit to the Assistant Secretary such evaluations and reports as the Assistant Secretary may require;

(K) a plan for long-term sustainability of the project.

(2) USE OF FUNDS.—An eligible entity that receives a grant under subsection (b) shall use the funds made available through the grant to—

(A) ensure access by older individuals in the project area to community-based health and social services consisting of—

(i) case management, case assistance, and social work services;

(ii) health care management and health care assistance, including disease prevention and health promotion services;

(iii) education, socialization, and recreational activities; and

(iv) volunteer opportunities for project participants;

(B) conduct outreach to older individuals within the project area; and

(C) develop and implement innovative, comprehensive, and cost-effective approaches for the delivery and coordination of community-based health and social services, including some of those described in paragraph (A)(iv), which may include mental health services, for eligible older individuals.

(2) COORDINATION.—An eligible entity receiving a grant under subsection (b) for a project shall coordinate activities with organizations providing services funded under title III to support such services for or facilitate the delivery of such services to eligible older individuals served by the project.

(3) PREFERENCE.—In carrying out an aging in place project, an eligible entity shall, to the extent practicable, serve a community of low-income individuals and operate or locate the project and services in or in close proximity to a location where a large concentration of older individuals has aged in place and resided, such as a Naturally Occurring Retirement Community.

(3) ELIGIBLE ORGANIZATION.—Funds made available to an eligible entity under subsection (b) shall be used to supplement, not supplant, any Federal, State, or other funds otherwise available to the entity to provide health and social services to eligible older individuals.

(4) COMPETITIVE GRANTS FOR TECHNICAL ASSISTANCE.—

(1) GRANTS.—The Assistant Secretary shall (or shall make a grant, on a competitive basis, to an eligible nonprofit organization, to enable the organization to—

(A) provide technical assistance to recipients of grants under subsection (b); and

(B) carry out other duties, as determined by the Assistant Secretary.

(2) ELIGIBLE ORGANIZATION.—To be eligible to receive a grant under this subsection, an organization shall be a nonprofit organization with a focus on providing technical assistance to groups of older individuals within the community, including community organizations, foundations, and other non-Federal entities;

(3) APPLICATION.—To be eligible to receive a grant under this subsection, an organization—

(A) provide technical assistance to recipients of grants under subsection (b); and

(B) carry out other duties, as determined by the Assistant Secretary.

(4) USE OF FUNDS.—An eligible entity that receives a grant under subsection (b) shall use the funds made available through the grant to—

(A) ensure access by older individuals in the project area to community-based health and social services consisting of—

(i) case management, case assistance, and social work services;

(ii) health care management and health care assistance, including disease prevention and health promotion services;

(iii) education, socialization, and recreational activities; and

(iv) volunteer opportunities for project participants;

(C) conduct outreach to older individuals within the project area; and

(D) develop and implement innovative, comprehensive, and cost-effective approaches for the delivery and coordination of community-based health and social services, including some of those described in paragraph (A)(iv), which may include mental health services, for eligible older individuals.

SEC. 429. COMMUNITY INNOVATIONS FOR AGING IN PLACE.

Part A of title IV of the Older Americans Act of 1965 (42 U.S.C. 3031 et seq.) is amended by adding at the end the following:

“SEC. 430. COMMUNITY INNOVATIONS FOR AGING IN PLACE.

“(a) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term ‘eligible entity’ means—

(A) a nonprofit health or social services organization, a community-based nonprofit organization, an area agency on aging or a local government agency, a tribal organization, or another entity that—

(i) improve patient outcomes; and

(ii) ensure, to the maximum extent feasible, the continuing independence of older individuals who are residing in the area.”...
(1) 27 months; or
(ii) pursuant to the request of a grantee, an extended period of participation established by the Secretary for a specific project when such an extended period of not more than 36 months, if the Secretary determines that extenuating circumstances exist relating to the factors identified in section 512(a)(2)(D) that would otherwise be applicable to the individual during such an extended period for the program year involved;

(i) will employ eligible individuals in service related to publicly owned and operated public transportation systems, including the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious activities or worship;

(ii) will provide an assessment of the participants’ skills and talents and their needs for services, except to the extent such project has, for the participant involved, recently prepared an assessment of such skills and talents, and such needs, pursuant to another employment or training program (such as a program under the Workforce Investment Act of 1998 (29 U.S.C. 2911 et seq.), the Carl D. Perkins Career and Technical Education Act of 2000 (29 U.S.C. 2911 et seq.), or part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)) and will prepare a related service strategy;

(iii) will provide training and employment counseling to eligible individuals based on strategies that identify appropriate employment objectives and the need for supportive services, developed as a result of the assessment and service strategy provided for in clause (i), and provide other appropriate information regarding such project; and

(iv) will provide counseling to participants on their progress towards meeting such objectives and satisfying their need for supportive services;

(O) will provide appropriate services for participants, or refer the participants to appropriate services, through the one-stop delivery system of the local workforce investment areas involved as established under section 13(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2911(b)(3)), and will be involved in the planning and operations of such system pursuant to a memorandum of understanding with the local workforce investment areas involved.

(P) will provide to the Secretary the description and information described in paragraph (8), relating to coordination with other Federal programs, of section 112(b) of the Workforce Investment Act of 1998 (29 U.S.C. 2922(b)); and

(Q) will provide to the Secretary the description and information described in paragraph (14), relating to implementation of one-stop delivery systems, of section 112(b) of the Workforce Investment Act of 1998.
and subcontractors) and affiliates of such entities receive an amount of the administrative cost allocation determined by the Secretary, in consultation with grantees, to be sufficient:

(2) REGULATIONS.—The Secretary may establish, issue, and amend such regulations as may be necessary to effectively carry out this title.

(3) ASSESSMENT AND SERVICE STRATEGIES.—

(A) PREPARED UNDER THIS ACT.—An assessment and service strategy required by paragraph (1)(N) to be prepared for an eligible individual shall satisfy any condition for an assessment and strategy or individual employment plan for an adult participant under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.), in order to determine whether such eligible individual also qualifies for intensive or training services described in section 134(d) of such Act (29 U.S.C. 286a(d)).

(B) PREPARED UNDER WORKFORCE INVESTMENT ACT OF 1998.—An assessment and service strategy or individual employment plan prepared under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.) shall—

(i) be submitted to the Secretary by the entity that prepared the strategy or individual employment plan involved, prior to the commencement of the activities associated with the following:

(A) The costs of preparing general administrative functions; and

(B) The costs of performing oversight and monitoring responsibilities related to administrative functions.

(ii) provide activities described in clauses (ii) and (xi) other activities necessary for the general administrative costs of the grant recipient government funds and associated programs.

(B) The costs of preparing administrative reports; and

(xi) other costs described in subparagraph (A)(i).

(C) USE OF FUNDS FOR WAGES AND BENEFITS.—

(1) IN GENERAL.—A grantee may use the percentage of grant funds described in this subparagraph to pay for the wages, benefits, and other costs described in subparagraph (A)(i) for eligible individuals who are employed under projects carried out under this title; or

(2) that obtains approval for a request described in subparagraph (C)(ii) may use not less than 65 percent of the grant funds to pay the wages, benefits, and other costs described in subparagraph (A)(i).

(D) USE OF FUNDS FOR PROGRAMMATIC ACTIVITY COSTS.—

(1) IN GENERAL.—A grantee may submit to the Secretary a request for approval to use not less than 90 percent of the grant funds to pay the wages, benefits, and other costs described in subparagraph (A)(i).

(2) CONTENTS.—In submitting the request...

(E) USE OF FUNDS FOR WAGES AND BENEFITS AND PROGRAMMATIC ACTIVITY COSTS.—

(1) IN GENERAL.—Amounts made available through a grant under this title that are not used to pay for the administrative costs shall be used for the costs of programmatic activities, including the costs of:

(i) participant wages, such benefits as are required by law (such as workers’ compensation or unemployment compensation), the costs of providing health care coverage, the costs of providing on-the-job training or personalized job search services, the costs of providing access to health care coverage for the participant, and the costs of providing access to...
“(D) REPORT.—Each grantee under subsection (b) shall annually prepare and submit to the Secretary a report documenting the grantees’ use of funds for activities described in clauses (i) through (v) of subparagraph (A).

“(d) PROJECT DESCRIPTION.—Whenever a grantee conducts a project within a planning and service area in the State, such grantee shall conduct such project in consultation with the area agency on aging of the planning and service area and shall submit to the State agency and the area agency on aging a description of such project to be conducted in the State, including the location of the project, up to 90 days prior to undertaking the project. Such a project shall be conducted in consultation with the area agency on aging according to guidelines the Secretary shall issue to assure efficient and effective coordination of projects under this title.

“(e) PILOT, DEMONSTRATION, AND EVALUATION PROJECTS.—

“(1) IN GENERAL.—The Secretary, in addition to exercising any other authority contained in this title, shall use funds reserved under section 506a(a)(1) to carry out demonstration projects, pilot projects, and evaluation projects, for the purpose of developing and implementing techniques and approaches in addressing the employment and training needs of eligible individuals. The Secretary shall enter into such agreements with States, public agencies, nonprofit private organizations, or private business concerns, as may be necessary, to conduct the projects authorized by this subsection. To the extent practicable, the Secretary shall provide an opportunity, prior to the development of a demonstration or pilot project for the area agency on aging to submit comments on such a project in order to ensure coordination of activities under this title.

“(2) PROJECTS.—Such projects may include—

“(A) activities linking businesses and eligible individuals, including activities providing to businesses to promote their participation in the program under this title;

“(B) demonstration projects and pilot projects as described in subparagraph (A) for which older individuals (but targeted to eligible individuals) only if such demonstration projects and pilot projects are designed to assist in developing and implementing techniques and approaches in addressing the employment and training needs of older individuals;

“(C) demonstration projects and pilot projects as described in subparagraph (B), for which older individuals or services targeted to older individuals only if such demonstration projects and pilot projects are designed to assist in developing and implementing techniques and approaches in addressing the employment and training needs of eligible individuals;

“(D) provision of training and technical assistance to support any project funded under this title;

“(E) dissemination of best practices relating to employment of eligible individuals; and

“(F) evaluation of the activities authorized under this title.

“(3) CONSULTATION.—To the extent practicable, any demonstration or pilot project under this subsection shall consult with appropriate area agencies on aging and with other appropriate agencies and entities to promote coordination of activities under this title.

“SEC. 503. ADMINISTRATION.

“(a) STATE PLAN.—

“(1) GOVERNOR.—For a State to be eligible to receive an award under section 506, the Governor of the State shall submit to the Secretary for consideration and approval, a single State plan (referred to in this title as the “State plan”) that entails a 4-year strategy for the statewide provision of community service employment and other authorized activities for eligible individuals under this title. The plan shall contain such provisions as the Secretary may require, consistent with this title, including a description of the provisions used to ensure that participation of individuals described in paragraph (2). Not less often than every 2 years, the Governor shall review the State plan and submit an update to the State plan to the Secretary for consideration and approval.

“(2) RECOMMENDATIONS.—In developing the State plan prior to its submission to the Secretary, the Governor shall seek the advice and recommendations of—

“(A) individuals representing the State agency and the area agencies on aging in the State; and

“(B) the relative distribution between urban and rural areas in the State; and

“(C) the relative distribution of—

“(i) eligible individuals who are individuals with greatest social need;

“(ii) English proficient; and

“(iii) eligible individuals residing in rural and urban areas in the State; and

“(D) the current and projected employment opportunities in the State (such as information available under section 4950 of the Wagner-Peyser Act (29 U.S.C. 490-2) by occupation), and the types of skills possessed by local eligible individuals;

“(E) the localities and populations for which projects authorized by this title are most needed; and

“(F) plans for the coordination of activities of grantees in the State under this title under title III of this Act, the Carl D. Perkins Career and Technical Grant Act (42 U.S.C. 9901 et seq.), and the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.).”

“(2) GOVERNOR’S RECOMMENDATIONS.—Before a plan is submitted under this title for any fiscal year is submitted to the Secretary, the Governor of the State in which projects are proposed to be conducted under such grant shall be afforded a reasonable opportunity to submit the Secretary—

“(A) recommendations regarding the anticipated effect of such services upon the overall distribution of employment positions under this title in the State (including such distribution among urban and rural areas); and

“(B) recommendations for redistribution of positions to underserved areas as vacancies occur in previously encumbered positions in other areas; and

“(C) in the case of any increase in funding that may be available for use in the State under this title for the fiscal year, any recommendations for distribution of newly available positions in excess of those available during the preceding year under the act.

“(3) DETERMINATION; REVIEW.—

“(A) DETERMINATION.—The Secretary shall, in order to effectively carry out this title, make the State plan available for public comment. The Secretary, in consultation with the Assistant Secretary, shall review the plan and make a written determination with findings and a decision regarding the plan.

“(B) REVIEW.—The Secretary may review, on the Secretary’s own initiative or at the request of any public or private agency or organization or of any agency of the State, the distribution of projects or services under this title in the State, including the distribution between urban and rural areas in the State. For each proposed reallocation of projects or services in a State, the Secretary shall give notice and opportunity for public comment.

“(C) EXEMPTION.—The grantees that serve eligible individuals who are older Indians or Pacific Island and Asian Americans with funds reserved under section 506a(a)(3) may not be required to participate in the State processes described in this paragraph, but shall collaborate with the Secretary to develop a plan for projects and services to eligible individuals who are Indians or Pacific Islanders and Asian Americans.

“(b) COORDINATION WITH OTHER FEDERAL PROGRAMS.—

“(1) IN GENERAL.—The Secretary and the Assistant Secretary shall coordinate the program carried out under this title with programs carried out under other titles of this Act, to increase employment opportunities available to older individuals.

“(2) PROGRAMS.—

“(A) IN GENERAL.—The Secretary shall coordinate programs carried out under this title with programs under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), the Community Services Block Grant Act (42 U.S.C. 9901 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.), the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.), and the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.). The Secretary shall coordinate the administration of this title with the administration of other titles of this Act by the Assistant Secretary to increase the likelihood that eligible individuals for whom employment opportunities under this title are available shall receive such services.

“(B) USE OF FUNDS.—
(1) Authorization of Appropriations.—The Secretary shall make annual grants to States for the administration of this title. The funds appropriated to carry out this title shall be divided so that 75 percent shall be provided to State grantees and 25 percent shall be divided so that 75 percent shall be provided to grantees that operate under this title under national grants from the Secretary, and 25 percent shall be provided to grantees that operate under this title under national grants from the Secretary.

(2) Allotments for National Grants.—From funds available under subsection (c) of section 506, the Secretary shall allot to public and nonprofit private agencies and organizations that operate under this title under national grants from the Secretary, an amount that shall be the same as the amount of such grants provided to those agencies and organizations in the previous fiscal year.

(3) Minimum Allotment.—No State shall be provided an amount under this subsection that is less than 1/2 of 1 percent of the amount of funds available to carry out the purposes of this title for each fiscal year.

(4) Minimum Allotment.—No State shall be provided an amount under this subsection that is less than 1/2 of 1 percent of the amount of funds available to carry out the purposes of this title for each fiscal year.

(5) Minimum Allotment.—No State shall be provided an amount under this subsection that is less than 1/2 of 1 percent of the amount of funds available to carry out the purposes of this title for each fiscal year.

(6) Minimum Allotment.—No State shall be provided an amount under this subsection that is less than 1/2 of 1 percent of the amount of funds available to carry out the purposes of this title for each fiscal year.
title under national grants from the Secretary in all of the States.

(2) HOLD HARMLESS.—If such amount provided under subsection (c) is
(A) greater than the amount necessary to maintain the fiscal year 2000 level of activities, allotments for grantees that operate under this title under national grants from the Secretary in each State shall be proportional to the amount necessary to maintain their fiscal year 2000 level of activities, or
(B) greater than the amount necessary to maintain the fiscal year 2000 level of activities, no State shall be provided a percentage increase above the amount necessary to maintain the fiscal year 2000 level of activities, and the Secretary shall provide an amount necessary to maintain the fiscal year 2000 level of activities, no State shall be provided a percentage increase above the amount necessary to maintain the fiscal year 2000 level of activities for public and private nonprofit agency and organization grantees that operate under this title under national grants from the Secretary in all of the States.

(3) REDUCTION.—Allotments for States not affected by paragraphs (1) and (2)(B) shall be reduced proportionally to satisfy the conditions in such paragraphs.

(e) ALLOTMENTS FOR GRANTS TO STATES.—From the amount provided for grants to States under subsection (c), the Secretary shall allot for the State grantee in each State an amount equal to such amount as the product of the number of individuals age 55 or older in the State and the allotment percentage of such State bears to the sum of the corresponding products for all States, except as follows:

(1) MINIMUM ALLOTMENT.—No State shall be provided an amount under this subsection that is less than 1 percent of the amount provided under subsection (c) for State grantees in all of the States.

(2) HOLD HARMLESS.—If such amount provided under subsection (c) is
(A) equal to or less than the amount necessary to maintain the fiscal year 2000 level of activities, allotments for State grantees in each State shall be proportional to the amount necessary to maintain their fiscal year 2000 level of activities; or
(B) greater than the amount necessary to maintain the fiscal year 2000 level of activities, no State shall be provided a percentage increase above the amount necessary to maintain the fiscal year 2000 level of activities for State grantees in the State that is less than 30 percent of the percentage increase above the amount necessary to maintain the fiscal year 2000 level of activities for fiscal year 2000.

(3) GRANTS TO STATES.—The term ‘grants to States’ means grants made under this title by the Secretary to the States.

(4) LEVEL OF ACTIVITIES.—The term ‘level of activities’ means the number of authorized positions multiplied by the cost per authorized position.

(5) NATIONAL GRANTS.—The term ‘national grants’ means grants made under this title by the Secretary to public and nonprofit private agency and organization grantees that operate under this title.

(6) STATE.—The term ‘State’ does not include Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands.

SEC. 506. EQUITABLE DISTRIBUTION.

(a) INTERSTATE ALLOCATION.—In making grants under section 502(b) from allotments made under section 506, the Secretary shall ensure, to the extent feasible, an equitable distribution of activities under such grants, in the aggregate, among the States, taking into account the needs of underserved States.

(b) INTRASTATE ALLOCATION.—The amount allocated for projects within each State under section 506 shall be allocated among areas in the State in an equitable manner, taking into account the State priorities set out in the State plan in effect under section 503(a).

SEC. 508. REPORT.

To carry out the Secretary’s responsibilities for reporting in section 508(g), the Secretary shall require the State agency for each State that receives grants under this title to report at the end of each fiscal year, or through subcontracts, subgrants, or agreements with other entities.

(1) CONTENT.—(A) COMPOSITION OF MEASURES AND INDICATORS.—(i) MEASURES.—The core measures of performance established by the Secretary in accordance with paragraph (1) shall consist of core indicators of performance specified in subparagraph (B) and the expected levels of performance applicable to each core indicator of performance.

(2) DOCUMENTATION INDICATORS.—The additional indicators of performance established by the Secretary in accordance with paragraph (1) shall be documentation indicators specified in subparagraph (B). (3) EXPECTED LEVELS OF PERFORMANCE.—The Secretary and each grantee shall reach agreement on the expected levels of performance for each grantees as specified in subparagraphs (A) and (B). The agreement shall include the requirements for receiving services under such core indicators of performance in subparagraph (A) and the requirements for receiving services under subparagraph (D), and other appropriate factors as determined by the Secretary, and

for any income determination under the Food Stamp Act of 1977 (7 U.S.C. 2001 et seq.).

SEC. 510. ELIGIBILITY FOR WORKFORCE INVESTMENT ACTIVITIES.

(a) PARTNERS.—Grantees under this title shall be one-stop delivery systems as described in subparagraphs (A) and (B)(vi) of section 121(b)(1) of the Workforce Investment Act of 1998 (29 U.S.C. 2811(b)(1)) in the one-stop delivery system established under section 134(c) of such Act (29 U.S.C. 286(c)) for the appropriate local workforce investment areas, and shall carry out the responsibilities relating to such partners.


(a) PARTNERS.—Grantees under this title shall be one-stop delivery systems as described in subparagraphs (A) and (B)(vi) of section 121(b)(1) of the Workforce Investment Act of 1998 (29 U.S.C. 2811(b)(1)) in the one-stop delivery system established under section 134(c) of such Act (29 U.S.C. 286(c)) for the appropriate local workforce investment areas, and shall carry out the responsibilities relating to such partners.

(b) COORDINATION.—In local workforce investment areas where more than one grantee under this title provides services, the grantee shall—

(1) coordinate their activities related to the one-stop delivery systems; and

(2) be signatories of a memorandum of understanding established under section 121(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2811(c)).

SEC. 512. TREATMENT OF ASSISTANCE.

Assistance provided under this title shall not be considered to be financial assistance described in section 255(h)(1)(A) of the Immigration and Nationality Act (U.S.C. 1255a(h)(1)(A)).

SEC. 513. PERFORMANCE.

(a) M EASURES AND INDICATORS.—(1) ESTABLISHMENT AND IMPLEMENTATION OF MEASURES AND INDICATORS.—The Secretary shall establish and implement, after consultation with grantees, subgrantees, and host agencies under this title, States, older individuals, area agencies on aging, and other organizations serving older individuals, core measures of performance and additional indicators of performance for each grantee for projects and services carried out under this title. The core measures of performance and additional indicators of performance shall be applicable to each grantee under this title without regard to whether such grantee operates the program directly or through subcontracts, subgrants, or agreements with other entities.

(2) CONTENT.—(A) COMPOSITION OF MEASURES AND INDICATORS.—(i) MEASURES.—The core measures of performance established by the Secretary in accordance with paragraph (1) shall consist of core indicators of performance specified in subparagraph (B) and the expected levels of performance applicable to each core indicator of performance.

(a) M EASURES AND INDICATORS.—

(1) MEASURES.—The core measures of performance established by the Secretary in accordance with paragraph (1) shall consist of core indicators of performance specified in subsection (b)(1) and the expected levels of performance applicable to each core indicator of performance.

(b) CONTINUOUS IMPROVEMENT.—The measures described in subparagraph (A)(i) shall be designed to promote continuous improvement in performance.

(c) EXPECTED LEVELS OF PERFORMANCE.—The Secretary and each grantee shall reach agreement on the expected levels of performance for each program as specified in the core indicators of performance specified in subparagraph (A)(i). The agreement shall take into account the requirements for receiving services under such core indicators as specified in subparagraph (D), and other appropriate factors as determined by the Secretary, and
shall be consistent with the requirements of subparagraph (E). Funds may not be awarded under the grant until such agreement is reached. At the conclusion of negotiations concerning all grants, the Secretary shall determine that such grants are appropriate to evaluate services and performance.

(3) Definitions of indicators.—The Secretary, after consultation with national and State grantees, representatives of business and labor organizations, and providers of services, shall, by regulation or issue definitions of the indicators of performance described in paragraph (2), determine the annual and total levels of performance established under subsection (a)(2)(C) (including any adjustments to such levels made in accordance with subsection (a)(2)(D)) for the core indicators of performance described in subparagrapghs (A), (C), (D), and (E) of subsection (a)(2).

(4) Technical assistance and corrective action plans.—(i) In general.—If the Secretary determines that a State fails to meet the expected levels of performance described in subparagraph (A), the Secretary, after each year of such failure, shall provide technical assistance and require the State to submit a corrective action plan not later than 180 days after the end of the year.

(ii) Content.—The plan submitted under clause (i) shall detail the steps the grantee will take to meet the expected levels of performance in the next program year.

(G) Limitation.—(A) The Secretary may not publish a notice announcing a grant competition under this title, and solicit proposals for grants, until the date that is the later of—

(I) the date on which the Secretary implements the core measures of performance and additional indicators of performance described in this section; and


SEC. 514. COMPETITIVE REQUIREMENTS RELATING TO GRANT AWARDS.

(a) Program grants.—(1) Initial approval of grant applications.—From the funds available for national grants under section 506(d), the Secretary shall award grants under section 502(b) to eligible applicants, through a competitive process that emphasizes meeting performance requirements, to carry out projects under this title for a period of 4 years, except as provided in paragraph (2).

(2) Continuation of approval based on performance.—If the recipient of a grant made under paragraph (1) meets the expected levels of performance described in subsection (a)(2)(A) for each year of such 4-year period with respect to a project, the Secretary may award a grant under section 502(b) to eligible applicants, through a competitive process, to continue such project beyond such 4-year period for 1 additional year without regard to such process.

(b) Eligible applicants.—An applicant shall be eligible to receive a grant under section 502(b) in accordance with subsections (a), (c), and (d).
(c) Criteria.—For purposes of subsection (a)(1), the Secretary shall select the eligible applicants to receive grants based on the following:

(1) The applicant’s ability to administer a project that serves the greatest number of eligible individuals, giving particular consideration to individuals with greatest economic need, individuals with greatest social need, and individuals described in subsection (a)(3)(B)(i) or (b)(2) of section 518.

(2) The applicant’s ability to administer a project that provides employment for eligible individuals in the communities in which such individuals reside, or in nearby communities, that will contribute to the general welfare of the communities involved.

(3) The applicant’s ability to administer a project that moves eligible individuals into unsubsidized employment.

(4) The applicant’s prior performance, if any, in meeting core measures of performance and addressing additional indicators of performance under this title and the applicant’s ability to address core indicators of performance and additional indicators of performance under this title and under other Federal or State programs in the case of an applicant that has not previously received a grant under this title.

(5) The applicant’s ability to move individuals with multiple barriers to employment, including individuals described in subsection (a)(3)(B)(i) or (b)(2) of section 518, into unsubsidized employment.

(6) The applicant’s ability to coordinate activities with other organizations at the State and local level.

(7) The applicant’s plan for fiscal management of the project to be administered with funds received in accordance with this section.

(8) The applicant’s ability to administer a project that provides community service.

(9) The applicant’s ability to minimize disruption in services for participants and in community services provided.

(10) Any additional criteria that the Secretary considers to be appropriate in order to minimize disruption in services for participants.

(d) Responsibility Tests.—

(1) In General.—Before final selection of a grantee, the Secretary shall conduct a review of available records to assess the applicant’s overall responsibility to administer Federal funds.

(2) Organization and Data.—As part of the review described in paragraph (1), the Secretary may consider any information, including the applicant’s history with regard to the management and use of Federal funds.

(3) Failure to Satisfy Test.—The failure to satisfy a responsibility test with respect to any 1 factor that is listed in paragraph (4), excluding those listed in subparagraphs (A) and (B) of such paragraph, does not establish that the applicant is not responsible unless such failure is substantial or persists for 2 or more consecutive years.

(4) Test.—The responsibility tests include review of the following factors:

(A) Unsuccessful efforts by the applicant to recover debts, after 3 demand letters have been sent, that are established by final agency action, or a failure to comply with an approved repayment plan.

(B) Establish financial or criminal activity of a significant nature within the organization or agency involved.

(C) Serious administrative deficiencies identified by the Secretary, such as failure to maintain a financial management system as required by Federal rules or regulations.

(D) Willful obstruction of the audit process.

(E) Failure to provide services to participants for a current or recent grant or to meet applicable core measures of performance or address applicable indicators of performance.

(F) Failure to correct deficiencies brought to the grantee’s attention in writing, such as a result of monitoring activities, reviews, assessments, or other activities.

(G) Failure to return a grant closeout package within 90 days of the grant expiration date or receipt of the closeout package, whichever is later, unless an extension has been requested and granted.

(H) Failure to submit required reports.

(I) Failure to properly report and dispose of Government property as instructed by the Secretary.

(J) Failure to have maintained effective cash management or cost controls resulting in excess cash on hand.

(K) Failure to ensure that a subrecipient complies with its Office of Management and Budget Circular A–133 audit requirements specified at section 667.200(b) of title 20, Code of Federal Regulations.

(L) Failure to audit a subrecipient within the required period.

(M) Final disallowed costs in excess of 5 percent of the funds awarded by the grantee that, in the judgment of the grant officer, the disallowances are egregious.

(N) Failure to establish a mechanism to resolve a subrecipient’s audit in a timely fashion.

(5) Determination.—In this subsection, the term ‘individuals with barriers to employment’ means minority individuals, Indian individuals, individuals with greatest economic need, and individuals described in subsection (a)(3)(B)(i) or (b)(2) of section 518.

(6) Disallowed Costs.—Applicants that are determined to be not responsible shall not be selected as grantees.

(7) Disallowed Costs.—Interest on disallowed costs shall accrue in accordance with the Debt Collection Improvement Act of 1996, including the amendments made by that Act.

(8) Grantee Serving Individuals With Barriers to Employment.—

(a) Definitions. In this subsection, the term ‘individuals with barriers to employment’ means minority individuals, Indian individuals, individuals with greatest economic need, and individuals described in subsection (a)(3)(B)(i) or (b)(2) of section 518.

(b) Special Consideration.—In areas where a substantial population of individuals with barriers to employment exists, a grantee that receives a national grant in accordance with this section shall, in selecting subgrantees, give special consideration to organizations that serve such individuals (or recipients of such national grants) with demonstrated expertise in serving individuals with barriers to employment.

(c) Minority-Serving Grantees.—The Secretary may not promulgate rules or regulations affecting grantees in areas where a substantial population of minority individuals exists, that would significantly compromise the ability of the grantees to serve their targeted population of minority individuals.

SEC. 515. REPORT ON SERVICE TO MINORITY INDIVIDUALS.

(a) In General.—The Secretary shall annually prepare a report on the levels of participation and performance outcomes of minority individuals served by the program carried out under this title.

(b) Contents.—

(1) Organization and Data.—Such report shall present information on the levels of participation and the outcomes achieved by such minority individuals with respect to each grantee under this title, by service area, and in the aggregate, beginning with data that applies to program year 2005.

(2) Efforts.—The report shall also include a description of each grantee’s efforts to serve minority individuals, based on information submitted to the Secretary by each grantee at such time and in such manner as the Secretary determines to be appropriate.

(3) Related Matters.—The report shall also include—

(A) an assessment of the effectiveness of Federal programs in the case of an individual that has not previously received a grant under this title.

(B) an analysis of whether any changes in grants have affected participation rates of such minority individuals;

(C) information on factors affecting participation rates among such minority individuals and;

(D) recommendations for increasing participation of minority individuals in the program.

(4) Submission.—The Secretary shall annually submit such a report to the appropriate congressional committees.

SEC. 516. SENSE OF CONGRESS.

(a) In General.—There is the sense of Congress that—

(1) the older American community service employment program described in this title is established with the intent of placing older individuals in community service positions and providing job training; and

(2) placing older individuals in community service positions provides the ability of the individuals to become self-sufficient, provides much-needed support to organizations that benefit from increased civic engagement, and strengthens the communities that are served by such organizations.

SEC. 517. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There are authorized to be appropriated to carry out this title such sums as may be necessary for fiscal years 2007, 2008, 2009, 2010, and 2011.

(b) Obligation.—Amounts appropriated under this section for any fiscal year shall be available for obligation during the annual period that begins on July 1 of the calendar year immediately following the beginning of such fiscal year and that ends on June 30 of the following calendar year.

(c) Recapturing Funds.—At the end of the program year, the Secretary may recapture any unexpended funds for the program and reobligate such funds within the 2 succeeding program years for—

(1) incentive grants to entities that are State grantees or national grantees under section 502(b); and

(2) technical assistance; or

(3) grants or contracts for any other activity under this title.

SECTION 518. DEFINITIONS AND RULES.

(a) Definitions.—For purposes of this title—

(1) Community Service.—The term ‘community service’ means—

(A) social, health, welfare, and educational services (including literacy tutoring, legal and other counseling services and assistance, including tax counseling and assistance and financial counseling, and library, recreational, and other similar services;

(B) conservation, maintenance, or restoration of natural resources;

(C) community betterment or beautification;

(D) antipollution and environmental quality efforts;

(E) weatherization activities;
The term ‘community service employment’ means part-time, temporary employment paid with grant funds in projects described in section 602. Participation by such individual is engaged in community service and receive work experience and job skills that can lead to unsubsidized employment.

(3) ELIGIBLE INDIVIDUAL.—

(A) IN GENERAL.—The term ‘eligible individual’ means an individual who is age 55 or older and who has a low income (including any such individual whose income is not more than 125 percent of the poverty line), except that income that is unemployment compensation, a benefit received under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), a payment made to or on behalf of veterans or former members of the Armed Forces under the laws administered by the Secretary of Veterans Affairs, or 25 percent of a benefit received under title II of the Social Security Act (42 U.S.C. 401 et seq.), subject to subsection (b).

(B) PARTICIPATION.—

(i) EXCLUSION.—Notwithstanding any other provision of this paragraph, the term ‘eligible individual’ does not include an individual who has participated in projects under this title for a period of 48 months in the aggregate (whether or not consecutive) after July 1, 2007 unless the period was increased as described in clause (ii).

(ii) INCREASED PERIODS OF PARTICIPATION.—The Secretary shall authorize a grantee for a project to increase the period of participation described in clause (i), pursuant to a request submitted by the grantee, for individuals who:

(1) have a severe disability;

(2) are frail or are age 75 or older;

(3) meet the eligibility requirements related to age for, but do not receive, benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.)

(4) INCOME.—In this section, the term ‘income’ means income received during the 12-month period ending on the date an individual submitted an application to participate in a project carried out under this title by such grantee.

(5) PACIFIC ISLAND AND ASIAN AMERICANS.—The term ‘Pacific Island and Asian Americans’ means individuals of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands.

(6) PERSIAN GULF AND VIETNAM VETERANS.—The term ‘Persian Gulf and Vietnam veterans’ means veterans of operations involving origins in any of the original peoples of the Pacific and Southeast Asia.

(b) RULE.—Pursuant to regulations prescribed by the Secretary, an eligible individual shall have priority for the community service employment and other authorized activities provided under this title if the individual—

(1) is 65 years of age or older; or

(2)(A) has a disability;

(B) has limited English proficiency or low literacy skills;

(C) resides in a rural area;

(D) is a veteran;

(E) has a employment prospects;

(F) has failed to find employment after utilizing services provided under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.).

(G) is homeless or at risk for homelessness.

SEC. 502. EFFECTIVE DATE.

(a) IN GENERAL.—Title V of the Older Americans Act of 1965 (as amended by section 501) takes effect July 1, 2007.

(b) REGULATIONS AND EXPECTED LEVELS OF PERFORMANCE.

(1) REGULATIONS.—Effective on the date of enactment of this Act, the Secretary of Labor may issue rules and regulations authorized in such title V.

(2) EXPECTED LEVELS OF PERFORMANCE.—Prior to July 1, 2007, the Secretary of Labor may carry out the activities authorized in section 513(a)(2) of the Older Americans Act of 1965 (as amended), in preparation for program year 2007.

TITLE VI—NATIVE AMERICANS

SEC. 601. CLARIFICATION OF MAINTENANCE REQUIREMENT.

(a) IN GENERAL.—Section 614A of the Older Americans Act of 1965 (42 U.S.C. 3057e–1) is amended by adding at the end the following:

‘‘(c) CLARIFICATION.—

(1) DEFINITION.—In this subsection, the term ‘covered year’ means fiscal year 2006 or a subsequent fiscal year.

(2) CONSORTIA OF TRIBAL ORGANIZATIONS.—If a tribal organization received a grant under this part for fiscal year 1991 as part of a consortium, the Assistant Secretary shall consider the tribal organization to have received a grant under this part for fiscal year 1991 for purposes of paragraphs (a) and (b), and shall apply the provisions of subsections (a) and (b)(1) (under the conditions described in subsection (b)) to the tribal organization for each subsequent year the tribal organization submits an application under this part, even if the tribal organization submits—

A separate application from the remaining members of the consortium; or

(b) an application as 1 of the remaining members of the consortium.’’.}

SEC. 602. NATIVE AMERICANS CAREGIVER SUPPORT PROGRAM.

Section 643 of the Older Americans Act of 1965 (42 U.S.C. 3057n) is amended—

(1) in paragraph (1), by striking ‘‘2001’’ and inserting ‘‘2007’’; and

(2) in paragraph (2), by striking ‘‘$5,000,000’’ and all that follows through the period at the end and inserting ‘‘$6,500,000 for fiscal year 2007, $6,800,000 for fiscal year 2008, $7,200,000 for fiscal year 2009, $7,500,000 for fiscal year 2010, and $7,900,000 for fiscal year 2011.’’.

TITLE VII—ALLOTMENTS FOR VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES

SEC. 701. VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES.

Section 702 of the Older Americans Act of 1965 (42 U.S.C. 3058a) is amended by striking ‘‘2001’’ each place it appears and inserting ‘‘2007’’.

SEC. 702. ELDER ABUSE, NEGLECT, AND EXPLOITATION.

Section 721 of the Older Americans Act of 1965 (42 U.S.C. 3058b) is amended—

(1) in subsection (a), by striking ‘‘programs for the prevention of’’ and inserting ‘‘programs to address’’;

(2) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively;

(3) by inserting after paragraph (1) the following:

‘‘(2) providing for public education and outreach to promote financial literacy and prevention of identity theft and financial exploitation of older individuals;’’;

(4) in paragraph (8), as redesignated by subparagraph (B), by striking ‘‘and’’ and inserting ‘‘and’’;

(5) by adding at the end the following:

‘‘(10) examining various types of shelters serving older individuals (in this paragraph referred to as ‘safe havens’), and testing various safe haven models for establishing safe havens (at home or elsewhere), that recognize autonomy and self-determination, and fully protect the due process rights of older individuals;

(11) supporting multidisciplinary elder justice activities, such as—

(A) supporting and training team approaches for bringing a coordinated multidisciplinary or interdisciplinary response to elder abuse, neglect, and exploitation, including a response from individuals in social services, law enforcement, public health care, public safety, and legal disciplines;

(B) establishing a State coordinating council, which shall identify the individual State’s needs and provide the Assistant Secretary with information and recommendations relating to efforts by the State to combat elder abuse, neglect, and exploitation;

(C) providing training, technical assistance, and other methods of support to groups carrying out multidisciplinary efforts at the State (referred to in some States as ‘State Working Groups’);

(D) broadening and studying various models for elder fatigue and serious injury review teams, to make recommendations about comprehensive protocols and functions, timing, roles, and responsibilities, with a goal of producing models and information that will allow for replication based on the needs of States and communities (other than the ones in which the review teams were used); and

(E) developing best practices, for use in long-term care facilities, to reduce the risk of elder abuse for residents, including the risk of resident-to-resident abuse; and

(12) addressing underserved populations of older individuals;

(A) older individuals living in rural locations;
((B) older individuals in minority populations; or
(C) low-income older individuals.;)
(3) in subsection (e)(2), after (B)
(1) by striking “subsection (b) and inserting “subsection (b)(1) and (b)(2)”;
(2) by striking “subsection (b) and inserting “subsection (b)(2)”;
and
(3) by adding at the end of the section the following:
(h) ACCOUNTABILITY MEASURES.—The Assistant Secretary shall develop accountability measures to determine the effectiveness of the activities carried out under this section.
(1) EVALUATING PROGRAMS.—The Assistant Secretary shall carry out this section, using funds made available under section 206(g).
(1) COMPLIANCE WITH APPLICABLE LAWS.—In order to receive funds made available to carry out this section, an entity shall comply with all applicable laws, regulations, and guidelines."

SEC. 703. NATIVE AMERICAN ORGANIZATION PROVISIONS

Section 751 of the Older Americans Act of 1965 (42 U.S.C. 3058aa) is amended—
(1) in subsection (a)—
(A) in paragraph (1), by striking “and” at the end;
(B) in paragraph (2), by striking the period and inserting “; and”;
and
(C) by adding at the end the following:
(3) enabling the eligible entities to support multidisciplinary elder justice activities, such as—
(A) establishing a coordinating council, which shall identify the needs of an individual, an Indian tribe or other Native American group and provide the Assistant Secretary with information and recommendations relating to efforts by the Indian tribe or the governing body of the Native American group to combat elder abuse, neglect, and exploitation;
(B) providing training, technical assistance, and other methods of support to groups carrying out multidisciplinary efforts for an Indian tribe or other Native American group; and
(C) broadening and studying various models for elder fatality and serious injury review teams, to make recommendations about their composition, protocols, functions, and responsibilities, with a goal of producing models and information that will allow for replication based on the needs of Indian tribes and other Native American groups
(2) by striking “and” and inserting “; and”;
and
(3) by adding at the end the following:
(3) enabling the eligible entities to support multidisciplinary elder justice activities, such as—
(A) establishing a coordinating council, which shall identify the needs of an individual, an Indian tribe or other Native American group and provide the Assistant Secretary with information and recommendations relating to efforts by the Indian tribe or the governing body of the Native American group to combat elder abuse, neglect, and exploitation;
(B) providing training, technical assistance, and other methods of support to groups carrying out multidisciplinary efforts for an Indian tribe or other Native American group; and
(C) broadening and studying various models for elder fatality and serious injury review teams, to make recommendations about their composition, protocols, functions, and responsibilities, with a goal of producing models and information that will allow for replication based on the needs of Indian tribes and other Native American groups
(2) by striking “and” and inserting “; and”;
and
(3) by adding at the end the following:
(3) enabling the eligible entities to support multidisciplinary elder justice activities, such as—
(A) establishing a coordinating council, which shall identify the needs of an individual, an Indian tribe or other Native American group and provide the Assistant Secretary with information and recommendations relating to efforts by the Indian tribe or the governing body of the Native American group to combat elder abuse, neglect, and exploitation;
(B) providing training, technical assistance, and other methods of support to groups carrying out multidisciplinary efforts for an Indian tribe or other Native American group; and
(C) broadening and studying various models for elder fatality and serious injury review teams, to make recommendations about their composition, protocols, functions, and responsibilities, with a goal of producing models and information that will allow for replication based on the needs of Indian tribes and other Native American groups

SEC. 703. RULE OF CONSTRUCTION

Subtitle C of title VII of the Older Americans Act of 1965 (42 U.S.C. 3058aa) is amended by adding at the end the following:
"SEC. 765. RULE OF CONSTRUCTION.
"Nothing in this title shall be construed to interfere with or abridge the right of an older individual to practice the individual’s religion through reliance on prayer alone for healing, in a case in which a decision to so practice the religion—
(A) is contemporaneously expressed by the older individual—
(i) either orally or in writing;
(ii) with respect to a specific illness or injury that the individual has at the time of the decision; and
(iii) when the older individual is competent to make the decision;
(B) is set forth prior to the occurrence of the illness or injury in a living will, health care proxy, or other advance directive document that is validly executed and applied under State law; and
(C) may be unambiguously deduced from the older individual’s life history.”.

"SEC. 704. ELDER JUSTICE PROGRAMS

Subtitle B of title VII of the Older Americans Act of 1965 (42 U.S.C. 3058aa) is amended—
(1) by striking the subtitle heading and inserting the following:
"Subtitle B—Native American Organization and Elder Justice Provisions";
and
(2) by inserting after section 751 the following:
"SEC. 752. GRANTS TO PROMOTE COMPREHENSIVE STATE ELDER JUSTICE SYSTEMS

(a) PURPOSE AND AUTHORITY.—For each fiscal year, the Secretary may make grants to States, on a competitive basis, in accordance with this section, to promote the development and implementation, within each such State, of a comprehensive elder justice system, as defined in subsection (b).
(b) COMPREHENSIVE ELDER JUSTICE SYSTEM DEFINED.—In this section, the term ‘comprehensive elder justice system’ means—
(1) an integrated, multidisciplinary, and collaborative system for preventing, detecting, and addressing elder abuse, neglect, and exploitation in a manner that—
(i) provides for widespread, convenient public access to the range of available elder justice information, and services;
(ii) coordinates the efforts of public health, social service, and law enforcement authorities, as well as other appropriate public and private partners and entities, to diminish duplication and gaps in the system;
(iii) provides a uniform method for the standardization, collection, management, analysis, and reporting of data; and
(iv) provides such other elements as the Assistant Secretary determines appropriate.
(c) APPLICATIONS.—To be eligible to receive a grant under this section, a State shall submit an application to the Assistant Secretary which, at that time, and in such manner, and containing such information and assurances as the Assistant Secretary determines appropriate.
(d) AMOUNT OF GRANTS.—The amount of a grant for each fiscal year shall be an amount that is not less than the amount for the previous fiscal year provided under this section for a fiscal year
(e) USE OF FUNDS.—(1) IN GENERAL.—A State that receives a grant under this section shall use the funds made available through such grant to promote the development and implementation of a comprehensive elder justice system by—
(A) establishing formal working relationships among public and private providers of elder justice services, service providers, and stakeholders in order to create a unified elder justice network across State to coordinate programs;
(B) facilitating and supporting the development of a management information system and standard data elements;
(C) providing professional education (including educating the public about the range of available elder justice information, programs, and services), training, and technical assistance for public and private providers;
and
(D) taking such other steps as the Assistant Secretary determines appropriate.
(2) MAINTENANCE OF EFFORT.—Funds made available under this section shall be used to supplement and not supplant other Federal, State, and local funds expended to support activities described in paragraph (1)."

SEC. 705. FEDERAL YOUTH DEVELOPMENT COUNCIL

There is established a Federal Youth Development Council.

(a) ESTABLISHMENT.—There is established the Federal Youth Development Council in this title referred to as the ‘Council’.
(b) MEMBERS AND TERM.
(1) FEDERAL EMPLOYER MEMBERS.—The members of the Council shall include the Attorney General, the Secretary of Agriculture, the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, the Secretary of the Interior, the Secretary of Commerce, the Secretary of Defense, the Director of National Drug Control Policy, and the Chief Executive Officer of the Corporation for National and Community Service, or a designee of each such individual who holds significant decision-making authority, and other Federal officials as directed by the President.
(2) ADDITIONAL MEMBERS.—(A) IN GENERAL.—The members of the Council shall include any additional members that, at the discretion of the President, shall consist of at least representatives from among representatives of community-based organizations, including faith-based organizations, child and youth focused foundations, institutions of higher education, nonprofit organizations, youth service providers, State and local government, and youth in disadvantaged situations.
(B) CONSULTATION.—In making the appointments under this paragraph, the President, as determined appropriate by the President, shall consult with—
(i) the Speaker of the House of Representatives, who shall take into account the recommendations of the majority leader and the minority leader of the House of Representatives; and
(ii) the president pro tempore of the Senate, who shall take into account the recommendations of the majority leader and the minority leader of the Senate.
(3) LENGTH OF TERM.—Each member of the Council shall serve for the life of the Council.
(c) COMPENSATION AND TRAVEL EXPENSES.—
(1) NO COMPENSATION FOR SERVICE ON COUNCIL.—Each member of the Council appointed under this section shall be allowed travel or transportation expenses by reason of the member’s service on the Council, and shall not be considered an employee of the Federal Government.
(2) TRAVEL AND TRANSPORTATION EXPENSES.—Each member of the Council may be allowed travel or transportation expenses in accordance with section 5703 of title 5, United States Code, while away from the member’s home or regular place of business in the performance of services for the Council.
(d) CHAIRPERSON.—The Chairperson of the Council shall be the Secretary of Health and Human Services.
(e) MEETINGS.—The Council shall meet at the call of the Chairperson, not less frequently than once every 4 months. The first meeting shall be not less than 4 months after the date of enactment of this Act.

SEC. 803. DUTIES OF THE COUNCIL

(a) IN GENERAL.—The Council shall be to provide advice and recommendations, including—
(1) ensuring communication among agencies administering programs designed to serve youth, especially those in disadvantaged situations;
(2) assessing the needs of youth, especially those in disadvantaged situations, and those who work with youth, and the quantity and quality of Federal programs offering services, opportunities, and activities to help youth in their educational, social, emotional, physical, vocational, and civic development, in coordination with the Federal Interagency Forum on Child and Family Statistics;
(3) recommending quantifiable goals and objectives to Federal programs;
(4) making recommendations for the allocation of resources in support of such goals and objectives;
(5) identifying potential areas of overlap or duplication in the purpose and operation of programs serving youth and recommending ways to better facilitate the coordination and consultation among, and improve the efficiency and effectiveness of, such programs;
(6) identifying target populations of youth who are disproportionately at risk and assisting agencies in focusing additional resources on such youth;
(7) developing a plan, including common indicators of youth well-being that are consistent with indicators tracked by the Federal Interagency Forum on Child and Family Statistics, and assisting Federal agencies, at the request of 1 or more such agencies, in collaborating to achieve the goals and objectives described in paragraph (3);
(8) assisting Federal agencies, at the request of 1 or more such agencies, in collaborating on—
(A) model programs and demonstration projects focusing on special populations, including youth in foster care and migrant youth;
(B) projects to promote parental involvement; and
(C) projects that work to involve young people in service programs;
(9) soliciting and documenting ongoing input and recommendations from—
(A) youth, especially youth in disadvantaged situations;
(B) national youth development experts, researchers, and community-based organizations, including faith-based organizations, foundations, business leaders, youth service providers, and teachers; and
(C) State and local government agencies, particularly agencies serving children and youth; and
(10) working with Federal agencies—
(A) to promote high-quality research and evaluation, identify and replicate model programs and promising practices, and provide technical assistance relating to the needs of youth; and
(B) to coordinate the collection and dissemination of youth services-related data and research.
(b) TECHNICAL ASSISTANCE.—The Council may provide technical assistance to a State at the request of a State to support a State-funded council for coordinating State youth efforts.

SEC. 804. COORDINATION WITH EXISTING INTERAGENCY COORDINATION ENTITIES.
In carrying out the duties described in section 803, the Council shall coordinate the efforts of the Council with other Federal, State, and local coordinating entities in order to avoid and prevent duplicative efforts, including the following:
(1) Coordinating with the Federal Interagency Forum on Child and Family Statistics, established under Executive Order No. 13045 (42 U.S.C. 4321 note; relating to protection of children from environmental health risks and safety risks), on matters pertaining to data collection.
(2) Coordinating with the United States Interagency Council on Homelessness, established under the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311), on matters pertaining to homelessness.

SEC. 805. ASSISTANCE OF STAFF.
(a) DEFINITION OF INDIVIDUAL.—The Chairperson is authorized to designate an individual to have responsibility for assisting in carrying out the duties of the Council under this title.
(b) STAFF OF FEDERAL AGENCIES.—Upon request of the Council, the head of any Federal agency shall detail, on a reimbursable or nonreimbursable basis, any of the personnel of the department or agency to the Council to assist in carrying out the Council’s duties.

SEC. 806. POWERS OF THE COUNCIL.
(a) MAILS.—The Council may use the United States mails in the same manner and under the same regulations as other Federal departments and agencies of the United States.

SEC. 807. REPORT.
(a) INTERIM REPORT.—Not later than 1 year after the first meeting of the Council, the Council shall transmit to the relevant committees of Congress an interim report of the findings of the Council.
(b) FINAL REPORT.—Not later than 2 years after the first meeting of the Council, the Council shall transmit to the relevant committees of the Council its findings and recommendations, which report shall—
(1) include a comprehensive list of recent research and findings by various Federal agencies on the overall well-being of youth;
(2) include the assessment of the needs of youth and the responses of Federal and non-Federal agencies;
(3) include a summary of the plan described in section 803(a)(7);
(4) recommend ways to coordinate and improve Federal training and technical assistance, information sharing, and communication among the various Federal programs and agencies serving youth, as the Chairperson determines appropriate;
(5) include recommendations to better integrate and coordinate policies across agencies at the Federal, State, and local levels, including any recommendations the Chairperson determines appropriate, if any, for legislation and administrative actions;
(6) include a summary of actions the Council has taken at the request of Federal agencies to facilitate collaboration and coordination on youth serving programs and the results of those collaborations, if available; and
(7) include a summary of the input and recommendations from the groups identified in section 803(a)(9).

SEC. 808. TERMINATION.
The Council shall terminate 60 days after transmitting the final report under section 807(b).

SEC. 809. AUTHORIZATION OF APPROPRIATIONS.
There is authorized to be appropriated to carry out this title $1,000,000 for each of the fiscal years 2007 and 2008.

TITLE IX—CONFORMING AMENDMENTS

SEC. 901. CONFORMING AMENDMENTS TO OTHER ACTS.
(a) OLDER AMERICANS ACT AMENDMENTS OF 1986.—The Older Americans Act Amendments of 1986 (42 U.S.C. 3001 note) is amended by striking “section 102(7)” of the Older Americans Act of 1965 (42 U.S.C. 3002) and inserting “section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002)”.
(b) ENERGY CONSERVATION AND PRODUCTION ACT.—Section 412(6) of the Energy Conservation and Production Act (42 U.S.C. 6202(6)) is amended by striking “paragraphs (4), (5), and (6), respectively, of section 102” and inserting “section 102”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. MCKEON) and the gentleman from Texas (Mr. HINOJOSA) each will control 20 minutes.

The Chair recognizes the gentleman from California.

Mr. MCKEON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 6197, the Older Americans Act Amendments of 2006, and I ask my colleagues to join me in supporting this important reauthorization. More than 49 million Americans and counting are over the age of 60. It is the fastest growing segment of our population. In fact, by the year 2050, that number will reach nearly 90 million and comprise almost a quarter of the nation.

Therefore, supporting the needs of seniors is as important as ever, and to do that we must ensure the long-term stability of programs on which they depend. The House-Senate agreement to reauthorize the Older Americans Act has been struck with these priorities in mind, and I commend my committee colleagues, subcommittee chairman Mr. TIBERI, Ranking Member Mr. HINOJOSA, and Mr. MILLER, the ranking member of the full committee, for joining me in forging this agreement in a remarkably bipartisan way. On the other side of the Capitol, Senators ENZI and DEWINE were instrumental in crafting this legislation as well.

I have been here long enough to remember past reauthorizations of the Older Americans Act, and, trust me, there was nothing remarkable or bipartisan about them. In a year when opportunities to reach across party lines are at a premium, this process has been refusal.

Initially established in 1965, the Older Americans Act is no longer the 1960s-era social program it once was. Rather, it has been transformed into the first stop for seniors to identify home- and community-based long-term care options as well as other supportive services that could help prevent or delay expensive institutional care and generate significant savings in Federal entitlement programs.

And H.R. 6197 builds on that progress.

Specifically, the bipartisan reauthorization will promote consumer choice as well as home- and community-based
Mr. OSBORNE has taken the lead in the absence to teen pregnancy and hunger. aimed to address numerous problems of involvement and a rapid growth in funds agreement. Over the last four decades, committee colleague, Mr. OSBORNE, for provide a community service. subsidized employment-based training to and requires at least half of all sub-sidized employment-based training to help provide participants on-the-job training and aid individuals in achiev-ing their goal of attaining unsubsidized training and community service. It would also like to commend my committee colleague, Mr. OSBORNE, for his work on this legislation, the Federal Youth Coordination Act, that we have been able to incorporate into this agreement. Over the last four decades, there has been a growing Federal in-volvement and a rapid growth in funds aimed to address numerous problems of youth, from substance abuse and vio-lence to teen pregnancy and hunger. Mr. OSBORNE has taken the lead in the effort to evaluate, coordinate, and improve these programs. Under his legis-lation, the Federal Youth Development Council will be charged with doing just that.

At a time when so many in Wash-ington feel the need to establish new program after new program, I appreciate this effort to take a step back and review what is already out there before we add even more layers of bu-reaucracy today.

Mr. Speaker, as I did in June, when the House passed its initial version of this Older Americans Act reauthorization, I close by thanking all Americans who work or volunteer to support our country’s senior citizens. This strong and vital network is made possible be-cause of selfless volunteers who deliver meals to homebound seniors, offer companionship, assist with activities of daily living, and provide many other necessary supports that help older Americans remain healthy and ful-filled.

This House-Senate agreement is de-signed to support them, and I believe it is a positive reflection of their good work. And with that, I urge my col leagues to join me in supporting this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. HINOJOSA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 6197, the Older Americans Act Amendments of 2006. This bipartisan, bicameral legislation addresses one of the top priorities of the aging community, as articulated in last December’s White House Conference on Aging: the reauthorization of the Older Americans Act.

I would like to commend the staff on both sides of the aisle and both sides of the Capitol for their diligent work to get this bill ready for our consideration. It took a great deal of patience and perseverance. I would especially like to commend the efforts of Kate Houston on the majority side for all of her hard work and service to this committee. On this side of the aisle, I would especially like to thank Ricardo Martinez for his work in keeping the process moving.

Aging is a fact of life. However, through the establishment of Social Security, Medicare, and the enactment of the Older Americans Act, living in poverty no longer is a fact of aging. From 1959 to 2002, the percentage of older people living in poverty fell from 35 percent down to 10 percent.

The Older Americans Act of 1965 is the landmark legislation that articu-lates our commitment to our Nation. The act begins with a declaration of objec-tives which includes the following: “Retirement in health, honor, dignity, after years of contribution to the econ-omy.” This is a statement of our na-tional obligation to older Americans. The Older Americans Act represents our commitment to meeting that obli-gation. This law provides for sup-portive services, such as transporta-tion, housekeeping, and personal care which provides nutrition services both in the home and in community settings. It provides preventive health services and supports family care-givers. Finally, it protects the rights of vulnerable older Americans by combating consumer fraud and protecting seniors from abuse.

The bill before us reauthorizes all of the core programs in the Older Ameri-cans Act. It promotes greater access to services for individuals who are more comfortable in a language other than English. It maintains the structure of the Senior Community Service Em-ployment program and reaffirms the dual purpose of the program’s employ-ment and community service. It pro-vides for greater flexibility to provide additional training to hard-to-serve populations to improve their employ-ment outcomes.

It strengthens the very successful family caregivers program. It provides greater choices in health nutrition educa-tion so that our seniors can remain at home and in their communities. It promotes financial literacy for family caregivers and seniors so that older Americans’ physical and mental health is not jeopardized by poor financial health. It strengthens our system of protecting older Americans from abuse.

Finally, it recognizes that seniors are a growing resource for the aging net-work and for our communities in general. We must continue to look for ways to leverage our older citizens’ talents and desires to continue to make a difference.

This legislation has the support of the aging community. More than any-thing else, they are asking us to com-plete this work before we leave town in the next few days. Today, we move one step closer to this goal. It is my hope and once we send this legislation to the President for his signature, we will not relegate the Older Americans Act to the back burner. I hope that our re-sources will match our rhetoric and the policy goals laid out in this legislation.

As we have worked in a bipartisan manner to craft a reauthorization bill, I hope that as we move forward with the appropriations process, when we return after the elections, we will re-member that the Older Americans Act programs are cost effective. We know that every dollar spent providing a meal or supporting seniors so that they can remain at home and in their com-munities not only improves their qual-ity of life but saves entitlement spend-ing in the long-run. Mr. Speaker, that is the genius of the Older Ameri-cans Act. It is incumbent upon all of us to step up and invest in these pro-grms.

It has been a pleasure working with my friend and colleague, the chairman of our Select Education Committee, PAT TIBERI from Ohio. He is fair and listens and is willing to find a way to make things work, as we found in this legislation. I urge all my colleagues to support this legislation. It is some-thing we can be proud of.

Mr. Speaker, I reserve the balance of my time.

Mr. MCKEON. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. TIBERI), the subcommittee chair.

Mr. TIBERI. Mr. Speaker, I want to thank Chairman MCKEON and Mr. HINOJOSA for all the work they both have done to make this an even better product today. Your leadership has been crucial to this process.

I am proud, Mr. Speaker, of the bi-partisan and bicameral process from both sides of the Capitol in coming up with a piece of legislation during this time of year that is backed by the majority of both parties and a ma-jority here in the United States House of Representatives.

This has been a product of many months of hard work to reauthorize the Older Americans Act. The chair man and the ranking member of the subcommittee overviewed the legis-la-tion quite well, so I will not repeat what they said. But we heard from na-tional, State, and local stakeholders, we heard from constituents and seniors that a product that the vast aging network in America can be proud of as this reau-thorization passes this House today.
Mr. Speaker, I rise in strong support of H.R. 6197, the Older Americans Act. I was very pleased to see the interests that I expressed included in the final outcome of the legislation. We were able to see kinship caregivers have an opportunity to participate at an earlier age, even from 60 to 55. We were also able to work with Mr. EHLERS and make sure that there was serious consideration given to the mental health needs of seniors.

It is obvious that a very good piece of legislation, and it is a good note for us to be preparing to leave on, because it means that we have looked after the interests of those in our society reaching their golden years. I have been told that you can measure the greatness of a society by how well it takes care of its young, how well it takes care of its old, and how well it takes care of those who have difficulty living after themselves. This legislation does indeed look after the older members of our society.

I thank again the Education Committee for an outstanding job, and I want to thank my staff person who worked with the committee, Dr. Jill Hunter-Williams, to make sure our interests were totally displayed. It has been a pleasure to see the process.

Mr. MCKEON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I mentioned earlier in my comments that added to the Older Americans Act we have included a bill that is sponsored by our colleague here, Mr. OSBORNE. I failed to mention that this committee that this legislation is entitled "The Federal Youth Coordination Act," establishes a Youth Coordinating Council. This council that this legislation sets up will be named the Tom Osborne Coordinating Council. Mr. Speaker, I am happy to yield 5 minutes to the gentleman from Nebraska (Mr. OSBORNE). Mr. OSBORNE. Thank you, Mr. Chairman, for those kind words, and thank you so much for your assistance in this matter. I would like to also thank Subcommittee Chairmen Tiberi and Mr. HINOJOSA for their work.

I would like to particularly address title VIII of the Older Americans Act, entitled "The Federal Youth Coordination Act," which has been referred to previously. I, along with PETE HOEKSTRA, Mr. PAYNE and Mr. FORD, introduced the Federal Youth Coordination Act at the request of many organizations such as America's Promise, American Youth Policy Forum, Campfire USA, Learn and Serve America, Volunteers of America, Big Brothers and Big Sisters and the Child Welfare League of America. These groups were united in feeling that something needed to be done concerning the large number of youth-serving programs in the Federal Government. So these groups believe that young people could be better served if Federal youth-serving programs were coordinated, better targeted and streamlined; and we really appreciated their help.

The Federal Youth Coordination Act establishes a council chaired by the Secretary of Health and Human Services composed of representatives of youth-serving agencies within the Federal Government. These groups believe that something needed to be done concerning the large number of youth-serving programs in the Federal Government. So these groups believe that young people could be better served if Federal youth-serving programs were coordinated, better targeted and streamlined; and we really appreciated their help.

The purpose is, number one, to eliminate duplication and waste, which sometimes we have in government. Second, it is important that each program has measurable, quantifiable goals. When appropriators or other people evaluate a program, how do they know it is accomplishing what it was designed to do? So often there is something called " ': the council where a program is established to serve one particular program, and it isn't long before it is off in another direction.

Third, to verify that each program serves the purpose for which it was intended.

Fourth, to ensure communication between agencies regarding youth-serving programs. The council must meet quarterly and file an interim and a final report with congressional committees with jurisdiction over youth-serving programs. The report will provide critical information about programs in order to serve more children more effectively. The council will help to States that request aid in coordinating youth-serving programs at the State level.

I would especially like to thank Majority Leader BUCK MCKEON, and Ranking Member MILLER for all of their help; also members of the staff, Whitney Rhodes, Kate Houston, Rich Stombres, Susan Ross, Denise Forte and Brady Young; also over in the Senate side, Norm COLEMAN, Debbie Stabenow and their Senate staff members. And especially I would like to mention Erin Duncan on my staff, who spent the better part of 2 years working on this legislation. So, again, Mr. Chairman, thank you so much for your help. And I think it will be a great program for so many young people, and we appreciate all that you have done.

Mr. MCKEON. Mr. Speaker, I yield myself such time as I may consume. In conclusion, I want to say that it was a pleasure to work with our chairman, Mr. BUCK MCKEON, and with our ranking member, GEORGE MILLER, on this legislation. I appreciate all of the effort that they made so that we would end up with an excellent piece of legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. MCKEON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to recognize the hard work of my staff, Kate Houston, Stephanie Milburn, Rich Stombres and Taylor Hansen for the work they have done on this, along with the Democratic staffers on the other side of the aisle.

Mr. HOLT. Mr. Speaker, I rise in support of the reauthorization of the Older American Act. I would like to thank Congressmen BUCK MCKEON, PAT TIBERI, GEORGE MILLER and RUBEN HINOJOSA for their hard work reauthorizing this act.

Since originally enacted in 1965, the Older Americans Act has been an important vehicle by which senior citizens in need have received nutritional support, community service employment, pension counseling services, protections against neglect and abuse, and many other services.

Nutrition services through Title III of the Older Americans Act, such as the "Meals on Wheels" program, are essential in helping senior citizens who cannot prepare their own food to still have access to convenient and nutritious meals. The program serves those most in need, such as the aged, the less affluent, those who live alone, and members of minority groups.

I was pleased that I was able to amend the Seniors Independence Act during mark-up to stop the Department of Labor from using an unfair calculation of income to determine eligibility for Title V seniors community service employment programs, SCSEP. In January 2005,
Mr. Speaker, today I rise in support of this legislation. It would be a mistake to hold off on this legislation. It is urgent, and it is necessary.

As the elderly population increases, more services will be required to ensure their independence.

Mr. Speaker, I request your unanimous consent to forgo action on this bill. I agree with the consideration of this bill and your willingness to forgo action on this bill. I support your request for conferees on those provisions within your committee's jurisdiction. Finally, I will include your letter and this response in the Congressional Record during consideration of H.R. 6197 on the House floor.

Sincerely,

HOWARD P. "BUCK" MCKEON,
Chairman.
following provisions of the Senate amendment:

1. Title V (relating to the Rail Security Act of 2006).
2. Title VI (relating to the National Alert System).
3. Title VII (relating to mass transit security).
4. Title IX (relating to improved motor carrier, bus, and hazardous material security).
5. The following sections of title XI:
   - Section 1101 (relating to certain TSA personnel limitations not to apply).
   - Section 1102 (relating to the Rural Policing Institute).
   - Section 1103 (relating to evacuation in emergencies).
6. Section 1104 (relating to health and safety during disasters).
7. Section 1116 (relating to methamphetamine and methamphetamine precursor chemicals).

Mr. THOMPSON of Mississippi (during the reading). Mr. Speaker, I ask unanimous consent that the motion to instruct be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from Mississippi (Mr. THOMPSON) and the gentleman from New York (Mr. KING) each will control 30 minutes.

The Chair recognizes the gentleman from Mississippi.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of this motion to instruct conferences. By passing this motion, we will ensure that the House conferees take seriously our Nation’s efforts to secure the national transportation infrastructure.

We have seen a lot of piecemeal legislation in the House of Representatives. Just last week, Republicans tried to shortchange the American people on border security by authorizing a fence without sufficient funds to build it. Some folks seem to think that piecemeal legislation will do just fine in time for the election. We have a chance here today to ensure that piecemeal and politics do not prevail over security and doing what is right by the American people.

We have the choice: we can partially secure or fully secure the national transportation infrastructure. This choice should be a no-brainer. That is why I encourage this body to support this motion to instruct. This motion incorporates many of the important security measures passed by the Senate, but neglected by the House.

Among other things, Mr. Speaker, this motion would instruct conferences to support improvements to security for America’s seaports and mass transit and rail systems. We know about the very real threat to our rail and mass transit systems. We remember what happened in Tokyo, Mumbai, London, and Spain. We mourn the hundreds of innocent civilians that have been killed and wounded by terrorist attacks on a major rail system.

But despite all of this, Mr. Speaker, the 109th Congress has not adequately focused on rail and public transportation security. Similarly, the administration has not yet accepted that rail and public transportation is a Federal responsibility.

At a congressional hearing on March 29, Tracey Henke of DHS told Members of Congress that “aviation security by law is a Federal responsibility. That is not the case for transit security.” Quite simply, this administration has flawed vision of securing America.

The Senate motion is a way to solve some of these issues, and the sensible thing to do is to support these solutions. It helps our communities for Congress to support vulnerability assessments for freight and passenger rail transport.

It is good policy to require the submission of prioritized recommendations for improving rail security in a report to Congress. It makes good sense for the government to use its information as a basis for allocating grants and establishing security improvement priorities, and it makes sense to study the costs and feasibility of required security screening for passengers, baggage, and cargo on passenger trains.

It is also good for our Nation’s security. Mr. Speaker, to create a rail security R&D program to improve freight and intercity passenger rail security. It makes sense to reduce the vulnerability of train stations and equipment to explosives and hazardous chemical, biological and radioactive substances.

Democrats, Mr. Speaker, offered many of these provisions in the Rail and Public Transportation Security Act of 2006, and I am glad to see that they found their way to the floor today.

Another transportation mode that we should instruct conferees on is aviation security. London thwarted a terrorist plot to destroy 10 planes bound for this country. Next time we might not be so lucky. We know that aviation remains a major target for terrorists, so we should absolutely ensure that the House conferees do not ignore improvements to aviation security. Anything less would shortchange our communities and their safety.

This motion to instruct, Mr. Speaker, would instruct conferences to retain language adopted in the Senate that will ensure that TSA has enough screeners to keep our aviation system secure.

There is little justification for an arbitrary 45,000 screener cap. Such a cap ties the hands of TSA just as it is trying to expand its activities in the airport to include behavioral recognition and the checking of identification against boarding passes. TSA should not be boot-strapped by this arbitrary cap.

The Senate approach of dealing with this issue is an important one that we should accept.

In sum, Mr. Speaker, this motion instructs conferees to take a total and complete approach to transportation and maritime security. Mr. Speaker, we cannot continue to piecemeal security legislation. Just as we can’t secure our borders with a small fence, we can’t secure our homeland without focusing on all major threats. But how can we go back to our constituents and say we didn’t secure our transportation system when we had a chance? This body can do better, and this motion will make sure we put America’s security first. I urge all Members to support it.

I reserve the balance of my time.

Mr. KING of New York. Mr. Speaker, I rise in opposition to the motion to instruct. But let me say at the outset that I commend the gentleman from Mississippi for the cooperation he has given throughout this legislative process.

I want to commend Ms. HARMAN, Ms. SANCHEZ, and certainly Mr. LUNGREN, who are the prime movers of this legislation at the subcommittee and committee level.

Several points have to be made. The first is port security bill is completed. None of the items referenced by the gentleman from Mississippi relate to port security. Port security matters have been resolved.

Among other things, the port security legislation will provide $400 million in grants for U.S. ports.

It requires scanning of all containers coming to the U.S. for radiation at the Nation’s 22 top ports, which covers 98 percent of containers entering the United States.

It sets a firm timetable for implementing the Transportation Worker Identification Card, TWIC, and requires a program to scan 100 percent of cargo at three foreign seaports. Using the results of this pilot, the bill requires a widespread implementation.

Mr. Speaker, many of the items or a number of the items referenced in the motion to instruct, taken by themselves, many Members on this side, including myself, would agree to. Also, for instance, with reference to title 6 in the National Alert System, we have reached agreement on that, and that was included in the final legislation.

On matters such as 1103, that is redundant in certain respects with the FEMA reforms which have been already approved by the conference committee and are included in the Homeland Security appropriations bill. There are other matters such as section 1104, which I strongly support and I am still hoping can be included in the final package.

Having said that, I think it is important to note, for instance, with the
transportation provisions that they even added on to the port security bill and yet in some cases they can be redundant. It should be noted, for instance, that through the transit security grant we have provided $375 million to the country’s mass transit, ferry, and intercity bus systems across the country and this year voted to appropriate $200 million in grants specifically targeting mass transit agencies. Since 9/11, we have granted more than $1 billion, $11.5 billion, in homeland security assistance. Much of this has gone to transit.

The point is, Mr. Speaker, if there were more time, there are a number of these items which I could support. I know many members on the committee on our side could support, but we cannot allow the perfect to be the enemy of the good.

We have a port security bill. Those of us who went through the trauma of Dubai Ports know the way the country came to a fevered pitch, and rightly so, over the issue of our Nation’s security. We have addressed that. We passed legislation on this floor by a vote of 421-2, legislation that was worked on and tremendous pace by Mr. LUNGREN, Ms. HARMAN, Ms. SANCHEZ. That went through. It was a truly bipartisan effort. We have now reached the one-half yard line on that legislation. Let us not allow other issues, as important as they may be, to stop us from getting across the goal line with port security, comprehensive port security legislation which the American people have asked for.

We have satisfied that request. This is excellent legislation. It is bipartisan legislation. We should be all proud of it. Let us not allow other issues to impede the progress, especially when a number of those issues I believe still can be resolved. But we don’t want to, again, put the final product in jeopardy.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield 3 minutes to the gentlewoman from California, an original person promoting port security, Ms. HARMAN.

Ms. HARMAN. I thank the gentleman for yielding and commend him for his enormous leadership as ranking member on the Homeland Security Committee. I am proud to serve on that committee.

Mr. Speaker, nearly 6 months ago, I stood here with our colleagues and called the passage of H.R. 4954 by a vote of 421-2 a legislative miracle. I stand by those words today.

Mr. LUNGREN and I co-authored the SAFE Port Act and from the beginning it has been a collaborative and comprehensive effort, both bicameral and bipartisan. It has been, and I hope it will continue to be, an example of how Congress should work. I appreciate this approach to port and container security, and I am gratified that this issue is finally getting the attention it deserves.

Thanks should also go to the ranking member of the full committee, Mr. THOMPSON; the ranking member of the subcommittee, Ms. SANCHEZ; the chairman of the full committee, Mr. KING; and Chairman LUNGREN of the subcommittee, which enabled by working together that the Homeland Security Committee is becoming a very significant committee in this Congress.

But this is not the time, Mr. Speaker, to congratulate ourselves and rest on our laurels. It is the time to take the steps to do more. And in the last days of the last week before we re-cess for this election, we have a chance to do that, but only if we compromise with the other body.

As you heard from Mr. THOMPSON, this motion to instruct encourages us to take provisions in the other bill that reach for rail, mass transit, aviation, and related transportation modes beyond layered container security.

I know, as the representative of residents around the Ports of L.A. and Long Beach, the largest container port complex in the country, that those containers go onto a semi-submerged rail bed and go all over the country. I know that my constituents use all these other forms of transportation. They know that they need to be safer, and that by reaching for responsible provisions in the Senate version of this bill, as this motion instructs us to do, we will get a law. We will also do what we can hear that this week’s debate on various security bills was supposed to be about, and that is work together to make America safer.

Mr. KING of New York. Mr. Speaker, I yield as much time as he may con- sent to the gentleman from California (Mr. DANIEL E. LUNGREN).

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I rise in opposition to the motion to instruct, not because I disagree with the intent of the gentle- man from Mississippi or the other speakers on the other side, but rather, let’s not screw up a good deal.

We have worked very hard on a bipartisan basis to bring forth a major piece of legislation dealing with an area of the country that needs to be addressed, and that is port security. The name of the bill is the Safe Ports Bill. The Sen- ate retained our number, retained the name; the guts of our bill is in this completed bill, a bill that started in the House of Representatives, a bill that remains in the contours of what will be presented to the conference today, the guts of the bill that passed this House 421-2.

When you have something that passes the House 421-2 you ought to learn to accept “yes” for an answer. This is a great piece of work that is going to be presented. It doesn’t answer all the questions, but moves us in the proper direction. It puts into law or will put into law many of the things that were first started with this administra- tion but which are not in law, which are not mandatory, which are not permanent, and it extends those. And ideas from both sides of the aisle were put into this bill and will come out of this conference when we com-plete action.

So while I rise in opposition to the gentleman’s motion to instruct, I do so in the spirit of cooperation that, once we get past this and once we get to the conference and once we come back with our completed conference report, we can all join together with another near unanimous vote for a safe ports piece of legislation.

Mr. THOMPSON of Mississippi. Mr. Speaker, I now yield 3 minutes to the
gentlewoman from Orange County, California (Ms. LORETTA SANCHEZ).

Ms. LORETTA SANCHEZ of California. Thank you, Mr. THOMPSON. Thank you for all of your guidance and help in getting this bill to the point where it is, and also to Chairman KING. This is a very bipartisan manner. I also want to thank the chairman of the subcommittee where I am the ranking member, which would be Mr. LUNGREN. And I rise in support of the Democratic motion to instruct conference on H.R. 4954, the SAFE Port Act.

Now, why would we have a motion to instruct that would include things about freight and about mass transit and surface transportation security? Well, the reason is that the Senate side is taking up those issues; and they are good issues. I mean, look how long it took us to get here to do port security. We should be just as concerned to do rail security, mass transit security, surface transportation security. As Ms. HARMAN said, when you get done with the port, the container keeps going through the neighborhood on trucks, it goes through in freight through the railroad tracks. So it just doesn’t stop at the port. We need to do it all.

For example, today we held a hearing, as Chairman LUNGREN said, on a very important issue, the training for the security of transportation employees. Not the ones at the airport where we handed out training put a lot of money, but the ones for buses, mass transit, railroad, freight workers.

Mr. Speaker, this was a very important hearing because things have happened on buses and trains, like Madrid and London. We need to ensure that transit and rail employees receive adequate training on how to recognize and report potential threats; how to protect themselves; and how to help us, the passengers, if there is a disaster going on; how they would respond in an incident.

And there are other provisions in this motion to instruct: establish a national alert response system to ensure that populations are alerted if there is a serious threat; require the Department of Homeland Security to perform vulnerability a lot of trials of freight and passenger rail and make recommendations on how to improve their security; and establish a program to increase the tracking and communication technology on trucks that carry hazardous materials.

These are some of the critical issues that this motion to instruct encompasses. So all of this work, Mr. THOMPSON, Ms. HARMAN, myself, Mr. LUNGEN, Mr. KING, is very important, and I am thrilled we are at this point.

But I need your help, and it will be good. We cannot wait another 5 years like we did with port security. We should do it now. I urge my colleagues to support improving rail, mass transit, surface transportation, and port security. Please vote for the motion to instruct.

Mr. KING of New York. Mr. Speaker, I reserve the balance of my time.

Mr. SPECKER of Mississippi. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Speaker, I thank the ranking member for his leadership.

Mr. Speaker, I rise today in strong support of the Democratic motion to instruct conferees on the SAFE Port Act. The Republican leadership has failed to fix the Department of Homeland Security’s grant system which just this week failed to provide the port of Oakland in California, the fourth busiest port in the country in the heart of the Bay Area, with any money at all to protect this vital national security and economic security asset.

The most recent round of port security grant awards demonstrate the agencies’ continued ignorance of the security needs of our Nation’s ports, and the lack of a credible threat assessment by which to award funds.

Of course, should we be surprised? This is the same agency that identified Old McDonald’s Petting Zoo as a vulnerable national asset, but left the Empire State Building off the list as a logical target in need of funding support.

We cannot do enough to protect our critical infrastructure in the United States; but without Ranking Member THOMPSON’s motion to instruct, we will be leaving glaring vulnerabilities in our rail, subway, bus, and trucking systems.

The Republican leadership has had many opportunities to address these issues, separate and apart from ports legislation, but it has failed to take our Nation’s domestic security seriously.

Today, through the motion to instruct, the House has the ability to show our absolute commitment to the safety and security of Americans who use our Nation’s vital transportation systems. We should follow the leadership of the other body to secure our Nation’s rail and transit systems, strengthen aviation security, secure the border, create a national warning and alert system, and provide first responders with post-disaster health monitoring.

By supporting the Democratic motion to instruct conferees, we will get it right; and we will instruct the conferees to accept the Senate positions on these important funding needs. We should not let this opportunity to do better, to strengthen security, and assist first responders pass us by.

Please support the Democratic motion to instruct.

Mr. KING of New York. Mr. Speaker, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. RUPPERSBERGER).

(Mr. RUPPERSBERGER asked and was given permission to revise and extend his remarks.)

Mr. RUPPERSBERGER. Mr. Speaker, I rise in support of this motion to instruct conferees. As co-chair of the Congressional Port Security Caucus and a member of the Permanent Select Committee on Intelligence, I cannot stress enough the importance of adequately securing our ports.

The proposed sale of shipping operations to Dubai Ports World earlier this year was a wake-up call for this country, not because it would have jeopardized shipping operations here on the ground. Our longshoremen, terminal operators, Coast Guard, Customs and Border Patrol will do a great job no matter what company manages shipping operations. The Dubai deal was not a nuclear bomb. We know that America could no longer ignore. The UAE spends a huge amount of money on securing its Dubai ports, and their ports are the safest.

The Dubai ports are safe because of the money invested in their ports and because they make their ports a priority. We have not paid sufficient attention to our ports. We have not made our ports a priority. There are 539 ports in this country, making them an economic engine for America. The Port of Baltimore, which I represent, alone handles about 400,000 containers each major event. A major event could result in economic damages ranging from $58 billion to $1 trillion.

With so much at stake for our safety and economy, it is essential that we know what is coming in through our ports, where it is coming from, and who is sending it. Ironically, Dubai Ports World’s failed attempt to take over shipping operations here in America was what finally got our country to focus on securing our ports. The SAFE Ports Act is a critical piece of legislation and a bipartisan effort. It is a comprehensive first step to make our ports safer. We must make port security a high priority.

I strongly support moving this bill through Congress.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding me this time, and I thank him for his excellent work on this legislation.

I rise in support of the motion to instruct conferees offered by Mr. THOMPSON.

Mr. Speaker, the 9/11 Commission determined that the risk of maritime terrorism is at least as great if not greater than the risk of terrorism involving civilian aviation. We know that terrorists around the world want to obtain a nuclear bomb. We know that their plot includes an attempt to purchase a nuclear bomb in the former Soviet Union,
to transport that nuclear bomb to a port around the world, to place that nuclear bomb in a container on a ship, and then to bring that container on that ship to a port in the United States where that nuclear bomb can be detonated by remote control before that nuclear bomb is ever taken off that ship.

The majority is happy that they are going to screen once they reach the port in the United States. By then it is too late. The bomb can be detonated while it is on that ship. That is our nightmare scenario. And that is some- thing that the majority Republican Party has refused to put in place as a protection against this ultimate al Qaeda attack upon our country.

They support screening after it reaches the United States. They support having a demonstration project around the world. But as late as 2 days ago in the Homeland Security Committee hearing, Secretary Chertoff once again repeated the Bush adminis- tration policy, the Republican policy, that they do not support the mandatory scanning of all cargo for nuclear bombs overseas, which is the 9/11 Commission report finding, that that is where the protection should be put in place.

So that is our problem. What we will do is we will have a ship with a con- tainer in Africa, in Europe, in Asia, and one of those containers will have had a nuclear bomb slipped into it. And then that ship, because there is no scanning for nuclear bombs around the world, that ship then heads for a port in the United States.

We would not be talking about losing tens or hundreds of thousands of Americans in that nuclear explosion. If we don’t scan for a nuclear bomb overseas, we can’t be sure. If we don’t scan for these containers overseas, then the United States will have to once again reinitiate a policy of duck and cover here in America with Americans learning how to protect themselves in the event of a nuclear bomb.

The bomb is not going to be delivered by an airplane or some submarine at- tack. Al Qaeda doesn’t have that kind of capacity. This is the way in which the nuclear bomb is most likely to come. It is a weapon that is too big. It should be closed. The Republican majority just wants to use paperwork screening. It is almost like saying that they are going to check ev- eryone of us at an airport in the United States but having checked our paper- work they say on the plane, you don’t have to let us look at your bags. You don’t have to show us your bags, take off your shoes, go right on the plane. Get on the plane. Thanks for showing us your paperwork.

We in America will never be happy with that, but that is what their policy is for nuclear bombs. Show us the paper- work. We are not going to actually check the inside of the container. We are not going to screen; we are not going to scan. We are going to screen your paperwork; we are not going to screen the container.

Can you imagine that as a policy for airlines in the United States? We are going to scan your paperwork before you get on the plane, but not screen you or your bags or computer to make sure that you are not going to blow up the plane. It just won’t happen post-9/11.

Here is the huge opening. This is something that the Republican adminis- tration continues to listen too close- ly to the cargo industry and the shipping industry rather than to the real security interests of the American peo- ple.

I thank the gentleman from Miss- issippi for his leadership on these issues.

Mr. KING of New York. Mr. Speaker, I will just make several remarks before I reserve the balance of my time.

With reference to the gentleman from Massachusetts, unfortunately nothing he said in his statement re- lates to the motion to instruct. If he had read our bill and read the motion to instruct, he would know that noth- ing he said was germane to the motion to instruct.

Secondly, as to the issue of biparti- sanship and 100 percent screening, I would also advise the gentleman that the language that is adopted in the SAFE Ports Act which is going to con- ference was the language proposed by Demoerats in the Senate which pro- vides for three pilot projects of 100 per- cent screening at three foreign ports.

So we are adopting Democratic lan- guage. We had one in ours, and they had three in theirs. We are accepting the three. To me that is the essence of bipartisanship.

With that, I would have to dismiss the comments of the gentleman from Massachusetts.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield 4 minutes to the gentle- woman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I think the ranking member for a very instructive motion to in- struct.

I would say to the chairman that we have worked together on this com- mittee as best that we could in a biparti- san manner.

But let me tell you why I think this motion to instruct is particularly im- portant. And I was drawn to the floor, I had a bill on the floor and several meetings, at the same time as several committee hearings that had to do with rail security. I believe the Com- mittee on Homeland Security, of which I am a member, knows that this is an important issue. But we are operating against a backdrop of a Department that questions whether or not this is an important challenge that we have to face.

I respect, Mr. THOMPSON, the fact that the leadership of our Department may have a different view from us.

But the Secretary recently said in the last year that the truth of the mat- ter is that a fully loaded airplane with jet fuel, a commercial airliner, has the capacity to kill 3,000 people, but a bomb in a subway may kill only 30. I do not know how many of us are experts on the type of bomb or the type of transit that may be impacted, but I think that narrow view of rail security brings us to where we are today. That is why this motion to instruct is so im- portant, because we have an atmos- phere and a sense at the Homeland Se- curity Department that rail security or the devastation that could occur by at- tacking, whether it is Amtrak or whether it is a subway or some other form of rail, that it is not serious.

Let me tell you why it is serious. I live in Houston, Texas, and the symbol for Houston is the Texas && Gulf railroad. We are a railroad town, and that means that all throughout my district and all throughout my neighborhoods are railroad tracks that then have the opportunity for a cargo train or a pas- senger train to travel right next to a residential house. My husband might not care for me to say it, but he says he went to sleep with the railroad ring in his ears because his original home was near the railroad tracks.

So this motion to instruct is crucial to save lives, because it would author- ize $3.5 billion for a mass transit secu- rity grant program and $1.2 billion for freight and passenger rail security.

Why can’t we take the Senate bill? There are large populations that are impacted by rail transportation and/or cargo. The Assistant Secretary for Homeland Security told Congress just in March of this year that aviation se- curity by law is a Federal responsi- bility. That is not the case with transit security. And he ends it at that.

But homeland security is a Federal responsibility; and, therefore, I would argue that the reasonableness of the distinguished gentleman from Miss- issippi’s motion to instruct is an im- portant step towards recognizing that rail and mass transit can be vulner- able. And I cite which has already been cited: Worldwide terrorist attacks on trains average 30 per year. The 9/11 Commission noted that rail and mass transit are a soft target. Our workers on mass transit are saying that as well.

So I simply want to applaud the gentle- man and ask that my colleagues support this and realize that we have a challenge and that the reason why Congress is taking the time to instruct the Executive that we do have a problem because leadership at the Homeland Security Department has
said, one, ‘‘It’s not my job.’’ We have heard that. And, two, ‘‘Don’t worry about it; only two or three are going to be lost.’’

Well, I would simply say to my good friends at the Homeland Security Department, come to Houston, Texas, and weave your way through neighborhoods that are at the high economic level and low, and you will find that it would result in a terrible, horrific tragedy. Mr. Speaker, if there was a rail catastrophe.

I ask my colleagues to support the motion to instruct to provide real rail security.

I rise in strong support of the Motion to Instruct Conferences to accept the Senate amendments to H.R. 5494 the ‘‘SAFE Port Act.’’ I particularly wish to thank the gentleman from Mississippi, Mr. THOMPSON, the Ranking Member of the Homeland Security Committee, for introducing this important and much needed motion.

The SAFE Port Act, H.R. 4954, was reported out by the Homeland Security Committee and passed by the House in May of this year. On balance, the SAFE Port Act is a good bill that addresses port and container security. The Senate bill contains similar port security provisions, but also includes several provisions which will have the salutary effect of substantially enhancing the safety and security of America’s rail, subway, buses and trucking systems. The Senate bill also strengthens aviation security, border security, and creates a National Warning and Alert System which provides first responders with post-disaster health monitoring.

Mr. Speaker, the House Republican Leadership has had many opportunities to address these security issues, but it has failed to do so. The time for action has long since passed. We need a new direction. We need a new approach. It is time for action and a new approach. The Senate bill is a bipartisan step in the right direction. We should take advantage of this opportunity to strengthen security and assist first responders. The final Conference Report should reflect the Senate’s positions on rail, mass transit, and border security; and warn and protect.

Mr. Speaker, unlike the House, the Senate approved an amendment that would authorize $3.5 billion for mass transit security grant programs and $1.2 billion for freight and passenger rail security. This is reason alone to instruct the Conferences to accept the Senate position on mass transit and rail security.

America’s rail and mass transit systems remain vulnerable on the watch of the House Republican Leadership. We need a new direction. We need a new approach. We need a new and different way to do business. Mr. Speaker, unlike the Senate, the House has failed to adequately support mass transit and rail security.

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Without any requirements that these agencies conduct comprehensive reviews of rail security, how can we move in a meaningful direction to protecting America’s rail systems? This bill also authorizes for fiscal years 2007–2010 critical fire and life-safety improvement projects for the Northeast Corridor in New York City, New York ($470 million); Baltimore, Maryland ($47 million); and Washington, DC ($32 million). This money will be spent specifically on communication, lighting, and passenger egress upgrades. If a terrorist attack were to occur in these cities, it is highly likely that 911 responders will be able to successfully leave the tunnels—this could mean the difference between life and death.

The Senate bill authorizes $350 million for FY 2007 for security grants to freight railroad, Alaska Railroad, hazardous materials shippers and AMTRAK. This is badly needed funding and not just lip-service about rail security. This bill also requires that hazardous material shippers create and implement threat mitigation plans to be reviewed by the Departments of Homeland Security and Transportation.

Research and development is also important component in making sure that our rail systems are secure. This bill authorizes $50 million in fiscal years 2007 and 2008. The money will be used to test new emergency response techniques and technologies; develop improved freight technologies; and test wayside detectors.

Rail employees are the vital eyes and ears of the system. They will be the first ones to know if there is a problem. However, they must be protected. The Senate bill provides them with whistleblower protections in order to ensure that they won’t be penalized for reporting problems.

These are just some of the reasons I support the Motion to Instruct Conferences to accede to the Senate position on the SAFE Port Act, H.R. 5494. I urge my colleagues to join me. I yield back the remainder of my time.

Mr. KING of New York. Mr. Speaker, I yield myself such time as I may consume to close out my side very briefly. Mr. Speaker, I strongly oppose the motion to instruct. I strongly support the underlying bill.

The bottom line is we are in full agreement on a port security bill and that is what this is all about. It is a port security bill which would provide $400 million in port security grants. It sets up a risk-based formula for those grants. It establishes a domestic nuclear detection office. It sets up three pilot projects for improved scanning. It is a bipartisan bill. The underlying bill passed this House by a vote of 421–2.

We have carried it this far. Let us not let the perfect be the enemy of the good. I respect the gentleman. I respect his motion. But at this stage I say let us go on to the conference. Let us do what has to be done. Let us put an end to the entire crisis which resulted out of the Dubai Ports issue. Let us show the American people we can get the job done. Let us finish it. Let us go to conference.

With that I urge defeat of the motion.

Mr. Speaker, I yield back the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield myself such time as I may consume.

This motion to recommit with instructions is clearly intended to make the bill better. We clearly have rail and safety issues still outstanding. What I have tried to prepare for Congress is an opportunity to get it right. Piecemealing is not the way to go. We cannot let the perfect be the enemy of the good. I ask my colleagues to support the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Mississippi (Mr. THOMPSON).

The question was taken; and the Speaker pro tempore announced that three appearances were heard.

Mr. THOMPSON of Mississippi. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The Speaker pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

PROVIDING FOR CONSIDERATION OF H.R. 5825, ELECTRONIC SURVEILLANCE MODERNIZATION ACT

Mr. PUTNAM. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1052 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1052
Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 5825) to update the Foreign Intelligence Surveillance Act of 1978. In lieu of the amendments recommended by the Committee on the Judiciary and the Permanent Select Committee on Intelligence now printed in the bill, the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. It shall be considered as read. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) 90 minutes of debate, with 60 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary and 30 minutes equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence; and (2) adjournment of the House to reconvene with or without instructions.

SEC. 2. During consideration of H.R. 5825 pursuant to this resolution, notwithstanding the operation of the rules of the House, the Chair may postpone further consideration of the bill to a time designated by the Speaker.
The SPEAKER pro tempore, The gentleman from Florida (Mr. PUTNAM) is recognized for 1 hour.

Mr. PUTNAM. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Maryland (Mr. HASTINGS) to recognize for 1 hour.

Mr. HASTINGS. Mr. Speaker, in the interest of debate only, I yield the gentleman from Florida (Mr. PUTNAM) for 30 minutes to the gentleman from Florida.

Mr. PUTNAM asked and was given permission to revise and extend his remarks.

Mr. PUTNAM. Mr. Speaker, I am pleased to bring to this floor House Resolution 1052. The resolution is a rule that provides for consideration of H.R. 5825, the Electronic Surveillance Modernization Act. H.R. 5825 relates to the manner in which the Federal Government collects oral, wire, and electronic communications for foreign intelligence purposes.

In the 1970s, we supported the fourth amendment protections. Congress has created procedures to allow limited law enforcement access to private communications and communication records. Specifically, Congress enacted title III of the Omnibus Crime Control and Safe Streets Act that outlined what is and what is not permissible with regard to wiretapping and electronic eavesdropping.

Title III of the Crime Control Act authorizes the use of electronic surveillance for specific crimes. While Congress did not cover national security cases in the Crime Control Act, it did include a disclaimer that the wiretap laws did not affect the President's constitutional duty to protect our national security.

In 1972, the U.S. Supreme Court specifically invited Congress to establish similar standards for domestic intelligence that were established for criminal investigations.

Congress enacted the Foreign Intelligence Surveillance Act of 1978, FISA, to prescribe procedures for foreign intelligence that is collected domestically. FISA authorized the Federal Government to collect intelligence within the United States on foreign powers and agents of foreign powers. It established a special court to review and authorize or deny wiretapping and other forms of electronic eavesdropping for purposes of foreign intelligence that is collected domestically. FISA was enacted by Congress to secure the integrity of the fourth amendment, while protecting the national security interests of the United States by providing a mechanism for the domestic collection of foreign intelligence information.

Mr. Speaker, the purpose of the Electronic Surveillance Modernization Act is to modernize the Foreign Intelligence Surveillance Act to strengthen oversight of the executive branch concerning surveillance and intelligence and to provide clear electronic surveillance authority to the national intelligence agencies in the event of a terrorist attack, armed attack, or imminent threat against this Nation.

FISA was originally constructed in 1978, more than 25 years ago. Changes in technology have caused an unintentional growth of FISA as a whole. The complexity, variety, and means of communications technology have since mushroomed exponentially, while the world has become more interconnected. Think of the revolution in communications technology that has occurred in less than 10 years. The cellular technology, wireless technology, the development and explosion of Internet access, all communications tools, all technologies that allow those who would plot terrorist acts against our people to use and access in a readily available form.

We now have terrorists in remote camps who can easily communicate globally with cells around the world and within this country through the use of wireless devices and satellites. Think of the images from Afghanistan of broadcasts through wireless laptop devices using satellite technology from a cave.

The structure of our surveillance laws has trended confined to the technology of a generation-old copper wire telephone, while the terrorists are utilizing every technology and communication device at their disposal.

The House Permanent Select Committee on Intelligence has received testimony that the current provisions of FISA are "dangerously obsolete." H.R. 5825 modernizes the law in a number of critical respects. It updates FISA to make it technology neutral and neutral as to the means of communication.

Provisions now apply to a land line phone as well as cellular and wireless modes of communication.

This legislation streamlines the surveillance approval process to keep the focus on gaining knowledge of those who would do harm to the United States while protecting the civil liberties of average Americans. It gives our intelligence personnel the necessary tools to help detect and prevent acts of terrorism and to respond to terrorist attacks.

As reported, the bill also ensures that adequate authority exists to conduct necessary electronic surveillance when a threat of imminent attack exists. The Electronic Surveillance Modernization Act also enhances congressional and judicial oversight of U.S. Government electronic surveillance activities to ensure that activities conducted under both FISA and the authorities in this bill will be utilized by the President only, with the knowledge and coordination of the other branches of government.

More broadly than just FISA, the bill also addresses the fundamental separation of powers concerns expressed by Members throughout the Congress. Members support the changes to the National Security Act by providing express authority for the chairman of the congressional Intelligence Committees to broaden their reporting on sensitive issues to additional members of the committee at his or her discretion on a bipartisan basis in necessary circumstances.

H.R. 5825 enhances the overall authorities of the intelligence community as a whole to protect itself in times of war and heightened threat of attack, both terrorist and otherwise.

I am pleased with the efforts of the House Permanent Select Committee on Intelligence and the House Judiciary Committee. This bill is an excellent example of how Congress and the executive branch can work together to ensure our national security. I thank Chairman HOEKSTRA and Chairman SENSENBNRER and all the members of the committees for their work. I urge Members to support the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I thank the gentleman, my friend from Florida, for the time; and I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to this closed rule and the underlying legislation. First, let me say that I really am pleased that Congress belatedly sees a need to address the President's unwarranted, unprecedented, secret, and unconstitutional domestic spying program.

Unfortunately, we are considering a bill today that was primarily drafted by the White House. I do not relish the notion of criticizing this bill; but because what it does to the Constitution, however, and I am sworn to uphold, as are all of the Members of this body, to uphold and defend that Constitution, I am not going to sit idly by and watch people trample on it.

I have lived and seen how unchecked power in the hands of bureaucrats can be used to squelch legitimate first amendment exercises. We have seen monitoring of students, preachers and housewives.

I have seen what happens when government protectors think they answer to no one. And, frankly, it is not pretty. I just implore you all to think back to the 1970s, and Americans were shocked to learn about President Nixon's Watergate scandal. The Constitutional Court, unconstitutional domestic spying program.

Americans were similarly dismayed over the legendary J. Edgar Hoover's listening in not only on Dr. King, but many other targets. Those illegal surveillance scandals were, in part, what led to the creation of the select committees of intelligence.

It is our job, Congress's job, to ensure that we effectively oversee the activities of the NSA, the FBI, and the CIA. To the point. This White House bill really is not what we really need to have. We would be giving not just President Bush's administration, but every subsequent administration a blank check.
This bill does so much to chip away at the civil liberties and privacy protections built into the Foreign Intelligence Surveillance Act, you will hear it referred to often as FISA, that it could, if passed, have very disastrous effects.

It redefines the definition of surveillance in an irresponsible way. The effect is that the NSA, the FBI, would be able to listen to any call or read any e-mail that comes into or goes out of the United States. So if a soldier overseas calls her husband, NSA can listen in. If a little girl in my home town of Mirimar, Florida, sends an e-mail to her grandmother in Israel, NSA can read it.

If a student at Florida Atlantic University is studying in France and calls her father at home in Ft. Lauderdale, NSA can listen in. Now, that soldier putting her life on the line in Iraq is not a terrorist. The little girl in Mirimar calling her grandmother I think we can all assume are not plotting to overthrow anything.

The student at Florida Atlantic and her father I am just guessing have likely not sworn their lives to overthrow the United States Government.

At the risk of being trite, the White House-drafted bill has more holes than Swiss cheese. Maybe we ought to just call it the Swiss cheese bill. It throws out some pretty broad terms and never defines them.

What is an armed attack? What is an imminent threat or imminent attack? They are not defined in this bill. Yet, the President has broad authority under this bill to do whatever he pleases under these conditions. Footnote right there. Let's make this very clear, not just this administration but succeeding administrations would have this power.

Arguably under this bill, every single day since September 11, 2001, we have been under the imminent threat of a terrorist attack. And if the mover of this bill is right, and it is self-evident this way, every call and every e-mail, even domestic ones, would be subject to warrantless surveillance.

Allowing this President or any President to conduct warrantless electronic surveillance under these vaguely described circumstances is, simply put, dangerous. You never know how the next President might use or abuse her power when she gets it.

Mr. Speaker, I am fond of quoting Ben Franklin, and so I am going to do it again today. The legendary Ben Franklin said: ‘Those who would give up essential liberty to purchase a little temporary safety deserve neither liberty nor safety.’

This is what we might do today again. This piece of legislation may be one of the most important bills that the House will consider this year or any year, and not one Member of the House, not one, will be able to offer an amendment. That bothers me generally, Mr. Speaker. Today it bothers me specifically.

There was an amendment rejected at the Rules Committee offered by our colleagues, Mr. SCHIFF and Mr. FLAKE, that was similar to an amendment that I offered at the Select Committee on Intelligence of the House of Representatives. Mr. SCHIFF and Mr. FLAKE would have made the Foreign Intelligence Surveillance Act more transparent to the people who depend on it most. It was legislation more or less drafted at request to clear perceived ambiguity.

My language would have made it clear, even to the people in President Bush's administration, what constituted domestic spying and what was foreign-based. Yesterday, the distinguished chairwoman of the Rules Committee, my friend, DAVID DREIER, when he did not permit amendments on this floor said: ‘Well, Democrats did not have a substitute.’

Well, today, we have one. And what is your excuse now, Mr. Chairman? Not to worry, it is a rhetorical question. The answer I well know is to squelch democracy here in the United States. House of Representatives.

You might be making that which you know you cannot beat with reason. And what message does that send to those that would follow our lead, those we are trying to teach our democracy to? I know what you say, do as we say, not as we do. For today, in the people's House, democracy is being eviscerated by those who recommend it to others.

I have said it before: the way the majorities run this House, it is hypocritical. It is un-American, and it is undemocratic, and it happens every single day that we have a closed rule, and in other circumstances as well.

Could it be any clearer that America needs a new direction? Stopping, thwarting the will of those of us in the House of Representatives who have a different point of view, or at least should have an opportunity to have discussed a different point of view and have a different point of view as to whether or not that point of view or the one offered by the majority ought prevail, should be what we should be about in democracy.

Obviously, Mr. Speaker. I urge my colleagues to oppose this closed rule and the White House legislation which brings it to the floor.

Mr. Speaker, I reserve the balance of my time.

Mr. PUTNAM. Mr. Speaker, I yield 2½ minutes to the gentlewoman from West Virginia (Mrs. CAPITO).

Mrs. CAPITO. Mr. Speaker, I would like to thank my colleague from the Rules Committee, and I would also like to thank the leadership legislation, Mrs. WILSON, for her doggedness and her determination to do this right.

Mr. Speaker, I rise today in support of the rule and the underlying legislation, the Electronic Surveillance Modernization Act. We are at war against a sophisticated, worldwide terrorist adversary that uses all of the advantages modern day technology has to offer.

We know that these terrorists are continuing to plot attacks against the United States, our allies, and our interests around the world. In August, the coordination of the United States, British, and Pakistani intelligence agencies apprehended terrorists plotting to blow up aircraft bound for the United States.

Against this backdrop, it is absolutely critical that our government have the ability to monitor electronic communications by terrorist organizations. We are talking about allowing the government to intercept communications of cold-blooded killers who seek to do our Nation harm, not grandchild e-mailing their grandmother.

The FISA process should be used whenever possible, but we cannot hinder the ability of this President or future Presidents to monitor communications that could stop a terrorist attack. It is appropriate to allow the President to use emergency surveillance when there is an imminent threat of an attack against our country, when we have identified the responsible organization, and when we have reasonable belief that the person being targeted is communicating with a terrorist group.

We must do everything possible to prevent future terrorist attacks. Our enemies will not delay their plans to harm our citizens while we go to court to obtain a warrant. We have to be right 100 percent of the time.

The bill strengthens congressional oversight of the Terrorist Surveillance Program and requires FISA warrants in most cases, the exceptions being after an armed attack, after a terrorist attack, or when the threat is imminent.

The bill is reasonable. It protects the rights of our citizens; but, most importantly, it will preserve a critical authority that we must have to protect our homeland. We are at war and this is critical to our winning that war. I urge my colleagues to pass this rule and send it to the Senate.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 4½ minutes to the gentleman from Massachusetts (Mr. MCGOVERN).

Mr. MCGOVERN. Mr. Speaker, I want to thank my friend from Florida for yielding me the time.

Mr. Speaker, yesterday we dealt with the issues of torture and military tribunals under a closed rule. No amendments allowed. Today we deal with the issue of domestic spying, also under a closed rule.

Never mind that there are profound constitutional issues at stake. This Republican leadership has decided it is more important to defeat expansion bills than matters that could likely undermine the most sacred rights of our people.

This bill authorizes more warrantless surveillance of American citizens than Congress has ever authorized in American history. And if this rule passes, it will be debated on the House floor for an hour and a half.
Thoughtful Republican amendments are routinely shut out by the Rules Committee, including here on this bill. The only way to bring this trend to an end is to start defeating closed rules and to demand more openness in this House of Representatives. If you condemn a practice as bad as thoughtless behavior is what you will continue to get.

Let us put a stop to this nonsense. Let us stop diminishing this House of Representatives. I urge my colleagues to vote ‘no’ to the gentleman from Florida.

Mr.peaker, will the gentleman yield? Mr. MCGOVERN. I yield to the gentleman from Florida.

Mr. HASTINGS of Florida. Mr. Speaker, when we were in the Rules Committee in those hours of debate, how fast after that discussion when these people presented themselves did the rule come to the floor? In short, was there any time to think?

Mr. MCGOVERN. Less than a second.

The deal was done early on in the day. I mean, the Members who came up and testified and presented their thoughtful amendments wasted their time because the leadership had decided to close this thing down, the day, and that is unforgivable. This issue is too important.

Mr. PUTNAM. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. GINGREY), my colleague on the Rules Committee, to talk about the issue at hand, the Electronic Surveillance Modernization Act.

Mr. GINGREY. Mr. Speaker, I thank my colleague on the Rules Committee, Mr. PUTNAM, for yielding.

I rise today fully in support of this rule and the underlying legislation for H.R. 5825, the Electronic Surveillance Modernization Act of 2006, because I believe protecting innocent Americans from terrorist plots is one of our government’s most critical duties.

This bill updates the FISA, Foreign Intelligence Surveillance Act of 1978, to authorize the expanded use of electronic surveillance on suspected terrorists, with mandated congressional oversight. Its immediate passage is absolutely essential to prevent future terrorist attacks against this nation.

Mr. Speaker, much has changed since FISA was enacted in 1978. The war on terror has replaced the Cold War as our government’s most critical duty. There have been monumental advances in technology, and our terrorist adversaries are capitalizing on these changes in technology as they aggressively plot our destruction. If we are to be prepared for the foremost threat to our nation’s security today, the 1978 bill must be amended for the realities of today and tomorrow.

Mr. Speaker, this bill would authorize the NSA Terrorist Surveillance Program to monitor the international, transnational, and international communication of suspected terrorists inside the United States, while respecting our citizens’ privacy.

Simply put, this bill streamlines the process by which a FISA warrant can be obtained. It gives NSA more time to conduct emergency surveillance on suspected terrorists without a warrant, and it allows the President to authorize warrantless electronic surveillance of United States citizens when it is believed an attack on America is imminent.

While this bill helps us stop terrorists before they inflict destruction, it also protects the rights of law-abiding U.S. citizens by requiring our President to inform Congress and the FISA court of these emergency surveillances.

Mr. Speaker, authorizing the electronic surveillance of terrorists is a matter of common sense. By listening to the phone conversations of al Qaeda members and of organizations working in support of al Qaeda, we stand to learn much more about their terrorist activities, including likely targets of attack.

Mr. Speaker, I was tremendously disappointed that 160 of my Democratic colleagues voted yesterday against the Military Commissions Act, and I am still struggling to understand why. But I am hopeful that they will not vote today to limit our ability to monitor the terrorists’ phone calls so that we can disrupt these devastating plots.

In any regard, my Republican colleagues and I remain committed to the success of this nation. To ensure that we give our government the tools it needs to fight and win the war on terror, I urge support for this rule on both sides of the aisle and the underlying legislation.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 2 minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE), my good friend.

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is very sad to say that what we are doing today is simply a march toward the November election. There is a certain calculated plan as to what Republicans need to be able to do to win the House, and obviously it has to do with the security of America.

There is no divide among Democrats and Republicans about our resolve to secure this Nation. Not a one of us in this Congress if asked or if needed to defend this Nation in the immediacy of time would refuse that request.

The reason why there is such a sharp divide is because this is not a serious attempt to secure America. It is, frankly, a serious attempt to eliminate for the American people rights that are a part of their birthright.

This is a closed rule, and I oppose it because security and civil liberties of the two are citizens of the United States cannot be guaranteed, nor can we secure the Nation with rights protected, therefore there should have been open rule.
I would have offered an amendment that would have improved the bill immeasurably by striking the golden mean between providing the President the emergency tools needed to respond to an act of war against our country, while at the same time protecting all Americans from the dangerous secret exercise of unchecked and unreviewable power to surveil and search any person deemed by the President to pose a threat to the country. This would have provided the President the ability to conduct surveillance and searches without a warrant for 15 days following either a declaration of war or an authorization for the use of military force.

In addition, it is very clear that the FISA provisions now allow for the President to act without judicial authority. Authority can be given after the fact, and the evidence that is given to the court can be and is secret.

It is worthwhile saying that this, again, is not a deviation from the law, but a creation of law that we resolver this and give this bill. It is a rush judgment to ensure that this would be a good political sound bite for Republicans who are running for re-election. This is a bad way to secure America, and I note any colleagues to oppose this rule because the American people frankly, are not prepared to give up their civil liberties when we can do both—civil liberties and a secure Nation.

I rise in opposition to this closed rule providing for consideration of H.R. 5825, the Electronic Surveillance Modernization Act. I oppose the rule because it forecloses members from offering constructive amendments that would improve a bill that otherwise will represent an unwarranted and dangerous delegation of authority to the executive branch.

Specifically, the bill does not impose limits on the President’s powers; it remains silent on the NSA’s warrantless surveillance and expands the government’s powers under the Foreign Intelligence Surveillance Act to collect information on Americans without judicial review.

This sad state of affairs could have been avoided if the Rules Committee had fashioned an open rule, allowing consideration of amendments of the type I and my colleagues offered during the Judiciary Committee markup.

For example, I offered an amendment that would have provided the President authority to conduct surveillance and searches without a warrant for 15 days following either: (1) a declaration of war; or (2) “an authorization for the use of military force” (AUMF) within the meaning of Section 2(c)(2) of the War Powers Act.

This amendment improves the bill immeasurably by striking the golden mean between providing the President the emergency tools needed to respond to an act of war against our country, while at the same time protecting all Americans from the danger of secret exercise of unchecked and unreviewable power to surveil and search any person deemed by the President to pose a threat to the country.

Mr. Speaker, it is worth remembering that while armies fight battles, it is a nation that goes to war. And the Constitution is neither silent nor coy as to where the power to take a nation to war rests: it is vested in the Congress of the United States, not the President.

The power to conduct secret, warrantless surveillance and searches in response to an act of war or a terrorist attack fundamentally is a war power. That is why the acquisition and exercise of that power properly must flow from the Constitution that every member of Congress, and each of our brave troops who risk their lives to keep us free, take an oath to uphold.

Mr. Speaker, H.R. 5825 goes dangerously far afield by authorizing the President to conduct warrantless surveillance and searches for 90 days after “an armed attack against the territory of the United States,” or a “terrorist attack against the United States.” Moreover, this new surveillance power would extend to U.S. soil, regardless of any nexus to the actual event which triggered the exercise of emergency surveillance authority.

Mr. Speaker, the phrases “armed attack against the territory of the United States” and “terrorist attack against the United States” are so broad that they can be triggered by nearly any act that is not directed against the interests of the United States, including:

- The recent bombing of the U.S. embassy in Syria. If H.R. 5825 were in effect today, we could have a warrant-free environment in the United States right now.

- An attack on U.S. armed forces abroad, including any attack on soldiers in Iraq or Afghanistan, which according to press reports, is a daily occurrence.

Mr. Speaker, we do not need to surrender the liberties of the American people in order to protect the security of the American people. As the Framers understood so well when they devised our magnificent Constitution, we can have both liberty and security. All we need is wisdom and good counsel, what the Greeks called “euboule”.

In the absence of the reaffirmation of this critically important principle, H.R. 5825 would have the unacceptable consequence of reordering the President’s refusal to follow FISA by exempting him from following these procedures. The effect of this would be to allow any president to make up his own “rules” for wiretapping Americans and secretly implementing those rules unless and until a court finds such rules unconstitutional.

This amendment improves the bill immeasurably by striking the golden mean between providing the President the emergency tools needed to respond to an act of war against our country, while at the same time protecting all Americans from the danger of secret exercise of unchecked and unreviewable power to surveil and search any person deemed by the President to pose a threat to the country.

Mr. Speaker, it is worth remembering that while armies fight battles, it is a nation that goes to war. And the Constitution is neither silent nor coy as to where the power to take a federal law: “[E]ven if the president has the inherent authority in the absence of legislation to authorize warrantless electronic surveillance for foreign intelligence purposes, Congress has the power to regulate the conduct of such surveillance by legislating a reasonable procedure, which then becomes the exclusive means by which the President may be authorized to use military force in response to an act of war.”

I believe we should have an open rule to permit such an amendment because it keeps faith with the Founders and honors the Constitution that every member of Congress, and each of our brave troops who risk their lives to keep us free, take an oath to uphold.

Mr. Speaker, H.R. 5825 goes dangerously far afield by authorizing the President to conduct warrantless surveillance and searches for 90 days after “an armed attack against the territory of the United States,” or a “terrorist attack against the United States.” Moreover, this new surveillance power would extend to U.S. soil, regardless of any nexus to the actual event which triggered the exercise of emergency surveillance authority.

Mr. Speaker, the phrases “armed attack against the territory of the United States” and “terrorist attack against the United States” are so broad that they can be triggered by nearly any act that is not directed against the interests of the United States, including:

- The recent bombing of the U.S. embassy in Syria. If H.R. 5825 were in effect today, we could have a warrant-free environment in the United States right now.

- An attack on U.S. armed forces abroad, including any attack on soldiers in Iraq or Afghanistan, which according to press reports, is a daily occurrence.

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Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding.

This afternoon, we had a lengthy debate in the Rules Committee on the base bill offered by my colleague from New Mexico and a substitute amendment that was offered by Mr. Flake of Arizona and by myself. It was a lengthy debate. I think it was a good debate. It would have been a better debate, however, if the conclusion had not been predetermined, if, in fact, it was a real debate in the sense that the outcome had not been decided before we entered the room.

The question was asked how long did it take for the committee to decide not to allow the bipartisan alternative, and I can tell the gentleman, by the time it took me to walk from the Rules Committee across the street to my office, the committee had decided it would not allow a bipartisan alternative. But I suppose that was my own fault for walking too fast. Perhaps if I had walked slower across the street, I might have gotten to my office before the committee met.

So I am going to tell you today about the bill we will not have the opportunity to vote on, not in an up-or-down fashion, and I think I will tell you a little bit about why we will not have the opportunity to vote on this bipartisan bill.

The “why” I think is relatively straightforward. Because the majority does not have the confidence that it has the votes to allow the substitute to come before this House. Because the substitute, which was the product of about 6 months of work between Mr. Flake and myself and in its other forum, legislative forum, has the support of seven Republicans and seven Democrats. Mr. Flak and I can make it in this House, very well might command the majority of this House. That runs afoul of the rule of the Speaker that unless it enjoys a majority of the majority you do not get a vote in this House of Representatives. So we will not have a vote on the bipartisan alternative.

But let me tell you and the rest of the country what we are being denied the chance to vote on in the substitute. The Schiff-Flake substitute would do the following:

It would extend the warrantless electronic surveillance authority from the current 72 hours after the fact to 7 days, because the Justice Department and the NSA said that they needed an extra time limitation to make it in this House, very well might command the majority of this House. That runs afoul of the rule of the Speaker that unless it enjoys a majority of the majority you do not get a vote in this House of Representatives. So we will not have a vote on the bipartisan alternative.

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And Mrs. Wilson stated a minute ago that this bill places in place rules of the road that are not optional and the President gets to ignore them essentially whenever.

Mr. Speaker, I am very pleased at this time to yield 1 minute to my good friend, the distinguished gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. I thank the gentleman.

It is good to cite Ben Franklin. Maybe we should also be citing Phineas T. Barnum, because there is a section in this bill, section 10, entitled “Compliance with Court Orders and Antiterrorist Programs.” That actually amounts to a get-out-of-jail-free card for someone who may have leaked classified information.

Moreover, Ford gave Richard Nixon a pardon. I am wondering to whom this bill is giving a pardon. Does it give immunity or impunity for certain crimes and misdemeanors? This bill may actually be about someone’s political problems.

We need to look at this. We need to find out if someone leaked classified information and this bill is going to give them a get-out-of-jail-free card. Read the bill. Take a look at section 10. I want the sponsor to tell me that no one is going to get out of jail free who may have leaked classified information, and no one is going to escape prosecution for certain crimes and misdemeanors once this bill passes.

And in this effort to protect our citizens, the daunting task before us is to thwart the efforts of an enemy who operates underground by stealth and deception and at the same time not rip up our Constitution. This is made all the more difficult, in that, unlike traditional criminal cases, our success will be measured by the ability to prevent a future terrorist attack. This requires an ongoing assessment of how best to equip law enforcement and the intelligence community with the tools to respond to an enemy who is constantly morphing.

In meeting this challenge, intelligence—the necessary bridge to successful homeland security protection. The Foreign Intelligence Surveillance Act is, therefore, an essential and critical tool in our efforts to protect the American people. But one aspect of this bill requires us to try and ensure that any gaps between the state of law and technology are closed to prevent their exploitation by a lethal enemy. In this regard, this bill before us, H.R. 5825, seeks a technology-neutral approach, which places greater emphasis on the nature of those surveilled and their location.

For example, an international call by a non-U.S. citizen to a terrorist organization would be treated the same under the law regardless of whether the non-U.S. person uses wire or radio technology. When FISA was enacted, domestic communications were transmitted via wire, while international communications were transmitted via radio. In recent years, international communications are increasingly transmitted through undersea cables, which are considered wire. This bill recognizes that international communications should be treated the same regardless of the specific technology at issue.

At the same time, this bill enables us to focus on protecting the reasonable privacy expectation of U.S. persons. Those with legitimate concerns over the scope of electronic surveillance should be treated the same under the law regardless of whether the non-U.S. person uses wire or radio technology.

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able to follow money from Hamburg to Pakistan, back to London to the ticket agent where people are about to board an airplane that they intend to blow up worked. Tracking communications among terrorists works.

If a laptop is discovered in a cave in Afghanistan or when you look on their contacts list; if a cell phone is picked up in a desk drawer in a hotel in Islamabad and you look at who their frequently called numbers are, don’t you think that says a lot about that person and who they are talking to? Certainly if you look at your own it says an awful lot about you, who your friends are, who your stockbroker is, what your wife’s cell phone number is. Look at your own device. And we use that same common sense, that same investigative approach to the terrorists.

So when we look at the laptop or when we look at the cell phone in Islamabad or London or Hamburg or New York and there are numbers on there from known al Qaeda operatives to someone in the United States, we ought to be on that number as quickly as possible.

Anything else is an assault on common sense. We must move as quickly, as efficiently as possible, using every technology at our disposal to prevent terrorist attacks, to disrupt terrorist attacks, to bring to justice the people who are planning them.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have some suggestions about implementing every tool at our disposal. The 9/11 Commission would be one.

I would urge the gentleman not to lecture us regarding our commitment. We offered a measure to improve this measure. Everyone wants to catch the same people you are talking about catching. There is no problem in that regard.

Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Maryland (Mr. RUPPERSBERGER), my colleague on the Intelligence Committee.

Mr. RUPPERSBERGER. Just in response to the comments made by my friend from Florida, also, I agree with most of what you are saying. We need to protect our country. We need to be able to have the tools to go on the computer or to go on the cell phone or whatever we need. But we are a country of laws, and our forefathers created an excellent, wonderful country and a Constitution, and that Constitution created checks and balances. That is about what we are talking about here today.

Now, I have an amendment that was before the Rules Committee today that was rejected. One of the administration’s biggest arguments is that they need more time and flexibility to track down terrorists without going to a FISA Judge. My amendment that was just rejected by the Rules Committee does that.

My amendment extends the duration of emergency authorizations from 7 to 14 days. That means the people who have been ordered to do this before they have to go to a FISA Judge, but they do have to go to a FISA Judge. So if it is the opinion of the administration that there is an emergency situation to protect our country, they can go on that phone to find that terrorist, but they would have 14 days before they go to a FISA Judge. But the issue is they have to go to a FISA Judge, and that is the check and balance we do have in this country.

If we get information on an important target, we can conduct warrantless surveillance for 14 days before going to a FISA judge. That is giving the tools that we need. That amendment was rejected.

The purpose of my amendment was to make sure that in an emergency, there was absolutely no chance that the men and women of the NSA would have to turn off their equipment just because they didn’t have enough time to get a warrant.

As the Member who represents NSA, which is in my district, who sits on the Intelligence Committee and is one of the handful of Members briefed into the President’s program, I would have hoped that my amendment would have been in order. My amendment was an attempt to get the right thing for the country and NSA.

We should remember that what makes our country great is our system of checks and balances. My amendment would have done that.

We should not have a closed rule on this bill. We should be willing to take whatever amendments are necessary to make the underlying bill the best one we can for the security of our country. I urge my colleagues to vote “no” on the substitute.

Mr. PUTNAM. Mr. Speaker, I reserve my time.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 1½ minutes to my very good friend, the gentleman from Massachusetts (Mr. MARKKEY).

Mr. MARKKEY. Mr. Speaker, I thank the gentleman from Florida. I thank him for his great leadership. Let us be clear. There is no question that our government must make every effort to uncover, disrupt and prevent terrorist attacks. The 9/11 strikes demonstrated the devastation that can result if we fail to detect terrorist plots.

The question is not whether our intelligence agencies should be allowed to conduct electronic surveillance of suspected terrorists. The answer is, of course, yes. The question before us is whether a court should review such surveillance so innocent American citizens are not spied upon as the government conducts secret surveillance operations. The bill we are considering today fails to provide the vital civil liberty safeguards for American citizens that are the cornerstone of our democracy.

This bill is badly flawed. It expands the President’s authority to secretly wiretap U.S. citizens without a warrant from the FISA court. Under current law, the government can conduct warrantless surveillance for up to a year of any agent of a foreign power—such as a foreign official or spy—in the United States. But current law places a restriction on this authority—no communications of U.S. citizens or residents must be likely to be intercepted in the process. The bill before us would remove this restriction. That means that the phone calls and e-mail communications of any U.S. citizen could be intercepted while the government conducts warrantless surveillance of foreign agents.

Under current law, warrantless wiretapping is permitted in certain emergency situations. This bill more than doubles the amount of time that the Bush Administration can conduct surveillance of U.S. citizens without a warrant—
from the current three days to up to seven days.

This bill also increases the likelihood that innocent Americans will be caught up in government-run surveillance operations. That's because the bill reduces the amount of specific information that the government must provide when seeking approval from the FISA court, such as details on the type of information the government is looking for and the procedures in place to prevent information from U.S. citizens from being collected in the surveillance operation.

Congress should be holding the Bush Administration accountable for illegally eavesdropping on thousands of U.S. citizens. Instead, the House is considering a bill that would expand the power of the Bush Administration to conduct such spying.

The Constitution says "We the People," but we have a President who seems to have forgotten this—he thinks it's "Me the People." From secret wiretapping programs to signing away the rights of American citizens, the President has shredded constitutional protections for everyone except himself.

From secret wiretapping programs to signing away the rights of American citizens, the President has shredded constitutional protections for everyone except himself.

I urge my colleagues to defeat this bill, which has been rushed to the House Floor without sufficient evaluation. This bill will not make us safer. It will make everyday Americans feel less secure and give the government a tool that could be used to trample on civil liberties.

We have to pass a bill that ensures that the government is accountable for illegally eavesdropping. This bill will not do that. It will make us less safe.

We have to pass a bill that ensures that our intelligence agencies and our law enforcement officials are held accountable for their actions. This bill will not do that. It will make us less safe.

I urge my colleagues to vote no on this bill. It is not in the best interests of the American people. It will not make us safer. It will make everyday Americans feel less secure and give the government a tool that could be used to trample on civil liberties.

The SPEAKER pro tempore. Is there an objection?
Amending Special Rules” states: “a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate.” (Chapter 21, section 21.2) Section 21.2 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereafter.

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority’s agenda to offer an alternative plan.

Mr. PUTNAM. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. HASTINGS of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

Mr. PUTNAM. Mr. Speaker, I yield to the gentleman from Florida.

Thornberry. Mr. Speaker, I yield to the Chairman of the Committee on Armed Services.

Mr. ROGERS of Kentucky submitted an amendment to the amendment of the Senate, and the committee of conference on the disapproving votes of the two Houses on adoption of H. Res. 1052, if ordered, and the motion to instruct conferences on H.R. 4954.

The vote was taken by electronic device, and there were—yeas 225, nays 197, not voting 10, as follows:

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CONFERENCE REPORT ON H.R. 5411, DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2007

Mr. ROGERS of Kentucky submitted the following conference report and statement on the bill (H.R. 5411) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes:

CONFERENCE REPORT (HOUSE REP. NO. 109-699)

The conference committee on the disapproving votes of the two Houses on the amendment of the Senate to the bill (H.R. 5411) “making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes”, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

The House recede from its disapproval of the amendment to the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury, and otherwise appropriated, for the fiscal year ending September 30, 2007, for the Department of Homeland Security and for other purposes, namely:

TITLE I
DEPARTMENTAL MANAGEMENT AND OPERATIONS
OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

For necessary expenses of the Office of the Secretary of Homeland Security, as authorized by section 102 of the Homeland Security Act of 2002 (6 U.S.C. 112), and executive management of the Department of Homeland Security, as authorized by law, $94,470,000. Provided: That not to exceed $40,000 shall be for official reception and representation expenses: Provided further, That of the funds provided under this heading, $5,000,000 shall not be available for obligation until the Secretary of Homeland Security submits a comprehensive port, container, and cargo security strategic plan to the Committees on Appropriations of the House of Representatives and the Senate; the Committee on Homeland Security and Governmental Affairs of the Senate; and the Committee on Commerce, Science, and Transportation of the Senate that requires screening all inbound cargo, doubles the percentage of inbound cargo

MESSRS. GEORGE MILLER OF CALIFORNIA, WEAVER, AND LARSON OF CONNECTICUT CHANGED THEIR VOTE FROM “YEA” TO “NAY.”

MR. GIBBONS CHANGED HIS VOTE FROM “NAY” TO “YEA.”

SO THE PREVIOUS VOTE WAS ORDERED. THE RESULT OF THE VOTE WAS ANNOUNCED AS ABOVE RECORDED.

Walter, Ex-soldier, Alaskan,

MEASURES

Wasserman, Schultz, and<br>Waters
For necessary expenses for the development of the United States Visitor and Immigrant Status Indicator Technology project, as authorized by section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1366a), $362,494,000, to remain available until expended for the total amount made available under this heading, $290,000,000 may not be obligated for the United States Visitor and Immigrant Status Indicator Technology project, as authorized by Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that—

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

(2) complies with the Department of Homeland Security information systems enterprise architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) includes a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;

(5) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget;

(6) is reviewed by the Government Accountability Office;

(7) includes a comprehensive strategic plan for the United States Visitor and Immigrant Status Indicator Technology project; and

(8) includes a complete schedule for the full implementation of a biometric exit program.

UNITED STATES CUSTOMS AND BORDER PROTECTION

SALES AND EXPENSES

For necessary expenses for enforcement of laws relating to border security, immigration, customs, and agricultural inspections and regulatory activities related to plant and animal health, and related activities, $3,026,000 shall be derived from the Harbor Maintenance Trust Fund, for administrative expenses related to the collection of the Harbor Maintenance Fee pursuant to section 950c(3) of the Internal Revenue Code of 1986 (26 U.S.C. 950c(3)) and notwithstanding section 151(e)(1) of the Homeland Security Act of 2002 (6 U.S.C. 531(e)(1)); of which not to exceed $45,000 shall be for official reception and representation expenses; of which not less than $175,796,000 shall be for Air and Marine Operations; of which such sums as become available in the Customs User Fee Account, except sums subject to section 1303(f)(5) of the Consolidated Omnibus Reconciliation Act of 1985 (26 U.S.C. 531(f)(5)), shall be derived from that account; of which not to exceed $5,000 shall be for official reception and representation expenses; and of which not to exceed $110,000 shall be available for payment of overtime and for travel and related expenses of personnel whose duties are related to the collection of user fees and surcharges, for administrative expenses related to the collection of the Harbor Maintenance Fee pursuant to section 950c(3) of the Internal Revenue Code of 1986 (26 U.S.C. 950c(3)) and notwithstanding section 151(e)(1) of the Homeland Security Act of 2002 (6 U.S.C. 531(e)(1)).

For necessary expenses for the Automated Commercial Environment project, as authorized by the Inspector General Act of 1978 (5 U.S.C. 1365a), $362,494,000, to remain available until expended for the total amount made available under this heading, $290,000,000 may not be obligated for the United States Visitor and Immigrant Status Indicator Technology project, as authorized by Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that—

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(2) complies with the Department of Homeland Security information systems enterprise architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) includes a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;

(5) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget;

(6) is reviewed by the Government Accountability Office;

(7) includes a comprehensive strategic plan for the United States Visitor and Immigrant Status Indicator Technology project; and

(8) includes a complete schedule for the full implementation of a biometric exit program.

UNITED STATES CUSTOMS AND BORDER PROTECTION

SALES AND EXPENSES

For necessary expenses for enforcement of laws relating to border security, immigration, customs, and agricultural inspections and regulatory activities related to plant and animal health, and related activities, $3,026,000 shall be derived from the Harbor Maintenance Trust Fund, for administrative expenses related to the collection of the Harbor Maintenance Fee pursuant to section 950c(3) of the Internal Revenue Code of 1986 (26 U.S.C. 950c(3)) and notwithstanding section 151(e)(1) of the Homeland Security Act of 2002 (6 U.S.C. 531(e)(1)); of which not to exceed $45,000 shall be for official reception and representation expenses; of which not less than $175,796,000 shall be for Air and Marine Operations; of which such sums as become available in the Customs User Fee Account, except sums subject to section 1303(f)(5) of the Consolidated Omnibus Reconciliation Act of 1985 (26 U.S.C. 531(f)(5)), shall be derived from that account; of which not to exceed $5,000 shall be for official reception and representation expenses; and of which not to exceed $110,000 shall be available for payment of overtime and for travel and related expenses of personnel whose duties are related to the collection of user fees and surcharges, for administrative expenses related to the collection of the Harbor Maintenance Fee pursuant to section 950c(3) of the Internal Revenue Code of 1986 (26 U.S.C. 950c(3)) and notwithstanding section 151(e)(1) of the Homeland Security Act of 2002 (6 U.S.C. 531(e)(1)).

For necessary expenses for the Automated Commercial Environment project, as authorized by the Inspector General Act of 1978 (5 U.S.C. 1365a), $362,494,000, to remain available until expended for the total amount made available under this heading, $290,000,000 may not be obligated for the United States Visitor and Immigrant Status Indicator Technology project, as authorized by Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that—

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

(2) complies with the Department of Homeland Security information systems enterprise architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) includes a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;

(5) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget;

(6) is reviewed by the Government Accountability Office;

(7) includes a comprehensive strategic plan for the United States Visitor and Immigrant Status Indicator Technology project; and

(8) includes a complete schedule for the full implementation of a biometric exit program.
Board, the Secretary of Homeland Security, and the Office of Management and Budget; and
(6) is reviewed by the Government Accountability Office.

SEC. 310. BORDER SECURITY FENCING, INFRASTRUCTURE, AND TECHNOLOGY

For expenses for customs and border protection fencing, infrastructure, and technology, $1,187,000,000, to remain available until expended:
Provided, That the amount provided under this heading, $1,159,200,000 is designated as described in section 520 of this Act: Provided further, that if the amount provided under this heading, $890,000,000 shall not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve plans for expenditure prepared by the Secretary of Homeland Security and submitted within 60 days after the date of enactment of this Act, to establish a security barrier along the border of the United States of fencing and vehicle barriers, where practicable, and other forms of tactical infrastructure and technology, that—
(1) defines activities, milestones, and costs for implementing the program;
(2) demonstrates how activities will further the goals and objectives of the Secure Border Initiative (SBI), as defined in the SBI multi-year strategic plan;
(3) identifies funding and the organization staffing (including full-time equivalents, contractors, and detailees) requirements by activity;
(4) includes a certification by the Chief Procurement Officer of the Department of Homeland Security that procedures to prevent conflicts of interest between the prime integrator and any other prime contractor are established and a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;
(5) complies with all applicable acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;
(6) complies with the capital planning and investment control review requirements established by the Office of Management and Budget, included in Circular A-11, part 7;
(7) complies with the capital planning and investment control review requirements established by the Office of Management and Budget, included in Circular A-11, part 7;
(8) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and
(9) is reviewed by the Government Accountability Office.

SEC. 311. AIR AND MARINE INTERCEPTION, OPERATIONS, AND PROCUREMENT

For necessary expenses for the operations, maintenance, and procurement of marine vessels, aircraft, unmanned aerial vehicles, and other related equipment of the air and marine program, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction aircraft or ship, to be available only for the operations of which include the following: the interception of narcotics and other goods; the provision of support to Federal, State, and local agencies in the enforcement or administration of laws enforced by the Department of Homeland Security; and at the discretion of the Secretary of Homeland Security, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, $692,187,000, to remain available until expended: Provided, That the amount provided under this heading, $323,000,000 is designated as described in section 520 of this Act; provided further, that if the amount provided under this heading, $360,000,000 is designated as described in section 520 of this Act; provided further, that if the amount provided under this heading, $13,000,000 may not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve plans for expenditure prepared by the Secretary of Homeland Security that—
(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A-11, part 7;
(2) complies with the Department of Homeland Security information systems enterprise architecture;
(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;
(4) includes a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;
(5) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and
(6) is reviewed by the Government Accountability Office.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $56,281,000, to remain available until expended: Provided, That the amount provided under this heading, $30,000,000 is designated as described in section 520 of this Act.

IMMIGRATION AND CUSTOMS ENFORCEMENT SALARIES AND EXPENSES

For necessary expenses for enforcement of immigration and customs laws, detention and removals, and investigations; and purchase and lease of up to 3,790 (2,350 for replacement only) police-type vehicles; $3,887,000,000, of which not to exceed $7,500,000 shall be available until expended for conducting special operations under section 511 of the Customs Enforcement Act of 1986 (19 U.S.C. 2018); of which not to exceed $15,000 shall be for official reception and representation expenses; provided, that if the amount provided under this heading, $1,000,000 shall be for official reception and representation expenses; provided, That the total amount made available under this heading, to not exceed $1,768,306,000 shall be for screening operations, of which not to exceed $963,548,000 shall be for aviation security direction and enforcement: Provided further, That the funds appropriated under this heading, $5,000,000 shall not be obligated until the Secretary of Homeland Security submits to the Committees on Appropriations of the Senate and the House of Representatives a detailed report in response to findings in the Department of Homeland Security Office of Inspector General report P-07-014 and P-08-024 concerning contractor fees:
Provided further, That security service fees authorized under section 4940 of title 49, United States Code, shall be credited to this appropriation only for the purposes of offsetting costs of baggage explosive detection systems and shall not exceed $12,000,000; of which not to exceed $203,000 shall be for Project Alert; of which not to exceed $15,000 shall be for official reception and representation expenditures; $10,000,000 shall be available for research and development and for aircraft that have been damaged beyond repair, $232,978,000, to remain available until expended; Provided, That the amount provided under this heading, $232,978,000 shall not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve plans for expenditure prepared by the Secretary of Homeland Security and submitted within 60 days after the date of enactment of this Act, to establish a security barrier along the border of the United States of fencing and vehicle barriers, where practicable, and other forms of tactical infrastructure and technology, that—
(1) defines activities, milestones, and costs for implementing the program;
(2) demonstrates how activities will further the goals and objectives of the Secure Border Initiative (SBI), as defined in the SBI multi-year strategic plan;
(3) identifies funding and the organization staffing (including full-time equivalents, contractors, and detailees) requirements by activity;
(4) includes a certification by the Chief Procurement Officer of the Department of Homeland Security that procedures to prevent conflicts of interest between the prime integrator and any other prime contractor are established and a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;
(5) complies with all applicable acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;
(6) complies with the capital planning and investment control review requirements established by the Office of Management and Budget, included in Circular A-11, part 7;
Office Report (GAO–06–75) on domestic air cargo security to the Committee on Appropriations of the Senate and the House of Representatives; the Committee on Homeland Security of the House of Representatives; the Committee on Homeland Security and Governmental Affairs of the Senate; and the Committee on Commerce, Science, and Transportation of the Senate; provided, That none of the funds made available by this Act shall be for expenses incurred for yachting documentation under section 12109 of title 46, United States Code, except to the extent fees are authorized to be charged for services rendered to this appropriation: Provided further, That not to exceed five percent of this appropriation may be transferred to the "Acquisition, Construction, and Improvements" appropriation shall not be increased by more than 10 percent by such transfers: Provided further, That the Committees on Appropriations of the Senate and the House of Representatives shall be notified of each transfer within 30 days after it is executed by the Treasury.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the environmental compliance and restoration functions of the United States Coast Guard under chapter 19 of title 14, United States Code, $9,880,000, to remain available until expended.

RESERVE TRAINING

For necessary expenses of the Coast Guard Reserve, as authorized by law; operations and maintenance of the reserve program; personnel and training costs; and equipment and services, $122,448,000.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; and maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law; $1,339,245,000, of which $19,800,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)), $16,000,000, to remain available until September 30, 2011, to acquire, repair, renovate, or improve vessels, small boats, and related equipment; of which $15,000,000 shall be available on or after the first day of fiscal year 2011, to increase aviation capability; of which $119,823,000 shall be available until September 30, 2009, for other equipment; of which $22,000,000 shall be available for the purpose of replacing or replacing facilities and aids to navigation facilities; of which $81,000,000 shall be available for personnel compensation and benefits and related costs; and $2,063,872,000 shall be available until September 30, 2011, for the Integrated Deepwater Systems program: Provided, That the Commandant of the Coast Guard is authorized to dispose of property, by sale or lease, and the proceeds shall be credited to this appropriation as offsetting collections and shall be available until September 30, 2009: Provided further, That the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a detailed expenditure plan for explosive detection systems refurbishment, procurement, and installations on an airport-by-airport basis for fiscal year 2007: Provided further, That this plan shall be submitted no later than 60 days after the date of enactment of this Act.

FEDERAL AIR MARSHALS

For necessary expenses for the Federal Air Marshals, $714,294,000.

UNITED STATES COAST GUARD

Navy and Marine Corps Expenses

For necessary expenses for the operation and maintenance of the United States Coast Guard not otherwise provided for; purchase or lease of not to exceed 25 passenger motor vehicles, which shall be for replacement only; purchases pursuant to section 516 of Public Law 97–377 (42 U.S.C. 402 note; 96 Stat. 1920); and recreation and welfare; $5,477,657,000, of which $340,000,000 shall be for defense-related activities; of which $24,255,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)), of which $5,000,000 shall be for personnel compensation and benefits and related costs; and of which $3,000,000 shall be for official reception and representation expenses: Provided, That none of the funds made available by this or any other Act shall be available for administrative expenses in connection with shipping commissioners in the United States: Provided further, That in no event shall any funds appropriated by this Act be used to support a shipbuilding program if the Secretary of Defense is not satisfied that funds made available by this Act shall be for expenses incurred for yachting documentation under section 12109 of title 46, United States Code, except to the extent fees are authorized to be charged for services rendered to this appropriation: Provided further, That not to exceed five percent of this appropriation may be transferred to the "Acquisition, Construction, and Improvements" appropriation shall not be increased by more than 10 percent by such transfers: Provided further, That the Committees on Appropriations of the Senate and the House of Representatives shall be notified of each transfer within 30 days after it is executed by the Treasury.

For necessary expenses for the operation and maintenance of the United States Coast Guard under chapter 19 of title 14, United States Code, $19,880,000, to remain available until expended.

TRANSPORTATION SECURITY SUPPORT

For necessary expenses of the Transportation Security Administration, related to passengers and baggage screening; $37,200,000, to remain available until September 30, 2008.

SURFACE TRANSPORTATION SECURITY

For necessary expenses of the development and implementation of screening programs of the Transportation Security Administration, related to surface transportation security activities, $37,200,000, to remain available until September 30, 2008.

TRANSPORTATION THREAT ASSESSMENT AND CREDENTIALING

For necessary expenses for the development and implementation of screening programs of the Transportation Security Administration, related to the Transportation Threat Assessment and Credentialing, $39,700,000, to remain available until September 30, 2008.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructions to navigation, pursuant to the Rivers and Harbors Act of 1899 and section 201(e) of the River and Harbors Act of 1936, $6,000,000, to remain available until expended.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses for applied scientific research, development, testing, and evaluation for maintenance, rehabilitation, lease, and operation of facilities and equipment; as authorized by law; $17,000,000, to remain available until expended.

RETIRED PAY

For retired pay, including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Servicemen’s Family Protection and Survivor Benefits Plans, payments for career status bonuses, concurrent receipts and combat-related special compensation under the National Defense Authorization Act, and payments for war service of retired military dependents under chapter 55 of title 10, United States Code, $1,063,323,000.

UNITED STATES SECRET SERVICE

PROTECTION, ADMINISTRATION, AND TRAINING

For necessary expenses of the United States Secret Service, including purchase of not to exceed 755 vehicles for police-type use, of which
TITLE III
PREPAREDNESS AND RECOVERY
PREPAREDNESS
MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the immediate Office of the Under Secretary for Preparedness, the Office of the Chief Medical Officer, the Office of National Capital Region Coordination, $30,572,000, of which no less than $2,741,000 may be used for the Office of National Capital Region Coordination, and of which $6,459,000 shall be for the National Preparedness Integration Program: Provided, That none of the funds made available under this heading may be obligated for the National Preparedness Integration Program until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure pre- dicated according to the Homeland Security Act of 2002: Provided, That not to exceed $7,000 shall be for official reception and representation expenses: Provided further, That for purposes of paragraph (2)(A), the application for grants shall be made available to States within 45 days after the date of enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and that the Office of Grants and Training shall act within 90 days after the receipt of the applications: Provided further, That for grants under subparagraphs (B), (E), and (F) of paragraph (2) of this heading, the application for grants shall be made available to States within 45 days after the date of enactment of this Act, that States shall submit applications not later than 45 days after the date of the announcement of such grants; and that the Office of Grants and Training shall act on such applications not later than 60 days after the date on which such an application is received.

OFFICE OF GRANTS AND TRAINING
STATE AND LOCAL PROGRAMS

For grants, contracts, cooperative agreements, and other activities, including grants to State and local governments for terrorism prevention activities, notwithstanding any other provision of law, $2,531,000,000, which shall be allocated as follows:

(1) $525,000,000 for formula-based grants and $375,000,000 for law enforcement terrorism prevention grants pursuant to section 1014 of the USA PATRIOT ACT (42 U.S.C. 3714): Provided, That the application for grants shall be made available to States within 45 days after the date of enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and the Office of Grants and Training shall act within 90 days after receipt of an application: Provided further, That not less than 80 percent of any grant under this paragraph to a State shall be made available by the State to local governments within 60 days after the receipt of the funds; and except in the case of Puerto Rico, where not less than 50 percent of any grant under this paragraph shall be made available to local governments within 60 days after the receipt of the funds.

(2) $1,229,000,000 for discretionary grants, as determined by the Secretary of Homeland Security, of which—

(A) $770,000,000 shall be for use in high-threat, high-density urban areas: Provided, That not later than 90 days after receipt, the Secretary shall distribute any unallocated funds made available for assistance to organizations (as described under section 501(c)(3) of the Internal Revenue Code) on the basis of risk determined by the Federal Fire Prevention and Control Act, 1917 (16 U.S.C. 68), for the support of investments in the protection of vacant, abandoned, or potential high risk to each designated tax exempt grantees at such rate as may be determined by the Director of the Secret Service; and the House of Representatives for the investigation and representation expenses: Provided further, That the application for grants shall be made available to States within 45 days after the date of enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and the Office of Grants and Training shall act within 90 days after the receipt of the applications: Provided further, That for grants under subparagraphs (B), (E), and (F) of paragraph (2) of this heading, the application for grants shall be made available to States within 45 days after the date of the announcement of such grants; and that the Office of Grants and Training shall act on such applications not later than 60 days after the date on which such an application is received.

(3) $50,000,000 for the Commercial Equipment Direct Assistance Program.

(4) $352,000,000 for training, exercises, technical assistance, and other programs: Provided, That none of the funds provided under this heading shall be used for the construction or renovation of facilities, except for a minor perimeter security project, not to exceed $1,000,000, as determined necessary by the Secretary of Homeland Security: Provided further, That the preceding proviso shall not apply to grants under subparagraphs (B), (E), and (F) of paragraph (2) of this heading: Provided further, That the Secretary shall submit reports on their use of funds, as determined necessary by the Secretary of Homeland Security: Provided further, That funds appropriated for law enforcement terrorism prevention grants under subparagraph (A) of this heading and discretionary grants under paragraph (2)(A) of this heading shall be available for operational costs, to include personnel overtime and overtime associated with the Office of Grants and Training certificated trained, as needed: Provided further, That the Department of Homeland Security and the Office of Grants and Training shall be available for investigations of missing and exploited children; and of which $6,000,000 shall be for a grant to activities related to the investigations of missing and exploited children; and shall remain available until expended.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For necessary expenses for acquisition, con- struction, repair, alteration, and improvement of facilities, $1,725,000, to remain available until expended: Provided, That of the total amount provided under this heading, $500,000 shall not be available for obligation until the Director of the Secret Service submits a revised master plan to the Committees on Appropriations of the Senate and the House of Representatives for the immediate Office of the Under Secretary for Preparedness, the Office of the Chief Medical Officer, and the Office of National Capital Region Coordination; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; payment of per diem or subsistence allowances to employees where a protective assignment during the usual day or days of the visit to a protectee requires an employee to work 16 hours per day or to remain overnight at a post of duty; conduct of and participation in firearms match events and awards; payment of per diem or subsistence allowances to employees of United States Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations of the Senate and the House of Representatives for the investigations of missing and exploited children and shall remain available until expended: Provided further, That of the total amount provided under this heading, $201,000,000 shall be for port security pursuant to the provisions of section 70107(a) (through (h)) of title 46, United States Code, and shall be available for obligation not withstanding subsection (a), for eligible costs as described in subsections (b)(2) through (4); and shall be available for trucking industry security grants.

For $12,000,000 shall be for intercity bus security grants; $6,000,000 shall be for intercity rail passenger transportation (as defined in section 24102 of title 49, United States Code), freight rail, and transit security grants; and $150,000,000 for foreign assistance grants shall be for border enforcement and protection grants.

Provided, That for grants under subparagraph (A), the application for grants shall be made available to States within 45 days after the date of enactment of this Act: That States shall submit applications within 90 days after the grant announcement; and that the Office of Grants and Training shall act within 90 days after the receipt of the applications: Provided further, That for grants under subparagraphs (B) through (F), the applications for such grants shall be made available to eligible applicants not later than 75 days after the date of enactment of this Act, that eligible applicants shall submit applications not later than 45 days after the date of the announcement of such grants: Provided further, That the Secretary of Homeland Security shall act on such applications within 90 days after the date of the announcement of such grants.

For $50,000,000 shall be for the Commercial Equipment Direct Assistance Program.

For necessary expenses for programs authorized by the Federal Fire Prevention and Control and the House of Representatives for the investigations of missing and exploited children: Provided, That the Office of the Under Secretary for Preparedness, the Office of the Chief Medical Officer, and the Office of National Capital Region Coordination, and of which $6,459,000 shall be for the National Preparedness Integration Program: Provided, That none of the funds made available under this heading may be obligated for the National Preparedness Integration Program until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure pre- coordinating program: Provided, That not to exceed $7,000 shall be provided for official reception and representation expenses: Provided further, That for purposes of paragraph (2)(A), the application for grants shall be made available to States within 45 days after the date of enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and the Office of Grants and Training shall act within 90 days after receipt of an application: Provided further, That not less than 80 percent of any grant under this paragraph to a State shall be made available by the State to local governments within 60 days after the receipt of the funds; and except in the case of Puerto Rico, where not less than 50 percent of any grant under this paragraph shall be made available to local governments within 60 days after the receipt of the funds.

For $1,229,000,000 for discretionary grants, as determined by the Secretary of Homeland Security, of which—

(A) $770,000,000 shall be for use in high-threat, high-density urban areas: Provided, That not later than 90 days after receipt, the Secretary shall distribute any unallocated funds made available for assistance to organizations (as described under section 501(c)(3) of the Internal Revenue Code) on the basis of risk determined by the Federal Fire Prevention and Control Act, 1917 (16 U.S.C. 68), for the support of investments in the protection of vacant, abandoned, or potential high risk to each designated tax exempt grantees at such rate as may be determined by the Director of the Secret Service; and the House of Representatives for the investigation and representation expenses: Provided further, That the application for grants shall be made available to States within 45 days after the date of enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and the Office of Grants and Training shall act within 90 days after the receipt of the applications: Provided further, That for grants under subparagraphs (B), (E), and (F) of paragraph (2) of this heading, the application for grants shall be made available to States within 45 days after the date of the announcement of such grants; and that the Office of Grants and Training shall act on such applications not later than 60 days after the date on which such an application is received.

For $50,000,000 shall be for the Commercial Equipment Direct Assistance Program.

For necessary expenses for programs authorized by the Federal Fire Prevention and Control and the House of Representatives for the investigations of missing and exploited children: Provided, That the Office of the Under Secretary for Preparedness, the Office of the Chief Medical Officer, and the Office of National Capital Region Coordination, and of which $6,459,000 shall be for the National Preparedness Integration Program: Provided, That none of the funds made available under this heading may be obligated for the National Preparedness Integration Program until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure pre-
Act of 1974 (15 U.S.C. 2201 et seq.), $662,000,000, of which $547,000,000 shall be available to carry out section 34 of that Act (15 U.S.C. 222a) to remain available until September 30, 2008: Provided, That $90,358,000 shall be available for flood hazard mitigation expenses under section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4030), which shall remain available until expended: Provided further, That total administrative costs shall not exceed three percent of the total appropriation.

RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM


PUBLIC HEALTH PROGRAMS


FEDERAL LAW ENFORCEMENT AND RELATED AGENCIES


FEDERAL EMERGENCY MANAGEMENT AGENCY


READINESS, MITIGATION, RESPONSE, AND RECOVERY


PUBLIC HEALTH PROGRAMS


FEDERAL EMERGENCY MANAGEMENT AGENCY


READINESS, MITIGATION, RESPONSE, AND RECOVERY


PUBLIC HEALTH PROGRAMS


PUBLIC HEALTH PROGRAMS


PUBLIC HEALTH PROGRAMS

provisions for official duties; and services as authorized by section 3109 of title 5, United States Code; $241,033,000, of which up to $43,910,000 for materials and support costs of Federal law enforcement training shall remain available until September 30, 2008; of which $30,000 shall remain available until expended for Federal law enforcement agencies participating in training accredited or certified by the Federal Law Enforcement Training Center for the needs of participating agencies; and of which not to exceed $12,000 shall be for official reception and representation expenses: Provided, That the amount provided under this heading, $15,000,000, shall not be available for obligations after June 30, except in extraordinary circumstances which imminently threaten the safety of human life or the protection of property.

SEC. 504. None of the funds appropriated or otherwise made available to the Department of Homeland Security may be used to make payments to the "Department of Homeland Security Working Capital Fund", except for the activities and amounts allocated in the President’s fiscal year 2007 budget, excluding sedan service, shuttle service, transit subsidy, mail operations, parking, and competitive sourcing: Provided, That any additional activities and amounts shall be approved by the Committees on Appropriations of the Senate and the House of Representatives 30 days in advance of obligation.

SEC. 505. Except as otherwise specifically provided by law, not to exceed 5 percent of any appropriation contained in this Act shall remain available for obligation or expenditure in fiscal year 2007 from appropriations for salaries and expenses for fiscal year 2007 in this Act or any subsequent Act or any returns on the investment of amounts charged against such appropriations: Provided, That prior to the obligation of such funds, a request shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives for approval in accordance with section 503 of this Act.

SEC. 506. Funds made available under this Act for intelligence activities shall be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2007 until the expiration of an Act authorizing intelligence activities for fiscal year 2007.

SEC. 507. The Federal Law Enforcement Training Accreditation and Standards Act of 2002 and the Federal Law Enforcement Training accreditation process, to include representatives from the Federal law enforcement community and non-Federal accrediting groups, to participate in the Federal Law Enforcement Training accreditation process, to continue the implementation of measuring and assessing the quality and effectiveness of Federal law enforcement training programs, facilities, and services.

SEC. 508. None of the funds in this Act may be used to make a grant allocation, discretionary
grant award, discretionary contract award, or to issue a letter of intent totaling in excess of $1,000,000, or to announce publicly the intention to make such an award, unless the Secretary of Homeland Security certifies, and the Government Accountability Office, reports to the Committee on Appropriations of the Senate and the House of Representatives at least three full business days in advance: Provided, That no notification shall involve the funding for counterterrorism projects that are included in the Committee on Appropriations of the Senate and the House of Representatives at least three full business days in advance: Provided, Further, That the Office of Grants and Training shall brief the Committees on Appropriations of the Senate and the House of Representatives if the Department plans to announce publicly the intention to make an award of a formula-based grant, law enforcement prevention grant or a high-threat, high-density urban areas grant.

SEC. 509. Notwithstanding any other provision of law, no agency shall purchase, construct, or lease any facilities, except temporary or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations of the Senate and the House of Representatives, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional space, facilities, contract, or lease agreement for training which cannot be accommodated in existing Center facilities.

SEC. 510. The Director of the Federal Law Enforcement Training Center shall schedule periodic and advanced law enforcement training at all four training facilities under the control of the Federal Law Enforcement Training Center to ensure that Federal agencies and agencies operating under such facilities are operated at the highest capacity throughout the fiscal year.

SEC. 511. None of the funds appropriated or otherwise made available by this Act may be used for expenses of any construction, repair, alteration, or acquisition project for which a prospectus has not been submitted to the Public Buildings Act of 1959 (40 U.S.C. 3301), has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus.

SEC. 512. None of the funds in this Act may be used in contravention of the applicable provisions of the Buy American Act (41 U.S.C. 10a et seq.).

SEC. 513. Notwithstanding any other provision of law, the authority of the Office of Personnel Management to conduct personnel security and suitability investigations, update investigations, and periodic reinvestigations of applicants for, or appointees in, positions in the Office of the Secretary and Executive Management, the Office of Inspector General, the Under Secretary for Management, Analysis and Operations, Immigration and Customs Enforcement, the Directorate for Preparedness, and the Directorate of Science and Technology of the Department of Homeland Security is transferred to the Department of Homeland Security: Provided, That on request of the Department of Homeland Security, the Office of Personnel Management shall cooperate with and assist the Department in any investigation or reinvestigation under this section: Provided further, That this section shall cease to be effective at such time as the President has selected a single agency to conduct security clearance investigations pursuant to section 3001(c) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 50 U.S.C. 435b) and the entity selected pursuant to section 3001(b) of such Act has reported to Congress that the agency selected pursuant to such section 3001(c) is capable of conducting all necessary investigations in a timely manner or has authorized the entities within the Department of Homeland Security to conduct their own investigations pursuant to section 3001 of such Act.

SEC. 514. (a) None of the funds provided by this Act may be used for expenses of any construction, repair, alteration, or acquisition project for which a prospectus has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a prospectus, or any other follow on or successor passenger prescreening program, until the Secretary of Homeland Security certifies, and the Government Accountability Office, reports to the Committee on Appropriations of the Senate and the House of Representatives, that all ten of the conditions contained in paragraphs (1) through (10) of section 512(a) of Public Law 108–334 (118 Stat. 1319) have been met:

(b) The report required by subsection (a) shall be submitted within 90 days after the Secretary provides the requisite certification, and periodically thereafter, if necessary, until the Government Accountability Office confirms that all ten conditions have been successfully met.

(c) Within 180 days of this Act, the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives a detailed plan that describes:

(1) the systems and technologies, including the date or timeframes that the Secretary will certify the program under subsection (a); and (2) the methodology to be followed to support the Secretary’s certification, as required under subsection (a).

(d) During the testing phase permitted by subsection (a), no information gathered from passenger screening equipment or systems may be used to screen aviation passengers, or delay or deny boarding to such passengers, except in instances where passenger names are matched to a Government watch list.

(e) None of the funds provided in this or previous appropriations Acts may be utilized to develop or test algorithms assigning risk to passengers whose names are not on Government watch lists.

(f) None of the funds provided in this or previous appropriations Acts may be utilized for the construction, repair, alteration, or acquisition of any passenger Name Record data obtained from air carriers.

SEC. 515. None of the funds made available in this Act may be used to amend the oath of allegiance required by section 377 of the Immigration and Nationality Act (8 U.S.C. 1448).

SEC. 516. None of the funds appropriated by this Act may be used to process or approve a competition under Office of Management and Budget Circular A–76 for services provided as of June 1, 2004, by employees (including employees serving on a temporary or term basis) of United States Government agencies or for services of the Department of Homeland Security who are known as of that date as Immigration Information Officers, Contact Representatives, or Investigative吝啬.

SEC. 517. (a) None of the funds appropriated to the United States Secret Service by this Act or by previous appropriations Acts may be made available for the protection of the head of a Federal agency other than the Secretary of Homeland Security: Provided, That the Director of the United States Secret Service may enter into an agreement to perform such service on a fully reimbursable basis.

(b) Beginning in fiscal year 2008, none of the funds appropriated by this or any other Act to the United States Secret Service to be made available for the protection of a person, other (than persons granted protection under section 305(a) of title 18, United States Code, and the Secretary of Homeland Security: Provided, That the Director of the United States Secret Service may enter into an agreement to perform such services for foreign or domestic air carriers, or to protectees not designated under section 305(a) of title 18, United States Code.

SEC. 518. The Secretary of Homeland Security, in consultation with industry stakeholders, shall develop standards and protocols for increasing the use of explosive detection equipment to screen air cargo when appropriate.

SEC. 519. The Transportation Security Administration shall report air cargo inspection statistics annually to the Committees on the Appropriations of the Senate and the House of Representatives, by airport and air carrier, within 45 days after the end of the quarter including any reason for any delay in reporting the statistics of subsection 513 of the Department of Homeland Security Appropriations Act, 2005 (Public Law 108–334, 118 Stat. 1317).

SEC. 520. For purposes of this Act, any designation referred to in this section is the designation of an amount as making appropriations for contingency operations directly related to the global war on terrorism, and other unanticipated defense or current operations, pursuant to section 402 of H. Con. Res. 376 (109th Congress) as made applicable to the House of Representatives by H. Res. 418 (109th Congress), and as an amendment to section 402 of S. Con. Res. 83 (109th Congress) as made applicable to the Senate by section 7035 of Public Law 109–234.

SEC. 521. (a) REIFICATION.—From the unexpended balances of the United States Coast Guard “Acquisition, Construction, and Improvements” account specifically identified in the Joint Explanatory Statement (House Report 109–241) accompanying Public Law 109–94 for the Fast Response Cutter, the service life extension program of the current 110-foot Island Class patrol boat fleet, and accelerated design and procurement of the Fast Response Cutter, $78,693,508 are rescinded.

(b) ADDITIONAL APPROPRIATION.—For necessary expenses of the United States Coast Guard for “Acquisitions, Construction, and Improvements”, there is appropriated an additional $78,693,508, to remain available until September 30, 2009, for the service life extension program of the current 110-foot Island Class patrol boat fleet and the acquisition of traditional patrol boats (“parent craft”).

SEC. 522. None of the funds made available in this Act may be used by any person other than the Director of the Office of National Intelligence under section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) to alter, direct that changes be made to, delay, or prohibit the transmission to Congress of any report prepared under paragraph (6) of such section.

SEC. 523. No funding provided by this or previous appropriation Acts shall be available to pay the salary of any employee serving as a connecting officer’s technical representative (COTR), or anyone acting in a similar or like capacity, who has not received COTR training.

SEC. 524. Except as provided in section 44945 of title 49, United States Code, funds appropriated to the Office of Transportation Security Administration “Aviation Security”, “Ad- ministration” and “Transportation Security Support” in fiscal years 2004, 2005, and 2006 that are recovered or deobligated shall be available only for procurement and installation of explosive detection systems for air cargo, baggage, and checkpoint screening systems, subject to the following:

(1) That when a lawful request is made to publicly release a document containing information designated as sensitive security information
(SSI), the document shall be reviewed in a timely manner to determine whether any information contained in the document meets the criteria for continued SSI protection under applicable law. The Secretary or his designee shall then notify the party and the Federal agency to the Department of Homeland Security that the party has made an oral or written request for access to SSI under this section shall be immediately appealable to the United States Courts of Appeals, which shall have plenary review over the evidentiary finding and the sufficiency of the order specifying the terms and conditions of access to the SSI in question. Provided, That notwithstanding any other provision of law, the Secretary under clause (a)(2)(A) shall be provided with any information on the performance of the party seeking access to SSI under this section shall be imme-
to the nation: Provided, That notwithstanding the terms and conditions of access, unless upon the written determination that identifies a rational reason why the information must remain SSI; or (B) such information is otherwise exempt from disclosure under applicable law.

Provision of information made by the Secretary under clause (a)(2)(A) shall be provided to the party making a request to release such information to the Committee on Appropriations of the Senate and the House of Representatives as part of the annual reporting requirement pursuant to section 537 of the Department of Homeland Security Appropriations Act, 2006 (Public Law 109-90; 119 Stat. 5888) and (3) Common and extensive examples of the individual categories of SSI cited under 49 CFR 1520(b)(1) through (16) in order to minimize and standardize judgment by covered individuals categories of SSI information cited under 49 CFR 1520.7 in order to have access to the SSI at issue in the case, provided that the overseeing judge determines that the party has submitted to the Secretary or his designee that any action taken by the party under this section is necessary for the conduct of an undercover investigative operation, and the Assistant Secretary for Intelligence and Operations for which a written certification is required for the Secretary of Homeland Security. The proceeds of the liquidation or acquisition of any undercover investigative operation with respect to section 3302 of title 31, United States Code, and (2) sums appropriated for the Secret Service, including unobligated balances available from prior fiscal years, may be used for purchasing property or acquiring leases, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to sections 1341 and 3202 of title 31, United States Code, section 8141 of title 40, United States Code, sections 3732(a) and 3741 of the Revised Statutes of the United States (41 U.S.C. 11(a) and 22), and sections 304(a) and 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a) and 255).

(b) Not later than 120 days after the date of enactment of this Act, the Secretary of Homeland Security shall report to the Committees on Appropriations of the Senate and the House of Representatives on the progress that the Department has made in implementing the requirements of this section and of section 537 of the Department of Homeland Security Appropriations Act, 2006 (Public Law 109-90; 119 Stat. 5888) and (c) Not later than one year from the date of enactment, the Secretary of Homeland Security, or his designee shall be designated as a covered person under 49 CFR Part 1520.7 in order to have access to the SSI at issue in the case, provided that the overseeing judge enters an order that protects the SSI from unauthorized or unnecessary disclosure and specifies the terms and conditions of access, unless upon completion of a criminal history check rational reason why the information must remain SSI; or (B) such information is otherwise exempt from disclosure under applicable law.

The Secretary of Homeland Security shall report to the Committees on Appropriations of the Senate and the House of Representatives on the progress that the Department has made in implementing the requirements of this section and of section 537 of the Department of Homeland Security Appropriations Act, 2006 (Public Law 109-90; 119 Stat. 2008) and (d) That in civil proceedings in the United States District Courts, where a party seeking access to SSI demonstrates that the party has a substantial need of relevant SSI in the preparation of the party’s case and that the party is unable without undue hardship to obtain the substantial equivalent of such information by other means, the party or party’s counsel shall be designated as a covered person under 49 CFR Part 1520.7 in order to have access to the SSI at issue in the case, provided that the overseeing judge enters an order that protects the SSI from unauthorized or unnecessary disclosure and specifies the terms and conditions of access, unless upon completion of a criminal history check rational reason why the information must remain SSI; or (B) such information is otherwise exempt from disclosure under applicable law.

SEC. 527. RECUSION. Of the unobligated balances from prior year appropriations made available for Science and Technology, $125,000,000 from “Research, Development, Ac-

Application of this Act may be used to enforce section 4025(1)

of the United States Code, section 648 of title 18, and section 3302 of title 31, United States Code; and (4) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31, United States Code.

(c) DEPOSIT OF PROCEEDS IN TREASURY.—As soon as practicable after the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under paragraphs (3) and (4) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

(d) REPORTING AND DEPOSIT OF PROCEEDS UPON DISPOSITION OF CERTAIN BUSINESS ENTI-

ties.—If a corporation or business entity established or acquired as part of an undercover investigative operation under paragraph (2) of subsection (a) with a net value of over $50,000,000 is to be liquidated, sold, or otherwise disposed of, the Secret Service, as much in advance as the Director or his designee desirous, shall report the circumstance to the Secretary of Homeland Security. The proceeds of the liquidation, sale, or other disposition as net proceeds are netted, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(e) FINANCIAL AUDITS AND REPORTS.—(1) Secrecy privileges. The Secret Service shall maintain detailed financial audits of closed undercover investigative operations for which a written certification

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SEC. 531. Within 45 days after the close of each month, the Chief Financial Officer of the Department of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a statement of the budget and staffing report that includes total obligations and on-board versus funded full-time equivalent staffing levels.

(a) UNITED STATES SECRET SERVICE USE OF PROCEEDS DERIVED FROM CRIMINAL INVESTIGATIONS.—During fiscal year 2007, with respect to any undercover investigative operation of the United States Secret Service (hereafter re-

ferred to in this section as the “Secret Service”) that is necessary for the detection and prosecution of crimes against the United States, the Secretary of Homeland Security, the proceeds of the liquidation or acquisition of any undercover investigative operation, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to sections 1341 and 3202 of title 31, United States Code, section 8141 of title 40, United States Code, sections 3732(a) and 3741 of the Revised Statutes of the United States (41 U.S.C. 11(a) and 22), and sections 304(a) and 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a) and 255)
was made pursuant to subsection (b) on a quarterly basis and shall report the results of the audits in writing to the Secretary of Homeland Security.

SEC. 533. The Director of the Domestic Nuclear Detection Office shall operate extramural and intramural research, development, demonstration, testing and evaluation programs so as to distribute funding through grants, cooperative agreements and contracts.

SEC. 534. Notwithstanding any other provision of law, the Secretary of Homeland Security shall consider the Hancock County Port and Harbor Commission in Mississippi eligible under the Federal Emergency Management Agency Public Assistance Program for all costs incurred for dredging from navigation channel in Little Lake, Louisiana, sediment deposited as a result of Hurricane George in 1998. Provided, That the appropriate Federal share shall apply to approval of this project.

SEC. 535. None of the funds made available in this Act for United States Customs and Border Protection may be used to prevent an individual not in the business of importing a prescription drug (as defined in section 701 of the Federal Food, Drug, and Cosmetic Act) from importing a prescription drug from Canada that complies with the Federal Food, Drug, and Cosmetic Act, unless the Secretary determines that the use of such funds will result in the non-compliance with the conditions of section 211 of the Act.

SEC. 536. The Department of Homeland Security shall, in approving standards for State and local emergency preparedness operational plans under section 623(b)(1) of the Robert T. Stafford Disaster and Emergency Assistance Act (42 U.S.C. 5196(b)(3), account for the needs of individuals with household pets and service animals (as defined in section 701(b)(3) of the Federal Food, Drug, and Cosmetic Act) from importing a prescription drug from Canada that complies with the Federal Food, Drug, and Cosmetic Act, unless the Secretary determines that the use of such funds will result in the non-compliance with the conditions of section 211 of the Act.

SEC. 537. RESCISSION. From the un obligated balances from prior year appropriations made available for Transportation Security Administration “Aviation Security” and “Headquarters Administration,” $4,776,000 are rescinded.

SEC. 538. RESCISSION. From the un obligated balances from prior year appropriations made available for Transportation Security Administration “Aviation Security,” $61,936,000 are rescinded.

SEC. 539. RESCISSION. From the unexpended balances of the United States Coast Guard “Ac quisition, Construction, and Improvements” account specifically identified in the Joint Explanatory Statement (House Report 109-241) accompanying the Department of Homeland Security Act, 2006 (Pub. L. 109-295) for the development of the Offshore Patrol Cutter, $20,000,000 are rescinded.


SEC. 541. Notwithstanding the requirements of section 404(b)(2)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Army Corps of Engineers may use Lot 19, 20, 21, 22, 23, 24, 25, 26, 27, and Lot 8, Block 5 of the Meadowview Acres Addi tion in Augusta, Kansas, for building portions of the flood-control levee.

SEC. 542. Notwithstanding any time limitation established for a grant awarded under title I, chapter 6, Public Law 106–31, in the item relating to Federal Emergency Management Agen cy, the City of Cuero, Texas, may use funds received under such grant program until September 30, 2007.

SEC. 543. None of the funds made available by this Act shall be used in contravention of the Federal buildings performance and reporting re quirement established under paragraph 2302 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.), or subtitle A of title I of the Energy Policy Act of 2005 (in cluding the amendments made thereby).


SEC. 545. None of the funds made available in this Act may be used in contravention of section 103 of the Energy Policy Act of 1992 (42 U.S.C. 13212).

SEC. 546. Section 7208(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 4 U.S.C. 1185 note) is amended by striking from “(1) DEVELOPMENT OF PLAN—The Secretary through “7208(b)(1)” and inserting the following:

“(1) DEVELOPMENT OF PLAN AND IMPLEMENTATION—

(1) The Secretary of Homeland Security, in consultation with the Secretary of State, shall develop and implement a plan as expeditiously as possible to require a passport or other document, or combination of documents, deemed by the Secretary of Homeland Security to be sufficient to identify identity and citizenship, for all travel into the United States by United States citizens and by categories of individuals for whom documentation requirements have previously been waived under section 221(d)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(4)(B)), this plan shall be imple mented and implemented after the Secretary of State and the Secretary of Homeland Security make the certifications required in subsection (B), or June 1, 2009, whichever is earlier.

(2) The Secretary of State and the Secretary of Homeland Security shall jointly certify to the Congress and the House of Representatives that the following criteria have been met prior to implementation of section 7208(b)(1)(A)—

(i) the National Institute of Standards and Technology certifies that the Departments of Homeland Security and State have selected a card architecture that meets or exceeds International Organization for Standardization, (ISO) security standards and meets or exceeds best available practices for protection of personal identification documents: Provided, That the National Institute of Standards and Technology shall also assist the Departments of Homeland Security and State to incorporate into the architecture of the card the best available technology to facilitate ease of use of the card: Provided further, That the technology to be used by the United States for the passport card, and any sub stantially similar technologies that may be shared with the governments of Canada and Mexico:

(ii) an agreement has been reached with the United States Postal Service on the fee to be charged individuals for the passport card, and a detailed justification has been submitted to the Committees on Appropriations of the Senate and the House of Representatives:

(iii) an alternative procedure has been developed for groups of children traveling across an international border under adult supervision with parental consent:

(iv) the necessary technological infrastructure to process the passport cards has been installed, and all administrative systems have been properly trained in the use of the new technology:

(v) the passport card has been made available for use by United States citizens through land and sea ports of entry between the United States and Canada, Mexico, the Caribbean and Bermuda; and

(vi) a single implementation date for sea and land borders has been established.

SEC. 547. None of the funds made available in this Act may be used to award any contract for major disaster or emergency assistance activities under the Robert T. Stafford Disaster Relief and Emergency Assistance Act except in accordance with section 307 of such Act (42 U.S.C. 5150).

SEC. 548. None of the funds made available in this Act may be used to reimburse L.B. & B. Associates, Inc. or Opolomark Logistics, Ltd. (or both) for attorneys fees related to pending litigation against Local 30 of the International Union of Operating Engineers.

SEC. 549. Notwithstanding any other provision of law, the acquisition management system of the Transportation Security Administration shall be subject to the provisions of the Small Business Act (15 U.S.C. 631 et seq.).

SEC. 550. (a) No later than six months after the date of enactment of this Act, the Secretary of Homeland Security shall issue interim final regulations establishing risk-based performance standards for security of chemical facilities and requiring vulnerability assessments and the development and implementation of security plans for chemical facilities: Provided, That such regulations shall apply to chemical facilities that, in the discretion of the Secretary, present high levels of risk: Provided further, That such regulations shall permit each such facility, in developing and implementing site security plans, to select layered security measures that, in combination, adequately address the vulnerability assessment and the risk-based performance standards for security for the facility: Provided further, That the Secretary may not disapprove a site security plan submitted under this section based on the presence or absence of a particular security measure, but the Secretary may disapprove a site security plan if the plan fails to satisfy the risk-based performance standards established by this section: Provided further, That the Secretary may approve alternative security programs established by private sector entities, Federal, State, or local authorities, or other applicable laws if the Secretary determines that the requirements of such programs meet the requirements of this section and the interim regulations: Provided further, That the Secretary shall review and approve each vulnerability assessment and site security plan required under this section within 90 days of submittal of the plan by the affected party: Provided further, That the Secretary shall not apply regulations issued pursuant to this section to facilities regulated pursuant to the Maritime Transportation Security Act of 1998 (46 U.S.C. 70101 note) or the Safe Drinking Water Act, Public Law 93–523, as.
amended; Treatment Works as defined in section 212 of the Federal Water Pollution Control Act, Public Law 92–500, as amended; any facility owned or operated by the Department of Defense or the Department of Energy, or any facility subject to regulation by the Nuclear Regulatory Commission.

(b) Interim regulations issued under this section shall be subject to review after 2 years, or such longer or shorter period as the Secretary of Homeland Security, subject to standards established by the Department of Homeland Security and Customs and Border Protection, may determine. Any final regulation promulgated under this section may be modified, amended, or suspended by the Secretary of Homeland Security, and final regulations may be promulgated on the basis of information developed by any government agency.

(c) Any person who uses a tunnel or passage described in subsection (a) on land that the person owns or controls shall be fined under this title and imprisoned for not more than 10 years.

(d) Any person who uses a tunnel or passage described in subsection (a) to unlawfully smuggle an alien, goods, or services into the United States in violation of section 544 of title 18, United States Code, shall be fined under this title and imprisoned for not more than 10 years.

(e) The Secretary of Homeland Security shall provide for increased penalties for persons convicted of offenses described in section 544 of title 18, United States Code, as added by subsection (a).

(f) Nothing in this section shall be construed to supersede, amend, alter, or affect any Federal law that regulates the manufacture, distribution, construction, or control of a tunnel or passage described in subsection (a) or disallow any treatment or disposal of chemical substances or mixtures.

Sec. 551. Construction of border tunnels and passages.

SEC. 554. Border tunnels and passages.

(a) Any person who knowingly constructs or finances the construction of a tunnel or passage described in subsection (a) on land that the person owns or controls shall be fined under this title and imprisoned for not more than 10 years.

(b) Any person who knows or recklessly disregards the construction or use of a tunnel or passage described in subsection (a) on land that the person owns or controls shall be fined under this title and imprisoned for not more than 10 years.

(c) Any person who uses a tunnel or passage described in subsection (a) to unlawfully smuggle an alien, goods, or services into the United States in violation of section 544 of title 18, United States Code, shall be fined under this title and imprisoned for not more than 10 years.

(d) Any person who uses a tunnel or passage described in subsection (a) to unlawfully smuggle an alien, goods, or services into the United States in violation of section 544 of title 18, United States Code, shall be fined under this title and imprisoned for not more than 10 years.

Section 551.

Sec. 553. None of the funds made available by this Act may be used to take an action that would violate Executive Order 13149 (55 Fed. Reg. 24077, June 28, 1990, relating to greening the government fleet of Federal and transportation efficiency).

Sec. 554. (a) The Transportation Security Administration shall require owner and operator of a vessel or foreign air carrier that provides air transportation or intrastate air transportation to submit plans to the Transportation Security Administration as to how such air carrier or participant in the voluntary provision of emergency services program established by section 494A(a) of title 49, United States Code.

(b)(1) Not more than 90 days after the date of enactment of this Act, the Transportation Security Administration shall prepare a report that contains the following:

(1) Procedures that qualified individuals need to follow in order to participate in the program described in subsection (a).

(c) (1) The Transportation Security Administration shall make the report required by paragraph (1) available, by Internet website or other appropriate method, to the following:

(1) the Congress;

(2) The emergency response agency of each State;

(3) The relevant organizations representing individuals to participate in the program.

Sec. 555. Not later than 90 days after the date of enactment of this Act, the Director of the Federal Emergency Management Agency, in consultation with the Director of the National Institute of Standards and Technology, shall submit to the Committees on Appropriations of the Senate and the House of Representatives a report on the.high-risk earthquake regions in the United States as determined by the United States Geological Survey.

Sec. 556. Not later than six months after the date of enactment of this Act, the Secretary of Homeland Security shall establish revised procedures for expediently clearing individuals whose names have been mistakenly placed on a terrorist database list or who have names identical or similar to individuals on a terrorist database list. The Secretary shall advise Congress of the procedures established.

Sec. 557. Title VII of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5201) is amended by adding at the end the following:

SEC. 706. FIREARMS POLICIES.

FRACTION OF PROHIBITION ON MANUFACTURE OF FIREARMS—No officer or employee of the United States (including any member of the uniformed services, or person operating pursuant to or under color of Federal law, or receiving Federal funds, or under control of any Federal official, or providing services to such an officer, employee, or other person, while acting in support of relief from a major disaster or emergency, may:

(1) temporarily or permanently seize, or authorize seizure of, any firearm the possession of which under Federal, State, or local law would be otherwise prohibited by Federal, State, or local law, other than for forfeiture in compliance with Federal law or as evidence in a criminal investigation;

(2) require registration of any firearm for which registration is not required by Federal, State, or local law;

(3) by a law enforcement officer, or other person, while acting in support of relief from a major disaster or emergency, may:

(a) temporarily or permanently seize, or authorize seizure of, any firearm the possession of which under Federal, State, or local law would be otherwise prohibited by Federal, State, or local law, other than for forfeiture in compliance with Federal law or as evidence in a criminal investigation;

(b) require registration of any firearm for which registration is not required by Federal, State, or local law;
in support of relief from the major disaster or emergency.

(16) the term "emergency management agency" means the Administrator of the Federal Emergency Management Agency; and

(17) the term "emergencies" means the following:

(a) by striking section 510 (relating to urban and other high risk area communications capabilities); and

(b) by redesigning sections 504, 505, 506, and 508 as sections 517, 518, 519, and 520, respectively;

(c) by redesigning section 510 (relating to procurement of security countermeasures for the strategic national stockpile) as section 521;

(d) by redesigning section 502 as section 504;

(e) by redesigning section 506 as section 502 and transferring that section to before section 504, as redesignated by paragraph (8) of this section;

(f) by inserting before section 502, as redesignated and transferred by paragraph (9) of this section, the following:

SEC. 501. DEFINITIONS.

(a) the term "emergency management agency" means the Federal Emergency Management Agency;

(b) by redesigning section 502 as section 504; and

(c) by redesigning section 506 as section 502 and transferring that section to before section 504, as redesignated by paragraph (8) of this section;

(d) by inserting before section 502, as redesignated and transferred by paragraph (9) of this section, the following:

SEC. 501. DEFINITIONS.

(a) the term "emergency management agency" means the Federal Emergency Management Agency;

(b) by redesigning section 502 as section 504; and

(c) by redesigning section 506 as section 502 and transferring that section to before section 504, as redesignated by paragraph (8) of this section;

(d) by inserting before section 502, as redesignated and transferred by paragraph (9) of this section, the following:

SEC. 501. DEFINITIONS.

(a) the term "emergency management agency" means the Federal Emergency Management Agency;

(b) by redesigning section 502 as section 504; and

(c) by redesigning section 506 as section 502 and transferring that section to before section 504, as redesignated by paragraph (8) of this section;

(d) by inserting before section 502, as redesignated and transferred by paragraph (9) of this section, the following:

SEC. 501. DEFINITIONS.

(a) the term "emergency management agency" means the Federal Emergency Management Agency;

(b) by redesigning section 502 as section 504; and

(c) by redesigning section 506 as section 502 and transferring that section to before section 504, as redesignated by paragraph (8) of this section;

(d) by inserting before section 502, as redesignated and transferred by paragraph (9) of this section, the following:

SEC. 501. DEFINITIONS.

(a) the term "emergency management agency" means the Federal Emergency Management Agency;

(b) by redesigning section 502 as section 504; and

(c) by redesigning section 506 as section 502 and transferring that section to before section 504, as redesignated by paragraph (8) of this section;

(d) by inserting before section 502, as redesignated and transferred by paragraph (9) of this section, the following:

SEC. 501. DEFINITIONS.

(a) the term "emergency management agency" means the Federal Emergency Management Agency;

(b) by redesigning section 502 as section 504; and

(c) by redesigning section 506 as section 502 and transferring that section to before section 504, as redesignated by paragraph (8) of this section;

(d) by inserting before section 502, as redesignated and transferred by paragraph (9) of this section, the following:

SEC. 501. DEFINITIONS.

(a) the term "emergency management agency" means the Federal Emergency Management Agency;

(b) by redesigning section 502 as section 504; and

(c) by redesigning section 506 as section 502 and transferring that section to before section 504, as redesignated by paragraph (8) of this section;

(d) by inserting before section 502, as redesignated and transferred by paragraph (9) of this section, the following:

SEC. 501. DEFINITIONS.

(a) the term "emergency management agency" means the Federal Emergency Management Agency;

(b) by redesigning section 502 as section 504; and

(c) by redesigning section 506 as section 502 and transferring that section to before section 504, as redesignated by paragraph (8) of this section;

(d) by inserting before section 502, as redesignated and transferred by paragraph (9) of this section, the following:

SEC. 501. DEFINITIONS.

(a) the term "emergency management agency" means the Federal Emergency Management Agency;

(b) by redesigning section 502 as section 504; and

(c) by redesigning section 506 as section 502 and transferring that section to before section 504, as redesignated by paragraph (8) of this section;

(d) by inserting before section 502, as redesignated and transferred by paragraph (9) of this section, the following:

SEC. 501. DEFINITIONS.

(a) the term "emergency management agency" means the Federal Emergency Management Agency;

(b) by redesigning section 502 as section 504; and

(c) by redesigning section 506 as section 502 and transferring that section to before section 504, as redesignated by paragraph (8) of this section;

(d) by inserting before section 502, as redesignated and transferred by paragraph (9) of this section, the following:

SEC. 501. DEFINITIONS.

(a) the term "emergency management agency" means the Federal Emergency Management Agency;

(b) by redesigning section 502 as section 504; and

(c) by redesigning section 506 as section 502 and transferring that section to before section 504, as redesignated by paragraph (8) of this section;

(d) by inserting before section 502, as redesignated and transferred by paragraph (9) of this section, the following:

SEC. 501. DEFINITIONS.

(a) the term "emergency management agency" means the Federal Emergency Management Agency;

(b) by redesigning section 502 as section 504; and

(c) by redesigning section 506 as section 502 and transferring that section to before section 504, as redesignated by paragraph (8) of this section;

(d) by inserting before section 502, as redesignated and transferred by paragraph (9) of this section, the following:

SEC. 501. DEFINITIONS.

(a) the term "emergency management agency" means the Federal Emergency Management Agency;

(b) by redesigning section 502 as section 504; and

(c) by redesigning section 506 as section 502 and transferring that section to before section 504, as redesignated by paragraph (8) of this section;

(d) by inserting before section 502, as redesignated and transferred by paragraph (9) of this section, the following:

SEC. 501. DEFINITIONS.

(a) the term "emergency management agency" means the Federal Emergency Management Agency;

(b) by redesigning section 502 as section 504; and

(c) by redesigning section 506 as section 502 and transferring that section to before section 504, as redesignated by paragraph (8) of this section;

(d) by inserting before section 502, as redesignated and transferred by paragraph (9) of this section, the following:

SEC. 501. DEFINITIONS.

(a) the term "emergency management agency" means the Federal Emergency Management Agency;

(b) by redesigning section 502 as section 504; and

(c) by redesigning section 506 as section 502 and transferring that section to before section 504, as redesignated by paragraph (8) of this section;

(d) by inserting before section 502, as redesignated and transferred by paragraph (9) of this section, the following:

SEC. 501. DEFINITIONS.

(a) the term "emergency management agency" means the Federal Emergency Management Agency;

(b) by redesigning section 502 as section 504; and

(c) by redesigning section 506 as section 502 and transferring that section to before section 504, as redesignated by paragraph (8) of this section;

(d) by inserting before section 502, as redesignated and transferred by paragraph (9) of this section, the following:

SEC. 501. DEFINITIONS.

(a) the term "emergency management agency" means the Federal Emergency Management Agency;
Disaster Relief and Emergency Assistance Act (42 U.S.C. 5143);
(5) the term ‘interoperable’ has the meaning given the term ‘interoperable communications’ under section 502(a)(6) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(g)(1));
(6) the term ‘National Incident Management System’ means a system to enable effective, efficient, and collaborative incident management;
(7) the term ‘National Response Plan’ means the National Response Plan or any successor plan promulgated under section 502(a)(6);
(8) the term ‘Regional Administrator’ means a Regional Administrator appointed under section 503(b);
(9) the term ‘Regional Office’ means a Regional Office established under section 507;
(10) the term ‘surge capacity’ means the ability to substantially increase the provision of search and rescue capabilities, food, water, medicine, shelter and housing, medical care, evacuation capacity, staffing (including disaster assistance employees), and other resources necessary to save lives and protect property during a catastrophic incident; and
(11) the term ‘tribal government’ means the governmental body of any entity described in section 2010(c).

(1) by inserting after section 502, as redesignated and transferred by paragraph (9) of this section,

**SEC. 503. FEDERAL EMERGENCY MANAGEMENT AGENCY.**

(a) In General.—There is in the Department of Homeland Security a Federal Emergency Management Agency, headed by an Administrator.

(b) MISSION.—

(1) PRIMARY MISSION.—The primary mission of the Agency is to reduce the loss of life and property and protect the Nation from all hazards, including natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents;

(2) SPECIFIC ACTIVITIES.—In support of the primary mission of the Agency, the Administrator shall—

(A) lead the Nation’s efforts to prepare for, protect against, respond to, recover from, and mitigate against the risk of natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents;

(B) partner with State, local, and tribal governments and emergency response providers, with other Federal agencies, with the private sector, with international governmental organizations, and with the private sector to build a national system of emergency management that can effectively and efficiently utilize the full measure of the Nation’s resources to respond to natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents;

(C) develop a Federal response capability that, when necessary and appropriate, can act effectively and rapidly to deliver assistance essential to saving lives or protecting or preserving property, including through providing emergency equipment, personnel, and interoperable communications capabilities and resources to save lives and protect property during a catastrophic incident; and

(D) integrate the Agency’s emergency preparedness, protection, response, recovery, and mitigation responsibilities to confront effectively the challenges of a natural disaster, act of terrorism, or other man-made disaster;

(E) develop and maintain robust Regional Offices that will work with State, local, and tribal governments, emergency response providers, and other appropriate entities to identify and address emerging vulnerabilities; and

(F) under the leadership of the Secretary, coordinate with the Commandant of the Coast Guard, the Director of Customs and Border Protection, the Director of the Immigration and Customs Enforcement, the National Operations Center, and other agencies and offices in the Department to take full advantage of the substantial range of resources in the Department;

(G) provide funding, training, exercises, technical assistance, planning, and other assistance to states, local, and tribal governments, and the Nation’s capability (including communications capabilities), necessary to respond to a natural disaster, act of terrorism, or other man-made disaster;

(H) develop and coordinate the implementation of a risk-based, all-hazards strategy for preparedness that builds those common capabilities necessary to respond to natural disasters, acts of terrorism, and other man-made disasters while also building the unique capabilities necessary to respond to specific types of incidents that pose the greatest threats to our Nation;

(I) ADMINISTRATOR.—

(1) IN GENERAL.—The Administrator shall be appointed by the President, by and with the advice and consent of the Senate.

(2) QUALIFICATIONS.—The Administrator shall be appointed from among individuals who—

(A) have demonstrated ability in and knowledge of emergency management and homeland security, and

(B) have not less than 5 years of executive leadership and management experience in the public or private sector.

(3) REPORTING.—The Administrator shall report through any other official of the Department.

(4) PRINCIPAL ADVISOR ON EMERGENCY MANAGEMENT.—The Administrator is the principal advisor to the President, the Homeland Security Council, and the Secretary for all matters relating to emergency management in the United States.

(5) ADVICE AND RECOMMENDATIONS.—

(A) The Administrator shall advise with respect to any matter to the President, the Homeland Security Council, or the Secretary, the Administrator shall, as the Administrator considers appropriate, inform the President, the Homeland Security Council, or the Secretary, as the case may be, of the range of emergency preparedness, protection, response, recovery, and mitigation options with respect to that matter.

(B) ADVISE ON REQUEST.—The Administrator, as the principal advisor on emergency management, shall provide advice to the President, the Homeland Security Council, or the Secretary on a particular matter when the President, the Homeland Security Council, or the Secretary requests such advice.

(6) RECOMMENDATIONS TO CONGRESS.—After informing the Secretary, the Administrator may make such recommendations to Congress relating to emergency management as the Administrator considers appropriate.

(7) CABINET STATUS.—

(A) IN GENERAL.—The President may designate the Administrator to serve as a member of the President’s Council of Cabinet Officers in the case of a natural disaster, acts of terrorism, or other man-made disasters.

(B) RETENTION OF AUTHORITY.—Nothing in this paragraph shall be construed as affecting the authority of the Secretary under this Act.

(8) IN GENERAL.—The Administrator shall provide Federal leadership necessary to prepare for, protect against, respond to, recover from, or mitigate against a natural disaster, act of terrorism, or other man-made disaster, including—

(A) in the section heading, by inserting ‘AUTHORITY AND’ before ‘RESPONSIBILITIES’;

(B) by striking the matter preceding paragraph (1) and inserting the following:

(a) IN GENERAL.—The Administrator shall provide Federal leadership necessary to prepare for, protect against, respond to, recover from, or mitigate against a natural disaster, act of terrorism, or other man-made disaster, including—

(1) in paragraph (6), by striking ‘and’ at the end,

(2) by striking paragraph (7) and inserting the following:

(8) helping ensure the acquisition of operable and interoperable communications capabilities by Federal, State, local, and tribal governments and emergency response providers;

(9) carrying out the functions under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) and carrying out all functions and duties of the Federal Emergency Management Agency under that Act;

(10) carrying out the mission of the Agency to reduce the loss of life and property and protect the Nation from all hazards by leading and supporting the Nation in a risk-based, comprehensive emergency management system of—

(A) mitigation, by planning, training, and building the emergency management profession to prepare effectively for, mitigate against, respond to, and recover from any hazard;

(B) preparedness, by planning, training, and building the emergency management profession to prepare effectively for, mitigate against, respond to, and recover from any hazard;

(C) response, by conducting emergency operations to save lives and property through positioning emergency equipment, personnel, and supplies, through evacuating potential victims, through providing food, water, shelter, and medical care to those individuals, through restoring critical public services; and

(D) recovery, by rebuilding communities so individuals, businesses, and governments can function, and providing the means for individuals, businesses, and governments to return to a sense of normal life, and protect against future hazards;

(11) increasing efficiencies, by coordinating efforts relating to preparedness, protection, response, recovery, and mitigation; and

(12) supervising grant programs administered by the Agency;

(c) ADMINISTERING AND ENSURING THE IMPLEMENTATION OF THE NATIONAL RESPONSE PLAN, INCLUDING COORDINATING AND ENSURING THE READINESS OF EACH EMERGENCY SUPPORT FUNCTION UNDER THE NATIONAL RESPONSE PLAN;

(d) coordinating with the National Advisory Council established under section 508;

(e) preparing and implementing the plans and programs of the Federal Government for—

(A) continuity of operations; 

(B) continuity of government; and

(C) continuity of plans;

(f) assisting in, or coordinating, to the extent practicable, overlapping planning and reporting requirements applicable to State, local, and tribal governments and the private sector;

(g) maintaining and operating within the Agency the National Response Coordination Center or its successor;

(h) developing a national emergency management system that is capable of preparing for, protecting against, responding to, recovering from, and mitigating against catastrophic incidents;

(i) assisting the President in carrying out the functions under the national preparedness goal and the national preparedness system and all functions and duties of the Administrator under the national preparedness system;

(j) carrying out all authorities of the Federal Emergency Management Agency and the Directorate of Preparedness of the Department as transferred under section 505; and

(k) otherwise carrying out the mission of the Agency as described in section 503(b).

(b) ALL-HAZARDS APPROACH.—In carrying out the responsibilities under this section, the Administrator shall coordinate the implementation of a risk-based, all-hazards strategy that builds those common capabilities necessary to prepare for, protect against, respond to, recover from, or mitigate against natural disasters, acts of terrorism, or other man-made disasters, while also building the unique capabilities necessary to prepare for, protect against, respond...
to recover from, or mitigate against the risks of specific types of incidents that pose the greatest risk to the Nation.”; and

(3) by inserting after section 504, as redesignated by paragraph (8) of this section, the following:

SEC. 505. FUNCTIONS TRANSFERRED.

(a) IN GENERAL.—Except as provided in subsection (b), there are transferred to the Agency the following:

(1) All functions of the Federal Emergency Management Agency, including existing responsibili-
ties, programs, grants, and authorities, and continuity of operations and continuity of govern-
ment plans and programs as constituted on June 1, 2006, including all of its personnel, assets, com-
ponents, and authorities, and liabilities, and including the functions of the Under Secretary for Federal Emergency Man-
agement relating thereto.

(2) The Directorate of Preparedness, as con-
stituted on June 1, 2006, including all of its func-
tions, personnel, assets, components, au-
thorities, grant programs, and liabilities, and in-
cluding the functions of the Under Secretary for Preparedness relating thereto.

(b) EXCEPTIONS.—The following within the Pre-
paredness Directorate shall not be trans-
ferred:

(1) The Office of Infrastructure Protection.

(2) The National Communications System.

(3) The Office of Public Security.

(4) The Office of the Chief Medical Officer.

(5) The functions, personnel, assets, com-
ponents, authorities, and liabilities of each compo-
ponent described under paragraphs (1) through

SEC. 506. PRESERVING THE FEDERAL EMER-
GENCY MANAGEMENT AGENCY.

(a) DISTINCT ENTITY.—The Agency shall be
maintained as a distinct entity within the De-
partment.

(b) REORGANIZATION.—Section 872 shall not apply to the Agency, including any function or organiza-
tional unit of the Agency.

(c) PROHIBITION ON CHANGES TO MISSIONS.—

SEC. 507. REGIONAL OFFICES.

(a) IN GENERAL.—There are in the Agency 10 reg-
ional offices, as identified by the Adminis-
trator.

(b) MANAGEMENT OF REGIONAL OFFICES.—

(1) REGIONAL ADMINISTRATOR.—Each Re-

on the responsibility for federal emergency preparedness activities of the agency that employs such individual.

(3) LOCATION OF MEMBERS.—The members of each Regional Office strike team, including re-

presentatives from agencies other than the De-
partment, shall be based primarily within the region that corresponds to that strike team.

(4) COORDINATION.—Each Regional Office strike team shall coordinate the training and ex-

ercises of that strike team with the State, local, and tribal governments and private sector and non-
governmental entities which the strike team shall support when a natural disaster, act of terrorism, or other man-made disaster occurs.

(b) ESTABLISHMENT.—Each Region-

al Office strike team shall be trained on a regu-
lar basis and equipped and staffed to be well

preparation for natural disasters, acts of terrorism, and other man-made disasters, in-
cluding catastrophic incidents.

(6) AUTHORIZATIONS.—If the Administrator
determines that statutory authority is inadequate for the preparedness and deployment of individ-
uals in strike teams under this subsection, the Administrator shall report to Congress regarding the additional statutory authorities that the Ad-

ministrator determines are necessary.

SEC. 508. NATIONAL ADVISORY COUNCIL.

(a) ESTABLISHMENT.—Not later than 60 days
after the date of enactment of the Post-Katrina Emergency Management Reform Act of 2006, the Secretary shall establish an advisory body under section 871(a) to ensure effective and on-
going coordination of Federal preparedness, protec-
tion, response, recovery, and mitigation for any natural disaster, act of terrorism, or other man-

made disaster, to be known as the National Advisory Council.

(b) RESPONSIBILITIES.—The National Ad-
visory Council shall provide advice and guidance on all aspects of emergency management. The Na-

tional Advisory Council shall incorporate State,
local, and tribal government and private sector input in the development and revision of the national preparedness goal, the national preparedness system, the National Incident Management System, the National Response Plan, and other related plans and strategies.

(c) MEMBERSHIP.—

(1) OBLIGATION.—The members of the National Advisory Council shall be appointed by the Administrator, and shall, to the extent practicable, represent a geographic (including urban and rural) and substantive cross section of officials, emergency managers, and emergency response providers from State, local, and tribal governments, the private sector, and nongovernmental organizations, including as appropriate—

(A) members selected from the emergency management field and emergency response providers, including fire service, law enforcement, hazardous materials response, emergency medical services, and emergency management personnel, or organizations representing such individuals;

(B) health scientists, emergency and impa- tient medical providers, and public health professionals;

(C) experts from Federal, State, local, and tribal governments, and the private sector, representing standards-setting and accrediting organizations, representatives from the voluntary consensus codes and standards development community, particularly those with expertise in the emergency preparedness and response field;

(D) State, local, and tribal government officials with expertise in preparedness, protection, response, recovery, and mitigation, including Administrators in General;

(E) elected State, local, and tribal government executives;

(F) individuals in public and private sector infrastructure protection, cybersecurity, and communications;

(G) representatives of individuals with disabilities to ensure coverage of special needs; and

(H) such other individuals as the Administrator determines to be appropriate.

(2) COORDINATION WITH THE DEPARTMENTS OF HEALTH AND HUMAN SERVICES AND TRANSPORTATION.—In the selection of members of the National Advisory Council who are health or emergency management personnel, representatives of the voluntary consensus codes and standards development community, particularly those with expertise in the emergency preparedness and response field, the Secretary of Health and Human Services and the Secretary of Transportation shall—

(3) EX OFFICIO MEMBERS.—The Administrator shall designate 1 or more officers of the Federal Government to serve as ex officio members of the National Advisory Council.

(4) TERMS OF OFFICE.—

(A) IN GENERAL.—Except as provided in sub- paragraph (B), the term of office of each member of the National Advisory Council shall be 3 years.

(B) INITIAL APPOINTMENTS.—Of the members initially appointed to the National Advisory Council—

(i) one-third shall be appointed for a term of 1 year; and

(ii) one-third shall be appointed for a term of 2 years.

(d) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—

(1) IN GENERAL.—Notwithstanding section 871(a) and subject to paragraph (2), the Federal Advisory Committee Act (5 U.S.C. App.), including subsections (a), (b), and (d) of section 10 of such Act, and section 552(c) of title 5, United States Code, shall apply to the National Advisory Council.

(2) EXEMPTION.—Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the National Advisory Council.

SEC. 509. NATIONAL INTEGRATION CENTER.

(a) IN GENERAL.—There is established in the Agency a National Integration Center.

(b) RESPONSIBILITIES.—

(1) IN GENERAL.—The Administrator, through the National Integration Center, and in consultation with other Federal departments and agencies, the National Advisory Council, shall ensure ongoing management and maintenance of the National Incident Management System, the National Response Plan, and any successor to such directive.

(2) SPECIFIC RESPONSIBILITIES.—The National Integration Center shall periodically review and, as appropriate, the National Incident Management System and the National Response Plan, including—

(A) establishing, in consultation with the Director of the Corporation for National and Community Service, a process to better use volunteers and donations;

(B) improving the use of Federal, State, local, and tribal resources and ensuring the effective use of emergency response providers at emergency scenes; and

(C) revising the Catastrophic Incident Annex, finalizing and releasing the Catastrophic Incident Supplement to the National Response Plan, and ensuring that both effectively address response requirements in the event of a catastrophic incident.

(3) INCIDENT MANAGEMENT.—

(A) NATIONAL RESPONSE PLAN.—The Secretary, acting through the Administrator, shall ensure that the National Response Plan provides for a clear chain of command to lead and coordinate the Federal response to any natural disaster, act of terrorism, or other man-made disaster.

(B) ADMINISTRATOR.—The chain of the command specified in the National Response Plan shall—

(i) provide for a role for the Administrator consistent with the role of the Administrator as the principal emergency management advisor to the President, the Homeland Security Council, and the Secretary under section 503(c)(4) and the responsibility of the Administrator under the Post-Katrina Emergency Management Reform Act of 2006, and the amendments made by that Act, relating to natural disasters, acts of terrorism, and other man-made disasters; and

(ii) provide for a role for the Federal Coordinating Officer consistent with the responsibilities under section 302(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5143(b)).

(B) ADMINISTRATOR.—(1) PRINCIPAL FEDERAL OFFICIAL.—The Principal Federal Official (or the successor thereto) shall not—

(A) direct or replace the incident command structure established at the incident; or

(B) have directive authority over the Senior Federal Law Enforcement Official, Federal Coordinating Officer, or other Federal and State and local officials.

SEC. 510. CREDENTIALING AND TYPING.


SEC. 510. CREDENTIALING AND TYPING.

(2) PRIORITY FOR CREDENTIALING.—(A) The Federal Law Enforcement Official, Federal Law Enforcement Official, Federal Coordinating Officer, or other Federal and State and local officials.

(2) PLAN DEVELOPMENT.—In developing the mass evacuation plans authorized under subsection (a), each State, local, or tribal government shall, to the maximum extent practicable—

(A) establish incident command and decision making processes;

(B) establish that State, local, and tribal government plans, including evacuation routes, are coordinated and integrated;

(C) identify primary and alternative evacuation routes and methods to increase evacuation capacities along such routes such as conversion of two-way traffic to one-way evacuation routes;

(D) establish programs for the development and maintenance of mass evacuation plans under subsection (b) in the event of a natural disaster, act of terrorism, or other man-made disaster.

SEC. 511. THE NATIONAL INFRASTRUCTURE SIMULATION AND ANALYSIS CENTER.

(3) DEFINITION.—In this section, the term "National Infrastructure Simulation and Analysis Center" means the National Infrastructure Simulation and Analysis Center established under section 1016(d) of the USA PATRIOT Act (42 U.S.C. 1595c(d)).

(b) AUTHORITY.—(1) IN GENERAL.—There is in the Department the National Infrastructure Simulation and Analysis Center which shall serve as a source of national expertise to address critical infrastructure protection and continuity through support for activities related to—

(A) counterterrorism, threat assessment, and risk mitigation; and

(B) a natural disaster, act of terrorism, or other man-made disaster.

(b) INFRASTRUCTURE MODELING.—

(1) PARTICULAR SUPPORT.—The support provided under paragraph (1) shall be to model, simulate, and analyze the systems and assets comprising the critical infrastructure, in order to enhance preparedness, protection, response, recovery, and mitigation activities.

(2) RELATIONSHIP WITH OTHER AGENCIES.—Each Federal agency or department with critical infrastructure responsibilities under Homeland Security Presidential Directive 7, or any successor to such directive, shall establish a formal relationship, including an agreement regarding information sharing, between the elements of such agency or department and the National Infrastructure Simulation and Analysis Center, through the Department.

(3) PURPOSE.—

(1) IN GENERAL.—The purpose of the relationship under subparagraph (B) shall be to permit each Federal agency or department described in subparagraph (B) to take full advantage of the capabilities of the National Infrastructure Simulation and Analysis Center (particularly vulnerability and capacity analysis), consistent with its work load capacity and priorities, for real-time response to reported and projected natural disasters, acts of terrorism, and other man-made disasters.

(2) RECIPIENT OF CERTAIN SUPPORT.—Modeling, simulation, and analysis provided under this subsection shall be provided to relevant Federal agencies and departments, including Federal agencies and departments with critical infrastructure responsibilities under Homeland Security Presidential Directive 7, or any successor thereto.

SEC. 512. EVACUATION PLANS AND EXERCISES.

(a) IN GENERAL.—Notwithstanding any other provision of law, and subject to subsection (d), grants made to States or local or tribal govern- ment by the Department through the State Homeland Security Grant Program or the Urban Area Security Initiative may be used to—

(1) establish programs for the development and maintenance of mass evacuation plans under subsection (b) in the event of a natural disaster, act of terrorism, or other man-made disaster.

(2) prepare for the execution of such plans, including the development of evacuation routes and the purchase and stockpiling of necessary supplies and shelters; and

(3) conduct exercises of such plans.

(b) PLAN DEVELOPMENT.—In developing the mass evacuation plans authorized under subsection (a), each State, local, or tribal government shall, to the maximum extent practicable—

(1) establish incident command and decision making processes;

(2) ensure that State, local, and tribal government plans, including evacuation routes, are coordinated and integrated;

(3) identify primary and alternative evacuation routes and methods to increase evacuation capacities along such routes such as conversion of two-way traffic to one-way evacuation routes;

(4) identify evacuation transportation modes and capabilities, including the use of mass and public transit capabilities, and coordinating and integrating evacuation plans for all populations including those with special needs; and

(5) develop procedures for informing the public of evacuation plans before and during an evacuation, including individuals—

(A) with disabilities or other special needs;
“(a) IN GENERAL.—The Administrator may establish any guidelines, standards, or requirements to coordinate with this section and to ensure effective mass evacuation planning for State, local, and tribal areas.

(2) REQUESTED ASSISTANCE.—The Administrator shall make such assistance available upon the request of a State, local, or tribal government to assist hospitals, nursing homes, and other institutions that house individuals with special needs for assistance following a natural disaster.

(3) CYBERSECURITY AND COMMUNICATIONS.—There is in the Department an Assistant Secretary for Cybersecurity and Communications.

(4) UNITED STATES FIRE ADMINISTRATION.—The Administrator of the United States Fire Administration shall have a rank equivalent to an assistant secretary of the Department.

(5) CHIEF MEDICAL OFFICER.—In this section, the term ‘situational awareness’ means information gathered from a variety of sources that, when communicated to operations and decision makers, can form the basis for incident management decision-making.

(6) CHIEF MEDICAL OFFICER.—The National Operations Center is the principal operations center for the Department and shall—

(7) Any other duties as assigned by the Administrator.

(8) UNITED STATES FIRE ADMINISTRATION.—The Administrator of the United States Fire Administration shall have a rank equivalent to an assistant secretary of the Department.

(9) NATIONAL OPERATIONS CENTER.—

(10) CHIEF MEDICAL OFFICER.—There is in the Department a Chief Medical Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(11) QUALIFICATIONS.—The individual appointed as Chief Medical Officer shall possess a demonstrated ability in and knowledge of medicine and public health.

(12) RESPONSIBILITIES.—The Chief Medical Officer shall have the primary responsibility within the Department for medical issues related to natural disasters, terrorism, and other man-made disasters, including—

(1) providing the President with the Department’s primary point of contact with the Department of Health and Human Services, the Department of Transportation, the Department of Veterans Affairs, and other Federal departments or agencies, on medical and public health issues;

(2) coordinating the biodefense activities of the Department;

(3) ensuring internal and external coordination of all medical preparedness and response activities of the Department, including training, exercises, and equipment support;

(4) serving as the Department’s primary point of contact with the Department of Agriculture, the Department of Defense, the Department of Health and Human Services, the Department of Transportation, the Department of Veterans Affairs, and other Federal departments or agencies, on medical and public health issues;

(5) establishing the Department’s primary point of contact for State, local, and tribal governments, the medical community, and others within and outside the Department, with respect to medical and public health matters;

(6) discharging, in coordination with the Under Secretary for Science and Technology, the responsibilities of the Department related to Project Bioshield; and

(7) performing such other duties relating to such responsibilities as the Secretary may require.

(a) EXECUTIVE SCHEDULE.—

(1) ADMINISTRATOR.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

‘‘Administrator of the Federal Emergency Management Agency.’’

(2) DEPUTY ADMINISTRATORS.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

‘‘Deputy Administrators, Federal Emergency Management Agency.’’

(3) CHIEF MEDICAL OFFICER.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

‘‘Chief Medical Officer, Department of Homeland Security.’’

(b) DEPARTMENT AND AGENCY OFFICIALS.—Section 102(a) of the Homeland Security Act of 2002 (6 U.S.C. 113(a)) is amended—

(1) by striking paragraph (5) and inserting the following:

‘‘(5) An Administrator of the Federal Emergency Management Agency.’’

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively.

(a) DEPARTMENT OF THE DEPARTMENT.—Section 102(a) of the Homeland Security Act of 2002 (6 U.S.C. 113(a)) is amended—

(1) by striking paragraph (5) and inserting the following:

‘‘(5) An Administrator of the Federal Emergency Management Agency.’’

(b) DEPUTY ADMINISTRATORS.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

‘‘Deputy Administrators, Federal Emergency Management Agency.’’

(3) CHIEF MEDICAL OFFICER.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

‘‘Chief Medical Officer, Department of Homeland Security.’’

(4) DEPARTMENT AND AGENCY OFFICIALS.—Section 102(a) of the Homeland Security Act of 2002 (6 U.S.C. 113(a)) is amended—

(1) by striking paragraph (5) and inserting the following:

‘‘(5) An Administrator of the Federal Emergency Management Agency.’’

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively.

(5) REFERENCES.—Any reference to the Administrator of the Federal Emergency Management Agency in this title or an amendment by this title shall be considered to refer and apply to the Director of the Federal Emergency Management Agency.
SEC. 613. NATIONAL WEATHER SERVICE.

Nothing in this title shall alter or otherwise affect the authorities and activities of the National Weather Service to protect life and property, as provided under the Act of October 1, 1950 (26 Stat. 655-55).

SEC. 614. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title and the amendments made by this title shall not be in effect on the date of enactment of this Act.

(b) EXCEPTIONS.—The following shall take effect on March 21, 2007:

(1) the amendments made by section 611(11).

(2) the amendments made by section 611(12).


(4) The amendments made by subsection (a).

(5) The amendments made by subsection (b)(1).

Subtitle B—Personnel Provisions

CHAPTER 1—FEDERAL EMERGENCY MANAGEMENT AGENCY PERSONNEL

SEC. 621. WORKFORCE DEVELOPMENT.

(a) IN GENERAL.—Subpart I of part III of title 5, United States Code, is amended by adding at the end the following:

"§ 61101. Definitions

"For purposes of this chapter—

(1) the term 'Agency' means the Federal Emergency Management Agency;

(2) the term 'Administrator' means the Administrator of the Federal Emergency Management Agency;

(3) the term 'appropriate committees of Congress' has the meaning given the term in section 602 of the Post-Katrina Emergency Management Reform Act of 2006;

(4) the term 'Department' means the Department of Homeland Security; and


§ 61102. Strategic human capital plan

(a) PLAN DEVELOPMENT.—Not later than 6 months after the date of enactment of this chapter, the Administrator shall develop and submit to the appropriate committees of Congress a strategic human capital plan to shape and improve the workforce of the Agency.

(b) CONTENTS.—The strategic human capital plan shall include—

(1) a workforce gap analysis, including an assessment of—

(A) the critical skills and competencies that will be needed in the workforce of the Agency to support the mission and responsibilities of, and effectively manage, the Agency during the 10-year period beginning on the date of enactment of this chapter;

(B) the skills and competencies of the workforce of the Agency on the day before the date of enactment of this chapter and projected trends in that workforce, based on expected losses due to retirement and other attrition; and

(C) the staffing levels of each category of employees, including gaps in the workforce of the Agency on the day before the date of enactment of this chapter and in the projected workforce of the Agency that should be addressed to ensure that the Agency shall be able to meet the needs of the larger Agency budget.

"(2) specific strategies for developing, training, deploying, compensating, and motivating and retaining the Agency workforce and its responsibilities (including the program objectives of the Department and the Agency to be achieved through such strategies); and

(3) a discussion that—

(A) details the number of employees of the Department not employed by the Agency serving in the Surge Capacity Force and the qualifications or credentials of such individuals;

(B) details the number of individuals not employed by the Department serving in the Surge Capacity Force and the qualifications or credentials of such individuals; and

(C) describes the training given to the Surge Capacity Force during the calendar year preceding the year of submission of the plan under paragraph (2).

(4) states whether the Surge Capacity Force is able to adequately prepare for, respond to, and recover from natural disasters, acts of terrorism, and other large-scale disasters, including catastrophic incidents; and

(5) describes any additional authorities or resources necessary to address any deficiencies in the Surge Capacity Force.

(5) ANNUAL UPDATES.—Not later than May 1, 2007, and May 1st of each of the next 5 succeeding years, the Administrator shall submit to the appropriate committees of Congress an update of the strategic human capital plan, including an assessment by the Administrator, using results-oriented performance measures, of the progress of the Department and the Agency in implementing the strategic human capital plan.

§ 61103. Career paths

(a) IN GENERAL.—The Administrator shall—

(1) ensure that appropriate career paths for personnel of the Agency are identified, including the education, training, experience, and assignments necessary for career progression within the Agency; and

(2) publish information on the career paths described in paragraph (1).

(b) EDUCATION, TRAINING, AND EXPERIENCE.—The Administrator shall ensure that all personnel of the Agency are provided the opportunity to acquire the education, training, and experience necessary to qualify for promotion within the Agency, including, as appropriate, the opportunity to participate in the Rotation Program established under section 844 of the Homeland Security Act of 2002.

(c) POLICY.—The Administrator shall establish a policy for assigning Agency personnel to positions that provides for a balance between—

(1) the need for personnel to serve in career enhancing positions; and

(2) the need to serve in a position for a sufficient period of time to provide the stability necessary—

(A) to carry out the duties of that position; and

(B) for responsibility and accountability for actions taken in that position.

§ 61104. Recruitment bonuses

(a) IN GENERAL.—The Administrator may pay a bonus to an individual in order to recruit the individual for a position with a period of service that would otherwise be difficult to fill in the absence of such a bonus. Upon completion of the strategic human capital plan, such bonuses shall be paid in accordance with that plan.

(b) BONUS AMOUNT.—

(1) IN GENERAL.—The amount of a bonus under this section shall be determined by the Administrator, but may not exceed the annual rate of basic pay of the position involved.

(2) FORM OF PAYMENT.—A bonus under this section shall be paid in the form of a lump-sum payment and shall not be considered to be part of basic pay.

(c) SERVICE AGREEMENTS.—Payment of a bonus under this section shall be contingent upon the employee entering into a written service agreement with the Agency. The agreement shall include—

(1) the period of service the individual shall be required to complete in return for the bonus; and

(2) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of the termination.

(d) ELIGIBILITY.—A bonus under this section may not be paid to an individual who is appointed to or holds—

(1) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

(2) a position in the Senior Executive Service as a noncareer appointee (as defined in section 3122(a)); or

(3) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

(e) TERMINATION.—The authority to pay bonuses under this section shall terminate 5 years after the date of enactment of this chapter.

(f) REPORTS.—

(1) IN GENERAL.—The Agency shall submit to the appropriate committees of Congress, annually for each of the 5 years during which this section is in effect, a report on the operation of this section.

(2) CONTENTS.—Each report submitted under this subsection shall include, with respect to the period covered by such report, a description of how the authority to pay bonuses under this section was used by the Agency, including—

(A) the number and dollar amount of bonuses paid to individuals holding positions within each pay grade, pay level, or other pay classification; and

(B) a determination of the extent to which such bonuses furthers the purposes of this section.

§ 61105. Retention bonuses

(a) AUTHORITY.—The Administrator may pay, on a case-by-case basis, a bonus under this section to an employee of the Agency if—

(1) the unusually high or unique qualifications of the employee or a special need of the Agency for the employee's services makes it essential to retain the employee; and

(2) the Administrator determines that, in the absence of such a bonus, the employee would be likely to leave—

(A) the Federal service; or

(B) for a different position in the Federal service.

(b) SERVICE AGREEMENT.—Payment of a bonus under this section is contingent upon the employee entering into a written service agreement with the Agency to complete a period of service with the Agency. Such agreement shall include—

(1) the period of service the individual shall be required to complete in return for the bonus; and

(2) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of the termination.
"(c) Bonus Amount.—

"(1) IN GENERAL.—The amount of a bonus under this section shall be determined by the Administrator, but may not exceed 25 percent of the annual rate of basic pay of the position involved.

"(2) Form of Payment.—A bonus under this section shall be paid in the form of a lump-sum payment and shall not be considered to be part of basic pay.

"(d) Limitation.—A bonus under this section—

"(1) may not be based on any period of service which is the basis for a recruitment bonus under section 10104;

"(2) may not be paid to an individual who is appointed to or holds—

"(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

"(B) a position in the Senior Executive Service as a noncareer appointee (as defined in section 3132(a)); or

"(C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character; and

"(3) upon completion of the strategic human capital plan, shall be paid in accordance with that plan.

"(e) Termination of Authority.—The authority to pay bonuses under this section shall expire 5 years after the date of enactment of this chapter.

"(f) Reports.—

"(1) IN GENERAL.—The Office of Personnel Management shall submit to the appropriate committees of Congress, annually for each of the first 5 years during which this section is in effect, a report on the operation of this section.

"(2) CONTENTS.—Each report submitted under this subsection shall include, with respect to the period covered by such report, a description of how to pay bonuses under this section was used by the Agency, including, with respect to each such agency—

"(A) the number and dollar amount of bonuses paid to individuals holding positions within each pay grade, pay level, or other pay classification; and

"(B) a determination of the extent to which such bonuses furthered the purposes of this section.

§ 10106. Quarterly report on vacancy rate in employee positions

"(a) Initial Report.—

"(1) IN GENERAL.—Not later than 3 months after the date of enactment of this chapter, the Administrator shall submit a report to the appropriate committees of Congress on the vacancies in employee positions of the Agency.

"(b) CONTENTS.—The report under this subsection shall include—

"(1) vacancies of each category of employee position;

"(2) the number of applicants for each vacancy for which public notice has been given;

"(3) the length of time that each vacancy has been pending;

"(4) the hiring-cycle time for each vacancy that has been filled; and

"(5) the data concerning the hiring-cycle time and reducing the current and anticipated vacancies with highly-qualified personnel.

"(b) Quarterly Updates.—Not later than 3 months after submission of the initial report, and every 3 months thereafter until 5 years after the date of enactment of this chapter, the Administrator shall submit to the appropriate committees of Congress a report on the vacancies in employee positions of the Agency.

"(b) Technical and Conforming Amendment.—The analysis for part III title 5, United States Code, is amended by inserting after the item relating to chapter 99 the following:

"101 Federal Emergency Management Agency Personnel

SEC. 844. HOMELAND SECURITY EDUCATION PROGRAM.

"(a) Establishment.—Title VIII of the Homeland Security Act of 2002 (6 U.S.C. 361 et seq.) is amended by inserting after section 843 the following:

"SEC. 844. HOMELAND SECURITY EDUCATION PROGRAM.

"(a) Establishment.—The Secretary, acting through the Administrator, shall establish a graduate-level Homeland Security Education Program in the National Capital Region to provide educational opportunities to senior Federal officials and selected State and local officials with homeland security and emergency management responsibilities. The Administrator shall appoint an individual to administer the activities under this section.

"(b) Existing Resourses.—To maximize efficiency and effectiveness in carrying out the Program, the Administrator shall use existing education-reviewed Master’s Degree programs in homeland security curricula pending accreditation, together with associated learning materials, quality assessment tools, digital libraries, exercise systems and other educational facilities, including the National Domestic Preparedness Consortium, the National Fire Academy, and the Emergency Management Institute. The Administrator may develop additional educational programs, as appropriate.

"(c) Student Enrollment.—

"(1) Sources.—The student body of the Program shall include officials from Federal, State, local, and tribal governments, and from other sources designated by the Administrator.

"(2) Enrollment Priorities and Selection Criteria.—The Administrator shall establish policies governing student enrollment priorities and selection criteria that are consistent with the mission of the Program.

"(3) Diversity.—The Administrator shall take reasonable steps to ensure that the student body represents racial, gender, and ethnic diversity.

"(d) Service Commitment.—

"(1) IN GENERAL.—If any employee selected for the Program may be assigned to participate in the Program, the employee shall agree in writing—

"(A) to continue in the service of the agency sponsoring the employee during the 2-year period beginning on the date on which the employee completes the program, unless the employee is involuntarily separated from the service of that agency for reasons other than a reduction in force; and

"(B) to pay to the Government the amount of the additional expenses incurred by the Government in connection with the employee’s education if the employee is voluntarily separated from the service of the Government before the end of the period described in subparagraph (A).

"(2) Payment of Expenses.—

"(a) Exception.—An employee who leaves the service of the sponsoring agency to enter into the service of another agency in any branch of the Government shall not be required to make a payment under paragraph (1), but the employee shall be required to pay the education of the employee notifies the employee before the date on which the employee enters the service of the other agency that payment is required under that provision.

"(b) Amount of Payment.—If an employee is required to make a payment under paragraph...
cordance with section 510 of the Homeland Secu-

(3) RECOVERY OF PAYMENT.—If an employee who is required to make a payment under this subsection for any reason, the payment shall be equal to the amount of the expenses incurred by the Government for the education of that employee recoverable by the Government from the employee or his estate by—
(A) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; or
(B) such other method as is provided by law for the recovery of amounts owing to the Government.

(b) TECHNICAL AND CONFORMING AMEND-MENT.—Section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. et seq.), as amended by section 622, is amended by inserting after the item relating to section 844 the following:

“Sec. 845. Homeland Security Education Pro-

government, and state agencies. The President, acting through the Director, shall ensure that the Federal Emergency response team will work in coordination with State and local officials and on-site personnel associated with a particular incident.

(4) READINESS REPORTING.—The Director shall evaluate team readiness on a regular basis and report team readiness levels in the report required under section 652(a) of the Post-Katrina Emergency Management Reform Act of 2006.

SEC. 634. URBAN SEARCH AND RESCUE RE-

SEC. 624. SURGE CAPACITY FORCE.
(a) ESTABLISHMENT.
(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Director of the Federal Emergency Management Agency, shall establish the Surge Capacity Force for deployment of individuals to respond to natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents.

(b) AUTHORITY.—
(A) IN GENERAL.—Except as provided in subparagraph (B), the plan shall provide for individuals in the Surge Capacity Force to be trained and deployed under the authorities set forth in the Robert T. Stafford Disaster Relief and Emergency Assistance Act.
(B) EXCEPTION.—If the Administrator determines that the existing authorities are inadequate for the training and deployment of individuals in the Surge Capacity Force, the Administrator shall report to Congress as to the additional statutory authorities that the Administrator determines necessary.
(c) EMPLOYEES DESIGNATED TO SERVE.—The plan shall also provide that the Secretary shall designate employees of the Department who are not employees of the Agency and shall, in conjunction with the heads of other Executive agencies, designate employees of those other Executive agencies, as appropriate, to serve on the Surge Capacity Force.
(d) CAPABILITIES.—The plan shall ensure that the Surge Capacity Force—
(1) includes a sufficient number of individuals credentialed in accordance with section 510 of the Homeland Security Act of 2002, as amended by this Act, that are capable of deploying rapidly and efficiently after activation to prepare for, respond to, and recover from natural disasters, and other man-made disasters, including catastrophic incidents; and
(2) includes a sufficient number of full-time, highly trained individuals credentialed in accordance with section 510 of the Homeland Security Act of 2002, as amended by this Act, to lead and manage the Surge Capacity Force.

(e) TRAINING.—The plan shall ensure that the Administrator provides appropriate and continuous training to members of the Surge Capacity Force to ensure such personnel are adequately trained on the Agency’s programs and policies for natural disasters, acts of terrorism, and other man-made disasters.

(f) NO IMPACT ON AGENCY PERSONNEL CEIL-

(f) EXPENSES.—The Administrator may provide members of the Surge Capacity Force with travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of the Department under subchapter 57 of title 5, United States Code, for the purpose of participating in any training that relates to service as a member of the Surge Capacity Force.

(g) IMMEDIATE IMPLEMENTATION OF SURGE

SEC. 303. STATE CATASTROPHIC INCIDENT

annex submitted under subsection (b)(3) shall be—
(4) modeled after the catastrophic incident annex of the National Response Plan; and
(B) consistent with the national preparedness goal described under section 653 of the Post-Katrina Emergency Management Reform Act of 2006, the National Incident Management System, the National Response Plan, and other related plans and strategies.

(2) CONSULTATION.—In developing a catastrophic incident annex submitted under subsection (b)(3), the Administrator shall—
(1) consult with State, local, and tribal officials in an area in which a location for the prepositioned equipment program to preposition standardized emergency equipment in at least 11 locations to sustain and replenish critical assets used by State, local, and tribal governments in response to (or rendered inoperable by the effects of) natural disasters, acts of terrorism, and other man-made disasters for real-time visibility of items at each point throughout the logistics system.

SEC. 637. PREPOSITIONED EQUIPMENT PROGRAM.
(a) IN GENERAL.—The Administrator shall establish a prepositioned equipment program to preposition standardized emergency equipment in at least 11 locations to sustain and replenish critical assets used by State, local, and tribal governments in response to (or rendered inoperable by the effects of) natural disasters, acts of terrorism, and other man-made disasters.
(b) NOTICE.—The Administrator shall notify State, local, and tribal officials in an area in which a location for the prepositioned equipment program will be closed not later than 60 days before the date of such closure.

SEC. 638. HURRICANE KATRINA AND HURRICANE
RITA RECOVERY OFFICES.
(a) ESTABLISHMENT.—In order to provide all eligible Federal assistance to individuals and households, and encourage recovery from the effects of Hurricane Katrina or Hurricane Rita in a customer-focused, expedient, effective, and consistent manner, the Administrator shall establish a recovery office in each of the following States, a recovery office. The Administrator may establish recovery offices for each of the following States, if necessary:
(1) Alachua County.
(2) Louisiana.
(3) Alabama.
Sec. 640. Improvements to Information Technology Systems.

(a) MEASURES TO IMPROVE INFORMATION TECHNOLOGY SYSTEMS.—The Administrator, in coordination with the Chief Information Officer of the Department, shall take appropriate measures to update and improve the information technology systems of the Agency, including measures—

(1) ensure that the multiple information technology systems of the Agency (including the National Emergency Management Information System, the Logistics Information Management System, and the Automated Deployment Database) are, to the extent practicable, fully compatible and can share and access information, as appropriate, from each other;

(2) ensure technology enhancements reach the headquarters and regional offices of the Agency in a timely fashion, to allow seamless integration;

(3) develop and maintain a testing environment that ensures that all system components are properly and thoroughly tested before their release;

(4) ensure that the information technology systems of the Agency have the capacity to track disaster response personnel, mission assignments task orders, commodities, and supplies used in response to a natural disaster, act of terrorism, or other man-made disaster;

(5) make appropriate improvements to the National Emergency Management Information System to address shortcomings in such system on the date of enactment of this Act; and

(6) provide training, manuals, and guidance on information technology systems to personnel, including disaster response personnel, to help ensure employees can properly use information technology systems.

(b) The Administrator, not later than 270 days after the date of enactment of this Act, shall develop a national preparedness goal and a national preparedness system.
areas of high population density, critical infrastructure, coastline, and international borders; and
(2) the most current risk assessment available from the Federal Intelligence Officer of the Department of the threats of terrorism against the United States.
(e) PREPAREDNESS PRIORITIES.—In establishing guidelines under subsection (a), the Administrator shall establish preparedness priorities that appropriately balance the risk of all hazards, including natural disasters, acts of terrorism, and other man-made disasters, with the resources required to prevent, respond to, recover from, and mitigate against the hazards.
(1) REQUIREMENTS.—The Administrator may provide support for the development of mutual aid agreements within States.
SEC. 647. EQUIPMENT AND TRAINING STANDARDS.
(a) EQUIPMENT STANDARDS.—
(1) IN GENERAL.—The Administrator, in coordination with the heads of appropriate Federal agencies and the National Advisory Council, shall support the development, promulgation, and updating, as necessary, of national voluntary consensus standards for the performance, use, and validation of equipment used by Federal, State, local, and tribal governments and nongovernmental emergency response providers.
(2) REQUIREMENTS.—The national voluntary consensus standards shall—
(A) be designed to achieve equipment and other capabilities consistent with the national preparedness system to support the safety and health of emergency response providers;
(B) to the maximum extent practicable, be consistent with existing national voluntary consensus standards;
(C) take into account, as appropriate, threats that may not have been contemplated when the existing standards were developed and updated;
(D) be compatible with interoperability, interchangeability, durability, flexibility, efficiency, efficacy, portability, sustainability, and safety.
(b) TRAINING STANDARDS.—The Administrator shall—
(1) support the development, promulgation, and regular updating, as necessary, of national voluntary consensus standards for training; and
(2) ensure that the training provided under the national training program is consistent with the standards.
(c) CONSULTATION WITH STANDARDS ORGANIZATIONS.—In carrying out this section, the Administrator shall consult with representatives of relevant public and private sector national voluntary consensus standards development organizations.
SEC. 648. TRAINING AND EXERCISES.
(a) NATIONAL TRAINING PROGRAM.—
(1) IN GENERAL.—Beginning not later than 180 days after the date of enactment of this Act, the Administrator, in coordination with the heads of appropriate Federal agencies, the National Council on Disability, and the National Advisory Council, shall carry out a national exercise program and evaluate the national preparedness goal, National Incident Management System, National Response Plan, and other related plans and strategies.
(2) REQUIREMENTS.—The national exercise program—
(A) shall be—
(i) as realistic as practicable, based on current risk assessments, including credible threats, vulnerabilities, and consequences, and designed to stress the national preparedness system;
(ii) designed to simulate the partial or complete incapacitation of a State, local, or tribal government;
(iii) carried out, as appropriate, with a minimum degree of notice to involved parties regarding the timing and details of such exercises, consistent with safety considerations;
(iv) provide for systematic evaluation of readiness; and
(v) designed to address the unique requirements of populations with special needs; and
(B) shall include—
(i) the sharing of inventories with other Federal, State, local, and tribal governments and nongovernmental emergency response providers;
(ii) be designed to achieve equipment and other capabilities consistent with the national preparedness system to support the safety and health of emergency response providers;
(iii) to the maximum extent practicable, be consistent with existing national voluntary consensus standards;
(iv) take into account, as appropriate, threats that may not have been contemplated when the existing standards were developed and updated;
(v) be compatible with interoperability, interchangeability, durability, flexibility, efficiency, efficacy, portability, sustainability, and safety.
(b) TRAINEES.—The Administrator shall—
(1) support the development, promulgation, and regular updating, as necessary, of national voluntary consensus standards for training; and
(2) ensure that the training provided under the national training program is consistent with the standards.
(c) CONSULTATION WITH STANDARDS ORGANIZATIONS.—In carrying out this section, the Administrator shall consult with representatives of relevant public and private sector national voluntary consensus standards development organizations.
SEC. 649. COMPREHENSIVE ASSESSMENT SYSTEM.
(a) ESTABLISHMENT.—The Administrator, in coordination with the National Council on Disability and the National Advisory Council, shall support the development, promulgation, and updating, as necessary, of national voluntary consensus standards for the performance, use, and validation of equipment used by Federal, State, local, and tribal governments and nongovernmental emergency response providers, on an ongoing basis, the Nation’s prevention capabilities and overall preparedness, including operational readiness.
(b) PERFORMANCE METRICS AND MEASURES.—The Administrator shall ensure that each component of the national preparedness system, National Incident Management System, National Response Plan, and other related plans and strategies, and the reports required under section 652 is developed, revised, and updated with clear and quantifiable performance metrics, measures, and outcomes.
(c) CONTENTS.—The assessment system established under subsection (a) shall assess—
(1) the degree to which the national preparedness system, National Incident Management System, National Response Plan, and other related plans and strategies,
(2) capable of assessing at the time of assessment against target capability levels defined pursuant to the guidelines established under section 649(a)
(3) resource needs to meet the desired target capability levels defined pursuant to the guidelines established under section 649(b); and
(4) the performance of training, exercises, and operations.
SEC. 650. REMEDIAL ACTION MANAGEMENT PROGRAM.
The Administrator, in coordination with the National Council on Disability and the National Advisory Council, shall establish a remedial action management program to—
(a) analyze trends, and real-world events to identify and disseminate lessons learned and best practices;
(b) generate and disseminate, as appropriate, after action reports to participants in exercises and real-world events; and
(c) conduct remedial action tracking and long-term trend analysis.
SEC. 651. FEDERAL RESPONSE CAPABILITY INVENTORY.
(a) IN GENERAL.—In accordance with section 611(b)(2)(C) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(h)(1)(C)), the Administrator shall accelerate the completion of the inventory of Federal response capabilities.
(b) CONTENTS.—The inventory shall include—
(1) for each capability—
(A) the performance parameters of the capability;
(B) the timeframe within which the capability can be brought to bear on an incident; and
(C) the readiness of the capability to respond to all hazards, including natural disasters, acts of terrorism, and other man-made disasters;
(2) emergency communications assets maintained by the Federal Government and, if appropriate, State, local, and tribal governments and the private sector.
(c) DEPARTMENT OF DEFENSE.—The Administrator, in coordination with the Secretary of Defense, shall develop a list of inventory items and functions within the Department of Defense that may be used, pursuant to the authority provided under the National Response Plan and sections 402, 403, and 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170a, 5179b, 5192), to provide support to civil authorities during natural disasters, acts of terrorism, and other man-made disasters.
(d) DATABASE.—The Administrator shall establish an inventory database to allow—
(i) real-time exchange of information regarding capabilities, readiness, or the compatibility of equipment;
(ii) easy identification and rapid deployment during an incident; and
(iii) the sharing of inventories with other Federal agencies, as appropriate.
SEC. 652. REPORTING REQUIREMENTS.
(a) FEDERAL PREPAREDNESS REPORT.—
(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, and annually thereafter, the Administrator, in coordination with the heads of appropriate Federal agencies, shall submit to the appropriate committees of Congress a report on the Nation’s level of preparedness for all hazards, including natural disasters, acts of terrorism, and other man-made disasters.
(2) CONTENTS.—Each report shall include—
(A) an assessment of how Federal assistance supports the national preparedness system;
(B) the results of the comprehensive assessment carried out under section 649;
(C) a review of the inventory described in section 651(a); and
(D) an assessment of resource needs to meet preparedness priorities established under section 666(e), including—
(i) an estimate of the amount of Federal, State, local, and tribal expenditures required to attain the preparedness priorities; and
(ii) the extent to which the use of Federal assistance during the preceding fiscal year achieved the preparedness priorities.
(b) CATASTROPHIC RESOURCE REPORT.—
(1) IN GENERAL.—The Administrator shall develop and submit to the appropriate committees of Congress annually an estimate of the resources of the Agency and other Federal agencies needed for and devoted specifically to developing the capabilities of Federal, State, local, and tribal governments necessary to respond to a catastrophic incident.
(2) CONTENTS.—Each estimate under paragraph (1) shall include the resources both necessary for and devoted to—
(A) planning
The operations plan shall address, as appropriate, the following matters:

1. Support of State, local, and tribal governments in conducting mass evacuations, including:
   a. Transportation and relocation;
   b. Short- and long-term sheltering and accommodation;
   c. Logistics for populations with special needs, keeping families together, and expeditious location of missing children; and
   d. Policies and provisions for pets.

2. The preparedness and deployment of public health and medical resources, including resources to address the needs of evacuees and populations with special needs.

3. The coordination of interagency search and rescue operations, including land, water, and airborne search and rescue operations.

4. The resources and responsibilities of the Senior Federal Law Enforcement Official with respect to other law enforcement entities.

5. The protection of critical infrastructure.

6. The coordination of maritime salvage efforts among relevant agencies.

7. The coordination of Department of Defense and National Guard support of civilian authorities.

8. To the extent practicable, the utilization of Department of Defense, National Air and Space Administration, National Oceanic and Atmospheric Administration aircraft and satellite remotely sensed imagery.

9. The coordination and integration of support from the private sector and nongovernmental organizations.

10. The safe disposal of debris, including hazardous materials, and, when practicable, the recycling of debris.

11. The identification of the required surge capacity.

12. Specific provisions for the recovery of affected geographical areas.

13. Mission assignments, including logistics, communications, mass care, health services, and public safety.

14. The President shall certify on an annual basis that each Federal agency with coordinating, primary, or supporting responsibilities under the National Response Plan—

(a) has the operational capability to meet the preparedness priorities;

(b) complies with the National Incident Management System, National Response Plan, and other related plans and strategies;

(c) assesses current capability levels and sets operational capability levels; and

(d) assesses of resource needs to meet the preparedness priorities established under section 666(e), including—

(i) the extent to which the use of Federal assistance during the preceding fiscal year achieved the preparedness priorities.

SEC. 653. FEDERAL PREPAREDNESS

(a) AGENCY RESPONSIBILITY.—In support of the national preparedness system, the President shall require each Federal agency with coordinating, primary, or supporting responsibilities under the National Response Plan to—

(1) coordinate and provide support to the Department of Homeland Security, the Senior Federal Law Enforcement Official, and appropriate Federal agencies;

(2) make grants to administer the Emergency Management Assistance Compact to enhance the preparedness system, National Incident Management Assistance Compact and emergency response providers, and organizations representing such providers with credentialing emergency response providers and the typing of emergency response resources.

(b) OPERATIONAL PLANS.

(1) In general.—An operations plan shall be developed, in coordination with State, local, and tribal government officials, to address both regional and national risks.

(2) The operations plan shall be developed, in coordination with State, local, and tribal government officials, to address both regional and national risks.

(3) The operations plan shall contain, as appropriate, the following elements:

(A) The operational capability to meet the preparedness priorities;

(B) Critical tasks and responsibilities.

(C) Detailed resource and personnel requirements, together with sourcing requirements.

(D) The resources and personnel of the agency to support the overall response.

(4) The operations plan shall address, as appropriate, the following matters:

(A) Support of State, local, and tribal governments in conducting mass evacuations, including—

(i) transportation and relocation;

(ii) short- and long-term sheltering and accommodation;

(iii) provisions for populations with special needs, keeping families together, and expeditious location of missing children; and

(iv) policies and provisions for pets.

(B) The preparedness and deployment of public health and medical resources, including resources to address the needs of evacuees and populations with special needs.

(C) The coordination of interagency search and rescue operations, including land, water, and airborne search and rescue operations.

The head of the department shall report to the Assistant Secretary for Cybersecurity and Communications.

The President shall establish a national exercise simulation center that—

(1) uses a mix of live, virtual, and constructive simulations to—

(A) prepare elected officials, emergency managers, emergency response providers, and emergency support providers at all levels of government to operate cohesively;

(B) provide a learning environment for the homeland security personnel of all Federal agencies;

(C) assist in the development of operational procedures and exercises, particularly those based on catastrophic incidents; and

(D) allow incident commanders to exercise decisionmaking in a simulated environment; and

(2) uses modeling and simulation for training, exercises, and command and control functions at the operational level.

Subtitle D—Emergency Communications

SEC. 671. EMERGENCY COMMUNICATIONS.

(a) SHORT TITLE.—This section may be cited as the “21st Century Emergency Communications Act of 2007”.

(b) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following new title:

“TITLE XVIII—EMERGENCY COMMUNICATIONS.”

SEC. 1801. OFFICE OF EMERGENCY COMMUNICATIONS.

(a) IN GENERAL.—There is established in the Department an Office of Emergency Communications.

(b) DIRECTOR.—The head of the office shall be the Director for Emergency Communications. The Director shall report to the Assistant Secretary for Cybersecurity and Communications.

(c) RESPONSIBILITIES.—The Director for Emergency Communications shall—

(1) support the Secretary in developing and implementing the program described in section 7303(a)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(a)(1)), except as provided in section 314.

(2) administer the Executive Information Systems responsibilities and authorities relating to the SAFECOM Program, excluding elements related to research,
and enhance interoperable emergency communications capabilities by State, regional, local, and tribal governments and public safety agencies, and by regional consortia thereof;

(6) provide technical assistance to State, regional, local, and tribal government officials with respect to use of interoperable emergency communications capabilities;

(7) coordinate with the Regional Administrators regarding the activities of Regional Emergency Communications Coordination Working Groups under section 1805;

(8) promote the development of standard operating procedures and best practices with respect to use of interoperable emergency communications capabilities to enhance interoperability in incident response and facilitate the sharing of information on such best practices for achieving, maintaining, and enhancing interoperable emergency communications capabilities in response to terrorism, and other man-made disasters;

(9) coordinate, in cooperation with the National Communications System, the establishment of a national response capability with initial and ongoing planning, implementation, and training for the deployment of communications equipment for relevant State, local, and tribal governments and emergency response providers in the event of a catastrophic loss of local and regional emergency communications services;

(10) assist the President, the National Security Council, the Homeland Security Council, and the Director of Management and Budget in ensuring the continued operation of the telecommunications functions and responsibilities of the Federal Government, excluding spectrum management;

(11) establish, in coordination with the Director of the Office for Interoperability and Compatibility, requirements for interoperable emergency communications capabilities, which shall be nonproprietary where standards for such capabilities exist, for all public safety radio and data communications systems and equipment used; and

(12) review, in consultation with the Assistant Secretary for Grants and Training, all interoperable emergency communications plans of Federal, State, local, and tribal governments, including Statewide and tactical interoperability plans, developed pursuant to homeland security assistance administered by the Department, excluding any alert and warning device, technology, or system.

(13) develop and update periodically, as appropriate, a National Emergency Communications Plan under section 1802.

(14) perform such other duties of the Department necessary to support and promote the ability of emergency response providers and relevant government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters; and

(15) perform other duties of the Department necessary to achieve the goal of and maintain and enhance interoperable emergency communications capabilities.

(d) PERFORMANCE OF PREVIOUSLY TRANSFERRED FUNCTIONS.—The Secretary shall transfer to, administer, and ensure the proper implementation of the Integrated Wireless Network.

(1) The SAFECOM Program, excluding elements related to research, development, testing, and evaluation and standards.

(2) The responsibilities of the Chief Information Officer for the development and implementation of the Integrated Wireless Network.

(3) The Interoperable Communications Technical Assistance Program.

(e) COMPLIANCE.—The Director for Emergency Communications shall coordinate—

(1) as appropriate, with the Director of the Office for Interoperability and Compatibility with respect to the responsibilities described in section 314; and

(2) with the Administrator of the Federal Emergency Management Agency with respect to the responsibilities described in this title.

(f) SUFFICIENCY OF RESOURCES PLAN.—

(1) REPORT.—Not later than 120 days after the date of enactment of this section, the Secretary shall submit to Congress a report on the resources and staff necessary to carry out fully the responsibilities under this title.

(2) COMPTROLLER GENERAL REVIEW.—The Comptroller General shall review the validity of the report submitted by the Secretary under paragraph (1). Not later than 60 days after the date on which the report is submitted, the Comptroller General shall submit to Congress a report containing the findings of such review.

SEC. 1802. NATIONAL EMERGENCY COMMUNICATIONS PLAN.

(a) IN GENERAL.—The Secretary, acting through the Director for Emergency Communications, and in coordination with the Department of Homeland Security, the Federal Communications Commission, and appropriate agencies, shall develop an interoperable Federal Emergency Communications Plan, including

(1) a determination of the degree to which emergency response providers and relevant government officials can continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters;

(2) define the range of capabilities needed by emergency response providers and relevant government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters;

(3) identify the appropriate interoperable emergency communications infrastructure in the United States, including recommendations for multijurisdictional measures to overcome those obstacles, in coordination with relevant regional, State, local, and tribal governments;

(4) recommend goals and timeframes for the deployment of interoperable emergency communications systems nationwide; and

(5) recommend appropriate measures that emergency response providers should employ to ensure the continued operation of relevant governmental communications infrastructure in the event of natural disasters, acts of terrorism, or other man-made disasters.

(b) BASELINE ASSESSMENT.—Not later than 1 year after the date of enactment of this section and not less than every 5 years thereafter, the Secretary, acting through the Director for Emergency Communications, shall conduct an assessment of Federal, State, local, and tribal governments and agencies, to assess and plan for the future of emergency communications infrastructure.

(c) CONTENTS.—The Interoperable Communications, shall conduct an assessment of Federal, State, local, and tribal governments and agencies, to assess and plan for the future of emergency communications infrastructure.

(1) THE NATIONAL EMERGENCY COMMUNICATIONS PLAN.—

(2) COORDINATION.—The Emergency Communications Preparedness Center under section 1806 shall conduct an assessment of the Federal aspects of the National Emergency Communications Plan.

(3) CONTENTS.—The National Emergency Communications Plan shall—

(1) include recommendations developed in consultation with the Federal Communications Commission and the National Institute of Standards and Technology for a process for expediting national voluntary consensus standards for emergency communications equipment for the purchase and use by public safety agencies of interoperable emergency communications equipment and technologies;

(2) identify the appropriate capabilities necessary for emergency response providers and relevant government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters;

(3) recommend both short-term and long-term solutions for ensuring that emergency response providers and relevant government officials can continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters;

(4) recommend both short-term and long-term solutions for ensuring that emergency response providers and relevant government officials can continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters;

(5) recommend both short-term and long-term solutions for ensuring that emergency response providers and relevant government officials can continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters;

(6) identify how Federal departments and agencies that respond to natural disasters, acts of terrorism, and other man-made disasters can work effectively with State, local, and tribal governments, in all States, and with other entities.

(7) identify obstacles to deploying interoperable emergency communications capabilities nationwide and recommend short-term and long-term solutions to overcome those obstacles, including recommendations regarding interjurisdictional coordination among Federal, State, local, and tribal governments;

(8) recommend goals and timeframes for the deployment of emergency, command-level communications systems based on new and existing equipment across the United States and develop a timetable for the deployment of interoperable emergency communications systems nationwide; and

(9) recommend appropriate measures that emergency response providers should employ to ensure the continued operation of relevant governmental communications infrastructure in the event of natural disasters, acts of terrorism, or other man-made disasters.

SEC. 1803. ASSESSMENTS AND REPORTS.

(a) BASELINE ASSESSMENT.—Not later than 1 year after the date of enactment of this section and not less than every 5 years thereafter, the Secretary, acting through the Director for Emergency Communications, shall conduct an assessment of Federal, State, local, and tribal governments and agencies, to assess and plan for the future of emergency communications infrastructure.

(b) BASELINE ASSESSMENT.—Not later than 1 year after the date of enactment of this section and not less than every 5 years thereafter, the Secretary, acting through the Director for Emergency Communications, shall conduct an assessment of Federal, State, local, and tribal governments and agencies, to assess and plan for the future of emergency communications infrastructure.

(c) SAVINGS CLAUSE.—In conducting the baseline assessment under section 1806, subsection (a), the Secretary may incorporate findings from assessments conducted before, or ongoing on, the date of enactment of this title.

(d) SAVINGS CLAUSE.—In conducting the baseline assessment under section 1806, subsection (a), the Secretary may incorporate findings from assessments conducted before, or ongoing on, the date of enactment of this title.

(e) BASELINE ASSESSMENT.—Not later than 1 year after the date of enactment of this section and biennially thereafter, the Secretary, acting through the Director for Emergency Communications, shall submit to Congress a report on the progress of the Department in achieving the goals of, and carrying out its responsibilities under, this title, including—

(1) a description of the findings of the most recent baseline assessment conducted under subsection (a); and

(2) a determination of the date to which it is believed that interoperable emergency communications capabilities have been attained to date and the gaps that remain for interoperability to be achieved;
"(3) an evaluation of the ability to continue to communicate and to provide and maintain interoperable emergency communications by emergency managers, emergency response providers and other relevant government officials in the event of—

(A) natural disasters, acts of terrorism, or other man-made disasters; and

(B) an evaluation of the feasibility and desirability of developing, or in conjunction with the Department of Defense, a mobile communications capability, modeled on the Army Signal Corps, that could be deployed to support emergency communications at the site of natural disasters, acts of terrorism, or other man-made disasters.

SEC. 1804. COORDINATION OF DEPARTMENT OF COMMERCE REGIONAL EMERGENCY COMMUNICATIONS GRANT PROGRAMS.

(a) COORDINATION OF GRANTS AND STANDARDS—The Secretary, through the Director for Emergency Communications, shall ensure that grant guidelines for the use of homeland security assistance administered by the Department relating to interoperable emergency communications are coordinated and consistent with the goals and recommendations in the National Emergency Communications Plan under section 1802.

(b) DENIAL OF ELIGIBILITY FOR GRANTS.—(1) IN GENERAL.—The Secretary, acting through the Assistant Secretary for Grants and Planning, and in consultation with the Director for Emergency Communications, may prohibit any State, local, or tribal government from using any grant assistance administered by the Department to achieve, maintain, or enhance emergency communications capabilities, if—

(A) such government has not complied with the requirement to submit a Statewide Interoperable Communications Plan as required by section 7303(f) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(f));

(B) such government has proposed to upgrade or purchase new equipment or systems that do not conform to any nationally or internationally recognized voluntary consensus standards and has not provided a reasonable explanation of why such equipment or systems will serve the needs of the Department; or

(C) such government is not in compliance with the National Flood Insurance Program under section 1802.

(2) DENIAL OF ELIGIBILITY FOR GRANTS.—(D) PREPAREDNESS CENTER.—Each RECC Working Group shall coordinate its activities with the following:

(A) Communications equipment manufacturers and vendors (including broadband data service providers).

(B) Local exchange carriers.

(C) Local broadcast media.

(D) Wireless carriers.

(E) Satellite communications services.

(F) Cable operators.

(G) Hospitals.

(H) Healthcare entities and nongovernmental organizations.

(I) Local emergency managers or homeland security directors.

(J) Other emergency response providers as appropriate.

(2) FEDERAL.—Representatives from the Department, the Federal Communications Commission, and other State and local emergency communications, shall ensure that:

(A) an evaluation of the survivability, sustainability, and interoperability of local emergency communications systems to meet the goals of the National Emergency Communications Plan;

(B) assessing the survivability, sustainability, and interoperability of local emergency communications systems to meet the goals of the National Emergency Communications Plan;

(C) to report annually to the relevant Regional Administrator, the Director for Emergency Communications, the Chairman of the Federal Communications Commission and the Assistant Secretary for Communications and Information of the Department of Commerce on the status of its region in building robust and sustainable voice and data emergency communications networks and, not later than 60 days after the completion of the initial National Emergency Communications Plan under section 1802, on the progress of the region in meeting the goals of such plan;

C) ensuring a process for the coordination of effective multijurisdictional, multi-agency emergency communications networks for use during natural disasters, acts of terrorism, and other man-made disasters through the expanded use of emergency management and public safety communications mutual aid agreements; and

(4) coordinating the establishment of Federal, State, local, and tribal support services and networks designed to address the immediate and critical human needs in responding to natural disasters, acts of terrorism, and other man-made disasters.

SEC. 1806. EMERGENCY COMMUNICATIONS PREPAREDNESS CENTER.

(a) ESTABLISHMENT.—There is established the Emergency Communications Preparedness Center (in this section referred to as the ‘‘Center’’).

(b) OPERATION.—The Secretary, the Chairperson of the Federal Communications Commission, and the Secretary of Defense, the Secretary of Homeland Security, the Governor of each State, the Secretaries of the other Federal departments and agencies, and the heads of the other Federal departments and agencies shall jointly operate the Center in accordance with the Memorandum of Understanding entitled, ‘‘Emergency Communications Preparedness Center (ECPC) Charter’’. (c) FUNCTIONS.—The Center shall—

(1) serve as the focal point for interagency efforts and as a clearinghouse with respect to Federal emergency communications to support and promote (including specifically by working to avoid duplication, hindrances, and counteractive efforts among the participating Federal departments and agencies) —

(A) the ability of emergency response providers and relevant government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters; and

(B) interoperable emergency communications.

(2) prepare and submit to Congress, on an annual basis, a strategic assessment regarding the coordination efforts of Federal departments and agencies to advance—

(a) Federal and other emergency response providers and relevant government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters; and

(b) interoperable emergency communications.

(3) consider, in preparing the strategic assessment under paragraph (2), the goals stated in the National Emergency Communications Plan under section 1802; and

(4) perform such actions as are provided in the Emergency Communications Preparedness Center (ECPC) Charter described in subsection (b)(1).

SEC. 1807. URBAN AND OTHER HIGH RISK AREA COMMUNICATIONS CAPABILITIES.

(a) IN GENERAL.—The Secretary, in consultation with the Chairman of the Federal Communications Commission and the Secretary of Defense, and with appropriate State, local, and tribal government officials, shall provide technical guidance, training, and other assistance, as appropriate, to support the rapid establishment of consistent, secure, and effective interoperable emergency communications capabilities in the event of an emergency in urban and other areas determined by the Secretary to be at consistently high levels of risk from natural disasters, acts of terrorism, and other man-made disasters.

(b) MINIMUM CAPABILITIES.—The interoperable emergency communications capabilities established under subsection (a) shall ensure the ability of all levels of government, emergency response providers, the private sector, and other organizations with emergency response capabilities—

(1) to communicate with each other in the event of an emergency;

(2) to have appropriate and timely access to the Information Sharing Environment described in section 1016 of the National Security Intelligence Reform Act of 2004 (6 U.S.C. 321); and

(3) to be consistent with any applicable State or urban area homeland strategy or plan.

SEC. 1808. DEFINITION.

In this title, the term ‘‘interoperable’’ has the meaning given the term ‘‘interoperable communications’’ under section 7803(i)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(o)(1)).

(c) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following:

TITLE XVIII—EMERGENCY COMMUNICATIONS

Sec. 1801. Office for Emergency Communications.

Sec. 1802. National Emergency Communications Plan.

Sec. 1803. Assessments and reports.

Sec. 1804. Coordination of Federal emergency communications grant programs.
“Sec. 631. GENERAL FEDERAL ASSISTANCE. (a) MAJOR DISASTERS—Section 402 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170a) is amended—

(1) in paragraph (1), by striking “efforts” and inserting “response or recovery efforts, including precautionary evacuations”;

(2) in paragraph (2), by striking the semicolon and inserting “, including precautionary evacuations and recovery”;

(3) in paragraph (3)—

(A) in subparagraph (D), by striking “and” at the end, and

(B) by adding at the end the following:

“(F) recovery activities, including disaster impact assessments and planning”; and

(4) in paragraph (4), by striking the period and inserting “;”;

and

(5) by adding at the end the following:

“(S) provide accelerated Federal assistance and Federal support where necessary to save lives, prevent human suffering, or mitigate severe damage, which may be provided in the absence of a specific request and in which case the President—

“(A) shall, to the fullest extent practicable, promptly notify and coordinate with officials in a State in which such assistance or support is provided; and

“(B) shall not, in notifying and coordinating with a State under subparagraph (A), delay or impede the rapid deployment, use, and distribution of critical resources to victims of a major disaster.”

(b) EMERGENCIES.—Section 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5192) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking the semicolon and inserting “;”;

(B) in paragraph (6), by striking the period and inserting “;”;

and

(C) in paragraph (7), by striking the period and inserting “;”;

and

(D) by adding at the end the following:

“(S) provide accelerated Federal assistance and Federal support where necessary to save lives, prevent human suffering, or mitigate severe damage, which may be provided in the absence of a specific request and in which case the President—

“(A) shall, to the fullest extent practicable, promptly notify and coordinate with a State in which such assistance or support is provided; and

“(B) shall not, in notifying and coordinating with a State under subparagraph (A), delay or impede the rapid deployment, use, and distribution of critical resources to victims of an emergency.”

(2) in subsection (b), by striking the period and inserting “;”;

and

(3) by adding at the end the following:

“(E) GUIDELINES.—The President shall promulgate and maintain guidelines to assist Governors in requesting the declaration of an emergency in advance of a natural or man-made disaster (including for the purpose of seeking assistance with special needs and other evacuation efforts) under this section by defining the types of assistance available to affected States and the circumstances under which such requests for assistance may be made.”

SEC. 652. NATIONAL DISASTER RECOVERY STRATEGY.

(a) IN GENERAL.—The Administrator, in consultation with the Secretary of Housing and Urban Development, the Administrator of the Environmental Protection Agency, the Secretary

SEC. 674. 911 AND ES911 SERVICES REPORT.

Not later than 180 days after the date of enactment of this Act, the Chairman of the Federal Communications Commission shall submit a report to Congress on the status of efforts of State, local, and tribal governments to develop plans for certifying 911 and ES911 services in the event that public safety answering points are disabled during natural disasters, acts of terrorism, and other man-made disasters.

SEC. 675. SAYINGS CLAUSE.

Nothing in this subtitle shall be construed to transfer to the Office of Emergency Communications any function, personnel, asset, component, authority, grant program, or liability of the Federal Emergency Management Agency as constituted on June 1, 2006.

Subtitle E—Stafford Act Amendments

SEC. 631. GENERAL FEDERAL ASSISTANCE. (a) MAJOR DISASTERS—Section 402 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170a) is amended—

(1) in paragraph (1), by striking “efforts” and inserting “response or recovery efforts, including precautionary evacuations”;

(2) in paragraph (2), by striking the semicolon and inserting “, including precautionary evacuations and recovery”;

(3) in paragraph (3)—

(A) in subparagraph (D), by striking “and” at the end, and

(B) by adding at the end the following:

“(F) recovery activities, including disaster impact assessments and planning”; and

(4) in paragraph (4), by striking the period and inserting “;”;

and

(5) by adding at the end the following:

“(S) provide accelerated Federal assistance and Federal support where necessary to save lives, prevent human suffering, or mitigate severe damage, which may be provided in the absence of a specific request and in which case the President—

“(A) shall, to the fullest extent practicable, promptly notify and coordinate with officials in a State in which such assistance or support is provided; and

“(B) shall not, in notifying and coordinating with a State under subparagraph (A), delay or impede the rapid deployment, use, and distribution of critical resources to victims of a major disaster.”

(b) EMERGENCIES.—Section 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5192) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking the semicolon and inserting “;”;

(B) in paragraph (6), by striking the period and inserting “;”;

and

(C) in paragraph (7), by striking the period and inserting “;”;

and

(D) by adding at the end the following:

“(S) provide accelerated Federal assistance and Federal support where necessary to save lives, prevent human suffering, or mitigate severe damage, which may be provided in the absence of a specific request and in which case the President—

“(A) shall, to the fullest extent practicable, promptly notify and coordinate with a State in which such assistance or support is provided; and

“(B) shall not, in notifying and coordinating with a State under subparagraph (A), delay or impede the rapid deployment, use, and distribution of critical resources to victims of an emergency.”

(2) in subsection (b), by striking the period and inserting “;”;

and

(3) by adding at the end the following:

“(E) GUIDELINES.—The President shall promulgate and maintain guidelines to assist Governors in requesting the declaration of an emergency in advance of a natural or man-made disaster (including for the purpose of seeking assistance with special needs and other evacuation efforts) under this section by defining the types of assistance available to affected States and the circumstances under which such requests for assistance may be made.”

SEC. 652. NATIONAL DISASTER RECOVERY STRATEGY.

(a) IN GENERAL.—The Administrator, in consultation with the Secretary of Housing and Urban Development, the Administrator of the Environmental Protection Agency, the Secretary

SEC. 674. 911 AND ES911 SERVICES REPORT.

Not later than 180 days after the date of enactment of this Act, the Chairman of the Federal Communications Commission shall submit a report to Congress on the status of efforts of State, local, and tribal governments to develop plans for certifying 911 and ES911 services in the event that public safety answering points are disabled during natural disasters, acts of terrorism, and other man-made disasters.

SEC. 675. SAYINGS CLAUSE.

Nothing in this subtitle shall be construed to transfer to the Office of Emergency Communications any function, personnel, asset, component, authority, grant program, or liability of the Federal Emergency Management Agency as constituted on June 1, 2006.

Subtitle E—Stafford Act Amendments

SEC. 631. GENERAL FEDERAL ASSISTANCE. (a) MAJOR DISASTERS—Section 402 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170a) is amended—

(1) in paragraph (1), by striking “efforts” and inserting “response or recovery efforts, including precautionary evacuations”;

(2) in paragraph (2), by striking the semicolon and inserting “, including precautionary evacuations and recovery”;

(3) in paragraph (3)—

(A) in subparagraph (D), by striking “and” at the end, and

(B) by adding at the end the following:

“(F) recovery activities, including disaster impact assessments and planning”; and

(4) in paragraph (4), by striking the period and inserting “;”;

and

(5) by adding at the end the following:

“(S) provide accelerated Federal assistance and Federal support where necessary to save lives, prevent human suffering, or mitigate severe damage, which may be provided in the absence of a specific request and in which case the President—

“(A) shall, to the fullest extent practicable, promptly notify and coordinate with officials in a State in which such assistance or support is provided; and

“(B) shall not, in notifying and coordinating with a State under subparagraph (A), delay or impede the rapid deployment, use, and distribution of critical resources to victims of a major disaster.”

(b) EMERGENCIES.—Section 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5192) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking the semicolon and inserting “;”;

(B) in paragraph (6), by striking the period and inserting “;”;

and

(C) in paragraph (7), by striking the period and inserting “;”;

and

(D) by adding at the end the following:

“(S) provide accelerated Federal assistance and Federal support where necessary to save lives, prevent human suffering, or mitigate severe damage, which may be provided in the absence of a specific request and in which case the President—

“(A) shall, to the fullest extent practicable, promptly notify and coordinate with a State in which such assistance or support is provided; and

“(B) shall not, in notifying and coordinating with a State under subparagraph (A), delay or impede the rapid deployment, use, and distribution of critical resources to victims of an emergency.”

(2) in subsection (b), by striking the period and inserting “;”;

and

(3) by adding at the end the following:

“(E) GUIDELINES.—The President shall promulgate and maintain guidelines to assist Governors in requesting the declaration of an emergency in advance of a natural or man-made disaster (including for the purpose of seeking assistance with special needs and other evacuation efforts) under this section by defining the types of assistance available to affected States and the circumstances under which such requests for assistance may be made.”

SEC. 652. NATIONAL DISASTER RECOVERY STRATEGY.

(a) IN GENERAL.—The Administrator, in consultation with the Secretary of Housing and Urban Development, the Administrator of the Environmental Protection Agency, the Secretary
of Agriculture, the Secretary of Commerce, the Secretary of the Treasury, the Secretary of Transportation, the Administrator of the Small Business Administration, the Assistant Secretary of Indian Affairs of the Department of the Interior, and the heads of other appropriate Federal agencies, State, local, and tribal government officials (including through the National Advisory Council on Preparedness and Individuals With Disabilities, as defined by the President), and appropriate nongovernmental organizations shall develop, coordinate, and maintain a National Disaster Housing Strategy to serve as a guide to recovery efforts after major disasters and emergencies.

(b) CONTENTS.—The National Disaster Housing Strategy shall include:

(1) outline the most efficient and cost-effective Federal programs that will meet the recovery needs of States, local and tribal governments, and individuals and households affected by a major disaster;
(2) clearly define the role, programs, authorities, and responsibilities of each Federal agency that may be of assistance in providing assistance in the recovery from a major disaster;
(3) promote the use of the most appropriate and cost-effective building materials (based on the hazards present in an area) in any area affected by a major disaster, with the goal of encouraging the construction of disaster-resistant building and repair materials and techniques; and
(4) describe in detail the programs that may be offered by the agencies described in paragraph (2), including:
(A) posing funding issues;
(B) detailing how responsibilities under the National Disaster Housing Strategy will be shared; and
(C) addressing other matters concerning the cooperative effort to provide recovery assistance.

(c) GUIDANCE.—The Administrator shall:

(1) in the General—Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress a report describing in detail the National Disaster Housing Strategy and any additional authorities necessary to implement any portion of the National Disaster Housing Strategy;
(2) UPDATE.—The Administrator shall submit to the appropriate committees of Congress a report updating the report submitted under paragraph (1):
(A) on the same date that any change is made to the National Disaster Housing Strategy; and
(B) on a periodic basis after the submission of the report under paragraph (1), but not less than once every 5 years after the date of the submission of the report under paragraph (1).

SEC. 683. NATIONAL DISASTER HOUSING STRATEGY.

(a) IN GENERAL.—The Administrator, in coordination with representatives of the Federal agencies, governments, and organizations listed in subsection (b)(2) of this section, the National Advisory Council, the National Council on Disability, and other entities at the Administrator’s discretion, shall develop, coordinate, and maintain a National Disaster Housing Strategy.

(b) CONTENTS.—The National Disaster Housing Strategy shall include:

(1) outline the most efficient and cost-effective Federal programs that will best meet the short-term and long-term housing needs of individuals and households affected by a major disaster;
(2) clearly define the role, programs, authorities, and responsibilities of each entity in providing housing assistance in the event of a major disaster, including—
(A) the Agency;
(B) the Department of Housing and Urban Development;
(C) the Department of Agriculture;
(D) the Department of Veterans Affairs;
(E) the Department of Health and Human Services;
(F) the Bureau of Indian Affairs;
(G) any Federal agency that may provide housing assistance in the event of a major disaster;

(H) the American Red Cross; and
(I) State, local, and tribal governments;
(3) describe in detail the programs that may be offered by the entities described in paragraph (2), including:
(A) outlining any funding issues;
(B) detailing how responsibilities under the National Disaster Housing Strategy will be shared; and
(C) addressing other matters concerning the cooperative effort to provide housing assistance during a major disaster;
(4) consider methods through which housing assistance can be provided to individuals and households where employment and other resources are not available for housing assistance;
(5) describe programs directed to meet the needs of special needs and low-income populations and ensure that a sufficient number of housing units are provided for individuals with disabilities;
(6) describe plans for the operation of clusters of housing provided to individuals and households, including access to essential services, site management, security, and site density;
(7) describe plans for promoting the repair or rehabilitation of existing rental housing, including through lease agreements or other means, in order to improve the provision of housing to individuals and households under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174); and
(8) describe any additional authorities necessary to carry out any portion of the strategy.

(d) REPORT.—The Administrator shall submit to the appropriate committees of Congress a report updating the report submitted under paragraph (1) on the same date that any change is made to the National Disaster Housing Strategy, including programs directed to meeting the needs of special needs populations.

SEC. 684. HAZARD MITIGATION GRANT PROGRAM.

The third sentence of section 404(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(a)) is amended by striking “7.5 percent” and inserting “15 percent for amounts not more than $2,000,000,000, 10 percent for amounts of more than $2,000,000,000 and not more than $10,000,000,000, and 5 percent on amounts of more than $10,000,000,000 and not more than $35,333,000,000”.

SEC. 685. HOUSING ASSISTANCE.

Section 406(c)(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) is amended—

(1) by striking paragraph (2)(C); and
(2) in paragraph (3)—
(A) by striking subparagraph (B); and
(B) by redesignating subparagraph (C) as subparagraph (B).

SEC. 687. COORDINATING OFFICERS.

Section 302 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122) is amended by adding after subsection (c) the following:

“(d) Where the area affected by a major disaster or emergency includes parts of more than 1 State, the President, at the discretion of the President, may appoint a single Federal coordinating officer for the entire affected area, and shall designate the Federal coordinating officers to assist the Federal coordinating officer as the President determines appropriate.”.

SEC. 688. DEFINITIONS.

Section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122) is amended—

(1) by amending paragraph (9) to read as follows:

“(9) PRIVATE NONPROFIT FACILITY.—

“(A) IN GENERAL.—The term ‘private nonprofit facility’ means private nonprofit educational, public (including museums, zoos, performing arts facilities, community arts centers, libraries, homeless shelters, senior citizen centers, rehabilitations facilities, shelter workshops, and facilities that provide health and safety services of a governmental nature), as defined by the President.”;

(2) by redesigning paragraphs (6) through (9) as paragraphs (7) through (10), respectively; and
(3) by inserting after paragraph (5) the following:

“(6) INDIVIDUAL WITH A DISABILITY.—The term ‘individual with a disability’ means an individual with a disability as defined in section 3(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)).

SEC. 689. INDIVIDUALS WITH DISABILITIES.

(a) GUIDELINES.—Not later than 90 days after the date of enactment of this Act, and in coordination with the National Advisory Council, the National Council on Disability, the Interagency Coordinating Council on Preparedness and Individuals With Disabilities established under Executive Order 13347 (6 U.S.C. 312 note), and the Disability Coordinator (established under section 513 of the Homeland Security Act of 2002, as added by this Act), the Administrator shall develop guidelines to accommodate individuals with disabilities, which shall include guidelines for—

(1) the accessibility of, and communications and programs in, shelters, recovery centers, and other facilities; and
(2) devices used in connection with disaster operations, including first aid stations, mass feeding areas, portable phone stations, portable toilets, and temporary housing facilities.

(b) ESSENTIAL ASSISTANCE.—Section 403(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b(a)) is amended—

(1) in paragraph (2), by inserting “durable medical equipment,” after “medicine”; and
(2) in paragraph (3)—
(A) in subparagraph (B), by inserting “durable medical equipment,” after “medicine”; and
(B) in subparagraph (H), by striking “and” at the end of the sentence.

(c) IN subparagraph (I), by striking the period and inserting “; and”;

SEC. 686. MAXIMUM AMOUNT UNDER INDIVIDUAL ASSISTANCE PROGRAMS.

Section 406(c)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(c)) is amended—

(1) by striking paragraph (2)(C); and
(2) in paragraph (3)—
(A) by striking paragraph (2)(C); and
(B) by redesigning subparagraph (C) as subparagraph (B).
(D) by adding at the end the following: "(1) provision of rescue, care, shelter, and essential needs—
   (i) to individuals with household pets and services for individuals with pets;
   (ii) to such pets and animals;.
   (c) FEDERAL ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS.—Section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) is amended—
   (1) in subsection (b)(1), by inserting "or with respect to individuals with disabilities, rendered inaccessible or uninhabitable," after "uninhabitable"; and
   (2) in subsection (d)(1)(A)—
      (A) in clause (i), by striking "and" after the semicolon;
      (B) by redesigning clause (ii) as clause (iii); and
      (C) by inserting after clause (i) the following: "(iii) meets the physical accessibility requirements for individuals with disabilities; and".

SEC. 689a. NONDISCRIMINATION IN DISASTER ASSISTANCE

Section 408(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5151(a)) is amended by inserting "disability, English proficiency," after "age,".

SEC. 689b. ESTABLISHMENT

(a) DEFINITIONS.—In this section:
   (1) CHILD LOCATOR CENTER.—The term "Child Locator Center" means the National Emergency Child Locator Center established under subsection (b).
   (2) DECLARED EVENT.—The term "declared event" means a major disaster or emergency.
   (3) DISPLACED ADULT.—The term "displaced adult" means an individual 21 years of age or older who is displaced from the habitual residence of that individual as a result of a declared event.
   (4) DISPLACED CHILD.—The term "displaced child" means an individual under 21 years of age who is displaced from the habitual residence of that individual as a result of a declared event.

(b) NATIONAL EMERGENCY CHILD LOCATOR CENTER.—
   (1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator, in coordination with the Attorney General of the United States, shall establish within the National Center for Missing and Exploited Children the National Emergency Child Locator Center. In establishing the National Emergency Child Locator Center, the Administrator shall establish such rules and regulations as are necessary to implement the mission of the Child Locator Center, including any difficulties or issues in establishing the System, including funding issues.

SEC. 689c. FEDERAL ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS

Section 408(c)(1)(A) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(c)(1)(A)) is amended—
   (1) in clause (i), by adding at the end the following: "Such assistance may include the payment of the cost of utilities, excluding telephone service;" and
   (2) in clause (ii), by inserting "security deposits," after "hookups."

SEC. 689d. FEDERAL ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS

Subtitle A of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5166 et seq.) is amended by adding at the end the following:

SEC. 616. DISASTER RELATED INFORMATION SERVICES.

(a) IN GENERAL.—Consistent with section 303a(b)(1), the Director of the Federal Emergency Management Agency shall—
   (1) identify, in coordination with State and local governments, population groups with limited English proficiency and take into account such groups in planning for an emergency or major disaster;
   (2) ensure that information made available to those affected by a disaster or emergency is made available in formats that can be understood by—
      (A) population groups identified under paragraph (1); and
      (B) individuals with disabilities or other special needs; and
   (3) develop and maintain an informational clearinghouse of model language assistance programs and best practices for State and local governments in providing services related to a major disaster or emergency.

(b) GROUP SIZE.—For purposes of subsection (a), the Director of the Federal Emergency Management Agency shall define the size of a population group.

SEC. 689f. TRANSPORTATION ASSISTANCE AND CASE MANAGEMENT SERVICES TO INDIVIDUALS AND HOUSEHOLDS.

Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170 et seq.) is amended by adding at the end the following:

SEC. 425. TRANSPORTATION ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS.

The President may provide transportation assistance to relocate individuals displaced from

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(D) by adding at the end the following: "(1) provision of rescue, care, shelter, and essential needs—
   (i) to individuals with household pets and services for individuals with pets;
   (ii) to such pets and animals;.
   (c) FEDERAL ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS.—Section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) is amended—
   (1) in subsection (b)(1), by inserting "or with respect to individuals with disabilities, rendered inaccessible or uninhabitable," after "uninhabitable"; and
   (2) in subsection (d)(1)(A)—
      (A) in clause (i), by striking "and" after the semicolon;
      (B) by redesigning clause (ii) as clause (iii); and
      (C) by inserting after clause (i) the following: "(iii) meets the physical accessibility requirements for individuals with disabilities; and".

SEC. 689a. NONDISCRIMINATION IN DISASTER ASSISTANCE

Section 408(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5151(a)) is amended by inserting "disability, English proficiency," after "age,".

SEC. 689b. ESTABLISHMENT

(a) DEFINITIONS.—In this section:
   (1) CHILD LOCATOR CENTER.—The term "Child Locator Center" means the National Emergency Child Locator Center established under subsection (b).
   (2) DECLARED EVENT.—The term "declared event" means a major disaster or emergency.
   (3) DISPLACED ADULT.—The term "displaced adult" means an individual 21 years of age or older who is displaced from the habitual residence of that individual as a result of a declared event.
   (4) DISPLACED CHILD.—The term "displaced child" means an individual under 21 years of age who is displaced from the habitual residence of that individual as a result of a declared event.

(b) NATIONAL EMERGENCY CHILD LOCATOR CENTER.—
   (1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator, in coordination with the Attorney General of the United States, shall establish within the National Center for Missing and Exploited Children the National Emergency Child Locator Center. In establishing the National Emergency Child Locator Center, the Administrator shall establish such rules and regulations as are necessary to implement the mission of the Child Locator Center, including any difficulties or issues in establishing the System, including funding issues.

SEC. 689c. FEDERAL ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS

Section 408(c)(1)(A) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(c)(1)(A)) is amended—
   (1) in clause (i), by adding at the end the following: "Such assistance may include the payment of the cost of utilities, excluding telephone service;" and
   (2) in clause (ii), by inserting "security deposits," after "hookups."

SEC. 689d. FEDERAL ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS

Subtitle A of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5166 et seq.) is amended by adding at the end the following:

SEC. 616. DISASTER RELATED INFORMATION SERVICES.

(a) IN GENERAL.—Consistent with section 303a(b)(1), the Director of the Federal Emergency Management Agency shall—
   (1) identify, in coordination with State and local governments, population groups with limited English proficiency and take into account such groups in planning for an emergency or major disaster;
   (2) ensure that information made available to those affected by a disaster or emergency is made available in formats that can be understood by—
      (A) population groups identified under paragraph (1); and
      (B) individuals with disabilities or other special needs; and
   (3) develop and maintain an informational clearinghouse of model language assistance programs and best practices for State and local governments in providing services related to a major disaster or emergency.

(b) GROUP SIZE.—For purposes of subsection (a), the Director of the Federal Emergency Management Agency shall define the size of a population group.

SEC. 689f. TRANSPORTATION ASSISTANCE AND CASE MANAGEMENT SERVICES TO INDIVIDUALS AND HOUSEHOLDS.

Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170 et seq.) is amended by adding at the end the following:

SEC. 425. TRANSPORTATION ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS.

The President may provide transportation assistance to relocate individuals displaced from
their predisaster primary residences as a result of an incident declared under this Act or otherwise transported from their predisaster primary residences under section 403(a)(3) or 502, to and from disaster assistance centers for short-term temporary accommodation or to return an individual or household to their predisaster primary residence or alternative location, as determined necessary by the Administrator.

SEC. 426. CASE MANAGEMENT SERVICES.

(‘‘The President may provide case management services, including financial assistance, to State or local government agencies or qualified private organizations to provide such services, to victims of major disasters to identify and assist unmet needs.’’).

SEC. 489g. DESIGNATION OF SMALL STATE AND RURAL ADVOCATE.

(a) IN GENERAL.—Title III of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (15 U.S.C. 5141 et seq.) is amended by adding at the end the following:

SEC. 326. DESIGNATION OF SMALL STATE AND RURAL ADVOCATE.

(a) IN GENERAL.—The President shall designate in the Federal Emergency Management Agency a Small State and Rural Advocate. (b) RESPONSIBILITIES.—The Small State and Rural Advocate shall advocate for the treatment of small States and rural communities in the provision of assistance under this Act.

(c) DUTIES.—The Small State and Rural Advocate shall—

(1) participate in the disaster declaration process under section 401 and the emergency declaration process under section 501, to ensure that the needs of rural communities are being addressed;

(2) assist small population States in the preparation of requests for major disaster or emergency declarations; and

(3) conduct such other activities as the Director of the Federal Emergency Management Agency considers appropriate.

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress a report detailing the extent to which disaster declaration regulations—

(i) meet the particular needs of States with populations of less than 1,500,000 individuals; and

(ii) comply with statutory restrictions on the use of arithmetic formulas and sliding scales based on the affected population.

(c) STATUTORY CONSTRUCTION.—Nothing in this section or the amendments made by this section shall be construed to authorize major disaster declaration regulations in effect on the date of enactment of this Act and is not used to house

SEC. 489h. REPAIR, RESTORATION, AND REPLACEMENT OF DAMAGED PRIVATE NON-PROFIT EDUCATIONAL FACILITIES.


SEC. 489i. INDIVIDUALS AND HOUSEHOLDS PILOT PROGRAM.

(a) PILOT PROGRAM.—

(1) IN GENERAL.—The President, acting through the Administrator, and in coordination with State, local, and tribal governments, shall establish a pilot program under this section. The pilot program shall be designed to make better use of existing rental housing, located in areas covered by a major disaster declaration, in order to provide timely and cost-effective temporary housing assistance to individuals and households eligible for assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) where alternative housing options are less available or less cost-effective.

(2) ADMINISTRATION.—For purposes of the pilot program under this section, the Administrator may—

(i) enter into lease agreements with owners of multi-family rental property located in areas covered by a major disaster declaration to house individuals and households eligible for assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174);

(ii) make improvements to properties under such lease agreements;

(iii) use the pilot program where the program is cost effective in that the cost to the Government for the lease agreements is in proportion to the savings to the Government by not providing alternative housing; and

(iv) limit repairs to those required to ensure that the housing units meet Federal housing quality standards.

(b) IMPROVEMENTS TO LEASED PROPERTIES.

Under the terms of any lease agreement for a property described under subparagraph (A)(i), the value of the contribution of the Agency to such improvements—

(i) shall be deducted from the value of the lease agreement; and

(ii) may not exceed the value of the lease agreement.

(c) CONSULTATION.—In administering the pilot program under this section, the Administrator may consult with State, local, and tribal governments.

(d) REPORT.—

(1) IN GENERAL.—Not later than March 31, 2009, the Administrator shall submit to the appropriate committees of Congress a report regarding the effectiveness of the pilot program.

(2) CONTENTS.—The Administrator shall include in the report—

(i) an assessment of the effectiveness of the pilot program under this section, including an assessment of cost-savings to the Federal Government and any benefits to individuals and households eligible for assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) under the pilot program;

(ii) findings and conclusions of the Administrator with respect to the pilot program; and

(iii) an assessment of additional authorities needed to aid the Agency in its mission of providing disaster housing assistance to individuals and households eligible for assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174), either under the pilot program under this section or in providing disaster housing assistance to individuals and households eligible for assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) under the pilot program.

(e) WAIVER.—The Administrator may waive such regulations or rules applicable to the provision of assistance under this Act, in order to improve the effectiveness of the pilot program.

(f) PILOT PROGRAM PROJECT DURATION.

(1) IN GENERAL.—For the purposes of the pilot program under this section, the pilot program may be extended for a period of up to 6 months, as determined by the Administrator, after the date that the natural disaster to which the pilot program is applicable occurs.

(g) PILOT PROGRAM PROJECT DURATION.

(1) IN GENERAL.—For the purposes of the pilot program under this section, the pilot program may be extended for a period of up to 6 months, as determined by the Administrator, after the date that the natural disaster to which the pilot program is applicable occurs.

(h) PILOT PROGRAM PROJECT DURATION.

(1) IN GENERAL.—For the purposes of the pilot program under this section, the pilot program may be extended for a period of up to 6 months, as determined by the Administrator, after the date that the natural disaster to which the pilot program is applicable occurs.
individuals or households under section 408 of the Robert T. Stafford Disaster Relief and Emergencey Assistance Act (42 U.S.C. 5174) after that date, such unit shall be disposed of in accordance with chapter 5 of subtitle I of title 40, United States Code.

(b) Tribal GOVERNMENTS.—Housing units described in subsection (a) shall be disposed of in accordance with the Department of the Interior, or other appropriate agencies in order to transfer such units to tribal governments if appropriate.

Subtitle E—Prevention of Fraud, Waste, and Abuse

SEC. 691. ADVANCE CONTRACTING.

(a) INITIAL REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit a report under paragraph (2) identifying—

(A) recurring disaster response requirements, including specific goods and services, for which the Agency is capable of contracting for in advance of a natural disaster or act of terrorism or other man-made disaster in a cost effective manner;

(B) recurring disaster response requirements, including specific goods and services, for which the Administrator shall encourage State and local governments to enter into advance contracts in advance of a natural disaster or act of terrorism or other man-made disaster in a cost effective manner; and

(C) a contracting strategy that maximizes the use of advance contracts to the extent practical and cost-effective.

(b) ENTERING INTO CONTRACTS.—(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall enter into 1 or more contracts for each type of goods or services identified under subsection (a)(1)(A), and in accordance with the contracting strategy identified in subsection (a)(1)(C). Any contract for goods or services identified in subsection (a)(1)(A) previously awarded may be maintained in fulfilling this requirement.

(2) CONSIDERED FACTORS.—Before entering into any contract under this subsection, the Administrator shall consider section 307 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5150), as amended by this Act.

(c) PREGNOSTICATED FEDERAL CONTRACTS FOR GOODS AND SERVICES.—The Administrator, in coordination with State and local governments and other Federal agencies, shall enter into contracts with public and private organizations, firms, or individuals residing or doing business primarily in the area affected by such major disaster or emergency assistance activities which may be carried out by contract or agreement with private organizations, firms, or individuals.

(d) REPORT ON CONTRACTS NOT USING COMPETITIVE PROCEDURES.—At the end of each fiscal quarter beginning with the first fiscal quarter occurring at least 90 days after the date of enactment of this Act, the Administrator shall submit a report on each disaster assistance contract entered into by the Agency by other than competitive procedures to the appropriate committees of Congress.

SEC. 692. LIMITATIONS ON TIERING OF SUBCONTRACTS.

(a) REGULATIONS.—The Secretary shall promulgate regulations applicable to contracts described in subsection (c) to minimize the excessive use by contractors of subcontractors or tiers of subcontractors to perform the principal work of the contract.

(b) SPECIFIC REQUIREMENT.—At a minimum, the regulations promulgated under subsection (a) shall-preclude a contractor from using subcontractors for more than 65 percent of the cost of the contract or a major natural disaster task or delivery order (not including overhead and profit), unless the Secretary determines that such requirement is not feasible or practicable.

(c) COVERED CONTRACTS.—This section applies to any cost-reimbursement type contract or task or delivery order in an amount greater than the simplified acquisition threshold (as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)) entered into by the Department to facilitate response to or recovery from a natural disaster or act of terrorism or other man-made disaster.

SEC. 693. OVERSIGHT AND ACCOUNTABILITY OF FEDERAL DISASTER EXPENDITURES.

(a) AUTHORIZATION OF ADMINISTRATOR TO DESIGNATE FUNDS FOR OVERSIGHT ACTIVITIES.—The Administrator may designate up to 1 percent of the total amount provided to a Federal agency or sub-agency in the fiscal year for Federal disaster assistance activities which to be used by the recipient agency for performing oversight of activities carried out under the Administrator reimbursable mission assignment pursuant to subsection (a)(1)(C). Any contract for goods or services identified in subsection (a)(1)(C) previously awarded may be maintained in fulfilling this requirement.

(b) USE OF FUNDS.—(1) TYPES OF OVERSIGHT ACTIVITIES.—Oversight funds may be used for the following types of oversight activities related to Agency mission assignments:

(A) Monitoring, tracking, and auditing expenditures of funds.

(B) Ensuring that sufficient management and internal control mechanisms are available so that Agency funds are expendable and in accordance with all applicable laws and regulations.

(C) Reviewing selected contracts and other activities.

(D) Investigating allegations of fraud involving Agency funds.

(E) Contracting for and participating in fraud prevention activities with Federal, State, and local government personnel and contractors.

(2) PLANS AND REPORTS.—Oversight funds may be used to issue the plans required under subsection (e) and the reports required under subsection (f).

(c) RESTRICTION ON USE OF FUNDS.—Oversight funds may not be used to finance existing agency oversight responsibilities related to agency appropriations or disaster response, relief, and recovery activities.

(d) METHODS OF OVERSIGHT ACTIVITIES.—(1) IN GENERAL.—Oversight activities may be carried out by an agency under this section either directly or by contract. Such activities may include evaluations and financial and performance audits.

(2) COORDINATION OF OVERSIGHT ACTIVITIES.—To the extent practicable, evaluations and audits under this section shall be performed by the inspector general of the agency.

(e) DEVELOPMENT OF OVERSIGHT PLANS.—(1) IN GENERAL.—If an agency receives oversight funds for a fiscal year, the head of the agency shall prepare the oversight plans for disaster assistance activities which are the subject of the oversight funds. The oversight plans shall be submitted to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate not later than 90 days after the beginning of the fiscal year.

(2) SELECTION OF OVERSIGHT ACTIVITIES.—In preparing the plan, the head of the agency shall select oversight activities based upon a risk assessment of the areas that present the greatest risk of fraud, waste, and abuse.

(3) SCHEDULE.—The plan shall include a schedule for conducting oversight activities, including anticipated conclusion.

(f) FEDERAL DISASTER ASSISTANCE ACCOUNTABILITY REPORTS.—A Federal agency receiving oversight funds under this section shall submit annually to the Administrator the appropriate committees of Congress a consolidated report regarding the use of such funds, including information summarizing oversight activities and the results achieved.

(g) DEFINITION.—In this section, the term ‘‘oversight funds’’ means funds referred to in paragraph (1) of subsection (a) that are designated for use in performing oversight activities.

SEC. 694. USE OF LOCAL FIRMS AND INDIVIDUALS.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) is amended by striking section 307 and inserting the following:

‘‘SEC. 307. USE OF LOCAL FIRMS AND INDIVIDUALS.

‘‘(a) CONTRACTS OR AGREEMENTS WITH PRIVATE ENTITIES.—‘‘(1) IN GENERAL.—In the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster or emergency assistance activities which may be carried out by contract or agreement with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to these organizations, firms, and individuals residing or doing business primarily in the area affected by such major disaster or emergency.

‘‘(2) VENDOR.—This subsection shall not be construed to restrict the use of Department of Defense resources under this Act in the provision of assistance in a major disaster.

‘‘(b) SPECIFIC GOVERNOR.—When considering contracts or agreements described in this section, a contract or agreement may be carried out by an organization, firm, or individual residing or doing business primarily in the area affected by such major disaster which shall be justified in writing in the contract file.

‘‘(2) TRANSITION.—Following the declaration of an emergency or major disaster, an agency performing response, relief, and reconstruction functions shall transition to contracts and agreements as appropriate to restrict the use of Department of Defense resources under this Act in the provision of assistance in a major disaster.

‘‘(3) PROCUREMENT.—Nothing in this section shall be construed to restrict the use of Department of Defense resources under this Act in the provision of assistance in a major disaster.

‘‘SEC. 695. LIMITATION ON LENGTH OF CERTAIN CONTRACTS AND AGREEMENTS.

(a) REGULATIONS.—The Secretary shall promulgate regulations to define the terms ‘‘major disaster’’ and ‘‘emergency assistance activities’’ described in subsection (c) to restrict the contract period of any such contract entered into using procedures other than competitive procedures other than the exception provided in paragraph (2) of section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)) to the minimum contract period necessary:

(1) to meet the urgent and compelling requirements of the work to be performed under the contract; and

(2) to enter into another contract for the required goods or services through the use of competitive procedures.

‘‘SEC. 696. LIMITATION ON LENGTH OF CERTAIN NONCOMPETITIVE CONTRACTS.

SEC. 696. LIMITATION ON LENGTH OF CERTAIN NONCOMPETITIVE CONTRACTS.

(a) REGULATIONS.—The Secretary shall promulgate regulations to define the term ‘‘major disaster’’ and ‘‘emergency assistance activities’’ described in subsection (c) to restrict the contract period of any such contract entered into using procedures other than competitive procedures other than the exception provided in paragraph (2) of section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)) to the minimum contract period necessary:

(1) to meet the urgent and compelling requirements of the work to be performed under the contract; and

(2) to enter into another contract for the required goods or services through the use of competitive procedures.

‘‘SEC. 697. LIMITATION ON LENGTH OF CERTAIN NONCOMPETITIVE CONTRACTS.

(a) REGULATIONS.—The Secretary shall promulgate regulations to define the term ‘‘major disaster’’ and ‘‘emergency assistance activities’’ described in subsection (c) to restrict the contract period of any such contract entered into using procedures other than competitive procedures other than the exception provided in paragraph (2) of section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)) to the minimum contract period necessary:

(1) to meet the urgent and compelling requirements of the work to be performed under the contract; and

(2) to enter into another contract for the required goods or services through the use of competitive procedures.

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SEC. 696. FRAUD, WASTE, AND ABUSE CONTROLS. 
(a) IN GENERAL.—The Administrator shall ensure that:
(1) all programs within the Agency administering Federal disaster relief assistance develop and maintain proper internal management controls to prevent and detect fraud, waste, and abuse;
(2) application databases used by the Agency to collect information on eligible recipients must record disbursements;
(3) such tracking is designed to highlight and identify ineligible applications; and
(4) the databases used to collect information from applications for such assistance must be integrated with disbursements and payment records.
(b) AUDITS AND REVIEWS REQUIRED.—The Administrator shall ensure that any database or similar application processing system for Federal disaster relief assistance programs administered by the Agency undergoes a review by the Inspector General of the Agency to determine the existence and implementation of such internal controls required under this section and the amendments made by this section.
(c) VERIFICATION MEASURES FOR INDIVIDUALS AND HOUSEHOLDS PROGRAM.—Section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) is amended—
(1) by redesignating subsection (i) as subsection (j); and
(2) by inserting after subsection (h) the following:
"(i) VERIFICATION MEASURES.—In carrying out this section, the President shall develop a system, including an electronic database, that shall allow the President, or the designee of the President, to—
"(1) verify the identity and address of recipients of assistance under this section to provide reasonable assurance that payments are made only to an individual or household that is eligible for such assistance;
"(2) minimize the risk of making duplicative payments or payments for fraudulent claims under this section;
"(3) collect any duplicate payment on a claim under this section, or reduce the amount of subsequent payments to offset the amount of any such duplicate payment;
"(4) provide instructions to recipients of assistance under this section regarding the proper use of any such assistance, regardless of how such assistance is distributed; and
"(5) conduct an expedited and simplified review and appeal process for an individual or household whose application for assistance under this section is denied.".

SEC. 697. REGISTRY OF DISASTER RESPONSE CONTRACTORS.
(a) DEFINITIONS.—In this section—
(1) the term ‘‘registry’’ means the registry created under subsection (b); and
(2) the term ‘‘small business concern’’, ‘‘small business concern owned and controlled by socially and economically disadvantaged individuals’’, ‘‘small business concern owned and controlled by women’’, and ‘‘small business concern owned and controlled by service-disabled veterans’’ have the meanings given those terms under the Small Business Act (15 U.S.C. 631 et seq.).

(b) REGISTRY.—
(1) IN GENERAL.—The Administrator shall establish and maintain a registry of contractors who are willing to perform debris removal, distribution of supplies, reconstruction, and other disaster or emergency relief activities.
(2) CONTENTS.—The registry shall include, for each business concern—
(A) the name of the business concern;
(B) the location of the business concern;
(C) the area served by the business concern;
(D) the types of goods or service provided by the business concern;
(E) the bonding level of the business concern; and
(F) whether the business concern is—
(i) a small business concern;
(ii) a small business concern owned and controlled by socially and economically disadvantaged individuals;
(iii) a small business concern owned and controlled by women; or
(iv) a small business concern owned and controlled by service-disabled veterans.
(3) SOURCE OF INFORMATION.—
(A) SUBMISSION.—Information maintained in the registry shall be submitted on a voluntary basis and kept current by the submitting business concerns.
(B) ATTESTATION.—Each business concern submitting information to the registry shall submit—
(i) an attestation that the information is true; and
(ii) documentation supporting such attestation.
(C) VERIFICATION.—The Administrator shall verify that the information submitted by each business concern supports the information submitted by that business concern.
(4) AVAILABILITY OF REGISTRY.—The registry shall be made generally available on the Internet site of the Agency.
(5) CONSULTATION OF REGISTRY.—As part of the acquisition planning for contracting for debris removal, distribution of supplies in a disaster, reconstruction, and other disaster or emergency relief activities, a Federal agency shall consult the registry.

SEC. 698. FRAUD PREVENTION TRAINING PROGRAM.
The Administrator shall develop and implement a program to prevent on the prevention of waste, fraud, and abuse of Federal disaster relief assistance relating to the response to or recovery from natural disasters and acts of terrorism or other man-made disasters and ways to identify such potential waste, fraud, and abuse.

Subtitle G—Authorization of Appropriations
SEC. 699. AUTHORIZATION OF APPROPRIATIONS.
There are authorized to be appropriated to carry out this title and the amendments made by this title for the administration and operations of the Agency—
(1) for fiscal year 2008, an amount equal to the amount appropriated for fiscal year 2007 for administration and operations of the Agency, multiplied by 1.1;
(2) for fiscal year 2009, an amount equal to the amount described in paragraph (1), multiplied by 1.1; and
(3) for fiscal year 2010, an amount equal to the amount described in paragraph (2), multiplied by 1.1.

SEC. 699A. Except as expressly provided otherwise, any reference to ‘‘this Act’’ contained in this title shall be treated as referring only to the provisions of this title.

This Act may be cited as the ‘‘Department of Homeland Security Appropriations Act, 2007.’’

And the Senate agree to the same.

December 5, 2006.
HAROLD ROGERS,
ZACH WAMP,
TOM LATHAM,
JO ANN EMERSON,
JENNIE PRICE,
JOSE E. SERRANO,
LUCILLE ROYBAL-ALLARD,
SANFORD D. BISHOP,
MARGO BERRY,
CHERI BURKHARDT,
DAVID R. OBRY.
Managers On The Part Of The House.

JUDD GREGGY,
THAD COCHRAN,
TIM STEVENS,
ARLEN SPECTER,
PETR V. DOMENICI,
RICHARD C. SHERBY,
LARRY E. CRAIG,
R. F. BENNETT,
WAYNE ALLARD,
ROBERT C. BYRD,
DANIEL K. INOUYE,
PATRICK J. LEAHY,
BARBARA A. MUKULSKI,
HERB KOHL,
PATTY MURRAY,
HARRY REID.
DIANNE FEINSTEIN.
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT
The managers on the Part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5441), making appropriations for the Department of Homeland Security (DHS) for the fiscal year ending September 30, 2007, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effects of the action agreed upon by the managers and recommended in the accompanying conference report.

Senate Amendment: The Senate deleted the entire House bill after the enacting clause and inserted the Senate bill. The conference agreement includes a revised bill. Throughout the accompanying explanatory statement, the managers refer to the Committee and the Committees on Appropriations. Unless otherwise noted, in both instances, the managers are referring to the House Subcommittees on Homeland Security and the Senate Subcommittee on Homeland Security.

The language and allocations contained in House Report 109-476 and Senate Report 109-273 should be complied with unless specifically addressed to the contrary in the conference report and supporting managers. The statement of managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein. In cases where both the House and Senate reports address a particular issue not specifically addressed in the conference report or joint statement of managers, the conference have determined the House report and the Senate report are not inconsistent and are to be interpreted accordingly. In cases where the House or Senate report directs the submission of a report, such report is to be submitted to both Committees on Appropriations. Further, in a number of instances, House Report 109-476 and Senate Report 109-273 direct agencies to report to the Committees by specific dates. In those instances, and unless alternative dates are provided in the accompanying explanatory statement, agencies are directed to provide these reports to the Committees on Appropriations no later than January 23, 2007.

CLASSIFIED PROGRAMS
Recommended adjustments to classified programs are addressed in a classified annex accompanying this statement of managers.
TITLE I—DEPARTMENTAL MANAGEMENT AND OPERATIONS
OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT
The conferees agree to provide $84,470,000 instead of $82,694,000 as proposed by the House and $82,622,000 as proposed by the Senate. The conferees have made reductions to the budget request due to a large number of vacated positions and unobligated balances within certain offices. Funding shall be allocated as follows:

**Office of Policy**

- **Chief of Staff** .................................. 2,560,000
- **Office of the Deputy Secretary** .......... 1,185,000
- **Office of Legislative and Intergovernmental Affairs** ...... 5,449,000
- **Office of General Counsel** ............... 12,759,000
- **Office of Civil Rights and Liberties** ...... 13,000,000
- **Citizenship and Immigration Services Ombudsman** .. 5,927,000
- **Privacy Officer** ............................... 4,635,000
- **Total** ..................................... 94,470,000

**COMPREHENSIVE PORT, CONTAINER, AND CARGO SECURITY STRATEGY**

The conferees are concerned that the Department’s funding has been provided for policy oversight for the Secure Border Initiative, instead of new border control operations, as well as a technical full-time equivalent (FTE) adjustment. The Secure Border Coordination Office is funded as an independent office.

The conferees support a strong, centralized Office of Policy to further the Department’s mission. The conferees are concerned that the office is bureaucraticized and encourage the office to remain flexible to address the most pressing policy issues confronting the Department, both in the short and long term.

**SECURE BORDER COORDINATION OFFICE**

The conferees agree to provide $45,500,000 for the Secure Border Coordination Office, instead of $5,000,000 as proposed by the House for the Secure Border Initiative Program Executive Office (SBI PEO). Funds provided are to enhance program planning and performance management.

The conferees fund the Secure Border Coordination Office as a distinct office within the Office of the Secretary and Executive Management because it is a functional office charged with the effective and efficient operation of the Department’s border security and immigration enforcement programs rather than formulation of policy. The Office of Policy, in the Office of the Secretary, will continue to have an oversight responsibility for policy related to the Secure Border Initiative.

The conferees view the Secure Border Coordination Office as a focal point for the Department’s transition from a fragmented and stove-piped border security organization to an integrated system capable of producing real results. The data contained within the September 2006 bi-monthly status report on DHS’ border security performance, the conferees note both the quality of this report as a standard for DHS to emulate and recognize the timeliness with which the report was submitted. The conferees direct the Secure Border Coordination Office to submit bi-monthly status reports through the end of fiscal year 2007, as specified by the House and Senate, and the Judge Advocate General of the Secretary to ensure all information contained within the report is appropriately classified.

The conferees provide considerable resources to border and immigration enforcement in this Act as well as in fiscal year 2006 appropriations and view the Secure Border Coordination Office as accountable for linking these resources to the stated goal of gaining operational control of our borders within five years. The conferees expect to see a detailed justification for the staffing and resources of the Office within the fiscal year 2008 budget request.

**OFFICE OF COUNTERNARCOTICS ENFORCEMENT**

The conferees agree to provide $6,360,000 for a separate Office of Counternarcotics Enforcement, as proposed by the Senate, instead of $2,741,000 within the Office of Chief of Staff as proposed by the House. The conferees view this office as responsible for monitoring and enforcing the traditional counternarcotics functions of the DHS agencies, as well as examining the nexus of drugs and terrorism. The conferees agree that this funding be included within the budget request. The Office of the Chief of Staff and have provided for the establishment of an independent office within the Office of the Secretary and Executive Management. The conferees question the necessity and efficacy of separating this office from the Office of Policy and encourage giving its analysis and policy formulation mission and encourage DHS to consider this as part of its fiscal year 2008 budget submission.

The Office is directed to report, in conjunction with the fiscal year 2008 budget request, on its annual productivity and performance as directed in the House report.

**EXECUTIVE STAFF**

The conferees agree to provide $4,450,000 for the Executive Secretary instead of $5,001,000 as proposed by the House and $4,000,000 as proposed by the Senate. Within this funding level, the conferees agree to the technical FTE adjustment and associated funding as requested and one additional full-time position. In late 2005, the Executive Secretary was tasked with improving responsiveness to Congress by responding to Congressional inquiries within two weeks. The conferees direct the Executive Secretary to report quarterly, with the first report due on January 31, 2007, on its success meeting this two-week goal and its plans to sustain this standard given the volume of Congressional interest in DHS issues.

**TRAINING**

The conferees direct the Secretary to brief the Committees on Appropriations on the inventory of funds supporting training in the Preparedness Directorate of the Federal Emergency Management Agency (FEMA) in fiscal year 2007 as discussed in the House report. In addition, the conferees direct that grant detail be included in the fiscal year 2008 Congressional budget justifications.

**CONTRACT STAFF**

The conferees agree with Senate language directing the Secretary to update its contract staffing report, no later than February 8, 2007, to include data for fiscal year 2006, projected contract staff for fiscal year 2007, and strategies to reduce these types of contract employees.

**GRANT AWARDS**

The conferees continue to be disappointed by the Department’s slow pace of awarding important security funds to state and local governments. Therefore, bill language is included under Grants and Training requiring port, rail and transit, trucking, intercity buses, and for border zones, as well as State Homeland Security Grants, Law Enforcement Terrorism Prevention, and Urban Area Security Initiative funds to be awarded by a date certain by fiscal year 2007.

**UNOBLIGATED BALANCES**

The Office of the Secretary and Executive Management appears to continue to lack an appropriate plan for use of available funding, as unobligated dollars remain high throughout the year. The conferees are particularly disappointed the Office of Civil Rights and Liberties, the Citizenship and Immigration Services Ombudsman, and the Privacy Office are not using available resources to meet growing responsibilities. The Department is directed to provide the Committees on Appropriations with an expenditure plan for these offices no later than November 1, 2006.

**VANCOUVER OLYMPICS**

The conferees direct the Secretary to conduct a review, in conjunction with appropriate Committees and Canadian entities, and to report to the Committees on Appropriations, the Senate Committee on Homeland Security and Governmental Affairs, and the House Committee on Homeland Security, within six months after enactment of this Act, on all relevant security issues related to the 2010 Vancouver Olympic and Paralympic Games. Funding and increases in border flow, necessary enhancements to border security, estimated border
crossing wait times, and the need for additional border personnel. The Secretary, in coordination with the Secretary of State, the Federal Communications Commission, and representatives in the States of Alaska, Idaho, Montana, Oregon, and Washington, shall also evaluate the technical and operational interoperability challenges facing state, local, and federal authorities in preparing for the 2010 Olympic and Paralympic Games. The conferences direct the Secretary to submit a plan to address these issues to the Committees on Appropriations; the Senate Committee on Commerce, Science, and Transportation; the Senate Committee on Homeland Security and Governmental Affairs; the House Committee on Homeland Security; and the House Committee on Energy and Commerce, six months after enactment of this Act. The conferees direct the Secretary to submit a plan to address these issues to the Committees on Appropriations; the Senate Committee on Commerce, Science, and Transportation; the Senate Committee on Homeland Security and Governmental Affairs; the House Committee on Homeland Security; and the House Committee on Energy and Commerce, six months after enactment of this Act. The conferees direct GAO to review DHS compliance during fiscal years 2005–06 with section 503(a)(5) of P.L. 108–334 and P.L. 109–90, which prohibit DHS from reprogramming funds that were appropriated for federal terrorism, Federal Traveling (FT2) for conducting out similar functions, and report to the Committees on Appropriations by March 1, 2007.

DATA-MINING

The conferences continue to be concerned with the Department’s possible use or development of data-mining technology and direct the DHS Privacy Officer to submit a report consistent with the terms and conditions listed in section 549 of the Senate bill. The conferences expect the report to include information on how it has implemented the recommendations laid out in the Department’s data-mining report received July 18, 2006.

TRANSFER AUTHORITY

The conferences direct the Secretary to provide the Committees on Appropriations a report by November 1, 2006, with any recommendations for transfers, reprogramming, and if appropriate, budget requests, pursuant to 31 USC 1105, in order to implement new authorities contained in title VI. The conferences agree to provide $153,640,000 instead of $70,489,000 as proposed by the House, and $136,426,000 as proposed by the Senate. The conferences have made reductions to the budget request due to a large number of vacancies and unobligated balances within certain offices. Funding shall be allocated as follows:

<table>
<thead>
<tr>
<th>Office</th>
<th>FY 2007 Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Secretary of Management</td>
<td>$1,870,000</td>
</tr>
<tr>
<td>Office of Security</td>
<td>$2,640,000</td>
</tr>
<tr>
<td>Office of the Chief Procurement Officer</td>
<td>$16,895,000</td>
</tr>
<tr>
<td>Office of the Chief Human Capital Officer</td>
<td>$8,811,000</td>
</tr>
<tr>
<td>MAX-HR Human Resource System</td>
<td>$25,000,000</td>
</tr>
<tr>
<td>Office of the Chief Personnel Officer</td>
<td>$40,218,000</td>
</tr>
<tr>
<td>Nebraska Avenue Complex (DHS headquarters)</td>
<td>$8,206,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>153,640,000</strong></td>
</tr>
</tbody>
</table>

OFFICE OF THE DEPUTY SECRETARY FOR MANAGEMENT

The conferences agree to provide $153,640,000 instead of $70,489,000 as proposed by the House and $136,426,000 as proposed by the Senate. The conferences have made reductions to the budget request due to a large number of vacancies and unobligated balances within certain offices. Funding shall be allocated as follows:

<table>
<thead>
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<tr>
<td>Office of Security</td>
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</tr>
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</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>153,640,000</strong></td>
</tr>
</tbody>
</table>

The conferences have fully funded the budget request for the Office of the Chief Procurement Officer. Because the Department has experienced numerous procurement problems, the conferences will support the Department’s efforts to hire more procurement staff both within this office, as well as within a variety of DHS components. The Chief Procurement Office should develop a procurement oversight plan, identifying necessary oversight resources and how improvements in the Department’s performance of its procurement functions will be achieved. This plan shall be provided to the Committees on Appropriations and the Government Accountability Office (GAO) no later than January 15, 2007. The conferences direct GAO to brief the Committees no later than April 16, 2007, on their analysis of this plan.

The conferences direct GAO to review DHS budget execution during fiscal years 2005–06 with section 503(a)(5) of P.L. 108–334 and P.L. 109–90, which prohibit DHS from reprogramming funds that were appropriated for federal terrorism, Federal Traveling (FT2) for conducting out similar functions, and report to the Committees on Appropriations by March 1, 2007.

While the conferences have fully funded the budget request of $8,206,000 for enhancements to the DHS headquarters on Nebraska Avenue, no funding has been provided to move non-Headquarters employees to the U.S. Coast Guard headquarters to the St. Elizabeths complex. This move has been proposed as the first phase to consolidate most or all of DHS at the St. Elizabeths campus. However, for the conference to evaluate the reasons why St. Elizabeths is the best location for a permanent DHS headquarters, what other sites have been consid- ered, and expenditure plan to the Committees on Appropriations within 90 days after enactment of this Act. This plan shall list all space requirements for DHS headquarters, and the total costs associated with using the St. Elizabeths site as a headquarters location. The Department must develop a comprehensive long-term plan for the future location of all DHS offices and components, rather than the piecemeal approach to which the conferences prohibit the Department from relocating the Coast Guard headquarters, or any other DHS component, until DHS completes a national headquarters master plan and submits a prospectus for Congressional review and approval. In addition, the conferences direct the Department to regularly update the Committees on Appropriations on the expenditure of funds provided to improve the current DHS headquarters on Nebraska Avenue, as specified in the Senate report.

The conferences agree to provide $25,000,000 instead of $26,000,000 as proposed by the House and $26,018,000 as proposed by the Senate. A slight funding reduction has been made to the budget request due to the large number of vacancies.

RESOURCE MANAGEMENT TRANSFORMATION OFFICE (EMERGE)

The conferences provide no funding for the Resource Management Transformation Office (EMERGE) as proposed by the Senate, in- stead of $18,000,000 for EMERGE as proposed by the House. The conferences understand DHS has moved away from an acentric EMERGE 2 program and has determined necessary improvements for the Resource Management Transformation Office should also encompass training, financial policy, process changes, and internal controls. Because DHS has about $40,000,000 in unobligated balances from EMERGE funding proposed to the Office of the Chief Information Officer (CIO), the conferences direct the Chief Financial Officer (CFO) to use these remaining funds for financial management improvements and to work with managerate systems improvements with the CIO. The CFO must submit an expenditure plan for these remaining funds by November 15, 2006.

In spite of clear direction in sections 503 and 504, the conferences are dismayed by an apparent disregard for consistent and trans-
The conferees direct this report to be submitted not more than 45 days after the close of each month. Based on the Department’s historical ability to deliver the reports on a timely basis, the conferees will revisit the bill provision in future appropriations Acts.

IMPROPER PAYMENTS

The conferees are concerned the Department is not complying with the Improper Payment Information Act of 2002. The Department reported in its fiscal year 2005 Performance and Accountability Report that none of its programs were deemed to be at significant risk of making improper payments, despite the fact that GAO found problems with billions of dollars in payments responding to Hurricanes Katrina and Rita. According to the Office of Management and Budget Memorandum 30-13, “significant” is defined to mean at least 2.5 percent of all payments made are improper, and the absolute dollar figure associated with that 2.5 percent or more totals at least $10,000,000. The Improper Payment Information Act requires federal programs and activities deemed to be at “significant” risk of making improper payments to report improper payment information to Congress. The conferees expect the Department to comply with the Improper Payment Information Act.

OFFICE OF THE CHIEF INFORMATION OFFICER

The conferees agree to provide $399,013,000 for the Office of the Chief Information Officer (CIO) instead of $394,765,000 as proposed by the House and $396,765,000 as proposed by the Senate. Funding shall be allocated as follows:

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries and Expenses</td>
<td>$79,521,000</td>
</tr>
<tr>
<td>Information Technology</td>
<td>$61,013,000</td>
</tr>
<tr>
<td>Security</td>
<td>$89,387,000</td>
</tr>
<tr>
<td>Wireless Programs</td>
<td>$86,438,000</td>
</tr>
<tr>
<td>Homeland Secure Data</td>
<td>$3,265,000</td>
</tr>
<tr>
<td>Total</td>
<td>$399,013,000</td>
</tr>
</tbody>
</table>

The conferees agree to the CIO to use the remaining unobligated balances of approximately $40,000,000 from the eMerge2 program for financial management improvements, and to continue to coordinate systems improvements with the Government Accountability Office.

INFORMATION TECHNOLOGY OVERSIGHT

The conferees support language contained in the House report on information technology oversight and direct that no funds be made available in this Act for obligation to the CIO for any information technology procurement of $2,500,000 or more without approval of the DHS CIO. These procurements must conform to DHS’ Enterprise Architecture or justify any deviation from it.

NATIONAL CENTER FOR CRITICAL INFORMATION PROCESSING AND STORAGE (NCCIPS)

The conferees agree to include $35,000,000 for National Centers. Of this amount, $12,000,000 shall be provided for the ongoing efforts to develop and transition the Department’s multiple data centers to the NCCIPS. The conferees support the Senate’s recommendation to identify and secure the NCCIPS secondary site and provide the remaining $41,000,000 for those activities. To provide flexibility to meet operational obligations, fill back-up requirements, the conferees direct the secondary facility and infrastructure be at a separate remote location and the site selected be coordinated in a fair and open evaluation process. NCCIPS is intended to migrate and consolidate critical infrastructure information, thereby reducing unnecessary and overlapping investments by the Government.

The conferees believe that integrating the multiple centers and infrastructure to the primary and secondary NCCIPS data centers will present significant opportunities for cost saving and provide the best investment for DHS critical information requirements.

In consolidating the data centers to the NCCIPS, consistent with section 888 of Public Law 107-296, the conferees instruct the Department to develop a consolidation plan in a manner that shall not result in a reduction to the Coast Guard’s Operations System Center mission or its government-employed or civilian employees.

COMMON OPERATING PICTURE

The conferees acknowledge that DHS has made significant progress developing systems such as the Homeland Security Information Network, Information Exchange Platform, Private Partnership and, Infrastructure Critical Asset Viewer, which facilitate communications, situational awareness, and provide for the sharing of information between DHS and its federal, state, local, and commercial partners. These systems each address a specific functional or customer requirement and lay the groundwork for a comprehensive national incident prevention and response system.

The conferees encourage DHS to continue developing these types of systems and the ability to integrate all federal systems into a common architecture that would address a broader functional and customer base to include integration with state fusion centers.

HOMELAND SECURITY PRESIDENTIAL DIRECTIVE—

The conferees understand the Department and other federal agencies are attempting to comply with the Homeland Security Presidential Directive–12 mandate to begin using Personal Identity Verification (PIV) cards for new employees and contractors by October. The conferees provide the requested amount of $2,966,000 for the Smartcard program. The conferees encourage the Department to work expeditiously towards the implementation of PIV cards for life cycle management and certificate services and provide to the Committees on Appropriations a briefing on the Department’s plans to implement this directive by December 1, 2006.

ANALYSIS AND OPERATIONS

The conferees agree to provide $299,063,000 for Analysis and Operations including up to $298,063,000 for the House and $301,000,000 as proposed by the Senate. Up to $1,000,000 is for an independent study on the feasibility of creating a counter-terrorism intelligence agency.

SITUATIONAL AWARENESS TEAMS

The conferees direct the National Operations Center and Immigration and Customs Enforcement (ICE) to brief the Committees on Appropriations on fusion centers and information sharing programs, including fusion centers, on the number and composition of the situational awareness teams, their locations, actual and planned deployments in fiscal years 2006 and 2007, and the latest operations on ICE, and the associated budgets and staffing resource needs.

FUSION CENTERS

The conferees support language contained in the House, with written centers and direct the Department to report on the role of these fusion centers, the total number of operational fusion centers, their effective- ness, the funding sources and amounts, and where additional fusion centers are necessary.

OPERATIONS CENTERS

The conferees support language contained in the House, with written centers and direct the Government Accountability Office to analyze the role of the National Operations Center and the numerous DHS component operations centers and to make recommendations regarding the operation and coordination of these centers and report to the Committees their findings.

OFFICE OF THE FEDERAL COORDINATOR FOR GULF COAST REBUILDING

The conferees agree to provide $3,000,000 for the Office of the Federal Coordinator for Gulf Coast Rebuilding as proposed by the House instead of no funding as proposed by the Senate. Within the funding provided, $1,000,000 is unavailable for obligation until 15 days prior to any transfer from the Disaster Relief Fund instead of no funding as proposed by the House and $1,000,000 as proposed by the Senate.

In addition to the funding provided above, $13,500,000 is available for transfer from the Disaster Relief Fund instead of no funding as proposed by the House and $1,000,000 as proposed by the Senate. The funds are to continue and expand audits and investigations related to the Gulf Coast hurricanes, including flood insurance issues. The Inspector General is required by the Committees on Appropriations no less than 15 days prior to any transfer from the Disaster Relief Fund.

SECURE BORDER INITIATIVE

The conferees support the Secure Border Initiative (SBI), but are concerned that major technology contracts that are expected to be awarded through the SBInet program require procurement oversight. The conferees direct the Inspector General to review and report on any contract or task order relating to the SBInet program valued at more than $20,000,000. These reviews should begin no earlier than 180 days after a contract has been awarded.

ANALYSIS, DISSEMINATION, VISUALIZATION, IN-SIGHT AND SEMANTIC ENHANCEMENT (ADVISE) PROGRAM

The ADVISE program is designed to extract relationships and correlations from large amounts of data to produce actionable intelligence on terrorism. The program is currently available to analysts in Intelligence and Analysis using departmental and other data, including some on U.S. citizens. The conferees understand up to $40,000,000 has been obligated for ADVISE. The ADVISE program plan, total costs and privacy impacts are unclear and therefore the conferees direct the Inspector General to conduct a comprehensive program review and report within nine months of enactment of this Act.

TITLE II—SECURITY, ENFORCEMENT, AND INVESTIGATIONS

UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY (US-VISIT)

The conferees agree to provide $362,494,000 as proposed by the House instead of $399,494,000 as proposed by the Senate. Within this amount, $10,000,000 is available to implement 10-print enrollment capability, and to continue the development of interoperability between DHS’s Automated Biometric Identification System (IDENT) and the Federal Bureau of Investigation’s Integrated Automated Fingerprint Identification System (IAFIS).

STRATEGIC PLANNING

The conferees support language contained in the House and Senate reports concerning the submission of a strategic plan.
for US-VISIT. The conferees direct the strategic plan to include: the cost and schedule of migration to a ten-fingerprint system with interoperability of IAFIS and IDENT fingerprint databases; a complete schedule for the full implementation of the exit portion of the program; and a plan of how US-VISIT fits into the Department’s larger border and immigration initiatives.

IDENT/IAFIS and 10-PRINT ENROLLMENT

The conferees reiterate their strong support for on-going efforts to ensure interoperability between the IDENT and IAFIS biometric databases and are pleased with the ability between the IDENT and IAFIS biometric databases and are pleased with the ability of CBP to effectively align its staffing and resources to its mission requirements.

The conferees direct the Secretary to report on the architecture for the WHTI “PASS” card, as specified in the Senate report. This report should address the Department’s plans and abilities to address all requirements included within section 546 of this Act.

RESOURCE ALLOCATION MODEL

The conferees are concerned with the ability of CBP to effectively align its staffing requirements to its mission requirements. The conferees direct CBP to submit to January 23, 2007, a resource allocation model for current and future year staffing requirements, as specified by the House and Senate reports. Specifically, this report should assess optimal staffing levels at all land, air, and sea ports of entry and provide a complete explanation of CBP’s methodology for aligning staffing levels to threats, vulnerabilities, and workload across all mission areas.

Of particular concern is CBP’s ability to effectively process the growing processing workload at the nation’s airports that are experiencing significant growth in passenger volume and wait times. The conferees recognize the airports listed in the House and Senate reports as experiencing exceptional growth in workload and processing challenges. The conferees direct CBP to include in its resource allocation model for airports the number of flights that took longer than 60-minutes to process. The airport processing section of the resource allocation model shall specify the content requirements specified within the House and Senate reports. CBP shall expand the wait time information per airport on its website, as specified by the House and Senate reports.

HEADQUARTERS, MANAGEMENT, AND ADMINISTRATION

The conferees agree to provide $1,298,389,000 as proposed by the House instead of $1,258,389,000 as proposed by the Senate. The conferees are concerned with the lack of visibility into the exceptionally large CBP headquarters, management, and administration program, project, and activity levels and direct CBP to provide a detailed justification along functional or operational lines in the fiscal year 2008 budget request.

PORT, CARGO, AND CONTAINER SECURITY

The conferees recognize the port, cargo, and container security as a major issue confronting CBP. To address this issue, the conferees provide $181,800,000 for an additional 450 CBP officers and critical non-intrusive inspection equipment and fully fund the budget request for all cargo security and trade facilitation programs within CBP. The conferees also allow stringent reporting and performance requirements for port, cargo, and container security under the Office of the Secretary and Executive Management. CBP is directed to comply with all aspects of reporting requirements specified in the statement of managers and the House report regarding the port, cargo, and container strategic plan. The conferees encourage CBP to prioritize the assignment of additional officers funded by this Act to the nation’s busiest ports of entry, especially seaports. The conferees note that sufficient funding is provided in this Act to allow CBP to meet the strategic plan requirements of 100 percent initial validation and periodic re-validation of all C-TPAT certified partners as well as for 100 percent manifest review at all CSI ports.

IMMIGRATION ADVISORY PROGRAM

The conferees believe CBP’s Immigration Advisory Program (IAP) has shown great potential to prevent people who are identified as national security threats or are inadmissible from traveling to the United States. The conferees provide $6,800,000, as requested, to support CBP’s proposed expansion of the IAP to London and Tokyo within fiscal year 2007. The conferees direct CBP to report on the performance of the IAP no later than January 23, 2007.

AGRICULTURAL INSPECTIONS

The conferees are concerned with the steps the Department is taking to improve the targeting of agricultural inspections and direct the Secretary to submit a report consistent with section 541 of the Senate bill.
METHAMPHETAMINE

The conferees direct CBP to continue to focus on methamphetamine in its reporting and analysis of trade flows to prevent the spread of dangerous narcotics throughout the United States.

TEXTILE TRANSSHIPMENT ENFORCEMENT

The conferees include $4,750,000 to continue textile transshipment enforcement. The conferees direct CBP to report on its execution of the provisions authorizing review of textile transshipment enforcement. The conferees agree to provide $150,000,000 for textile transshipment enforcement. The conferees agree to provide an annual report within 30 days of each year’s distribution under the law summarizing CBP’s efforts to collect past due amounts and increase current collections, particularly with respect to cases involving unfair trade practices. The conferees direct CBP to update that report, in particular, by breaking out the non-collected amounts for each of the fiscal years 2004, 2005, and 2006, if any. The conferees direct CBP to ensure that all personnel and appropriate managers are adequately trained in all relevant inspection functions.

ARMS EMBARGO

The conferees agree to the Senate’s language on arms embargo.

TEXTILE ENFORCEMENT

The conferees agree to $30,500,000 for the San Diego Border Infrastructure System and $57,823,000 is provided for tactical infrastructure in Western Arizona. The conferees direct the Secretary to submit, within 60 days after the date of enactment of this Act, an expenditure plan for establishing a security barrier along the border of the United States to the Committees on Appropriations, as specified in bill language. The conferees withhold $950,000,000 until the expenditure plan is received and approved.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

The conferees agree to provide $602,500,000 of which $10,000,000 is provided by the House and $592,500,000 as proposed by the Senate. This includes: $70,000,000 for the F-3 life extension program and additional F-3 flight hours; $30,000,000 for helicopter acquisition; $20,000,000 for the acquisition of unmanned aerial vehicles (UAVs) and related support systems; $10,000,000 for the operation of maritime surveillance aircraft; $2,000,000 for marine interceptor boat replacement; $64,000,000 for the
The conferees direct ICE to submit a quarterly report on the operation of its detention centers to the Committees on Appropriations, the Senate Committee on Homeland Security and Governmental Affairs, and the House Committee on Homeland Security no later than January 23, 2007.

NORTHERN BORDER UAV PILOT

The conferees encourage the Secretary to work expeditiously with the Administrator of the Federal Aviation Administration to establish and conduct a pilot program to test unmanned aerial vehicles for border surveillance along the U.S.-Canada border at Northern Border airwing bases consistent with section 501 of the Senate bill.

CONSTRUCTION

The conferees agree to provide $322,978,000 instead of $375,154,000 as proposed by the House and $288,084,000 as proposed by the Senate. This includes: $59,100,000 for facilities to accommodate 1,500 additional Border Patrol agents; $50,900,000 to accelerate the CBP master plan construction; and $32,100,000 for the Advanced Training Center. The conferees have funded the $106,006,000 requested for fencing and tactical infrastructure in the new Border Security Fencing, Infrastructure, and Technology appropriation. The conferees include funding for the Ajo, Arizona station at no less than the requested level. The conferees direct CBP to provide a spending plan and a revised master plan consistent with the Senate report to the Committees on Appropriations that reflects all funding provided for CBP major construction in this Act and in P.L. 109-234.

IMMIGRATION AND CUSTOMS ENFORCEMENT SALARIES AND EXPENSES

The conferees agree to provide $3,887,000,000 for Immigration and Customs Enforcement (ICE) salaries and expenses, instead of $3,868,257,000 as proposed by the House and $3,768,357,000 as proposed by the Senate. This includes $153,400,000 for additional bed space capacity, with corresponding personnel and support, $94,000,000 for additional removal and transportation capacity, and $76,000,000 for 23 additional fugitive operations teams and an associated bed space. When these new resources are combined with fiscal year 2006 supplemental funding, ICE will sustain an average bed space capacity of 27,500, as proposed by the President.

IHB

Headquarters Management and Administration:

Personnel Compensation and Benefits, Services and other $140,000,000

Headquarters Managed IT Investment 134,013,000

Subtotal, Headquarters Management and Administration 274,013,000

Legal Proceedings Investigations:

Domestic Operations 1,285,229,000

International Operations 104,681,000

Subtotal, Investigations 1,389,910,000

Intelligence

Detention and Removal:

 Custody Operations 1,381,767,000

 Transportation and Removal 284,000

 Fugitive Operations 183,200,000

 Criminal Alien Program 137,494,000

 Alternatives to Detention 43,600,000

Subtotal, Detention and Removal 1,984,345,000

Total, Salaries and Expenses $3,887,000,000

DEPORTATION AND REMOVALS REPORTING

The conference agreement includes further new funding, as follows: $4,600,000 for internal controls and procurement management; $5,000,000 for the Office of Professional Responsibility; $10,000,000 for Compliance Enforcement Units; $30,000,000 for expanded Worksite Enforcement efforts; $20,000,000 for additional vehicles for Detention and Removal Operations; $10,000,000 for additional vehicles for the Office of Investigations; $6,800,000 for the Trade Transparency Unit; $2,000,000 for the Criminal Alien Program; $2,500,000 for Alternatives to Detention; and $1,000,000 for the Human Smuggling and Trafficking Center.

Finally, the agreement includes: $21,806,000 for the Law Enforcement Support Center; $5,400,000 for training to support implementation of section 287(g) of the Immigration and Nationality Act; $3,100,000 for the costs of salaries, equipment and operations for the Customs Patrol Officers (“Shadow Wolves”) to reflect their transfer from U.S. Customs and Border Protection; $8,000,000 for the Cyber Crimes Center and support of its Child Exploitation Unit, including $5,000,000 for continued investment in computer forensic storage and digital evidence processing capacity; $4,750,000 to continue textile transportation efforts; and $2,000,000 for what the conferees expect to be the final year for ICE to fund the Legal Orientation Program. The following table specifies funding by budget activity:

DETENTION AND REMOVALS REPORTING

The conferees direct ICE to submit a quarterly report to the Committees on Appropriations as described in the Senate report, with the first fiscal year 2007 quarterly report due no later than January 30, 2007.

DETAINEE BONDS

The conferees direct ICE to submit a report to the Committees on Appropriations on how to improve information sharing and cooperation with detention bondholders, including incentives to reduce the number of aliens who abscond after receiving final Orders of Removal, and to locate and remove absconders.

LEGAL ORIENTATION PROGRAM

The conferees concur with the language expressing support for the Legal Orientation Program as contained in House Report 109-476 and, consistent with the direction in the fiscal year 2006 Appropriations Act, strongly direct ICE and the Department to work with the Executive Office for Immigration Review and the Office of Management and Budget to ensure any future funding for this program is included in appropriations requests for the Department of Justice.

SECTION 287(G) ASSISTANCE

The conferees include $5,400,000 for the costs associated with implementing section 287(g) of the Immigration and Nationality Act. The conferees expect funding to be used for the training and other ICE operational costs directly associated with implementing cooperative efforts with state and local law enforcement pursuant to section 287(g) of the Immigration and Nationality Act, and not to acquire or provide information technology infrastructure for participating state and local law enforcement agencies. The conferees direct ICE to provide the Committees on Appropriations, not later than December 1, 2006, a detailed expenditure plan for use of section 287(g) funding appropriated in fiscal years 2006 and 2007, to include direct assistance to state and local agencies, and an updated report no later than June 1, 2007.

DEPORTATION MANAGEMENT AND CONSOLIDATION

The conferees expect ICE to make the best possible use of its detention funding, and are concerned the Secretary has not yet transmitted the national detention management plan required by the fiscal year 2006 Appropriations Act, keeping $5,000,000 unavailable for obligation. The conferees direct this report be released as soon as possible and expect it to address the elements in the House report, including mechanisms ICE will use to accomplish consolidation and regional approaches described in its April 2006 report on a national detention contract approach.

IMMIGRATION ENFORCEMENT COOPERATION WITH STATE AND LOCAL GOVERNMENT

The conferees are greatly concerned with the burden of illegal immigration on state and local law enforcement agencies, and agree with the language in the House report calling for expanded cooperation between federal, state and local law enforcement agencies. To explore a more comprehensive approach, the conferees direct ICE to coordinate with the Secure Border Coordination Office, to examine the feasibility of establishing high intensity immigration trafficking and smuggling areas, analogous to existing programs directed at countering drugs and money laundering. The conferees
include $1,000,000 under Domestic Investigations for this purpose and direct ICE to submit its findings and implementation options to the Committees on Appropriations no later than June 30, 2007.

UNACCOMPANIED ALIEN MINORS

The conferees are concerned by reports of unaccompanied alien children not being routinely transferred from DHS custody to the Office of Refugee Resettlement (ORR) within the three-to-five day timeframe stipulated in the 1996 Flores Settlement agreement, but held in unacceptable conditions (e.g., Border Patrol stations or jail-like facilities) for many days. The conferees direct ICE to contact ORR immediately upon notification of apprehension of such children, and ensure these children are transferred to ORR custody within 72 hours. The conferees also direct ICE to continue negotiations with ORR to resolve differences over processing and transfer of custody; to explore transfer of responsibility for such children to ORR; and to encourage ORR to establish facilities near DHS detention facilities. The conferees direct ICE, in conjunction with CBP, to submit a report to the Committees on Appropriations, detailing by month for each of fiscal years 2005 and 2006: the number of unaccompanied alien minors detained by DHS for 72 hours or less, and the number held more than 72 hours, with an explanation for each child held in excess of 72 hours. Further, the report should include recommendations for actions to improve coordination between DHS and ORR. The conferees direct ICE to consider using holistic age-determination methodologies as described in the House report.

The conferees are also concerned about the dearth of repatriation services for such children, who face uncertain fates in their home countries, and urge DHS, in consultation with the Department of State and ORR, to develop policies and procedures to ensure such children are safely repatriated to their home countries, including placement with their families or other sponsoring agencies.

ICE FIELD OFFICES

The conferees direct ICE to submit a report on the costs and need for establishing sub-offices in Colorado Springs and Greeley, Colorado.

Transportation Security Administration

AVIATION SECURITY

The conferees agree to provide $4,731,814,000 instead of $4,704,414,000 as proposed by the Administration, $1,000,000 under Domestic Investigations, and $1,000,000 to support the Aviation Security Capital Fund. Bill language is also included to reflect the collection of $2,420,000,000 from aviation user fees as authorized. The following table specifies funding by project and activity:

<table>
<thead>
<tr>
<th>Projects and Activity</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Krome, Florida: 250-bed secure dormitory</td>
<td>$6,409,000</td>
</tr>
<tr>
<td>Krome, Florida, maintenance</td>
<td>5,000,000</td>
</tr>
<tr>
<td>Port Isabel, Texas, Infrastructure</td>
<td>9,000,000</td>
</tr>
<tr>
<td>Facility Repair and Alterations</td>
<td>5,873,000</td>
</tr>
<tr>
<td>Infrastructure Improvement Project</td>
<td>30,000,000</td>
</tr>
<tr>
<td>Total, Construction</td>
<td>56,281,000</td>
</tr>
</tbody>
</table>

The conferees are disturbed bureaucratic obstacles have prevented ICE from deploying Visa Security Units (VSU) to key overseas locations, needlessly preventing highly trained personnel from taking their posts overseas, and leaving critical gaps in our ability to identify individuals from high-risk areas who should not acquire U.S. visas and travel to the U.S. The conferees direct the Secretary, in consultation with the Secretary of State, to brief the Committees on Appropriations not later than January 23, 2007, on progress in staffing its overseas locations, listing all planned and actual VSU positions and funding for fiscal years 2006 and 2007; the number of positions and locations not yet filled; the numbers and posting of VSU officers not deployed to their intended locations; and specific actions planned and underway, resources required, and administrative decisions necessary to ensure all planned visa security units are fully operational as soon as possible.

TEXTILE TRANSSHIPMENT ENFORCEMENT

The conferees include $4,750,000 to continue textile transshipment enforcement and direct ICE to report on its execution of the five-year strategic plan submitted to Congress, including details on ICE textile enforcement cases (number initiated, closed, and resulting in prosecutions, arrests, and penalties), as well as a status report of personnel responsible for enforcing textile laws.

FEDERAL PROTECTIVE SERVICE

The conferees agree to provide $15,000,000 for Automation Modernization instead of no appropriation as proposed by the House and $20,000,000 as proposed by the Senate. Of these funds, $13,000,000 may not be obligated until the Committees on Appropriations receive and approve an expenditure plan.

The conferees agree to provide $56,281,000 instead of $26,281,000 as proposed by the House and $101,281,000 as proposed by the Senate. Of these funds, $13,000,000 may not be obligated until the Department has indicated FPS could face even larger shortfalls in fiscal year 2007. The conferees direct the Department, OMB, and DFA, as they continue efforts to resolve weaknesses in FPS financial management and procurement, to ensure no transfers are used to cover basic FPS operations, activities, and investments. The conferees expect such fiscal year 2007 costs to be covered by the fees FPS assesses and collects from the federal agencies whose facilities it protects. The conferees direct the Secretary, in consultation with OMB, to report to the Committees on Appropriations no later than November 1, 2006, on the extent and cause of any budgetary shortfall; the Department’s detailed plan to provide sufficient revenue to operate in fiscal year 2007; and how the Department will fix FPS financial, procurement, and accounting processes and policies. Furthermore, the conferees direct the Secretary to submit an updated report no later than April 30, 2007, including actual and estimated collections and obligations by month for the full fiscal year.

AUTOMATION MODERNIZATION

The conferees agree to provide $15,000,000 for Automation Modernization instead of no appropriation as proposed by the House and $20,000,000 as proposed by the Senate. Of these funds, any budgetary shortfall; the Department may not be obligated until the Committees on Appropriations receive and approve an expenditure plan.

CONSTRUCTION

The conferees agree to provide $56,281,000 instead of $26,281,000 as proposed by the House and $101,281,000 as proposed by the Senate. The conferees include $30,000,000 for infrastructure improvements at current Detention Centers in order to improve the overall efficiency of the detention process, as described in the Senate report. The conferees direct the Department to submit a detailed spending plan for the infrastructure improvement project described in the Senate report.

The following table specifies funding by project and activity:
The conferees agree to provide $2,470,200,000 for federal screening as requested in the budget. The conferees continue longstanding bill language capping the full-time equivalent (FTE) workforce at 45,000 as proposed by the House. The conferees expect the Transportation Security Administration (TSA) to have no more than 45,000 FTE screeners by the end of fiscal year 2007. At this time, TSA is about 4,000 screeners below this level. As such, the conferees recognize TSA may need to realign its workforce throughout the year due to attrition or advances in detection technologies. TSA has the flexibility to hire screeners during the fiscal year at those airports where additional or replacement screeners are necessary to maintain sufficient screening and customer service.

PRIVATE SCREENING AIRPORTS

The conferees agree to provide $148,600,000 as proposed by the House and the Senate. TSA has been slow to obligate funding for staffing and operations no later than six months after the enactment of this Act on the impact on public safety and on the effectiveness of screening operations resulting from the modification announced by TSA on December 2, 2005, to the list of items permitted and prohibited from being carried aboard a passenger aircraft.

SPECIAL SCREENING AT COMMERCIAL AIRPORTS AND HELIPORTS

The conferees are aware that TSA is considering revising the aviation security policy. The conferees agree to provide $13,200,000 for the initial deployment of screeners to new, small airports or heliports.

EXPLOSIVE DETECTION SYSTEMS PURCHASES

The conferees agree to provide $141,400,000 for the purchase of explosive detection system (EDS) equipment as proposed by the Senate instead of $136,000,000 as proposed by the House. Of this total, up to $5,000,000 shall be for refurbishment of EDS machines to maximize and extend the useful life of those EDS machines manufacturers are willing to place back under warranty. In addition, $47,000,000 shall be for the procurement of multiple next-generation, in-line and stand alone EDS systems. The conferees direct that no EDS funding shall be used to procure explosive trace detection machines (ETDs) unless they are necessary for secondary screening of checked baggage, to replace an aging ETD system in those airports that are primarily dependent on ETD technology for secondary screening and to install new ETD systems for new, small airports or heliports that are federalized.

EDS INSTALLATIONS

The conferees agree to provide a total of $250,000,000 for EDS installations, including $250,000,000 in mandatory funding from the Aviation Security Capital Fund and $136,000,000 in this Act. This funding is sufficient to cover the cost of EDS installations on ETD technology, or to procure new ETD systems, including a timeline for deploying emerging technologies to airports and the percent of passengers and carry on baggage currently screened by these emerging technologies.

EDS/ETD MAINTENANCE

The conferees agree to provide $222,000,000 for EDS/ETD maintenance instead of $234,000,000 as proposed by the House and $29,700,000 as proposed by the Senate. The conferees direct TSA to combine funding for maintenance of all equipment (Checkpoint, EDS, and ETD) into one PPA in fiscal year 2008 to provide a more complete picture of all maintenance costs for equipment deployed throughout our nation’s airports.

AIR CARGO

TSA has been slow to obligate funding for air cargo security. TSA projects one-tenth of the air cargo budget will be carried into fiscal year 2007. The conferees encourage TSA to use some of these unobligated balances or the fiscal year 2007 appropriation to hire additional permanent staff to enhance TSA’s analytic air cargo security capabilities.

Wait times

The conferees encourage TSA to report air cargo wait times over the past three years, identify those airports with above-average wait times, and provide this review with the fiscal year 2008 budget.

ALTERNATIVE SCREENING PROCEDURES

Both the House and Senate reports express concern over TSA’s occasional use of alternative screening procedures. The conferees support reporting requirements contained in both House Report 109–76 and Senate Report 109–279, including: detailed performance measures and targets; track the use of alternative screening procedures at airports; assess the effectiveness of these measures; conduct covert testing at airports using these techniques; and develop a plan to stop alternative screening measures. TSA shall report to the Committees on Appropriations; the House Committee on Homeland Security; and the Senate Committee on Commerce, Science and Transportation on implementation of these requirements.

CHANGES TO AVIATION SECURITY POLICY

The conferees are aware that TSA is considering revising the aviation security policy. The conferees are aware that TSA is considering revising the aviation security policy. These revisions may require changes to staffing, such as who monitors airport exit lanes, who may be a ticket checker, and who may move baggage to and from EDS machines. Each of these policy decisions has a cost implication. Before moving forward with any proposed change, TSA shall brief the Committees on Appropriations on the security and fiscal impact of each change and outline the ramifications to the fiscal year 2007 appropriation. If these costs exceed transfer and reprogramming thresholds, TSA must notify the Committees as required by section 503 of this Act.

PROHIBITED ITEMS

The conferees direct the Comptroller General to report to the Committee on Appropriations no later than six months after the enactment of this Act on the impact on public safety and the effectiveness of screening operations resulting from the modification announced by TSA on December 2, 2005, to the list of items permitted and prohibited from being carried aboard a passenger aircraft.

SURFACE TRANSPORTATION SECURITY

The conferees agree to provide $37,200,000 as proposed by the House and the Senate. This total, $24,000,000 is for surface transportation staffing and operations and $13,200,000 is for rail security inspectors and canines.

TRANSPORTATION THREAT ASSESSMENT AND CREDENTIALING

The conferees agree to provide a direct appropriation of $39,700,000 instead of $74,700,000 as proposed by the House and $29,700,000 as proposed by the Senate. In addition, the conferees anticipate TSA will collect $76,101,000 in fees. Funding is provided as follows:

Direct Appropriation: Secure flight .......... $15,000,000
Crew vetting .................. 14,700,000
Screening administration and operations .......... 10,000,000

Subtotal, direct appropriations ........ 39,700,000

Fee Collections: Registered traveler .......... 35,101,000
Transportation identification credential .......... 20,000,000
Hazardous materials ............. 19,000,000
Allen flight school (transfer from DOJ) ........ 2,000,000

Subtotal, fee collections .......... 76,101,000
TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL

The conferees are very supportive of expeditious implementation of the transportation worker identification credential (TWIC) program. Because TSA submitted a reprogramming request to expedite this program, a direct appropriation is no longer necessary in fiscal year 2007. The conferees do not incorporate either House or Senate language on TWIC.

SECURE FLIGHT

The conferees agree to provide $15,000,000 as requested by the Senate instead of $40,000,000 as proposed by the House. While the conferees remain supportive of the Secure Flight concept, TSA has been reviewing and reassembling this program since the beginning of 2006, resulting in further delays to this program. At this time, TSA cannot justify its fiscal year 2007 budget request, cannot explain how this program will move forward or detail the associated costs. More than $21,000,000 of funding provided in fiscal year 2006 will remain available for obligation in fiscal year 2007. Within 90 days after enactment of this Act, TSA shall submit a detailed plan on achieving key milestones, as well as certification of this program as discussed in section 514 of this Act.

In addition, the conferees are concerned TSA has made little progress in ensuring the security of its Secure Flight passenger screening program, and because of this, names are checked only against the No Fly and Selectee lists, not the full terrorist watch list. The conferees direct TSA to provide a detailed program plan if the Administration believes that security vulnerability exists between the lists used for Secure Flight and the full terrorist watch list as discussed in the House report.

TECHNICAL ASSISTANCE TO AIRLINES

The conferees direct TSA to provide airlines with technical or other assistance to better align their reservation and ticketing systems with the Terrorist databases to assist in alleviating travel delays and other problems associated with mistaken identification.

SCREENING ADMINISTRATION AND OPERATIONS

The conferees agree to provide $10,000,000 for screening administration and operations. The conferees expect these funds may be used to support the following programs, if necessary: Transportation worker identification credential, armed law enforcement officer identity verification, alien flight school, and sterile area credential checks. None of the funds may be used to augment the Secure Flight program. In addition, the conferees do not expect these funds to be used to pay for airman and pilot checks, activities that are currently a Federal Aviation Administration responsibility. TSA shall provide the Committees on Appropriations a plan further elaborating how these funds will be utilized by January 23, 2007.

TRANSPORTATION SECURITY SUPPORT

The conferees agree to provide $525,283,000 instead of $563,283,000 as proposed by the House and $618,965,000 as proposed by the Senate. The conferees are aware of a large number of vacancies within this program. Funding is provided as follows:

- Headquarters administration ........................................ $234,191,000
- Information technology ........................................... 210,092,000
- Intelligence .................................................................... 21,000,000

Subtotal, transportation security support ........... $525,283,000

EXPENDITURE PLAN

The conferees include bill language requiring TSA to submit an expenditure plan to pay for airmen and pilot checks, activities that are currently a Federal Aviation Administration responsibility, TSA shall provide the Committees on Appropriations a plan further elaborating how these funds will be utilized by January 23, 2007.

TRANSPORTATION SECURITY LABORATORY

The conferees do not agree to a Senate provision transferring the Transportation Security Lab (TSL) from the Science and Technology Directorate (S&T) to TSA. This action is taken in large part as a result of the successful negotiation of a Memorandum of Understanding between the two agencies signed on August 22, 2006. The conferees direct TSA to work with S&T to determine appropriate research and technology requirements to sustain current and advance future aviation security capabilities. Further, S&T should clearly reflect resource needs for the TSL in the fiscal year 2008 budget request to achieve these requirements. The conferees further direct S&T to work expeditiously with TSA to develop a research execution plan that meets the needs of TSA within the amounts provided.

Military pay and allowance:

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Military pay and allowance</td>
<td>$2,342,434,000</td>
</tr>
<tr>
<td>Military health care</td>
<td>$337,324,000</td>
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<tr>
<td>Permanent change of station</td>
<td>$108,518,000</td>
</tr>
<tr>
<td>Subtotal, military pay and allowance</td>
<td>$2,788,276,000</td>
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<tr>
<td>Civilian pay and benefits:</td>
<td>$569,434,000</td>
</tr>
<tr>
<td>Training and education</td>
<td>$83,556,000</td>
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<tr>
<td>Recruitment</td>
<td>$97,320,000</td>
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<tr>
<td>Subtotal, training and recruiting</td>
<td>$180,876,000</td>
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<tr>
<td>Operating funds and unit level maintenance:</td>
<td>$1,011,374,000</td>
</tr>
<tr>
<td>Atlantic Command</td>
<td>$188,982,000</td>
</tr>
<tr>
<td>Pacific Command</td>
<td>$196,449,000</td>
</tr>
<tr>
<td>1st District</td>
<td>$50,388,000</td>
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<tr>
<td>7th District</td>
<td>$63,771,000</td>
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<td>9th District</td>
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<td>10th District</td>
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<td>13th District</td>
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<tr>
<td>14th District</td>
<td>$15,754,000</td>
</tr>
<tr>
<td>17th District</td>
<td>$25,004,000</td>
</tr>
<tr>
<td>Headquarters directorates</td>
<td>$255,253,000</td>
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<tr>
<td>Headquarters managed units</td>
<td>$125,104,000</td>
</tr>
<tr>
<td>Other activities</td>
<td>$755,000</td>
</tr>
<tr>
<td>Subtotal, operating funds and unit level maintenance</td>
<td>$1,011,374,000</td>
</tr>
</tbody>
</table>

Centrally managed accounts: $201,968,000
Bill language is provided in this Act to allow the Coast Guard to transfer up to five percent of the Operating Expenses (OE) appropriation to the Acquisition, Construction, and Improvements (AC&I) appropriation for personnel, compensation and benefits provided notice is given to the Committees on Appropriations within 30 days of the transfer. The conferences are aware of the Coast Guard’s interest in consolidating OE and AC&I personnel funding in the OE account in order to provide greater flexibility to meet changing personnel requirements. While the conferences support this consolidation, a new PPA structure reflective of this consolidation does not accompany this Act in order to allow the Coast Guard to provide sufficient background materials to the Committees. The conferences encourage the Coast Guard to include the consolidation of OE and AC&I personnel funding, and personnel funding in other accounts, as appropriate, into the OE account in its fiscal year 2008 budget submission. The budget submission shall include a crosswalk of the merged accounts, which tracks personnel and resources from the current PPA structure to the new structure proposed in the budget submission.

NEW HEADQUARTERS BUILDING

The conferences have not provided funding for a new Coast Guard headquarters building. According to DHS, relocating the Coast Guard headquarters to St. Elizabeths campus in Washington, D.C. would be the first phase of a larger effort to move most or all of DHS headquarters’ functions to that location. However, the Department has not finalized a plan identifying what specific components would move to the site; the total space requirements for DHS headquarters; and total costs associated with using the St. Elizabeths site as a headquarters’ location. Until such a plan has been completed and reviewed by Congress, it is premature to relocate the Coast Guard headquarters.

MERCHANT MARINERS LICENSING

The conferences support increasing locations where merchant mariner applicants may appear for fingerprinting and identification, as discussed in the House report, and direct the Coast Guard to complete this new rule expeditiously.

LONG RANGE AIDS TO NAVIGATION (LORAN)-C

The President’s budget proposed terminating the LORAN-C program. The conferences assume the continuation of the LORAN-C program until: (1) the appropriate entities within the Executive Branch have agreed in writing to the termination, (2) the public has been notified, and (3) the appropriate countries have been notified under existing international agreements. Within 15 days of a coordinated Executive Branch decision to terminate LORAN-C, the Coast Guard is directed to provide a report to the Committees on Appropriations on the entities within the Executive Branch that agreed to the termination, the date such entities agreed to the termination, and names of the officials who agreed to the termination. Further, the report shall also include the date and methodology used to notify the public and foreign countries, as appropriate under existing international agreements, of the program’s termination.

INAPPROPRIATE BEHAVIOR AT THE COAST GUARD ACADEMY

As discussed in the House report, the conferences directed BAA to study the progress made by the Coast Guard Academy in response to sexual harassment claims and report its findings to the Committees on Appropriations; the House Committee on Transportation and Infrastructure; and the Senate Committee on Commerce, Science, and Transportation no later than 180 days after enactment.

LIVE-FIRE EXERCISES

The conferences are concerned Coast Guard’s recent proposal to establish live-fire zones on the Great Lakes was not well-coordinated with the public, and therefore direct Coast Guard to provide public notice of safety zone closures for weapons training beyond just marine band radio to include notices to harbormasters and local media.

REPORT ON BASE CLOSURES AND THE FEDERAL CITY PROJECT

The conferences direct Coast Guard to comply with the reporting requirement of Senate bill section 553 no later than 90 days after the enactment of this Act.

MISSION HOUR EMPHASIS AND ACQUISITION REPORTS

The conferences direct Coast Guard to continue submitting quarterly mission hour emphasis and acquisition reports to the Committees on Appropriations consistent with the deadlines articulated under section 120 of Division I of Public Law 108-7.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

The conferences agree to provide $10,880,000 as proposed by the Senate instead of $11,880,000 as proposed by the House.

RESERVE TRAINING

The conferences agree to provide $122,448,000 instead of $122,348,000 as proposed by the House and $123,948,000 as proposed by the Senate.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

The conferences agree to provide $1,390,245,000 instead of $1,139,683,000 as proposed by the House and $1,145,329,000 as proposed by the Senate. Funding is provided as follows:

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vessels and Critical Infrastructure</td>
<td>$24,750,000</td>
</tr>
<tr>
<td>Response boat medium</td>
<td></td>
</tr>
<tr>
<td>Special purpose craft-law enforcement</td>
<td>$1,800,000</td>
</tr>
<tr>
<td>Aircraft</td>
<td>$26,550,000</td>
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<tr>
<td>Replacement HH-60 aircraft</td>
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<td>Other Equipment</td>
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<td>Rescue 21</td>
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<td>Automatic identification</td>
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<tr>
<td>High frequency recap</td>
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<td>National Capital Region</td>
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<tr>
<td>air defense</td>
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<td>Subtotal, Other Equipment</td>
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<td>Shore Facilities and Aids to Navigation</td>
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<td>AC&amp;I core</td>
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<td>Integrated Deepwater System: Aircraft</td>
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<tr>
<td>Maritime patrol aircraft</td>
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<td>VTOL unmanned aerial vehicles (UAVs)</td>
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<td>HH-60 conversion projects</td>
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<tr>
<td>HC-130H conversion/</td>
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<tr>
<td>sustainment projects</td>
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<tr>
<td>HH-65 re-engining project</td>
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<td>C-130J missionization</td>
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<td>Surface Ships</td>
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<tr>
<td>National security cutter, construction</td>
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<td>Fast response cutter</td>
<td>$1,188,000</td>
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<tr>
<td>IDS patrol boat long range interceptor</td>
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<tr>
<td>Medium endurance cutter sustainment</td>
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<tr>
<td>Replacement patrol boat</td>
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<tr>
<td>Subtotal, Surface Ships</td>
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<tr>
<td>CHSR</td>
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<td>Logistics</td>
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<tr>
<td>System engineering and management</td>
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<tr>
<td>Government program management</td>
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<tr>
<td>Subtotal, Integrated Deepwater System</td>
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</tr>
<tr>
<td>Total, Acquisition, Construction, and Improvements</td>
<td>$1,390,245,000</td>
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</table>
and conduct a proposal effort as early in 2007 as possible. The conferees provide $126,693,508 for replacement patrol boats to address an immediate need. This funding consists of a reappropriation of $1,500,000 as discussed in section 521 of this Act and a new appropriation of $48,000,000 as shown on the table above. Any delay in this acquisition negates the purpose of this funding: to fill the patrol boats within 180 days of appropriation so that the Coast Guard will have 110-foot patrol boats hours after the Fast Response Cutters are operational. This funding may also be used for service life extensions of the existing 110-foot Island class patrol boats, which will become increasingly critical as replacement patrol boat decisions are delayed. The conferees request that the Coast Guard provide monthly briefings on the patrol boat replacement effort and development of FARCs, as well as a detailed plan for the replacement patrol boats including critical decision points and dates, and planned service life extensions of existing 110-foot patrol boats, within two months after enactment of this Act.

Even though C4ISR is pointed to by the Coast Guard as a Deepwater success due to new capabilities like AIS and SIPRNET, C4ISR itself has become increasingly critical as reprogramming of $1,683,000 as proposed by the Senate. While the Senate recognizes the need for a counterterrorism training infrastructure, the conferees do not provide funding for the development of a 2008 Presidential Campaign and National Special Security Events and instead provide requested funds in a separate program, project, and activity within the total for the Administration and Training appropriation. Funds provided for the 2008 Presidential campaign are available until September 30, 2008. The conferees direct the Secret Service to submit a comprehensive expenditure plan, as specified by the House report, for the 2008 Presidential Campaign through the 2009 Presidential inauguration.

The conferees agree to provide $16,000,000 instead of $17,000,000 as proposed by the Senate and $17,575,000 as proposed by the Senate.

The conferees agree to provide $17,000,000 instead of $13,890,000 as proposed by the Senate.

The conferees agree to provide $161,154,000 instead of $311,154,000 as proposed by the Senate and $304,205,000 as proposed by the Senate. Of the amount provided under this section for Protective Service (US Secret Service) 50% of the $2,578,000,000 for FY 2007 is for protective terrorist countermeasures at $7,200,000 and have provided an additional $1,000,000 to support the 2008 Presidential Campaign and the post-Presidential protective detail. Prior to the obligation of these funds, the Secret Service shall assess the status of its base budget shortfall in fiscal year 2007 and apply these resources where required to meet the agency’s highest priority needs, in accordance with section 503 of this Act.

The conferees agree to provide $311,154,000 instead of $312,499,000 as proposed by the House and $304,205,000 as proposed by the Senate. The amount provided under this title fully funds the budget request and includes: $236,093,000 for domestic field operations; $22,616,000 for international field office administration and operations, including an additional $1,000,000 to support the reconstituting of a resident office in Moscow, Russia; $44,079,000 for the Electronic Crimes Special Agent Program and Electronic Crimes Task Force; and $8,366,000 for the National Center for Missing and Exploited Children, of which $6,000,000 is for grants and $2,366,000 is for forensic support.

The conferees agree to provide $3,725,000 as proposed by the House and Senate. Of the
total provided under this heading, $300,000 is unavailable for obligation until the Committees on Appropriations receive the revised justification from the Department. The conferees agree to provide $30,572,000 for management and administration of the Preparedness Directorate as proposed by the Senate instead of $39,468,000 as proposed by the House. Included in this amount is $16,300,000 for the Under Secretary for Preparedness; $4,980,000 for the Office of the Chief Medical Officer; $2,741,000 for the Office of National Capital Region Coordination; and $6,450,000 for the National Preparedness Integration Program (NPIP).

In spite of clear direction in sections 563 and 564 of P.L. 109-109, the conferees are troubled by an apparent disregard for consistent and transparent budget execution within the Preparedness Directorate. As a result, the conferees are concerned that the Office of Management and Budget (OMB) and the Government Accountability Office (GAO) will be unable to review the Department’s use of shared services within the entire Preparedness Directorate and report to the Committees on Appropriations. The review shall focus on compliance with appropriation law and the proper use of the Economy Act. The conferees are also concerned that the Congress is not being properly funded for activities for which funds were not specifically appropriated and are not shared services. The conferees direct the Preparedness Directorate to provide all relevant supporting documentation to OMB and GAO on an expedited basis. The conferees further direct the Preparedness Directorate to provide a report to the Committees on Appropriations, within 30 days after enactment, a budget execution plan by program, project, and activity.

National Capital Region Coordination

The conferees are concerned that planning for evacuation of the National Capital Region during a disaster has not incorporated all of the pertinent officials from the appropriate states. Despite requests for such officials by Congress and the affected states, no such joint planning efforts have occurred. Therefore, the conferees include language authorizing the Preparedness Directorate to include the Governors of the State of West Virginia and the Commonwealth of Pennsylvania in the National Capital Region Planning Process for mass evacuations. Further, the conferees direct the Preparedness Directorate to include officials from the counties and municipalities that contain the evacuation routes and their tributaries in the planning process. The Secretary shall provide a report to the Committees on Appropriations on the implementation of the planning process, including a list of participants, no later than January 23, 2007, and quarterly thereafter, on the progress made to implement such plans.

National Preparedness Integration

In light of the conferees’ concern for rapid planning for a major disaster, the conferees note the many challenges faced by the Federal Preparedness Coordinator (FPC) for placement in each Federal Emergency Management Agency (FEMA) Regional Office. The conferees agree that an official overseeing preparedness by region is appropriate. However, the conferees are not convinced that creating a senior executive position by the date of enactment of this Act, who reports through a chain of command that does not include response and recovery personnel in FEMA, will further the Nation’s response plans. Preparedness, response functions, and coordination of the Nation’s preparedness program and response functions is detrimental during a disaster and, as demonstrated in past disasters, leads to a lack of communication and a lack of situational awareness, with dire consequences. During emergencies, state emergency managers need clear communications and missions, not confusion and redundancy. The conferees direct the Secretary to take the necessary steps to ensure that the FPC reports through a chain of command to the FEMA Regional Office. The conferees agree that the FPC shall be used to fund salaries and expenses.

National Preparedness Goal

The conferees are disturbed by the delay in issuing the final National Preparedness Goal (Goal). In the fiscal year 2006 statement of managers accompanying the conference report (H. Report 109-241), the conferees directed the Department to issue the final Goal, including the final Universal Task List and Target Capabilities List, no later than December 31, 2005. To date, the final Goal and its component pieces have not been published. Absent the final Goal, national preparedness lacks clear direction and resources cannot be most efficiently allocated. The conferees direct the Department to publish the final Goal, without further unnecessary delay. In addition, the Secretary shall provide a report to the Committees on Appropriations explaining what substantive improvements have been made to the Goal as a result of the delay.

Inspector General Report on the National Asset Database

Not later than 30 days after the date of enactment of this Act, the Secretary shall submit to the Committees on Appropriations a report addressing compliance with the recommendations set forth in the July 6, 2006, Inspector General General report entitled “Progress in Developing the National Asset Database.” The report shall include the status of the prioritization of assets into high-value, medium-value, and low-value asset tiers, and how such tiers will be used by the Secretary in the allocation of grant funds.

HURRICANE KATRINA LESSONS LEARNED

One year after Hurricanes Katrina, Rita and Wilma, the conferees remain concerned by slow progress of improvement particularly in the areas of training and exercises to better prepare for future emergencies. The conferees expect the relevant Congressional Committees will be briefed by November 1, 2006, on improvements to training and exercises as recommended by the White House, House, Senate, and Department of Homeland Security investigations into Katrina.

National Emergency Communications Strategy

The conferees direct the Preparedness Directorate and FEMA to coordinate revised strategy, procedures, and instructions for supporting national emergency response communications operations. The Department shall provide to the Committees on Appropriations receive and approve an expenditure plan.

The conferees are concerned with the coordination of National Preparedness Coordinator (FPC) for placement in each Federal Emergency Management Agency

Office of Grants and Training

The conferees agree that not to exceed three percent of Homeland Security Grant Program funds and discretionary grants may be used to fund salaries and expenses.

State and Local Programs

The conferees agree to provide $2,531,000,000 instead of $2,594,000,000 as proposed by the House and $2,400,000,000 as proposed by the Senate. State and Local Programs funding is allocated as follows:

State Formula Grants ............... $900,000,000
Discretionary Grants:
High-Threat, High-Density Urban Area .... $770,000,000
Port Security .......... 210,000,000
Truck Security ........ 12,000,000
InterCity Bus Security .... 12,000,000
Rail and Transit Security .......... 175,000,000
Buffer Zone Protection Plan ................ 50,000,000
Subtotal, State Formula Grants .......... 1,229,000,000
Commercial Equipment Direct Assistance Program National Programs:
Domestic Preparedness Consortium National Exercise Program ........ 145,000,000
Metropolitan Medical Response System .... 33,000,000
Technical Assistance Grants ........ 18,000,000
Demonstration Training Grants ........ 30,000,000
Continuing Training Grants ........ 31,000,000
Citizen Corps ................ 15,000,000
Evaluations and Assessments .......... 19,000,000
Rural Domestic Preparedness Consortium 12,000,000
Subtotal, National Programs .......... 352,000,000
Total, State and Local Programs .... $2,531,000,000

For purposes of eligibility for funds under this heading, any county, city, village, town, district, borough, parish, port authority, transit authority, intercity rail provider, commuter rail system, freight rail carrier, state, and local governments achieve communications interoperability, including equipment acquisition, governance structure, and training.

For purposes of eligibility for funds under this heading, any county, city, village, town, district, borough, parish, port authority, transit authority, intercity rail provider, commuter rail system, freight rail carrier, state, and local governments achieve communications interoperability, including equipment acquisition, governance structure, and training.
The conferences direct the Office of Grants and Training (G and T) to continue to distribute Homeland Security Grant Program grants in a manner consistent with the fiscal year that will be reflected in the budget for that year. The conferences disagree with House language regarding the use of authorized and traditional terrorist-focused funding and direct G and T to not allocate the remaining Federal funds to state governments. While certain grants are authorized to be all-hazard, G and T is directed to ensure that terrorism-focused funds provided herein are not misdirected. The Department is encouraged to consult with the National Transportation Security Board and the National Public Safety Telecommunications Board in which appropriate levels of funding reflect the level of threat. The conferences agree that states must identify gaps in levels of preparedness and how funding will close those gaps. The Department is encouraged to consider the need for mass evacuation planning and to provide training to emergency responders to assist recovery operations. The conferences continue and modify a provision requiring notification of the Committee on Appropriations five full business days in advance of any notifications.

The conferences agree to provide $210,000,000 as proposed by the House and $200,000,000 as proposed by the Senate. The conferences agree with Senate report language that intercity bus security grants will support the improvement of ticket identification, the installation of driver shields, the enhancement of law enforcement commitment of facility security, and further implementation of passenger screening.

The conferences agree to provide $375,000,000, instead of $350,000,000 as proposed by the House and $150,000,000 as proposed by the Senate. The conferences are concerned that the nation’s rails are vulnerable, at-risk systems since they are not designed to adequately resist, respond to, manage or rapidly recover from natural or manmade crises. The conferences encourage G and T to continue with short line and regional railroads to address the rail system’s security and safety challenges for both manmade and natural disasters.

The conferees agree to provide $175,000,000, instead of $200,000,000 as proposed by the Senate.

The conferees agree to provide $1,229,000,000 instead of $1,235,000,000 as proposed by the House and $1,172,000,000 as proposed by the Senate. Within this total, $770,000,000 is made available to the Secretary for discretionary grants to high-threat, high-density urban areas. The conferences agree to provide $12,000,000 as proposed by the Senate in lieu of $10,000,000 as proposed by the House, but subject the funds to the same distribution rules as the Senate language.

The Department is encouraged to consult with the National Transportation Security Board and the National Public Safety Telecommunications Board. The conferences direct G and T to continue to distribute Homeland Security Grant Program funds, G and T will brief the Committees on Appropriations five full business days in advance of any notifications.

The conferees agree to provide $525,000,000 for the State Homeland Security Program instead of $545,000,000 as proposed by the House and $500,000,000 as proposed by the Senate. The conferences provide $375,000,000 for the Buffer Zone Protection Program instead of $400,000,000 as proposed by the House and $350,000,000 as proposed by the Senate.

The conferees agree to provide $1,292,000,000 instead of $1,300,000,000 as proposed by the House and $1,272,000,000 as proposed by the Senate. Within this total, $770,000,000 is made available to the Secretary for discretionary grants to high-threat, high-density urban areas. The conferences agree to provide $12,000,000 as proposed by the Senate in lieu of $10,000,000 as proposed by the House, but subject the funds to the same distribution rules as the Senate language.

The conferences agree to provide $1,229,000,000 instead of $1,235,000,000 as proposed by the House and $1,172,000,000 as proposed by the Senate. Within this total, $770,000,000 is made available to the Secretary for discretionary grants to high-threat, high-density urban areas. The conferences agree to provide $12,000,000 as proposed by the Senate in lieu of $10,000,000 as proposed by the House, but subject the funds to the same distribution rules as the Senate language.

The conferees agree to provide $210,000,000 as proposed by the Senate instead of $200,000,000 as proposed by the House. The conferences agree with Senate report language that intercity bus security grants will support the improvement of ticket identification, the installation of driver shields, the enhancement of law enforcement commitment of facility security, and further implementation of passenger screening.

The conferences agree to provide $50,000,000, instead of $75,000,000 as proposed by the Senate.
The conferees agree to provide $38,000,000 as proposed by the House instead of $25,000,000 as proposed by the Senate.

CONTINUING TRAINING GRANTS

The conferees agree to provide $31,000,000 instead of $25,000,000 as proposed by the Senate. The conferees recommend full funding for the graduate-level homeland security education program currently supported by the Department and encourage the Department to leverage these existing programs to meet the growing need for graduate-level education.

RURAL DOMESTIC PREPAREDNESS CONSORTIUM

The conferees agree to provide $12,000,000 as proposed by the House. The Senate did not provide funds for this program.

NATIOWIDE PLAN REVIEW PHASE 2 REPORT

The Preparedness Directorate and the Federal Emergency Management Agency are directed to brief the Committees on Appropriations 45 days after the date of enactment of this Act and quarterly thereafter, on the progress made to implement each of the conclusions of the January 16, 2006, National Plan Review Phase 2 Report. The first briefing shall include a detailed timeline for the completion of implementing each conclusion with the Department’s priorities and how the implementation of the conclusions are being coordinated with the guidelines developed by the Department for state and local governments as required in Public Law 109–90. The conferees direct the Department to work with all stakeholders to resolve the findings of the Nationwide Plan Review Phase 2 in accordance with the fiscal year 2007 Senate Report.

EMERGENCY MEDICAL SERVICES

The conferees remain concerned with the lack of first responder grant funding being provided to the Emergency Medical Services (EMS) community and direct G and T to continue these important public service programs and ensure MIFT’s inclusion in any competition.

DEMONSTRATION TRAINING GRANTS

The conferees agree to provide $30,000,000 as proposed by the House instead of $25,000,000 as proposed by the Senate.

CITIZEN CORPS

The conferees agree to provide $15,000,000 instead of $20,000,000 as proposed by the Senate. The House did not provide funds for this program.

RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

The conferees agree to provide $26,000,000 instead of $18,000,000 as proposed by the House and $220,000,000 as proposed by the Senate.

EMERGENCY MANAGEMENT PERFORMANCE EVALUATION

The conferees agree to provide $3,000,000 available for implementation of section 205(c) of Public Law 108–169, the United States Fire Administration Reauthorization Act of 2003.

The conferees agree to provide $15,000,000 for Critical Infrastructure Identification and Evaluation instead of $127,500,000 as proposed by the House and $680,000,000 instead of $655,200,000 as proposed by the Senate.

The conferees agree to provide $662,000,000 instead of $650,200,000 as proposed by the House and $680,000,000 as proposed by the Senate. Of this amount, $112,100,000 instead of $112,000,000 as proposed by the House and $127,500,000 as proposed by the Senate.

The conferees concur with language in the Senate report directing the Department to favor those grant applications that take a regional approach in homeland security purchases and their future deployment.

The conferees further agree to make $3,000,000 available for implementation of section 205(c) of Public Law 108–169, the United States Fire Administration Reauthorization Act of 2003.

The conferees agree to provide $16,700,000 for Critical Infrastructure Identification and Evaluation instead of $11,700,000 as proposed by the House and $6,781,500 as proposed by the Senate. The conferees support the budget request for the Protective Security Analysis Center.

CHEMICAL SITE SECURITY

The conferees support language in the House report providing $10,000,000 for the Chemical Site Security program and direct the Department to provide the House and Senate Committees on Appropriations an expenditure plan showing how these resources will be used.

CRITICAL INFRASTRUCTURE OUTFRACH AND PARTNERSHIP

The conferees agree to provide $101,100,000 for Critical Infrastructure Outreach and Partnership as proposed by the House instead of $104,600,000 as proposed by the Senate. The conferees provide $5,000,000 for the Homeland Secure Information Network, as requested.

CYBER SECURITY AND INFORMATION SHARING INITIATIVE

The conferees agree to provide $16,700,000 to continue the National Cyber Security Division’s Cyber Security and Information Sharing Initiative instead of $11,700,000 as proposed by the Senate.

BOMBING PREVENTION

The conferees support language contained in the Senate report on the Office of Bombing Prevention directing the Secretary to develop a national strategy for bombing prevention, including a review of existing federal, state, and local efforts in this effort. The strategy shall be submitted to the Committees on Appropriations no later than January 23, 2007.

BUFFERS ZONE PROTECTION PROGRAM

The conferees encourage the Department to continue the chemical and other high risk sectors Buff Zone Protection Program in fiscal year 2007. The conferees note $25,000,000 was allocated in fiscal year 2006 for this program and encourage IPIS to utilize section 503 of this Act to provide appropriate funding in fiscal year 2007, if funding is available.

TRANSPORTATION VULNERABILITY REPORT

The conferees direct the Department to submit a report to the Committees on Appropriations, the Senate Committee on Commerce, Science, and Transportation; and the House Committee on Transportation and Infrastructure no later than March 1, 2007, describing the security vulnerabilities of all rail, transit, and highway bridges and tunnels connecting Northern New Jersey, New
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York and the five boroughs of New York City.

Federal Emergency Management Agency

The conferees do not incorporate Senate language on an organization review.

Administrative and Regional Operations

The conferees agree to provide $230,000,000 instead of $205,499,000 as proposed by the House and $249,499,000 as proposed by the Senate.

Workforce Strategy

The conferees remain concerned about the numerous personnel and senior leadership vacancies within the Federal Emergency Management Agency (FEMA). Therefore, the conferees agree to provide an additional $30,000,000 to fund up to 250 permanent disaster staff to replace the existing temporary Stafford Act workforce. The House and Senate reports direct FEMA to develop a comprehensive workforce strategy, which includes hiring goals for vacant positions, retention initiatives, training needs, and resource needs to bolster its workforce. The conferees direct the Administrator to submit to the Committees on Appropriations the strategic human capital plan outlined in Title VI.

The conferees concur with House report language directing the Department to finish the national build-out of the Digital Emergency Systems with Public Television and to provide for origination of emergency alert messages from authorized local and state officials.

Readiness, Mitigation, Response, and Recovery

The conferees agree to provide $240,000,000 instead of $240,199,000 as proposed by the House and $240,000,000 as proposed by the Senate.

Urban Search and Rescue

Of the funds provided for Readiness, Mitigation, Response, and Recovery, the conferees agree to provide $25,000,000 for urban search and rescue instead of $19,817,000 as proposed by the House and $20,000,000 as proposed by Senate.

Catastrophic Planning

The conferees concur with House report language requesting an expenditure plan for catastrophe funds do not wholly exhaust the amount appropriated to incorporate the lessons learned from Hurricane Katrina, in particular in the areas of logistics tracking, incident management capability of the National Response Coordination Center, temporary housing for evacuated residents, and debris removal. The conferees direct FEMA to brief the Committees on Appropriations on the status of continuing improvements and changes to FEMA as a result of lessons learned from Hurricane Katrina.

Disaster Spending Programs

The conferees are concerned by the findings of the Government Accountability Office, the DHS Inspector General, and others regarding the fraud and abuse associated with victim assistance programs and other disaster funding for the 2005 Gulf Coast hurricanes. The conferees concur with language in the House and Senate reports directing FEMA to correct weaknesses in its disaster assistance programs. The conferees expect FEMA to include corrective actions for the disaster claims system in the brief to the Committees on Appropriations on Hurricane Katrina.

The conferees understand FEMA has begun comprehensive modernization of its legacy information management systems into an Enterprise Content Management System and development of such a system is a basic requirement for FEMA to have the capacity to handle unexpected demands. The conferees encourage FEMA to pursue this improved document reporting and tracking system.

Contracts

FEMA shall provide a quarterly report to the Committees on Appropriations regarding all contracts issued during any disaster. The report shall include a detailed justification for any contracts using procedures based upon the unusual and compelling urgency exception to competitive procedures requirements under section 302(c)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(2)) or section 2904(c)(2) of title 10, United States Code. Justification details by individual contract are required. The conferees direct FEMA to include, at least for a sample of funds, the timeframe, the contractor, a specific reason why the contract could not be competed and how action may be taken to ensure competition of the contract in the future without impeding timely disaster response.

Logistics Centers

The conferees direct the Department to brief the Committees on Appropriations on the strategic and regional footprint being guided by the site selection for the logistics centers and locations for prepositioned items and any plans for future movement of assets or actions to relocate existing facilities or add centers or the locations of prepositioned items. The conferees concur with language in the House and Senate reports regarding pre-positioning Meals-Ready-to-Eat.

The conferees direct FEMA to use no less than $5,000,000 to develop a demonstration program with regional and local governments in the formation of innovative public and private logistical partnerships and centers to improve readiness, increase response capacity, and maximize the management and impact of homeland security resources.

The conferees agree the lack of coordinated incident management contributed to failures at all levels of government during Hurricane Katrina. The White House Report: “The Federal Response to Hurricane Katrina: Lessons Learned” states, “DHS should establish a deployable communications capability to quickly gain and retain situational awareness when responding to catastrophic events”. The conferees agree and direct DHS to support deployment of integrated and regional near real-time information and incident tracking systems. The conferees encourage DHS to work with regional state emergency managers to deploy an operatively ready National Incident Management System (NIMS) compliant incident management system for use by the first responder community that includes redundant 24/7 online capability.

National Center for Missing and Exploited Children

The conferees encourage FEMA to assess how the National Center for Missing and Exploited Children and state family assistance call centers can best contribute to the National Response Plan in helping disaster victims locate family members. The Secretary shall submit a report to the Committees on Appropriations no later than 45 days after enactment of this Act.

National Incident Management System

Of the funds provided for Readiness, Mitigation, Response, and Recovery, the conferees agree to provide $30,000,000 for the National Incident Management System (NIMS). The conferees direct FEMA to use no less than $10,000,000 to continue to implement NIMS nationwide, with a focus specifically on standards identification, testing and evaluation of equipment, and gap and lessons learned identification.

Levee Recertification

The conferees understand FEMA is in the process of revising its levee certification regulations and guidance. The conferees expect FEMA to utilize the latest findings of the Army Corps of Engineers levee receivability when developing its regulations and guidance. The conferees direct FEMA to provide a status report, no later than one year after enactment of this Act, on its processes for levee certification. This status report should include the Army Corps of Engineers levee receivability standards and the number of levees that require certification, the estimated costs of recertifying, the resources required to fulfill the new certification regulations, and a description of the Administration’s policy on how these cost requirements should be met.

Emergency Preparedness Demonstration Program

The conferees understand the emergency preparedness demonstration program is in the information collection phase. The conferees direct FEMA to expand this pilot demonstration project from Hurricane Katrina victims can be added to this study. The conferees recognize this may cause the House and Senate staff to replace the existing temporary Stafford Act workforce. The conferees agree to provide FEMA to develop a demonstration program to provide an interim report to the Committees on Appropriations by March 31, 2007.

Public Health Programs

(INCLUDING TRANSFER OF FUNDS)

The conferees agree to provide $30,000,000,000 instead of $1,676,891,000, as proposed by the House and $1,500,000,000 as proposed by the Senate.

Disaster Relief

(INCLUDING TRANSFER OF FUNDS)

The conferees agree to provide $1,500,000,000, instead of $1,675,891,000, as proposed by the House and $1,500,000,000 as proposed by the Senate. The conferees agree to include bill language as proposed by the Senate, permitting up to $13,500,000 for the Office of Inspector General to reimburse the Disaster Relief Fund for audits and investigations related to natural disasters.

The conferees understand FEMA intends to replace almost 300,000 unoccupied manufactured units. The conferees direct FEMA to take an aggressive approach in managing the manufactured housing supply. The conferees direct FEMA to provide an aggressive approach in managing the manufactured housing supply in a proactive manner and to brief the Committees on Appropriations regarding the supply on hand, the cost of maintenance and storage, the anticipated use, and strategic storage location of unoccupied manufactured units.

Disaster Assistance Direct Loan Program Account

The conferees agree to provide $569,000 for administrative expenses as proposed by both the House and Senate.

Flood Map Modernization Fund

The conferees agree to provide $198,980,000 as proposed by both the House and Senate.
and Senate for Flood Map Modernization Fund. The conferees recognize the importance of the Flood Map Modernization Program to state and local governments. When allocating resources for this program, the conferees encourage FEMA to prioritize as criteria the number of stream and coastal miles within the state, the number of counties that are non-compliant, and the participation of the state in leveraging non-federal contributions. The conferees further direct FEMA to recognize and support those states that integrate the Flood Map Modernization Program with other state programs to enhance greater security efforts and capabilities in the areas of emergency management, property and disaster response. The conferees recognize the usefulness of updated flood maps in state planning, and encourage this efficient use of federal dollars.

The conferees are concerned that the Flood Map Modernization Program is using outdated and inaccurate data when developing its maps. The conferees direct FEMA, in consultation with the Office of Management and Budget, to review technologies by other Federal agencies, such as the National Oceanic and Atmospheric Administration, the National Geospatial Intelligence Agency, and the Department of Defense, to collect elevation data. The conferees expect a briefing no later than 180 days after enactment of this Act on the technologies available, and a recommendation of what is most effective for the Flood Map Modernization Program.

NATIONAL FLOOD INSURANCE FUND
(INCLUDING TRANSFER OF FUNDS)
The conferees agree to provide $36,230,000 for salaries and expenses as proposed by both the House and Senate. The conferees further agree to provide up to $50,000,000 for severe repetitive loss property mitigation expenses under section 1304 of the National Flood Insurance Act of 1968 and a repetitive loss property mitigation pilot program under section 1323 of the National Flood Insurance Act; and up to $90,358,000 for other flood mitigation activities, of which up to $31,000,000 is available for transfer to the National Flood Mitigation Fund. Total funding of $128,588,000 is offset by premium collections.

NATIONAL FLOOD MORTGAGE FUND
(INCLUDING TRANSFER OF FUNDS)
The conferees agree to provide $31,000,000 by transfer from the National Flood Insurance Fund as proposed by the House and Senate.

NATIONAL PREDISASTER MITIGATION FUND
The conferees agree to provide $100,000,000 as proposed by the House instead of $149,978,000 as proposed by the Senate. While the conferees are supportive of the Predictive Modeling New Mexico program, they remain concerned by the slow pace of implementation and the obligation of the funds. This program has a large unobligated balance of $53,000,000. The conferees encourage FEMA to implement lessons learned, as described in the report on impediments to timely obligations of the Fund submitted to the Committees of Appropriations in compliance with the Senate Report 109-83 accompanying the fiscal year 2006 Department of Homeland Security Appropriations Act (P.L. 109-83). The conferees direct FEMA to brief the Committees on Appropriations on the progress of the implementation.

EMERGENCY FOOD AND SHELTER
The conferees agree to provide $121,740,000 as proposed by both the House and Senate.

TITLE IV—RESEARCH AND DEVELOPMENT, TRAINING, AND SERVICES
UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES
The conferees agree to provide $181,990,000 as proposed by the Senate instead of $134,990,000 as proposed by the House for United States Citizenship and Immigration Services (USCIS), of which $95,500,000 is available until expended. The conference agreement includes $47,000,000 for USCIS business system and information technology transformation, including converting immigration records to a digital format, to remain available until expended; $21,100,000 for the Systematic Alien Verification for Entitlements (SAVE) program; and $133,890,000 to expand the Employment Eligibility Verification (EEV) program. Current estimates of fee collections are $1,804,000,000, for total resources available to USCIS of $1,983,900,000. The conferees direct that, of these collections, not to exceed $5,000,000 shall be for official reception and representation expenses.

The following table specifies funding by budget activity, and includes both direct appropriations and estimated collections:

<table>
<thead>
<tr>
<th>Direct Appropriations</th>
<th>Estimated Collections</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business and IT Transformation</td>
<td>$47,000,000</td>
</tr>
<tr>
<td>Systematic Alien Verification for Entitlements (SAVE)</td>
<td>21,100,000</td>
</tr>
<tr>
<td>Employment Eligibility Verification (EEV)</td>
<td>113,890,000</td>
</tr>
<tr>
<td>Subtotal, Direct Appropriations</td>
<td>181,990,000</td>
</tr>
<tr>
<td>Adjudication Services (fee accounts)</td>
<td>624,600,000</td>
</tr>
<tr>
<td>Pay and Benefits</td>
<td>385,400,000</td>
</tr>
<tr>
<td>Operating Expenses: District Operations</td>
<td>297,000,000</td>
</tr>
<tr>
<td>Service Center Operations</td>
<td>75,000,000</td>
</tr>
<tr>
<td>Asylum, Refugee and International Operations</td>
<td>67,000,000</td>
</tr>
<tr>
<td>Records Operations</td>
<td>1,419,000,000</td>
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<tr>
<td>Subtotal, Adjudication Services</td>
<td>144,000,000</td>
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<tr>
<td>Information and Customer Services (Immigration Inspections Fee Accounts):</td>
<td>81,000,000</td>
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<tr>
<td>Pay and Benefits</td>
<td>48,000,000</td>
</tr>
<tr>
<td>Operating Expenses</td>
<td>15,000,000</td>
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<tr>
<td>Subtotal, Information and Customer Services</td>
<td>144,000,000</td>
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<tr>
<td>Administration (Immigration Inspections Fee Accounts):</td>
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<tr>
<td>Pay and Benefits</td>
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<tr>
<td>Operating Expenses</td>
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<tr>
<td>Subtotal, Administration</td>
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<tr>
<td>Fraud Detection Fee Account</td>
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<tr>
<td>H-1B Non-Immigrant Petitioner Fee Account</td>
<td>1,985,900,000</td>
</tr>
<tr>
<td>Subtotal, Total, U.S. Citizenship and Immigration Services</td>
<td>1,985,900,000</td>
</tr>
</tbody>
</table>

BUSINESS AND IT TRANSFORMATION
The conferees include $47,000,000 to support the business system and information technology transformation process at USCIS. The conferees direct USCIS not to obligate these funds until the Committees on Appropriations have received and approved a strategic transformation business audit and implementation plan that has been reviewed by the Secretary and the Government Accountability Office. The conference agreement includes a detailed breakout of costs associated with the USCIS business and information technology transformation effort in fiscal year 2007, a report on how the transformation process is aligned with USCIS and Departmental Enterprise Architecture, and details on expected project performance and deliverables.

The Department stated in its request that it would also apply $65,000,000 in fee revenues to this effort, for a total fiscal year 2007 program of $112,000,000. The conferees expect the aforementioned expenditure plan will reflect all resources associated with transformation efforts, and address the impact of fee resources.

SECURITY AND INTERNAL AFFAIRS
The conferees are concerned with reports that USCIS may be at risk for security lapses, in part because the Office of Security and Investigations has a significant case backlog, and in part because some USCIS adjudicators may lack necessary security clearances. As a result, critical enforcement actions could be delayed, or adjudicators could find themselves unable to access relevant watchlist databases, increasing the risk that immigration benefits could be fraudulently granted to ineligible recipients. The conferees direct USCIS to work closely with Immigration and Customs Enforcement and the Office of the Inspector General to address these security vulnerabilities.

FEDERAL LAW ENFORCEMENT TRAINING CENTER
SALARIES AND EXPENSES
The conferees agree to provide $211,033,000, instead of $210,507,000 as proposed by the House and $237,634,000 as proposed by the Senate. Included in this amount is $1,942,000 for salaries and expenses.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES
The conferees agree to provide $63,246,000, instead of $42,246,000 as proposed by the House and $63,246,000 as proposed by the Senate. Included in this amount is $1,000,000 for the construction of the Counterterrorism Operations Training Facility. The increase from the budget request includes $4,691,000 for training resources proposed to be funded in the Border Protection and $4,444,000 for training resources proposed to be funded in Immigration and Customs Enforcement. The conferees also extend the rehired annuitant authority through December 31, 2007.

SCIENCE AND TECHNOLOGY
MANAGEMENT AND ADMINISTRATION
The conferees agree to provide $135,000,000 for management and administration of Science and Technology (S&T) and the Counterterrorism Operations Training Facility. The increase from the budget request includes $7,594,000 for the construction of the Counterterrorism Operations Training Facility. The increase includes $3,000,000 for renovation and construction needs at the Artesia, New Mexico training center.
The conferees believe new technologies may significantly help the Department as it seeks to secure our homeland. The conferees encourage the Department to develop such technologies as singlet oxygen generating chemical and enzymatic systems, airborne rapid imaging, privacy Real ID technology, miniaturized low weight miniature cooling systems for protective gear, body armor designed to reduce back problems, security of open source systems, and current prototypical maritime cargo container security. The conferees also encourage the development of standards for intelligent video software.

EMERGENT AND PROTOTYPICAL TECHNOLOGIES

The conferees provide $19,451,000 for Emergent and Prototypical Technologies as proposed by the House instead of $80,000,000 as proposed by the Senate. The conferees support House report language supporting the budget request for the Public Safety and Security Institute for Technology centralized clearinghouse. The conferees direct DHS to work with the operators of the relevant emergent and prototypical technology, including the Responder Knowledge Base, to integrate this information into the centralized clearinghouse.

CRITICAL INFRASTRUCTURE PROTECTION

The conferees agree to provide $55,513,000 for Critical Infrastructure Protection research, including $20,000,000 to support existing work in research and development and application of technology for community-based critical infrastructure protection efforts. The conferees provide up to $5,000,000 for modeling and simulation.

UNIVERSITY PROGRAMS

The University program has the potential to facilitate cutting-edge research on homeland security issues. The conferees encourage S&T to solicit a wide variety of research projects from the plethora of universities engaged in homeland security research that focus on the greatest risks facing the nation. The conferees direct the Under Secretary of Science and Technology to brief the Committees on Appropriations, no later than 60 days after the date of the enactment of this Act, on the University-Based Centers of Excellence Program goals for fiscal year 2007 and outcomes projected for each center for the next three years.

COUNTER-MAN PORTABLE AIR DEFENSE SYSTEMS

The conferees provide $35,000,000 as proposed by the Senate for a comprehensive passenger aircraft suitability assessment. The conferees urge S&T to include the passenger airline industry in the evaluation phase of this assessment. The conferees direct the Under Secretary to brief the Committees on Appropriations, no later than 60 days after the enactment of this Act, on the funding plan for this suitability assessment.

PROJECT 25 STANDARDS

Federal funding for first responder communication equipment should be compliant with Project 25 standards, where necessary. The conferees direct the Under Secretary of Science and Technology, in conjunction with the Director of the National Institute of Standards and Technology, to establish a mechanism to assess first responder communication equipment to Project 25 standards.

TUNNEL DETECTION

The conferees support the language in Senate Report 109-273 requiring the Under Secretary on tunnel detection technologies being researched and developed to...
detect and prevent illegal entry into the United States. The briefing should also provide an assessment of the applicability of using existing military and other tunnel detection technologies along our borders.

INTERNET PROTOCOL INTEROPERABILITY

The conferees direct the Office of Interoperability and Compatibility to amend SAFECOM guidelines to clarify that, for purposes of the four-year Internet Protocol Interoperability, funding requests to improve interoperability need not be limited to the purchase of new radios, but can also fund the purchase of Protocol Interoperability solutions that connect existing and future radios over an IP interoperability network. Likewise, funding requests for transmission equipment to construct virtual aid channels and upgrade such channels with IP connectivity will also be considered, so long as P-25 and other digital radios utilizing the public safety portions of the 700 MHz band can operate over an IP interoperability network.

DOMESTIC NUCLEAR DETECTION OFFICE MANAGEMENT AND ADMINISTRATION

The conferees agree to provide $30,958,000 for management and administration as proposed by both the House and the Senate.

ARCHITECTURE INVESTMENTS AND BUDGETING

The conferees direct the Domestic Nuclear Detection Office (DNDO) to provide a report to the Committees on Appropriations by no later than November 1, 2006, on the budget crosscut of federal agencies involved in domestic nuclear detection. The budget crosscut should include investments of all agencies, how these investments will meet the goals of the global strategy, the performance measures associated with these investments, identification of investment gaps, and what budget considerations DNDO believes are required to ensure it requests appropriate resources.

RADIOACTIVE SOURCES

The conferees are concerned the risks and vulnerabilities of radioactive sources may not have been adequately characterized and addressed. DNDO should work with the Nuclear Regulatory Commission to determine the risks associated with, and strengthen the regulation and control of, radioactive sources as necessary.

RESEARCH, DEVELOPMENT, AND OPERATIONS

The conferees agree to provide $272,500,000 for Research, Development, and Operations. Within the $272,500,000, sufficient funding is provided for the Cargo Advanced Automated Radiography Systems as well as the Radiological and Nuclear Forensic and Attribution programs. The total also includes no more than $9,000,000 for the new university research program proposed in the budget. The conferees make $15,000,000 unavailable for obligation until the Secretary provides notification it has entered into a Memorandum of Understanding with each federal agency and organization participating in its global archiving program to describe the roles, responsibilities, and resource commitments of each.

SYSTEMS ACQUISITION

ADVANCED SPECTROSCOPIC PORTAL MONITORS

The conferees are concerned preliminary testing of Advanced Spectroscopic Portal (ASP) monitors indicates the effectiveness of the new technology may fall short of levels anticipated in DNDO’s cost-benefit analysis. The conferees have not received validated quantitative evidence that ASP monitors perform more effectively in an operational environment compared to current portal monitors. The conferees include bill language prohibiting DNDO from full scale procurement of ASP monitors until the Secretary has certified and reported to the Committees on Appropriations that a significant increase in operational effectiveness merits such a decision. The conferees encourage the potential for long-term benefit of ASP technology and encourage continued testing and piloting of these systems.

CONTAINER SECURITY

As described under the Office of the Secretary and Executive Management, the conferees strongly support port, container, and cargo security. As part of the Department’s strategy to enhance global container counter-proliferation, DNDO and DSO are directed to achieve 100 percent radiological examination of containers entering the United States through the busiest 25 and other seaports of entry by December 31, 2007.

TITLVE V—GENERAL PROVISIONS

Section 501. The conferees continue a provision proposed by the House and Senate that no part of any appropriation shall remain available for obligation beyond the current year unless expressly provided.

Section 502. The conferees continue a provision proposed by the House and Senate that unexpended balances of prior appropriations may be merged with new appropriations accounts and used for the same purposes, subject to current law.

Section 503. The conferees continue a provision proposed by the House and Senate that authority to reprogram appropriations to funds shall not exceed 5 percent between appropriations accounts with 15-day advance notification of the Committees on Appropriations. A detailed funding table identifying each Congressional control level for reprogramming purposes is included at the end of this report. These reprogramming guidelines shall be consistent with guidelines proposed by the Department of Homeland Security Appropriations Act, 2007.

The conferees expect the Department to submit reprogramming requests on a timely basis, and to provide complete explanations of the reallocations proposed, including detailed justifications of the increases and offsets, and any specific impact the proposed changes will have on the budget request for the following fiscal year and future-year appropriations requirements. Each request submitted should include a detailed table showing the proposed revisions at the account, program, project, and activity level to the funding and staffing (full-time equivalent) levels for the current fiscal year and to the levels requested in the President’s budget for the following fiscal year.

The conferees expect the Department to manage its programs and activities within the levels appropriated. The conferees are aware of several reprogramming proposals submitted for consideration by the Department and remind the Department that reprogramming or transfer requests unapproved. Each request submitted should include a detailed table showing the proposed revisions at the account, program, project, and activity level to the funding and staffing (full-time equivalent) levels for the current fiscal year and to the levels requested in the President’s budget for the following fiscal year.

The conferees expect the Department to manage its programs and activities within the levels appropriated. The conferees are aware of several reprogramming proposals submitted for consideration by the Department and remind the Department that reprogramming or transfer requests unapproved. Each request submitted should include a detailed table showing the proposed revisions at the account, program, project, and activity level to the funding and staffing (full-time equivalent) levels for the current fiscal year and to the levels requested in the President’s budget for the following fiscal year.

Section 504. The conferees continue a provision proposed by the Senate that none of the funds appropriated or otherwise available to the Department may be used to make acquisitions for which the potential exists to benefit ASP technology and encourage continued testing and piloting of these systems.

Section 505. The conferees continue a provision proposed by the House and Senate that not to exceed 50 percent of unobligated balances remaining at the end of fiscal year 2006 from appropriations made for salaries and expenses shall remain available for obligation for fiscal year 2007 subject to reprogramming guidelines.

Section 506. The conferees continue a provision proposed by the House and Senate deeming that funds for intelligence activities are specifically authorized during fiscal year 2007 until the enactment of an Act authorizing intellectual activities for fiscal year 2007.

Section 507. The conferees continue a provision proposed by the Senate that the Department is directed to establish the Federal Law Enforcement Training Center (FLETC) to lead the Federal law enforcement training accreditation process.

Section 508. The conferees continue a provision proposed by the House and Senate requiring notification of the Committees on Appropriations three business days prior to announcing publicly the intention to make a non-competitive award, discretionary award, letter of intent, or public announcement of the intention to make such an award totaling in excess of $1,000,000. Additionally, the Department is required to brief the Committees on Appropriations five full business days prior to funding an award exceeding these limits.

Section 509. The conferees continue a provision proposed by the House and Senate that none of the funds may be used for any construction, repair, alteration, or acquisition project for which a prospectus, as required by the Public Buildings Act of 1959, has not been approved.

Section 510. The conferees continue a provision proposed by the Senate that FLETC shall schedule basic and advanced law enforcement training at all four training facilities under its control to ensure that the training centers are operated at the highest capacity.

Section 511. The conferees continue a provision proposed by the House and Senate that none of the funds may be used for any construction, repair, alteration, or acquisition project for which a prospectus, as required by the Public Buildings Act of 1959, has not been approved.

Section 512. The conferees continue a provision proposed by the House and Senate that none of the funds may be used for any construction, repair, alteration, or acquisition project for which a prospectus, as required by the Public Buildings Act of 1959, has not been approved.

Section 513. The conferees continue a provision proposed by the House and Senate that none of the funds may be used for any construction, repair, alteration, or acquisition project for which a prospectus, as required by the Public Buildings Act of 1959, has not been approved.
used to expeditiously process background investigations, including updates and reinvestigations, as necessary.

Section 514. The conferees continue and modify a provision proposed by the House and Senate to prohibit the obligation of funds for the Secure Flight program, except on a test basis, until the requirements of section 522 of Public Law 108-334 have been met and certified by the Secretary of DHS and reported by the Government Accountability Office. The conferees direct the DOT to continue to evaluate DHS and Transportation Security Administration (TSA) actions to meet the ten conditions listed in section 522 of Public Law 108-334 and report to the Committees on Appropriations, either incrementally as the Department meets additional conditions, or when all conditions have been met by the Department.

The provision also prohibits the obligation of funds to develop or test algorithms assigning risk to passengers not on government watch lists and for a commercial database that is obtained from or remains under the control of a non-federal entity, excluding Passenger Name Record data obtained from air carriers.

Section 515. The conferees continue a provision proposed by the House and Senate prohibiting the use of funds to amend the oath of allegiance contained in the Immigration and Nationality Act (8 U.S.C. 1448).

Section 516. The conferees continue a provision proposed by the House and Senate regarding the reimbursement to the Secret Service for the cost of protective services.

Section 518. The conferees continue a provision proposed by the House and Senate directing the Secretary of Homeland Security, in consultation with industry stakeholders, to develop standards and protocols for increasing the use of explosive detection equipment to screen air cargo when appropriate.

Section 519. The conferees continue and modify a provision proposed by the House and Senate directing TSA to utilize existing checked baggage explosive detection equipment to screen carry-on passenger aircraft when practicable and require TSA to report air cargo inspection statistics to the Committees on Appropriations within 90 days of the end of each quarter of the fiscal year.

Section 520. The conferees include a new provision regarding the designation of funds.

Section 521. The conferees include and modify a provision proposed by the House and Senate directing that any funds appropriated or transferred to TSA “Aviation Security”, “Administration” and “Transportation Security Support” in fiscal years 2004, 2005, and 2006, if unobligated or unobligated and unexpended, shall be available only for procurement and installation of explosive detection systems for air cargo, baggage and checkpoint, screening systems subject to notification.

Section 523. The conferees continue and modify a provision proposed by the House and Senate directing the Senate Committee on Appropriations, prior to enactment, to review within 30 days after enactment, its management directive on Sensitive Security Information (SSI) to among other things, provide for the release of SSI on a case-by-case basis to contractors that are three years old unless the Secretary makes a written determination that identifies a rational reason why the information must remain SSI. The conferees expect this rational reason written determination to identify and describe the specific risk to the national transportation system. The provision also contains a mechanism for SSI to be used in civil judicial proceedings if the judge determines that the need exists.

The conferees expect that a party seeking to use SSI in a judicial proceeding will provide evidence that the judge determines that the information is necessary to demonstrate the existence of a risk of harm to the nation in a judicial proceeding. The conferees also expect that a party seeking to use SSI in a judicial proceeding will provide evidence that the judge determines that the information is necessary to demonstrate the existence of a risk of harm to the nation in a judicial proceeding. The conferees further expect any DHS determination that information is necessary to demonstrate the existence of a risk of harm to the nation in a judicial proceeding be provided to Congress, and that Congress determine whether the information is necessary to demonstrate the existence of a risk of harm to the nation in a judicial proceeding.

Section 524. The conferees continue and modify a provision proposed by the Senate regarding the designation of funds to account for the needs of household pets and service animals in approving standards for state and local emergency preparedness plans under the Stafford Act. The House bill contained no similar provision.

Section 525. The conferees continue a provision proposed by the Senate rescinding $16,000,000 from the unobligated balances of prior year appropriations for TSA “Aviation Security”. The House bill contained no similar provision.

Section 526. The conferees continue a provision proposed by the Senate rescinding $4,100,000 from the Coast Guard’s Automatic Identification System. The Senate bill contained no similar provision.

Section 527. The conferees continue a provision proposed by the Senate rescinding $47,700,000 from unexpended balances of the United States Coast Guard Acquisition, Construction, and Improvements’ account identified in House Report 109-241 for the development of the Offshore Patrol Cutter. The House bill contained no similar provision.

Section 529. The conferees continue a provision proposed by the Senate rescinding $20,000,000 from unexpended balances of the United States Coast Guard “Aviation Security”. The Senate bill contained no similar provision.

Section 532. The conferees continue a provision proposed by the Senate and providing for the development of the Offshore Patrol Cutter. The Senate bill contained a similar provision.

Section 536. The conferees continue a provision proposed by the Senate rescinding $1,110,000 from the unobligated balances of prior year appropriations for TSA “Aviation Security”. The House bill contained no similar provision.

Section 538. The conferees continue a provision proposed by the Senate permitting the Secretary of Homeland Security to use specific Meadowview Acres Additions lots in Augusta, Kansas, for building portions of the flood control levees. The conferees expect the Army Corps of Engineers with regard to this section. The Senate bill contained no similar provision.

Section 542. The conferees continue a provision proposed by the Senate permitting the City of Cuero, Texas, to use grant funds awarded under title I, chapter 6, Public Law 106-31 until September 30, 2007. The House bill contained a similar provision.

Section 543. The conferees continue a provision proposed by the Senate prohibiting the using of funds to construct or modify buildings performance and reporting requirements of Executive Order 13123, part 3 of title V of the National Energy Conservation Policy Act of 2001, 42 U.S.C. 18605. The Senate bill contained no similar provision.

Section 544. The conferees continue a provision proposed by the Senate classifying the Instructional Training Center as inherently governmental for purposes of the Federal Activities Inventory Reform Act of 1998. The House bill contained no similar provision.

Section 545. The conferees continue a provision proposed by the Senate prohibiting the use of funds to contravene section 303 of the Energy Policy Act. The Senate bill contained no similar provision.

Section 546. The conferees continue and modify a provision proposed by the Senate
Section 547. The conference continues a provision prohibiting the use of funds in contravention to Executive Order 13149, relating to fleet and transportation security. The House bill contained no similar provision.

Section 548. The conference continues a provision proposed by the Senate requiring the Secretary to issue interim risk-based security regulations on high risk chemical facilities. This three-year authorization provides the Secretary with the flexibility to achieve the appropriate risk reduction, but also provides the Secretary the means to impose sanctions on non-compliant facilities, including authority to shut down non-compliant facilities until they comply. The provision protects sensitive information from being shared with appropriate authorities. The House bill contained no similar provision.

Section 551. The conference continues a provision proposed by the Senate prohibiting the Secretary of Homeland Security from altering or reducing the Coast Guard’s civil engineering program until Congress receives and approves any planned changes. The House bill contained no similar provision.

Section 552. The conference continues and modifies a provision proposed by the Senate requiring the use of funds for the National Capital Region Air and Emergency Assistance Grants. This requirement is already addressed in the statement of managers under Border and Port Security.

Section 554. The conference continues a provision proposed by the Senate requiring the use of funds for the National Capital Region Air and Emergency Assistance Grants. This requirement is already addressed in the statement of managers under Border and Port Security.

Section 555. The conference deletes a provision requiring the transfer authority contained in section 505 of the Homeland Security Act, as added by section 744 of the FY 2004 Appropriations Act, concerning the reorganization of FEMA to be subject to 31 U.S.C. 1513(a)(2).

PROVISIONS NOT ADOPTED

The conference agreement deletes section 520 of the House bill and Section 520 of the Senate bill relating to the transport worker identification credential. The conference agreement deletes section 534 of the Senate bill transferring the Transportation Security Laboratory to the Transportation Security Administration. The conference agreement deletes section 538 of the House bill prohibiting the Transportation Security Administration from employing a fingerprinter personnel in certain situations.

The conference agreement deletes section 539 of the Senate bill prohibiting the use of funds in contravention to Executive Order 13149, relating to fleet and transportation security. The House bill contained no similar provision.

The conference agreement deletes section 541 of the House bill reducing funds for the Office of the Secretary and Executive Management and adding funds to Fire Fighter Assistance Grants. The conference agreement deletes section 545 of the Senate bill requiring a report on agricultural inspections. This requirement is already addressed in the statement of managers under Customs and Border Protection.

The conference agreement deletes section 546 of the Senate bill regarding the screening of municipal solid waste. The conference agreement deletes section 547 of the Senate bill requiring the Secretary to inspect and levy a fee to inspect international shipments of municipal solid waste. The conference agreement deletes section 556 of the Senate bill prohibiting the use of funds to provide information to foreign governments about activities of organized volunteer civilian action groups, unless required by law.

The conference agreement deletes section 557 of the Senate bill relating to data-sharing with state and local law enforcement agencies. The conference agreement deletes section 558 of the Senate bill requiring the evaluation of interoperable communications for the 2016 Olympics. This requirement is already addressed in the statement of managers under Border and Port Security.

The conference agreement deletes section 564 of the Senate bill prohibiting the use of funds for the National Capital Region Air Defense mission. This issue is addressed in the statement of managers under Border and Port Security.

The conference agreement deletes section 565 of the Senate bill prohibiting the use of funds for the Long Range Aids to Navigation stations except for certain geographic areas. The conference agreement deletes section 566 of the Senate bill reflecting the statement of managers under Homeland Security and Border Protection.

The conference agreement deletes section 567 of the Senate bill prohibiting the use of funds for the Coast Guard to use funds from its Operating Expenses for the National Capital Region Air Defense mission. This issue is addressed in the statement of managers under Border and Port Security.

The conference agreement deletes section 568 of the Senate bill allowing the Coast Guard to use funds from its Operating Expenses for the National Capital Region Air Defense mission. This issue is addressed in the statement of managers under Border and Port Security.
The conference agreement deletes section 568 of the Senate bill requiring the Inspector General to review any Secure Border Initiative contracts awarded over $20,000,000. This requirement is addressed in the statement of managers relating to the National Asset Database. This requirement is addressed in the statement of managers under Preparedness.

The conference agreement deletes section 569 of the Senate bill permitting funds from Title VI to be used for the establishment of the Northern Border air wing site in Michigan. This requirement is addressed in the statement of managers under Customs and Border Protection.

The conference agreement deletes section 572 of the Senate bill to expand the National Infrastructure Simulation and Analysis Center. This issue is addressed in Title VI of this Act.

The conference agreement deletes section 573 of the Senate bill requiring the Secretary of Homeland Security to consult with the National Council on Radiation Protection and Measurement and other organizations in preparing guidance with respect to radiological terrorism, threats, and events. This requirement is addressed in the statement of managers under Preparedness.

The conference agreement deletes section 574 of the Senate bill requiring the Comptroller General to report on the effect on public safety and screening operations from modifications to the list of items prohibited from being carried on commercial aircraft. This requirement is addressed in the statement of managers under Transportation Security Administration.

The conference agreement deletes section 575 of the Senate bill requiring the Comptroller General to report on the effect on public safety and screening operations from modifications to the list of items prohibited from being carried on commercial aircraft. This requirement is addressed in the statement of managers under Transportation Security Administration.
DEPARTMENT OF HOMELAND SECURITY  
(Amounts in thousands)  

<table>
<thead>
<tr>
<th>Budget Request</th>
<th>Conference</th>
</tr>
</thead>
<tbody>
<tr>
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</table>

**TITLE I - DEPARTMENTAL MANAGEMENT AND OPERATIONS**

**Departmental Operations**

**Office of the Secretary and Executive Management:**
- Immediate Office of the Secretary: 3,148 2,540
- Immediate Office of the Deputy Secretary: 1,648 1,185
- Chief of Staff: 2,901 2,560
- Office of Counternarcotics Enforcement: 2,876 2,360
- Executive Secretary: 5,001 4,450
- Office of Policy: 31,093 29,305
- Secure Border Coordination Office: --- 4,500
- Office of Public Affairs: 6,808 6,000
- Office of Legislative and Intergovernmental Affairs: 6,479 5,449
- Office of General Counsel: 14,065 12,759
- Office of Civil Rights and Liberties: 13,125 13,000
- Citizenship and Immigration Services Ombudsman: 5,927 5,927
- Privacy Officer: 4,435 4,435

Subtotal, Office of the Secretary and Executive Management: 97,508 94,470

**Office of Screening Coordination and Operations:** 3,960 ---

**Office of the Under Secretary for Management:**
- Under Secretary for Management: 2,012 1,870
- Office of Security: 58,514 52,840
- Business Transformation Office: 2,017 ---
- Office of the Chief Procurement Officer: 16,895 16,895

**Office of the Chief Human Capital Officer:**
- Salaries and expenses: 9,827 8,811
- MAX - HR System: 71,449 25,000

Subtotal, Office of the Chief Human Capital Officer: 81,276 33,811

**Office of the Chief Administrative Officer:**
- Salaries and expenses: 40,218 40,218
- Nebraska Avenue Complex (NAC-DHS Headquarters): 8,206 8,206

Subtotal, Office of the Chief Administrative Officer: 48,424 48,424

Subtotal, Office of the Under Secretary for Management: 209,138 153,640

**Office of the Chief Financial Officer:**
- Salaries and expenses: 26,018 26,000
- Emerg2: 18,362 ---

Subtotal, Office of the Chief Financial Officer: 44,380 26,000

**Office of the Chief Information Officer:**
- Salaries and expenses: 79,521 79,521
- Information technology services: 61,013 61,013
- Security activities: 64,139 89,387
- Wireless program: 86,438 86,438
- Homeland Secure Data Network (HSDN): 32,654 32,654

Subtotal, Office of the Chief Information Officer: 323,765 349,013

Analysis and Operations: 298,663 299,663
## DEPARTMENT OF HOMELAND SECURITY

(Amounts in thousands)

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### TITLE II - SECURITY, ENFORCEMENT, AND INVESTIGATIONS

#### U.S. Visitor and Immigrant Status Indicator Technology

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<td>Customs and Border Protection</td>
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<td>(Fee accounts)</td>
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<td>Department of Homeland Security</td>
<td>Budget Request</td>
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<td>Federal Protective Service</td>
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### Department of Homeland Security

- **Amounts in thousands**

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<tr>
<th>Budget Request</th>
<th>Conference</th>
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<td><strong>Subtotal, Immigration and Customs Enforcement</strong></td>
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<tr>
<td>Fee accounts</td>
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<tr>
<td><strong>Transportation Security Administration</strong></td>
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<tr>
<td><strong>Aviation security:</strong></td>
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<tr>
<td>Screening operations:</td>
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## DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

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<tr>
<td>Operating expenses</td>
<td></td>
</tr>
<tr>
<td>Military pay and allowances</td>
<td>2,788,276</td>
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<td>Civilian pay and benefits</td>
<td>569,434</td>
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<td>Training and recruiting</td>
<td>180,876</td>
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<td>Operating funds and unit level maintenance</td>
<td>1,061,574</td>
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<td>Centrally managed accounts</td>
<td>207,954</td>
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<td>Intermediate and depot level maintenance</td>
<td>710,729</td>
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<td>Port Security</td>
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<tr>
<td>Less adjustment for defense function</td>
<td>-340,000</td>
</tr>
<tr>
<td>Description</td>
<td>Budget Request</td>
</tr>
<tr>
<td>----------------------------------------------------------------------------</td>
<td>----------------</td>
</tr>
</tbody>
</table>
| DEPARTMENT OF HOMELAND SECURITY  
(Amounts in thousands)                                                       |                |             |
| Defense function                                                            | 340,000        | 340,000     |
| Subtotal, Operating expenses                                               | 5,518,843      | 5,477,657   |
| Appropriations                                                             | (5,178,843)    | (5,137,657) |
| Defense function                                                            | (340,000)      | (340,000)   |
| Environmental compliance and restoration                                   | 11,880         | 10,880      |
| Reserve training                                                           | 123,948        | 122,448     |
| Acquisition, construction, and improvements:                               |                |             |
| Vessels:                                                                    |                |             |
| Response boat medium (41ft UTB and NSB replacement).                        | 24,750         | 24,750      |
| Special purpose craft - Law enforcement (emergency).                       | ---            | 1,800       |
| Subtotal, Vessels                                                          | 24,750         | 26,550      |
| Aircraft:                                                                   |                |             |
| HH-60 replacement                                                           | ---            | 15,000      |
| Other equipment:                                                            |                |             |
| Automatic identification system                                            | 11,238         | 11,238      |
| National distress and response system modernization (Rescue 21).           | 39,600         | 39,600      |
| HF Recap                                                                   | 2,475          | 2,475       |
| National Capital Region Air Defense                                        | 48,510         | 48,510      |
| Emergency appropriations                                                   | ---            | 18,000      |
| Subtotal                                                                   | 48,510         | 66,510      |
| Counter Terrorism Training Infrastructure - shoothouse                      | 1,683          | ---         |
| Subtotal, Other equipment                                                  | 103,506        | 119,823     |
| Personnel compensation and benefits:                                       |                |             |
| Core acquisition costs                                                     | 500            | 500         |
| Direct personnel cost                                                      | 80,500         | 80,500      |
| Subtotal, Personnel compensation and benefits                             | 81,000         | 81,000      |
| Integrated deepwater systems                                               |                |             |
| Aircraft:                                                                   |                |             |
| Aircraft, other                                                            | 216,513        | 211,513     |
| Emergency appropriations                                                   | ---            | 100,500     |
| HH-65 re-engining                                                          | 32,373         | 32,373      |
| Subtotal, Aircraft                                                         | 248,886        | 344,386     |
| Surface ships                                                              | 498,366        | 498,366     |
| Emergency appropriations                                                   | ---            | 55,500      |
| Subtotal, Surface ships                                                    | 498,366        | 553,866     |
| C4ISR                                                                      | 60,786         | 50,000      |
| Logistics                                                                  | 42,273         | 36,000      |
| Systems engineering and integration                                         | 35,145         | 35,145      |
| Government program management                                              | 48,975         | 46,475      |
| Subtotal, Integrated deepwater systems                                     | 934,431        | 1,068,872   |
| Shore facilities and aids to navigation:                                   |                |             |
| Shore operational and support projects                                      | 2,600          | ---         |
## DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

<table>
<thead>
<tr>
<th>Item</th>
<th>Request</th>
<th>Conference</th>
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<tbody>
<tr>
<td>Shore construction projects</td>
<td>2,850</td>
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<tr>
<td>Renovate USCGA Chase Hall barracks, phase I</td>
<td>2,000</td>
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<tr>
<td>Coast Guard housing - Cordova, AK</td>
<td>5,500</td>
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<tr>
<td>ISC Seattle Group, sector admin ops facility phase II</td>
<td>2,600</td>
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<tr>
<td>Replace multi-purpose building - Group Long Island Sound</td>
<td>1,000</td>
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<tr>
<td>Construct breakwater - Station Neah Bay</td>
<td>1,100</td>
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<tr>
<td>Rebuild station and waterfront at Base</td>
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<tr>
<td>Galveston phase I</td>
<td>5,200</td>
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<td>Waterways aids to navigation infrastructure</td>
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<td>Undistributed distributions</td>
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<td>22,000</td>
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<tr>
<td><strong>Subtotal, Shore facilities and aids to navigation</strong></td>
<td>25,850</td>
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<td><strong>Subtotal, Acquisition, construction, and improvements</strong></td>
<td>1,169,537</td>
<td>1,330,245</td>
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<td>(1,169,537)</td>
<td>(1,154,445)</td>
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<td>Emergency appropriations</td>
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<td>(175,800)</td>
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<tr>
<td>Alteration of bridges</td>
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<td>16,000</td>
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<tr>
<td>Research, development, test, and evaluation</td>
<td>13,860</td>
<td>17,000</td>
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<td>Health care fund contribution</td>
<td>276,704</td>
<td>278,704</td>
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<td><strong>Subtotal, U.S. Coast Guard discretionary</strong></td>
<td>7,116,772</td>
<td>7,252,934</td>
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<td>Retired pay (mandatory)</td>
<td>1,063,323</td>
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<td><strong>Total, United States Coast Guard</strong></td>
<td>8,180,085</td>
<td>8,316,257</td>
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<tr>
<td>Appropriations</td>
<td>(8,180,085)</td>
<td>(8,140,457)</td>
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<tr>
<td>Emergency appropriations</td>
<td>---</td>
<td>(175,800)</td>
</tr>
</tbody>
</table>

### United States Secret Service

#### Protection, Administration, and Training:

**Protection:**
- Protection of persons and facilities: 639,747 / 651,247
- Protective intelligence activities: 55,509 / 55,509
- National special security event: --- / 1,000
- Presidential candidate nominee protection: --- / 18,400
- White House mail screening: 16,201 / 16,201

**Subtotal, Protection:** 711,457 / 742,357

**Field operations:**
- Domestic field operations: 236,093 / ---
- International field office administration, operations and training: 21,616 / ---
- Electronic crimes special agent program and electronic crimes task forces: 44,079 / ---

**Subtotal, Field operations:** 301,788 / ---

**Administration:**
- Headquarters, management and administration: 169,370 / 169,370
- Grants for National Center for Missing and Exploited Children: 7,811 / ---

**Subtotal, Administration:** 177,181 / 169,370

### Training:
- Rowley training center: 50,052 / 50,052

**Subtotal, Protection, Admin and Training:** 1,240,478 / 961,779
DEPARTMENT OF HOMELAND SECURITY  
(Amounts in thousands)

<table>
<thead>
<tr>
<th>Budget</th>
<th>Request</th>
<th>Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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<tr>
<td><strong>Investigations and Field Operations:</strong></td>
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<td></td>
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<tr>
<td>Domestic field operations</td>
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<td>238,095</td>
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<tr>
<td>International field administration and operations</td>
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<td>22,616</td>
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<tr>
<td>Electronic crimes special agent program and electronic crimes task forces</td>
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<td>44,079</td>
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<tr>
<td>Forensic support and grants to NCMEC</td>
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<td>8,386</td>
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<tr>
<td><strong>Subtotal, Investigations and Field operations</strong></td>
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<td>311,154</td>
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<td>Special Event Fund:</td>
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<td>National special security event fund</td>
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<tr>
<td>Candidate nominee protection (equip and training)</td>
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<td><strong>Subtotal, Special Event Fund</strong></td>
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<td>Acquisition, construction, improvements and related expenses (Rowley training center)</td>
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<td><strong>Total, United States Secret Service</strong></td>
<td>1,265,103</td>
<td>1,276,656</td>
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<td><strong>Total, title II, Security, Enforcement, and Investigations</strong></td>
<td>22,670,507</td>
<td>25,578,337</td>
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<tr>
<td>Appropriations</td>
<td>(22,670,507)</td>
<td>(23,771,337)</td>
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<td>Emergency appropriations</td>
<td>(1,807,000)</td>
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<td>(Fee Accounts)</td>
<td>(1,593,681)</td>
<td>(2,109,692)</td>
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**TITLE III - PREPAREDNESS AND RECOVERY**

**Preparedness**

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<tr>
<th>Management and administration:</th>
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<tbody>
<tr>
<td>Immediate Office of the Under Secretary</td>
<td>17,497</td>
<td>16,392</td>
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<tr>
<td>Office of the Chief Medical Officer</td>
<td>4,980</td>
<td>4,980</td>
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<tr>
<td>Office of National Capital Region Coordination</td>
<td>1,991</td>
<td>2,741</td>
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<tr>
<td>National Preparedness Integration Program</td>
<td>50,000</td>
<td>6,459</td>
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<tr>
<td><strong>Subtotal, Management and administration</strong></td>
<td>74,486</td>
<td>30,572</td>
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**Grants and Training:**

<table>
<thead>
<tr>
<th>State and Local Programs:</th>
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<th></th>
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<tbody>
<tr>
<td>State formula grants:</td>
<td></td>
<td></td>
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<tr>
<td>State Homeland Security Grant Program</td>
<td>633,000</td>
<td>525,000</td>
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<tr>
<td>Emergency management performance grants</td>
<td>170,000</td>
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<tr>
<td>Citizen Corps</td>
<td>55,000</td>
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<tr>
<td>Law enforcement terrorism prevention grants</td>
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<td>375,000</td>
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<tr>
<td><strong>Subtotal, State formula grants</strong></td>
<td>838,000</td>
<td>900,000</td>
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</table>

<table>
<thead>
<tr>
<th>Discretionary grants:</th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>High-threat, high-density urban area</td>
<td>838,000</td>
<td>770,000</td>
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<tr>
<td>Port security grants</td>
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<td>210,000</td>
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<tr>
<td>Trucking security grants</td>
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<td>12,000</td>
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<tr>
<td>Intercity bus security grants</td>
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<td>12,000</td>
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<tr>
<td>Rail and transit security</td>
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<td>175,000</td>
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<tr>
<td>Buffer zone protection program</td>
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<tr>
<td>Targeted infrastructure protection</td>
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<tr>
<td><strong>Subtotal, Discretionary grants</strong></td>
<td>1,438,000</td>
<td>1,229,000</td>
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<table>
<thead>
<tr>
<th>Commercial equipment direct assistance program</th>
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## DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

<table>
<thead>
<tr>
<th>National Programs:</th>
<th>Budget Request</th>
<th>Conference</th>
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<tbody>
<tr>
<td>National Domestic Preparedness Consortium</td>
<td>89,351</td>
<td>145,000</td>
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<td>National exercise program</td>
<td>48,708</td>
<td>49,000</td>
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<tr>
<td>Technical assistance</td>
<td>11,500</td>
<td>18,000</td>
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<tr>
<td>Metropolitan Medical Response System</td>
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<td>33,000</td>
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<tr>
<td>Demonstration training grants</td>
<td></td>
<td>30,000</td>
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<tr>
<td>Continuing training grants</td>
<td>3,000</td>
<td>31,000</td>
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<tr>
<td>Citizen Corps</td>
<td></td>
<td>15,000</td>
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<tr>
<td>Evaluations and assessments</td>
<td>23,000</td>
<td>18,000</td>
</tr>
<tr>
<td>Rural Domestic Preparedness Consortium</td>
<td></td>
<td>12,000</td>
</tr>
<tr>
<td>Management and Administration</td>
<td>5,000</td>
<td>10,000</td>
</tr>
</tbody>
</table>

Subtotal, National Programs: 180,559 352,000

| Subtotal, State and Local Programs:                      | 2,456,559      | 2,531,000  |

**Firefighter assistance grants:**

| Grants                                                  | 293,450        | 547,000    |
| Staffing for Adequate Fire and Emergency Response (SAFER) Act |             | 115,000    |

Subtotal, Firefighter Assistance Grants: 293,450 662,000

| Emergency management performance grants                  |                 | 200,000    |

Subtotal, Grants and Training: 2,750,009 3,393,000

| Radiological Emergency Preparedness Program              | -477           | -477       |

**U.S. Fire Administration and Training:**

| United States Fire Administration                        | 40,887         | 41,340     |
| Noble Training Center                                    | 5,982          | 5,500      |

Subtotal, U.S. Fire Administration and Training: 46,849 46,849

**Infrastructure Protection and Information Security**

| Management and administration                            | 84,650         | 77,000     |
| Critical infrastructure outreach and partnership         | 101,100        | 101,100    |
| Critical infrastructure Identification and evaluation    | 71,631         | 69,000     |
| National Infrastructure Simulation and Analysis Center   | 16,021         | 25,000     |
| Biosurveillance                                          | 8,218          | 8,216      |
| Protective actions                                       | 32,043         | 32,043     |
| Cyber security                                           | 92,205         | 92,000     |
| National Security/Emergency Preparedness                |                 |            |
| Telecommunications                                       | 143,272        | 143,272    |

Subtotal, Infrastructure Protection and Information Security: 549,140 547,633

Total, Preparedness: 3,419,989 4,017,577

**Federal Emergency Management Agency**

| Administrative and regional operations                   | 206,259        | 232,760    |
| Defense function                                         | 49,240         | 48,240     |

Readiness, mitigation, response, and recovery:

| Operating activities                                     | 213,682        | 219,000    |
| Urban search and rescue teams                           | 19,817         | 25,000     |
### DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

<table>
<thead>
<tr>
<th>Subtotal, Readiness, mitigation, response, and recovery</th>
<th>Budget Request</th>
<th>Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>233,499</td>
<td>244,000</td>
</tr>
</tbody>
</table>

Public health programs .................................................. 33,885 33,885
Disaster relief ............................................................ 1,941,360 1,500,000

Disaster assistance direct loan program account:
(Limitation on direct loans) ............................................... (25,000) (25,000)
Administrative expenses .................................................... 569 569
Flood map modernization fund ............................................ 198,980 198,980

National flood insurance fund:
Salaries and expenses ..................................................... 38,230 38,230
Flood hazard mitigation ................................................... 90,358 90,358
Offsetting fee collections ................................................ -128,588 -128,588
Transfer to National Flood mitigation fund ....................... (-31,000) (-31,000)

National flood mitigation fund (by transfer) .................... (31,000) (31,000)
National predisaster mitigation fund ................................. 149,078 100,000
Emergency food and shelter .............................................. 151,470 151,470

Total, Federal Emergency Management Agency ................. 2,965,270 2,510,904

Total, title III, Preparedness and Recovery .............. 6,385,259 6,528,481

(Total on direct loans) ................................................ (25,000) (25,000)
(Transfer out) (including emergency) ............................ (-31,000) (-31,000)
(By transfer) (including emergency) .............................. (31,000) (31,000)

Title IV - RESEARCH AND DEVELOPMENT, TRAINING, AND SERVICES

U.S. Citizenship and Immigration Services

Salaries and expenses:
Business transformation .................................................. 47,000 47,000
Systematic Alien Verification for Entitlements (SAVE) ........... 24,500 21,100
Employment Eligibility Verification (EEV) program ........... 110,490 113,890

Subtotal, Salaries and expenses ........................................ 181,990 181,990

Adjudication services (fee account):
Pay and benefits ...................................................................... (624,600) (624,600)
District operations .................................................................. (385,400) (385,400)
Service center operations .................................................... (267,000) (267,000)
Asylum, refugee and international operations .................. (75,000) (75,000)
Records operations .................................................................. (67,000) (67,000)

Subtotal, Adjudication services ........................................... (1,419,000) (1,419,000)

Information and customer services (fee account):
Pay and benefits ...................................................................... (81,000) (81,000)

Operating expenses:
National Customer Service Center .................................... (48,000) (48,000)
Information services .......................................................... (15,000) (15,000)

Subtotal, Information and customer services ................... (144,000) (144,000)
### DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

<table>
<thead>
<tr>
<th></th>
<th>Budget Request</th>
<th>Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Administration (fee account):</strong></td>
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<tr>
<td>Pay and benefits</td>
<td>(45,000)</td>
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<td>Operating expenses</td>
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<td>(196,000)</td>
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<tr>
<td><strong>Subtotal, Administration</strong></td>
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<td>(241,000)</td>
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<tr>
<td><strong>Total, U.S. Citizenship and Immigration Services Appropriations:</strong></td>
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<tr>
<td>(Immigration Examination Fee Account)</td>
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<td>(1,760,000)</td>
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<tr>
<td>(Fraud prevention and detection fee account)</td>
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<td>(31,000)</td>
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<tr>
<td>(H1B Non-Immigrant Petitioner fee account)</td>
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<td>(13,000)</td>
</tr>
<tr>
<td><strong>Total, Federal Law Enforcement Training Center</strong></td>
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<tr>
<td>Salaries and expenses</td>
<td>201,020</td>
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<tr>
<td>Law enforcement training</td>
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<tr>
<td><strong>Subtotal, Salaries and expenses</strong></td>
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<td>Acquisition, Construction, Improvements, and Related expenses</td>
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<tr>
<td>Direct appropriation</td>
<td>42,246</td>
<td>42,246</td>
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<tr>
<td>Construction (emergency)</td>
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<tr>
<td><strong>Subtotal</strong></td>
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<td>64,246</td>
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<tr>
<td><strong>Total, Federal Law Enforcement Training Center</strong></td>
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<td>275,279</td>
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<tr>
<td>Appropriations</td>
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<tr>
<td>Emergency appropriations</td>
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<tr>
<td><strong>Science and Technology</strong></td>
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<tr>
<td>Management and administration:</td>
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<tr>
<td>Office of the Under Secretary for Science and Technology</td>
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<td>7,594</td>
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<td>Other salaries and expenses</td>
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<td><strong>Subtotal, Management and administration</strong></td>
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<td>Research, development, acquisition, and operations:</td>
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<td>Biological countermeasures:</td>
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<td>Defense function</td>
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<td>Chemical countermeasures</td>
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<td>Explosives countermeasures</td>
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<td>Threat and vulnerability, testing and assessment</td>
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<td>Conventional missions in support of DHS</td>
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<td>Standards coordination</td>
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<td>Emergent and prototypical technology</td>
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<td>Critical infrastructure protection</td>
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<td>University programs/homeland security fellowship</td>
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<td>50,000</td>
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<td>Counter MANPADs</td>
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<td>SAFETY Act</td>
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<td>4,582</td>
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<tr>
<td>Cybersecurity</td>
<td>22,733</td>
<td>20,000</td>
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<tr>
<td>Office of interoperability and compatibility</td>
<td>29,735</td>
<td>27,000</td>
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<tr>
<td>Pacific Northwest National Library</td>
<td>---</td>
<td>2,000</td>
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<tr>
<td><strong>Subtotal, Research, development, acquisition, and operations</strong></td>
<td>806,370</td>
<td>838,109</td>
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<tr>
<td><strong>Total, Science and Technology</strong></td>
<td>1,002,271</td>
<td>973,109</td>
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September 28, 2006
### DEPARTMENT OF HOMELAND SECURITY

(Amounts in thousands)

<table>
<thead>
<tr>
<th>Budget Request</th>
<th>Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Domestic Nuclear Detection Office</td>
<td></td>
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<tr>
<td>Management and administration</td>
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<tr>
<td>Research, development, and operations</td>
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<td>Systems acquisition</td>
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<td>Total, title IV, Research and Development, Training, and Services</td>
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<tr>
<td>Emergency appropriations</td>
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<tr>
<td>(Fee Accounts)</td>
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### TITLE V - GENERAL PROVISIONS

Sec. 521 (fiscal year 2007):
- Rescission, Fast Response Cutter (P.L. 109-90) | --- | -78,693 |
- Replacement patrol boat | --- | 78,693 |

Sec. 527: Rescission, Counter Terrorism Fund | -16,000 | -16,000 |
Sec. 529: Rescission, S&T unobligated balances | --- | -125,000 |
Sec. 537: Rescission, TSA unobligated balances | --- | -4,776 |
Sec. 538: Rescission, TSA unobligated balances | --- | -61,636 |
Sec. 539: Rescission, USCG AC/I/DPC unobligated balance | --- | -20,000 |
Sec. 540: Rescission, USCG AC/I/AIS unobligated balance | --- | -4,100 |
Sec. 560:
- Rescission, US Secret Service unobligated balances | --- | -2,500 |
- US Secret Service national special security events | --- | 2,500 |

Total, title V, General Provisions | -16,000 | -231,812 |
- Appropriations | --- | (81,183) |
- Rescissions | (-16,000) | (-313,005) |

Grand total | 32,077,970 | 34,797,323 |
- Appropriations, fiscal year 2007 | (32,093,970) | (33,281,528) |
- Emergency appropriations | --- | (1,829,000) |
- Rescissions | (-16,000) | (-313,005) |
- Fee funded programs | (3,397,881) | (3,813,892) |
- Limitation on direct loans | (25,000) | (25,000) |
- (Transfer out) (including emergency) | (-31,000) | (-31,000) |
- (By transfer) (including emergency) | (31,000) | (31,000) |
### CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 2007 recommended by the Committee of Conference, comparisons to the 2007 budget estimates, and the House and Senate bills for 2007 follow:

<table>
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<tr>
<th>Budget estimates of new (obligational) authority,</th>
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<tr>
<td>fiscal year 2007</td>
<td>$32,077,970</td>
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<tr>
<td>House bill, fiscal year 2007</td>
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<tr>
<td>Senate bill, fiscal year 2007</td>
<td>$33,441,323</td>
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<tr>
<td>Conference agreement, fiscal year 2007</td>
<td>$34,797,323</td>
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</table>

Conference agreement compared with:

<table>
<thead>
<tr>
<th>Budget estimates of new (obligational) authority,</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>fiscal year 2007</td>
<td>$+2,719,353</td>
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</tbody>
</table>

| House bill, fiscal year 2007 | $+1,654,176 |
| Senate bill, fiscal year 2007 | $+1,356,000 |

### Notice

Incomplete record of House proceedings. 

Today's House proceedings will be continued in the next issue of the Record.
The Senate met at 9:30 a.m. and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

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

Let us pray.

Lord and King, You are forever. Send Your light and truth to guide our Senators. Give our lawmakers insights that will help them solve the riddles of our day. Empower them to possess discernment in order to know what is right. Imbue them with a passion for truth that will make them refuse to compromise principles.

Strengthen them also with a humility that seeks to listen and learn. May they find joy in their work as they seek to please You. Remove from them discouragement and despair. Make them partners with You in building a world where truth and righteousness will reign.

We pray in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE
The Honorable John E. Sununu led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE
The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. SUNUNU thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER
The ACTING PRESIDENT pro tempore. The majority leader is recognized.

PROGRAM
Mr. FRIST. Mr. President, this morning after a period for the transaction of morning business, the Senate will resume consideration of the Military Commissions Act. Under the agreement that was reached yesterday, we have a limited number of amendments to consider and debate. Yesterday, we defeated the Levin substitute amendment, and Senator SPECTER offered his amendment on habeas. The Specter amendment is the pending amendment, and we will have more debate on it this morning.

Following the disposition of the Specter amendment, there are three additional amendments in order followed by a vote on passage of the bill. Once we conclude our work on this bill, we will return to the border fence bill with a cloture vote.

We still have a number of important items to complete before the recess, including the DOD appropriations conference report, additional conference reports that become available, executive items and nominations, and the child custody bill, on which I filed cloture yesterday.

We will have votes throughout the course of today's session and into the evening and over the remaining days until we complete our work.

RECOGNITION OF THE MINORITY LEADER
The ACTING PRESIDENT pro tempore. The minority leader is recognized.

TIME TO SPEAK
Mr. REID. Mr. President, it is my understanding we have basically 3½ amendments remaining. We have one on which debate is nearing completion, and then we have three other amendments. We have an hour equally divided on each of those three amendments. On the amendment that is before the Senate dealing with the habeas corpus aspect of this legislation, we have a number of people—and we have conveyed this to the majority—who wish to speak. It takes up about an hour of extra time.

I say to everyone within the sound of my voice—namely, 44 Democrats, especially those who have indicated to the cloakroom they want to speak on this issue—we had time lined up yesterday, and because of quorum calls time was lost. Unless we get more time from the majority, there will be no time to speak, other than the time that is in the unanimous consent agreement that is the order before the Senate on the three amendments, and whatever time is remaining on the amendment being led by Senator SPECTER and Senator LEAHY.

Again, if somebody wants time, they can't always have it so when they get here, they can walk on. Senators might have to wait around for a little while because yesterday we lost a significant amount of Democratic time as a result of Senators not being available to speak.

We have a couple more days. Hopefully, we can finish this tomorrow or Saturday, but we have a lot to do. We will need cooperation from all Senators if, in fact, they want to cooperate.

The ACTING PRESIDENT pro tempore. The majority leader.
Mr. FRIST. Mr. President, to expand a little bit on the Democratic leader's comments, we entered into a unanimous consent agreement to address this bill with a reasonable amount of time. We are going to need to stick to that in large part because the House has, as I outlined in the Hamdan legislation, we have the other three amendments, we have the fence border legislation, which has been pending for several days, DOD appropriations, the Child Custody Act, Homeland Security appropriation, and possibly the port security bill. We have an important Cabinet nomination, the Peters nomination, and then we have an adjournment resolution. That list is big.

As the Democratic leader and I have repeatedly said, we are going to finish this week, and it is already Thursday morning. Once we set a plan, we need to stick with a unanimous consent agreement set out. As we go through these issues, it is going to take a lot of cooperation to accomplish what has been laid out.

With that, I think we will begin a period for morning business.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

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

HOMELAND SECURITY

Ms. COLLINS. Mr. President, I rise this morning to take note of the real progress this Congress has made and is on the verge of making in strengthening our homeland security.

This progress—reform of FEMA, protection of our chemical facilities and improved security for our seaports—should lead us to conclude that we have led us to conclude that we have a hectic month.

In the midst of all the charges that Congress has failed to accomplish all that we should, I want to call attention to the many times when, in fact, Members have cooperated among committees, between Chambers, and across party lines to make real progress to benefit the American people.

The 109th Congress has had many such accomplishments that belie the stereotype of a rancorous debating society that is unable to enact and improve the security of our country.

Let me focus on three major accomplishments by Congress in the area of homeland security. I note that these accomplishments should become law shortly as we complete work on the Homeland Security appropriations bill.

The first accomplishment was reaching agreement on a broad array of reforms to improve the Department of Homeland Security, including urgently needed reform and reinforcement of the Federal Emergency Management Agency.

The recommendations for improvements the recommendations by the Senate Committee on Homeland Security's 7-month investigation into the failed preparations and response to Hurricane Katrina. This investigation, which was completely bipartisan, included 23 hearings, testimony and interviews of some 400 people, and a review of more than 838,000 pages of documents.

The committee's recommendations will make FEMA a distinct entity within DHS. Why does that matter? It matters because it gives FEMA the same kind of protections enjoyed by the Coast Guard and the Secret Service. It protects FEMA from arbitrary budget cuts or departmental reorganizations that are implemented without congressional review.

Another important reform is that the legislation reunites preparedness and response and makes FEMA responsible and empowered for all phases of emergency management—preparation, mitigation, response, and recovery.

A very important reform will be the creation of response strike teams to ensure a more effective response to disasters.

What we will do is create in the 10 regions of the United States multi-agency task forces comprising representatives from every Federal agency that is involved in responding to or preparing for disaster. They will train and exercise with their State and local counterparts, with NGOs, such as the Red Cross, and with the key for-profit businesses, such as utility companies. That will ensure that they won't need to be exchanging business cards in the midst of the next disaster.

I was struck during our investigation of Hurricane Katrina that so many people from the region—the region, the Presiding Officer and I are from New England—were sent down to Louisiana to help with the response to Hurricane Katrina. The problem, of course, is they didn't know the people, they didn't know the geography, they didn't know the culture, they didn't have knowledge of what assets could be mobilized in the response. These regional teams will ensure that does not happen again.

We also addressed issues such as chronic staffing shortages at FEMA, the need for better pre-positioning of emergency supplies and tracking of shipments, better grant-making authority to improve coordination regionally and with local responders, and the need to provide survivable and interoperable communications.

We also revised the Stafford Act to bring it up to date and make it more flexible and responsive.

More than any homeland security accomplishment of this Congress is still a work in progress, but I am very optimistic that it will, in fact, become law, and that is the port-security bill which this Chamber recently passed unanimously, Senator MURRAY and I have led a bipartisan enactment of this legislation. There have been many other Members on both sides of the aisle, including on my committee Senator COLEMAN and Senator LIEBERMAN.

With 361 ports in this country and some 11 million shipping containers arriving each year, we desperately need better assurances that our seaports and these containers are not going to be used to bring weapons, explosives, bio-terror compounds, or even a squad of terrorists into our country.

The vulnerability of our seaports is perhaps best underscored by an incident that occurred in Seattle in April, when 22 Chinese nationals were successful in coming all the way from China to Seattle in a shipping container. If 22 illegal Chinese nationals can come to our country via a shipping container, it shows we still have a lot of work to do to ensure better security at our seaports.

The legislation this Chamber passed is balanced legislation that strengthens our security while recognizing the importance of trade and not bringing the shipment of containers to a halt. The port-security package fills a dangerous gap in our defenses. I hope we will enact it before leaving here this week.

The third area of accomplishment involves the security of chemical plants, plants that either use, store, or manufacture large quantities of hazardous chemicals.

Last January, I held a hearing in which I asked several experts: What are your greatest concerns? What gaps do we have in our homeland security? The lack of regulation of our chemical plants came up time and again. Our existing protections are a patchwork of different authorities—State, Coast Guard, and voluntary industry standards. They are inadequate, given the threats we face.

Now, this has been a very difficult debate, but I think it is so important to remember that right now, the Department of Homeland Security lacks the authority to set risk- and performance-based standards for security at our chemical facilities despite the fact that terrorism experts tell us al-Qaida is focused on chemical plants and chemical explosions.

We have some 15,000 chemical facilities around the country, including more than 3,000 sites where a terrorist...
attack could cause considerable casualties among nearby populations. Language in the DHS appropriations bill would, for the first time, empower DHS to set performance-based security standards for high-risk chemical facilities. That is approximately 3,400 facilities across the United States.

Very importantly, this legislation will allow the Secretary of Homeland Security to shut down a noncompliant plant. I fought very hard for this authority to be included in the appropriations bill. It was good to empower the Secretary to take effective action.

Security is not easy. But the legislation we are passing today is the right of someone to go to the court system in this country to say to the court system: There has been a mistake. I am innocent; I didn’t do it; I shouldn’t be here.

The court then asks the question: Why are these people locked up? Should they be locked up? Is there a basis for it? Is it a mistake? Is it wrong?

Everyone in this Chamber will have read the story in the Washington Post about a week ago, and after I read that story, I just hung my head a bit. A Canadian in this country was apprehended at an American airport, at a U.S. airport in New York City. That Canadian citizen, apprehended in New York City by our authorities, was then sent to Syria, where he was tortured for some 8 or 9 months. He was put in a coffin-like structure, a cement coffin-like structure, in isolation, and tortured. It turns out, at the end of nearly a year of his incarceration, it was all a big mistake. He wasn’t a terrorist. He wasn’t involved with terrorists. But he was apprehended and held indefinitely, in fact, rendered to another country where torture occurred. A big mistake. His wife didn’t know where he was. He has a young 2- or 3-year-old child.

What does all this say? Why is this country a country that is different from others? We have been different from others because it is in this country where you can’t be picked up off of a street and held indefinitely, held without charges, held without a trial, held without a right to go to a court. It is this country in which that exists.

Let me make another point. Why should we care about how the United States treats noncitizens and taking away the right of habeas corpus for noncitizens? Because every U.S. citizen is a noncitizen in every other country of the world. There are 193 countries in this world. We are citizens of only one. All of us are an American traveler anywhere—we are noncitizens in those countries.

What would our reaction be? What will our reaction be as Americans if—as an example, recently, a journalist who was detained and arrested and put in jail, I believe in Sudan, who then asked his captors to be able to see the American consulate: I need the ability to contact the American consulate.

His captors said: You have no such rights.

He complained: But I do have that right.

His captors said: No. Those you have detained in the United States are not given those rights, and you are not given those rights, either.

This is why this issue is so important, and that is why I support the Specter amendment. I hope very much the Senate will not make a profound mistake by turning down that amendment.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut is recognized.

**Habeas Corpus**

Mr. DORGAN. Mr. President, because the truncated time on the amendments to the underlying bill includes a very short amount of time for the Specter amendment, I am going to use only 5 minutes now to talk about my support of the Specter amendment.

The Specter amendment is about habeas corpus. That is a big term, a kind of complicated term. Let me describe it by describing this picture. This is a young woman. She is a young woman named Mitsuye Endo. She looked out from behind barbed-wire fences where she was incarcerated in this country some decades ago during the Second World War. Let me tell you about her. She was a 22-year-old clerical worker in California’s Department of Motor Vehicles in Sacramento, CA. She had never been to Japan. She didn’t speak Japanese. She had been born and raised in this country. She was a Methodist. She had a brother in the U.S. Army, unquestioned loyalty to the United States of America, but she had a brother who was incarcerated—picked up, taken from her home, her job, her community, and put behind barbed-wire fences.

Now, she eventually got out of that incarceration, and her plea to the courts was what really led to the unlocking of those camps, and let those tens of thousands of Japanese Americans out of those camps. They had been unjustly viewed as enemies of our country and incarcerated. And with one young woman’s writ of habeas corpus, an awful chapter in our country’s history soon came to an end. Her question to the courts was a simple but powerful one: Why am I being detained?

What is habeas corpus? Well, it answers the question, by giving access to the courts, of whether you can hold someone indefinitely without charges, without a trial, and without a right for anyone to have a review of their circumstances. What someone has the right to file a habeas corpus petition, it is the right of someone to go to the court system in this country to say to you what is this country in which that exists.

Mr. DORGAN. Mr. President, could we have 15 minutes is now available and ready for use?

The ACTING PRESIDENT pro tempore. The Senator from North Dakota is recognized.
FORGET NUREMBERG: HOW BUSH’S NEW TORTURE BILL Eviscerates the Promise of Nuremberg

(By David J. Luban)

The burning question is: What did the Bush administration mean when it authorized John McCain when a North Vietnamese prison camp couldn’t do it? Could it have been “ego up”? I’m told ego is not a specific word. That probably also rules out ego down. Fear up harsh? McCain doesn’t have the reputation of someone who scares easily. False flag? Did he think they’d bring him to the vice president’s office? No, he already knew he was in the vice president’s office. Wait, I think I know the answer: futility—which the Army’s old interrogation defined as explaining rationally to the prisoner why holding out is hopeless. Yes, the explanation must be that the Bush lawyers would successfully loopholed any law McCain might write, so why bother? Futility might have done the trick.

How else can we explain McCain’s surrender this week on the torture issue, one on which he has been as passionate in the past as Lindsey Graham was on secret evidence?

Marty Lederman at Balkinization explains here and here that the confusion of the proposed “compromise legislation” on detainees treatment. But the fact is, virtually every word of the proposed bill is a capitulation, including “and” and “the.” And yesterday’s draft is even worse than last week’s. It unexpectedly broadens the already broad definition of “unlawful enemy combatant” to include anyone who fought against the United States as well as those who give them “material support”—a legal term that appears to include anyone who has ever provided lodging or given cell phone to the Taliban foot soldier out of sympathy with his cause. Now, not only the foot soldier but also his mom can be detained indefinitely at Guantanamo.

The real tragedy of the so-called compromise is what it does to the legacy of Nuremberg—a legacy we would have been celebrating next week at the 60th anniversary of the judgment. What does the bill do to Nuremberg? Section 8(a)(2) holds that when it comes to applying the War Crimes Act, “No foreign or national law or statute may supply a basis for a rule of decision in the courts of the United States in interpreting the prohibitions contained in this section.” That means the customary international law of war is henceforth expelled from the U.S. war-crime law—ironic, to say the least, because it was their very order that formed the basis for the Law of Armed Conflict and that launched the entire worldwide enterprise of codifying genuinely international humanitarian law. Ironic also because our own military takes customary law as its guide and uses it to train officers and interrogators. Apparently the bushistas thought it so much more important.

To untutored ears, “extreme” sounds very similar to “severe”: indeed, it sounds even worse than “severe.” But in any case, this is precisely the opposite stance. Technically now triumphs over conscience, and even over common sense. The bill introduces the possibility for a new cottage industry: the jurisprudence of torture—rightly or wrongly.

Moral, shmoral. The question is, do you want the program or don’t you? The Nuremberg trials presupposed something about the human conscience: that moral choice doesn’t take its cues solely from narrow legalisms and technicalities. The new detainee bill takes precisely the opposite stance. Technically now triumphs over conscience, and even over common sense.

Stalin favored conducting trials, but only to establish punishments, not guilt. Like Great Britain, he thought punishing the top Nazis should be a political, and not a legal, decision. There’s no room for that here because the United States insisted on them for purposes of establishing future law—a task that summary justice at executive say-so could never have done.

At the London conference that wrote the Nuremberg Charter, France and Russia both objected to criminalizing aggressive war for the Axis powers, but the American representative insisted that creating a universal international law would “achieve the purpose of the tribunal.” A compromise left the international status of Nuremberg law ambiguous—the tribunal’s jurisdiction covered all the Axis countries, but nowhere does the charter suggest that the crimes it was trying were only crimes if committed by the Axis powers. Because of this ambiguity, the status of the Nuremberg principles as international law was not established until 1990, when the U.N. General Assembly proclaimed seven Nuremberg Principles to be international law. The American agenda had finally prevailed.

Well, forget all that as well. The Nuremberg Principles, like the International humanitarian law, will now have no purchase in the war-crimes law of the United States. Who cares whether they were our idea or not? The first principles of the Nuremberg Charter are no longer binding. Nuremberg defines war crimes as “violation of the laws or customs of war, which include, but are not limited to...ill-treatment of prisoners of war.”—that sounds like customary international law, which has no place in our courts anymore. Forget “ill-treatment—it’s too weak. Take this instead: “The fact that internal law does not impose a penalty for an act which constitutes a crime under international law does not relieve the person who committed the act from responsibility under international law.” Section 8(a)(2) sneers at responsibility under international law. Or Principle IV: “The fact that a person acted pursuant to order of his Government or of a superior does not relieve him from responsibility under international law provided moral choice was in fact possible to him.” Moral choice, that’s it. How do you know the program or don’t you?

The Nuremberg trials presupposed something about the human conscience: that moral choice doesn’t take its cues solely from narrow legalisms and technicalities. The new detainee bill takes precisely the opposite stance. Technically now triumphs over conscience, and even over common sense. The bill introduces the possibility for a new cottage industry: the jurisprudence of torture—rightly or wrongly.

It systematically distinguishes “severe” from narrow legalisms and technicalities.
November 21, 2006

On Aug. 1, 2006, The Onion ran a story headlined “Bush Grants Self Permission To Grant More Power To Self.” It began: “In a decisive I-0 decision Monday, President Bush voted in favor of the president’s own proposal that would allow senators to grant him additional powers.” It ended thusly: “Republicans fear that the president’s new power underlines his grant him power. The opposition has proposed a new law that would allow senators to permit him to grant himself power,”

How life imitates art! In the end, those three couraged holdouts didn’t get what the president unilaterally trashing Geneva. Now it turns out that the principle they were fighting for was simply Congress’ prerogative to grant him the unreviewable power to do so.

Mr. DODD. He pointed out something that needs to be made clear. He said: “Make one thing crystal clear, it’s the burning desire of the United States to create international law using those trials. Great Britain initially opposed the Nuremberg trials and urged simply shooting top Nazis out of fear, they would use the trials for propaganda.”

And he prevailed in that argument. The history is particularly poignant to me because my father, who served in this body, from whose desk I speak this morning, served as Robert Jackson’s second, as the executive trial counsel at this body, from whose desk I speak this morning, served as Robert Jackson’s second, as the executive trial counsel at the London conference that wrote the Nuremberg Charter, France and Russia both objected to criminalizing aggressive war for anybody but the Axis countries. But Supreme Court Justice Robert Jackson, the American representative insisted that creating international law was the prime purpose of the tribunal.

At the London conference that wrote the Nuremberg Charter, France and Russia both objected to criminalizing aggressive war for anybody but the Axis countries. But Supreme Court Justice Robert Jackson, the American representative insisted that creating international law was the prime purpose of the tribunal.

He proved right. The record on which history will judge us to be the most important decision ever taken by the United States of America. The rule of law is so critically important that it defines serious pain as “bodily injury that involves . . . extreme physical pain.” To untutored ears, “extreme” sounds very similar to “severe.” Indeed, it sounds even worse.

Administration lawyers can have a field day in the coming years reading painful interrogation tactics on the Three Adjective Scale, leaving the rest of us to shake our heads at the essential lunacy of the enterprise.

It is about conscience. It is the fundamental principle which we enshrined and fought for. It was the United States of America that stood and insisted that our allies try to do something to avoid future conflicts, 60 years ago this Saturday. To watch the Senate, on the anniversary of the Nuremberg trials, step away from that great tradition and those great principles enshrined at that time, I think one is often the saddest days I have ever seen in this Senate in my almost 30 years serving in this body.

I hope my colleagues, with a few days to go before the election, put this aside. Let’s come back afterward and think more clearly. Too much of politics is written into these decisions. This is the United States of America.

The PRESIDING OFFICER (Ms. Murkowski). The time of the Senator has expired.

Mr. DODD. I yield the floor.

Several Senators addressed the Chair.

Mr. WARNER. Madam President, will the distinguished leader allow me to say a few words?

I listened very intently. The Senator from Connecticut and I have, over many years, formed a very close personal and professional relationship. I know the deep, abiding respect you have for your father and his work, particularly at that historic moment in the history of world jurisprudence, the Nuremberg trials. I regret that you perceive this bill as flawed. I think the floor falls short of your ideas of the goals. But I assure you the group with which I worked did everything we could—and I think we have succeeded, I say in all respects—certainly with regard to the 1949 treaty, which, as you know, was in four parts, and the Common Article 3 to all four of those treaties, preserving this Nation’s obligations under that treaty.

So while we have our differences, I just wish to conclude that I respect very much the policy you have for your father, as do I have for my father, who was a doctor during that period. I thank you for the opportunity to listen to you.

Mr. DODD. If I may respond to my colleague from Virginia, for whom I have the greatest respect, it is not only my love and affection for my father, more importantly, it is my love and affection for what he and a group of Americans did at a time when others did not have the courage to do so. And I assure you, the group with which I worked did everything we could—and I think we have succeeded, certainly with regard to the 1949 treaty, which, as you know, was in four parts, and the Common Article 3 to all four of those treaties, preserving this Nation’s obligations under that treaty.

The PRESIDING OFFICER (Ms. Murkowski). The time of the Senator has expired.
a moment, against public opinion, to set the gold standard and set us apart. We have been known as the nation of Nuremberg. My fear is now we will be known as the nation of Guantanamo, and I worry about that.

Mr. WARNER. We have our differences, if I may say, but that was a war of state-sponsored nations and agressions, men wearing uniforms, men acting at the direction of recognized governments. Today’s war is a disparate bunch of terrorists, coming over here, a war of war criminals, no war criminals, guided by nothing. We are doing the best we can as a nation, under the direction of our President, to defend ourselves.

Mr. DODD. If our colleagues would yield, I do not disagree, but I don’t think there is a choice between upholding the principles of America and fighting terrorism. Every generation of Americans will face their own threats. This is ours. Every previous generation faced serious threats, and they did not abandon the principles upon which this country is founded. I am fearful we are going to do that today.

Mr. WARNER. I disagree with my friend, and I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. For this little conclusion, I will use leader time.

I ask unanimous consent that 5 minutes from Senator Rockefeller and Senator Kennedy—they both have a half hour on their respective amendments—be transferred to Senators Clinton and John Kerry. They will each have 5 minutes to speak. And that I have 12 minutes under my control remaining on the bill and that time be equally divided between Senators Feinstein and Feingold. They will each have 6 minutes to speak on the bill.

Mr. WARNER. Madam President, reserving the right to object, and I will not object, but I listened carefully. You courteously advised me that this request works within the confines of the standing unanimous consent, is my understanding, in terms of the allocation of time.

Mr. REID. This adds no time to the bill.

Mr. WARNER. That is correct. I wanted to make that clear to my colleagues.

Mr. LEAHY. Reserving the right to object, I shall not, of course. As a matter of clarification, there is still some specific time reserved to the Senator from Vermont: is that correct?

The PRESIDING OFFICER. There remains 2 minutes on the bill.

Mr. REID. That is 23 minutes, plus the good offices of Senator Specter may give the Senator additional time.

Mr. LEAHY. Thank you.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

MILITARY COMMISSIONS ACT OF 2006

The PRESIDING OFFICER. Under the previous order, the Senate will re-sume consideration of S. 3930, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3930) to authorize trial by military commission for violations of the law of war, and for other purposes.

Pending:

Specter amendment No. 5087, to strike the provision regarding habeas review.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, just for purposes of advising colleagues, there remains on the Specter amendment 16 minutes under the control of the Senator from Virginia. I desire to allocate about 4 minutes to Senator Kent, 2 to 3 minutes to Senator Sessions, and to wrap it up, 2 to 3 minutes to Senator Graham. But we will alternate or do as the Senator from Michigan—you have 33 minutes, I believe, under the control of Senator Specter and those in support of his amendment.

Mr. LEVIN. Madam President, parliamentary inquiry: How much time is remaining to Members on this side, including on the bill?

The PRESIDING OFFICER. Senator Specter’s side controls 33 minutes.

Mr. WARNER. On the Democratic side?

The PRESIDING OFFICER. Senator Warner controls 16 minutes, and the proponent of the amendment controls 33.

Mr. LEVIN. And on the bill itself, is there time left?

The PRESIDING OFFICER. Senator Reid has allocated the remainder of the debate time on the bill itself.

Mr. LEVIN. All time is allocated?

The PRESIDING OFFICER. Correct.

Mr. LEVIN. Madam President, I ask unanimous consent that I be allowed to proceed for 30 seconds.

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

Mr. LEVIN. Madam President, I wish to thank the Senator from Connecticut for one of the most passionate statements I have ever heard on this floor—heartfelt, right on target. The distinctions made in this bill which will allow statements to be admitted into evidence that cruel and inhuman treatment is unconscionable. It is said that, well, statements made after December 30 of 2005 won’t be allowed, but those that are produced by cruel and inhuman treatment prior to December 30 of 2005 are OK. It is unconscionable. It is unheard of. It is untenable, and the Senator from Connecticut has pointed it out very accurately, brilliantly. I thank him for his statement.

Mr. WARNER. Madam President, we will proceed on Specter’s amendment. In due time to comment on my colleague’s 30 seconds. I want to keep this thing in an orderly progression. I would like to add the Senator from Texas, Mr. CORNYN, in the unanimous consent agreement to be recognized as one of the wrap-up speakers on those in opposition to the amendment.

I yield the floor. The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Madam President, yesterday Senator Specter argued that one sentence in the Hamdi opinion that refers to habeas corpus rights as applying to all “individuals” inside the United States indicates that alien enemy combatants have constitutional habeas rights when they are held inside this country. I believe that Senator Specter is incorrect, for the following reasons: (1) The Hamdi plurality repeatedly makes clear that “the threshold question before us is whether the Executive has the authority to detain citizens who qualify as ‘enemy combatants.’” The plurality expressly frames the issue before it in terms of the rights of citizens no fewer than eight times. It is clear that it is only the rights of citizens that the Hamdi plurality studied and ruled on. (2) Elsewhere the Hamdi plurality criticized a rule that would permit the government’s right to hold someone as an enemy combatant turn on whether they are held inside or outside of the United States. The plurality characterized such a rule as creating “pervasive incentives,” noted that it would simply encourage the military to hold detainees abroad, and concluded that it should not create a “determinative constitutional difference.” The same effect would, of course, be felt if enemy soldiers’ habeas rights were made turn on whether they were held inside or outside of the United States. The fact that the Hamdi plurality rejected this type of geographical gamesmanship in one context casts doubt on the theory that it accepted it in a closely related context. (3) Had Hamdi extended habeas rights to alien enemy combatants held inside the United States, that would have been a major ruling of tremendous consequence. Because courts typically do not hide elephants in mouseholes, cf. Whitman v. ATA, it is fair to conclude that no such groundbreaking ruling is squirreled away in one ambiguous sentence in the Hamdi plurality opinion on the floor Wednesday evening. I presented the argument that the content of habeas corpus does not extend to alien enemy soldiers held during wartime. Senator Specter responded by quoting from a passage in Justice O’Connor’s plurality opinion in Hamdi v. Rumsfeld, 542 U.S. 507 (2004), that he believes establishes that alien combatants are entitled to habeas rights if they are held within the United States. That statement, towards the beginning of section III.A of the court’s opinion, is a part of a statement of general principles on categorical determinations. That, absent suspension, habeas corpus remains available to every “individual” within the United States. Senator
SPECTER reads this statement, unadorned by any qualification as to whether the individual in question is a U.S. citizen, an illegal immigrant, or an alien enemy combatant, to stand for the proposition that even the latter has a constitutional right to habeas corpus when held within the United States.

I would suggest that this single, ambiguous statement cannot be construed to bear that much weight, for three reasons.

Elsewhere in its opinion, the Hamdi plurality repeatedly makes clear that the only issue it is actually considering is whether a U.S. citizen has habeas and due process rights as an enemy combatant. The plurality’s emphasis on citizenship is repeatedly made clear throughout Justice O’Connor’s opinion. For example, on page 509, in its first sentence, the plurality opinion says: “we are not the Court below striking the legitimacy of the detention of a United States citizen on United States soil as an ‘enemy combatant’ and to address the process that is constitutionally owed to one who seeks to challenge his detention as such.” On page 516, the plurality again notes: “the threshold question before us is whether the Executive has the authority to detain citizens who qualify as ‘enemy combatants.’” On page 524, the plurality once again emphasizes: “there remains the question of what process is constitutionally owed to a citizen who disputes his enemy-combatant status.” On page 531: “We reaffirm today the fundamental right of a United States citizen to stand for his habeas rights to foreign enemy combatants held outside the United States in order to avoid burdensome litigation—also intended to rule that full constitutional habeas rights attach to alien enemy combatants as soon as they enter U.S. airspace.

Finally, Senator SPECTER’s argument that the ambiguous reference to “individuals” on page 525 of Hamdi extends habeas rights to foreign enemy combatants held inside U.S. territory is inconsistent with the common sense interpretive rule that one does not “hide elephants in mouseholes.” Whitman v. American Trucking Association, 531 U.S. 497, 468 (2001). Although this rule of construction is not applied by the court to our enactments, I see no reason why its logic would not operate when applied in reverse, by members of this body to the court’s opinions.

For the Hamdi court to have extended constitutional habeas rights to alien enemy soldiers held inside the United States would have been a major decision of enormous consequence to our nation’s warring ability. As the Hamdi plurality itself noted, “detention to prevent a combatant’s return to the battlefield is a fundamental incident of waging war.” As I noted yesterday, during World War II the United States detained over 425,000 enemy war prisoners inside the United States. Yet the Hamdi case is so vague that it would have made our Armed Forces inevitably forgo the accommodations for them in foreign territory. And since holding enemy combatants near the war zone is neither practical nor safe, our nation’s whole ability to fight a war would be made to depend on finding some third country where we could hold enemy war prisoners. I would submit that this elephant of a result simply will not fit in the small space for it created by the one ambiguous passage in the Hamdi plurality opinion.

For these three reasons, I believe that Senator SPECTER is incorrect to interpret the Hamdi plurality opinion to extend constitutional habeas corpus rights to alien enemy combatants held inside the United States.

Just to conclude by summarizing the point as follows: On eight separate times, the plurality opinion in Hamdi refers to the rights of citizens. That is the opinion’s foundation. This is what it rules on. This is our holding. At no point does it extend it to citizens. There is one sentence rather loosely framed that refers to individuals. Had the courts in that decision intended to apply the habeas right to all individuals in the United States rather than citizens, it would most assuredly have said so.

I don’t think, with all due respect to my fellow friend and member of the committee, that relying on that one loose word in one sentence of the opinion overrides all of the other reasoning, all of the other clear statements, and the obvious intent of the opinion to relate it to citizens only. With all due respect, I disagree with the reading of the case and conclude that there is nothing wrong with this legislation before us limiting the rights of habeas to those who are citizens and not extending it to alien enemies held here.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Madam President, by way of brief reply to the comments of the Senator from Arizona, he argues that the Hamdi decision does not apply to aliens but only to citizens, trying to draw some inferences. But that does not stand up in the face of explicit language by Justice O’Connor to this effect:

All agree that absent suspension the writ of habeas corpus remains available to every individual detained in the United States.

The Senator from Arizona can argue all he wants about inferences, but that is not analogous to an explicit statement on individuals. And Justice O’Connor knows the difference between referring to an individual or referring to a citizen or referring to an alien. And “individuals” covers both citizens and aliens.

Following the reference to individuals is the citation of the constitutional provision that you can’t suspend
habeas corpus except in time of rebellion or invasion.

Buttressing my argument is the Rasul v. Bush case where it applied specifically to aliens; and it is true that the consideration was under the statute, section 2241. The Supreme Court says that section 2241 "draws no distinction between Americans and aliens held in Federal custody."

That again buttresses the argument I have made in two respects. First, Rasul specifically grants habeas corpus, albeit only to aliens and says there is no distinction. So on the face of the explicit language of the Supreme Court of the United States there is a constitutional requirement, and it is fundamental that Congress cannot legislate in contradiction to a constitutional interpretation of the Supreme Court. That requires a constitutional amendment—not legislation.

I yield the floor.

The PRESIDING OFFICER. Who yields the floor? The Senator from Vermont.

Mr. LEAHY. Madam President, will the Senator from Pennsylvania yield?

Mr. SPECTER. Madam President, how much time remains under my control?

The PRESIDING OFFICER. Thirty minutes.

Mr. SPECTER. Madam President, I yield 10 minutes to the distinguished Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Thank you, Madam President. If I require further time beyond 10 minutes I will take time from that reserved to the Senator from Vermont.

Let's understand exactly what we are talking about here. There are approximately 12 million lawful permanent residents in the United States today. Some came here initially the way my grandparents did or my wife's parents did. These are people who work for American firms, they raise American kids, they pay American taxes.

Section 7 of the bill before us represents a choice about how to treat them. This bill could have been restricted to traditional notions of enemy combatants—foreign fighters captured on the battlefield—but the drafters of this bill chose not to do so.

Let's be very clear. Once we get past all of the sloganeering, all the fund-raising letters, all the sound bites, all the short headlines in the paper, let's be clear about the choice the bill makes. Let's be absolutely clear about what it says to lawful permanent residents of the United States. Then let's decide if it is the right message to send them and if it is really the face of America that we want to show.

Take an example. Imagine you are a law-abiding, lawful, permanent resident, and in your spare time you do charity work to help international relief agencies to lend a helping hand in disasters. You send money abroad to those in need. You are selective in the charities you support, but you do not discriminate on the grounds of religion. Then one day there is a knock on your door. The Government thinks that the Muslim charity you sent money to may be funneling money to terrorists and thinks you may be involved. So, your neighbor who saw a group of Muslims come to your House has reported "suspicious behavior." You are brought in for questioning.

Initially, you are not very worried. After all, you are American. You are innocent, and you have faith in American justice. You know your rights, and you say: I would like to talk to a lawyer. But no lawyer comes. Once again, since you know your rights, you refuse to answer any further questions. Then the interrogators get angry. Then comes solitary confinement, then dice dogs, then freezing cold that induces hypothermia, then waterboarding, then threats of being sent to a country where you will be tortured, then Guantanamo. And then nothing, for years, for decades, for the rest of your life.

That may sound like an experience from some oppressive and authoritarian regime, something that may have happened under the Taliban, something that Saddam Hussein might have ordered or something out of Kafka. There is a reason why that does not and cannot happen in America. It is because we have a protection called habeas corpus not like the Latin phrase by which it has been known throughout our history, call it access to the independent Federal courts to review the authority and the legality by which the Government has taken and is holding someone in custody. It is a fundamental protection. It is woven into the fabric of our Nation. Habeas corpus provides a remedy against arbitrary detentions and constitutional violations. It guarantees an opportunity to go to court, with the aid of a lawyer, to prove that, yes, you are innocent.

As Justice Scalia stated in the Hamdi case:

The very core of liberty secured by the Anglo-Saxon system of separated powers has been freedom from indefinite imprisonment at the will of the Executive.

Of course, the remedy that secures that most basic freedom is habeas corpus.

Habeas corpus does not give you any new rights, it just guarantees you have a chance to ask for your basic freedom. If we pass this bill today, that will be gone for the 12 million lawful, permanent residents of this life and work among us, to say nothing of the millions of other legal immigrants and visitors who we welcome to our shores each year. That will be gone for another estimated 11 million immigrants the Senate has been working to bring out of the shadows with comprehensive immigration reform.

The bill before the Senate would not merely suspend the great writ, the great writ of habeas corpus, it would eliminate it permanently. We do not have to worry about nuances, such as how long it will be suspended. It is gone. Gone.

Over 200 years of jurisprudence in this country, and following an hour of debate, we get rid of it. My God, have any Members of this Senate gone back and read their oath of office upholding the Constitution? This cuts off all habeas petitions, not founded on relatively technical claims but those founded on claims of complete innocence.

We hundred Members in the Senate, we privileged men and women, are supposed to be the conscience of the Nation. We are about to put the darkest blot possible on this Nation's conscience. It would not be limited to enemy combatants in the traditional sense of foreign fighters captured in the field, but as long as to any alien picked up anywhere in the world and suspected of possibly supporting enemies of the United States.

We do not need this bill for those two reasons. It is captured on the words who have taken up arms against the United States. That is why the definition of enemy combatant has been so expansively redefined behind closed doors in the dark of night.

This bill is designed instead to sweep others into the net. It would not even require an administrative determination that the Government's suspicions have a reasonable basis in fact. By its plain language, it would deny all access to the courts to an alien to determine your basic human rights, "any alien awaiting"—a Government determination as to whether the alien is an enemy combatant. The Government would not be free to define anyone as an alien, just as long as it liked—for years, for decades, for the length of the conflict which is so undefined and may last for generations.

One need only look at Guantanamo. Everyone who was captured there who have taken up arms against the United States. That is why the definition of enemy combatant has been so expansively redefined behind closed doors in the dark of night.

But why? Why is it that so many people are in there by mistake, but we will not get around to making that determination. Maybe in 5 years, maybe 10, maybe 20, maybe 30. And we wonder why some of our closest allies ask us, what in heaven's name has happened to the conscience and moral compass of this great Nation? Are we so terrified of some terrorists around this country that we will run scared and hide? Is that what we will do, tear down all the structures of liberty in this country because we are so frightened?

It brings to mind that famous passage in "A Man for All Seasons." Thomas More is talking to his protege, Roper, regarding to the effect that England is planted thick like a forest with laws. He said, Would you cut down those laws to get after the devil? And Roper said, of course I would cut down all the laws in England to get after the devil. And then More said, Oh, and when the last law was down and the devil turned on you, what will protect you?
This legislation is cutting down laws that protect all 100 of us, and now almost 300 million Americans. It is amazing the Senate would be talking about doing something such as this, especially after the example of Guantanamo. We can pick up people intentionally or by mistake and hold them forever.

How many speeches have I heard in my 32 years in the Senate during the cold war and after, criticizing totalitarian governments that do things such as that? And we can stand and proudly say it would never happen in America; this would never happen in America because we have rights, we have habeas corpus, and people are protected.

I am not here speculating about what the bill says. This is not a critic's characterization of the bill. It is what the bill plainly says, on its face. It is what the Bush-Cheney administration is demanding. It is what any Member who voted against the Specter amendment and for the bill today is going to be endorsing.

The habeas stripping provisions in the bill go far beyond what Congress did in the Detainee Treatment Act in three respects as the Supreme Court pointed out in Hamdan, the DTA removed habeas jurisdiction only prospectively, for future cases. This new bill strips habeas jurisdiction retroactively, even for pending cases. This is an extraordinary action that runs counter to long-held U.S. policies disfavoring retroactive legislation.

Second, the DTA applied only to detainees at Guantanamo. This new legislation goes far beyond Guantanamo and strips the right to habeas of any alien living in the United States if the alien has been determined an enemy combatant, or even if he is awaiting a determination—and that wait can take years and years and years. Then, 20 years later, you can say: We made a mistake. Tough. It allows holding an alien, any alien, forever, without the right of habeas corpus, while the Government makes up its mind as to whether he is an enemy combatant.

And third, the impact of those provisions is extended by the new definition of enemy combatant proposed in the current bill. The bill extends the definition to include persons who supported hostilities against the United States, even if they did not engage in armed conflict against the United States or its allies. That, again, is an extraordinary extension of existing laws.

If we vote today to abolish rights of access to the justice system to any alien detainee who is suspected—not determined, not even charged; these people are not even charged, just suspected—of assisting terrorists, that will do by the back door what cannot be done up front. That will remove the mechanism the Constitution provides to stop the Government from overreaching and lawlessness. This is so wrong. It grieves me, after three decades in this Senate, to stand here knowing we are thinking of doing this. It is so wrong. It is unconstitutional. It is un-American. It is designed to enable the administration will never again be embarrassed by a U.S. Supreme Court decision reviewing its unlawful abuses of power. The Supreme Court said, you abused your power. And they said, we will fix that. To put in Congress that will set that aside and give us power that nobody—no king or anyone else setting foot in this land—had ever thought of having.

In fact, the irony is this conservative Supreme Court—seven out of nine members are Republicans—has been the only check on the Bush-Cheney administration because Congress has not had the courage to do that. Congress has not had the courage to uphold its own oath of office. With this bill, the Congress will have completed the job of eviscerating its role as a check and balance on the administration. The Senate has turned its back on the Warner-Levin bill, a bipartisan bill reported by the Committee on Armed Services, so it can jam through the Bush-Cheney bill. This bill gives up the ghost. It is not a voucher for future wrongdoing.

Abolishing habeas corpus for anyone the Government thinks might have assisted enemies of the United States is unnecessary and morally wrong, a betrayal of the most basic values of freedom for which America stands. It makes a mockery of the Bush-Cheney administration's lofty rhetoric about exporting freedom across the globe. We can export freedom across the globe, but we will cut it out in our own country. What hypocrisy.

I read yesterday from former Secretary of State Colin Powell's letter in which he voiced concern about our view of the world. He said: We are at war against terrorism. The general and former head of the Joint Chiefs of Staff and former Secretary of State was right.

Admiral John Hutson testified before the Judiciary Committee that stripping the courts of habeas corpus jurisdiction was inconsistent with our history and our tradition. The admirals concluded:

We don't need to do this. America is too strong.

When we do this, America will not be a stronger nation. America will be a weaker nation, because we will lose a weapon because we turned our back on our Constitution. We turned our back on our rights. We turned our back on our history.

I ask unanimous consent to have printed in the RECORD a letter from more than 60 lawmakers who are bi-partisan and professors who state that the Congress would gravely disserve our global reputation by doing this.

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

SEPTEMBER 27, 2006.

To United States Senators and Members of Congress,

DEAR SENATORS AND REPRESENTATIVES: We, the undersigned law deans and professors, write in our individual capacity to express our deep concern about two bills that are rapidly moving through Congress. These bills, the Military Commissions Act and the National Security Surveillance Act, would make the indefinite detention of those held in the executive’s program of domestic surveillance effectively unreviewable by any independent judge sitting in public session. While different in detail, both bills unjustly contract the jurisdiction of courts and deprive them of the ability to decide critical issues that must be subject to judicial review in any free and democratic society.

Although the Military Commissions Act of 2006 (S. 3929/S. 3930) was drafted to improve and codify military commission procedures following the Supreme Court’s June 2006 decision in Hamdan v. Rumsfeld, it summarily eliminates the right of habeas corpus for those detained by the Government who have been or may be deemed to be enemy combatants: Detainees will have no ability to challenge the conditions of their detention in court unless the administration decides to try them before a military commission. Those who are not tried will have no recourse to any independent court at any time. Enacting this provision into law would be a grievous error. As several witnesses testified before the Senate Judiciary Committee on Monday, Article I, Section 9 of the Constitution states that "[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it," conditions that are plainly not satisfied here.

Similarly, the National Security Surveillance Act of 2006 (S.3876) would strip courts of jurisdiction over pending cases challenging the legality of the administration’s domestic spying program and would transfer these cases to the court established by the Foreign Intelligence Surveillance Act of 1978 (FISA). The transfer of these cases to a secret court that issues secret decisions would shield the administration’s electronic surveillance program from effective and transparent judicial scrutiny.

These bills exhibit a profound and unwarranted distrust of the judiciary. The historic role of the courts is to ensure that the legislature promulgates and the executive faithfully executes the law of the land with due respect for the rights of even the most despised. Any protections embodied in these bills would be rendered worthless unless the courts can hold the executive accountable to enforce the law. Moreover, the bills ignore a central teaching of the Supreme Court’s decision in Hamdan v. Rumsfeld: the import of shared institutional powers and checks and balances in crafting lawful and sustainable responses to the war on terror. Absent effective judicial review, there will be no way to enforce any of the limitations in the bill that Congress is seeking to place upon the executive’s claimed power.

We recognize the need to prevent and punish crimes of terrorism to investigate and prosecute such crimes. But depriving our courts of jurisdiction to determine whether the executive has acted properly when it detains individuals in Guantanamo endangers the rights of our own soldiers and nationals abroad, by limiting our ability to demand
that they be provided the protections that we deny to others. Eliminating effective judicial review of executive acts as significant as detention and domestic surveillance cannot be justified by the principles of transparency and rule of law on which our constitutional democracy rests.

The Congress would gravely disserve our global law-abiding country by enacting bills that seek to combat terrorism by stripping judicial review. We respectfully urge you to amend the judicial review provisions of the Military Commissions Act and the National Security Surveillance Act to ensure that the rights granted by those bills will be enforceable and reviewable in a court of law.

Sincerely,

James J. Alfini, President and Dean, South Texas College of Law.

Michelie J. Anderson, Dean, CUNY School of Law.

Katharine T. Bartlett, Dean and A. Kenneth Pye Professor of Law, Duke Law School.

Molly K. Beutz, Yale Law School.

Harold Hongju Koh, Dean and Gerard C. & Bernice Latrobe Smith Professor of International Law, Yale Law School.

Harold J. Krent, Dean & Professor, Chicagoc-Kent College of Law.

Lydia Pallas Lohn, Interim Dean and Professor of Law, Lewis & Clark Law School.

Dennis Lynch, Dean, University of Miami School of Law.

John T. Morgan, Dean, School of Law, University of North Carolina at Chapel Hill.

Jeffrey C. S. Brand, Dean, Professor and Chairman, Center for Law & Global Justice, University of San Francisco Law School.

Katherine S. Broderick, Dean and Professor, University of the District of Columbia, David A. Clarke School of Law.

Brian Bromberg, Dean and Professor, Loyola Law School.

Robert Butkin, Dean and Professor of Law, University of the Pacific College of Law.

Evan Caminker, Dean and Professor of Law, University of Michigan Law School.

Judge John L. Carroll, Dean and Ethel P. Malugen Professor of Law, Cumberland School of Law, Samford University.

Neil H. Cogan, Vice President and Dean, Whittier Law School.

Mary Crawford, Dean and Professor of Law, University of Pittsburgh School of Law.

Mary C. Daly, Dean and John V. Brennan Professor Law and Ethics, St. John’s University School of Law.

Richard A. Matasar, President and Dean, New York Law School.

Philip J. McConnaughay, Dean and Donald J. Farage Professor of Law, The Pennsylvania State University Dickinson School of Law.

Richard J. Morgan, Dean William S. Boyd School of Law, University of Nevada, Las Vegas.

Fred L. Morrison, Popham Haik Schmohrlich/Lindquist & Vennum Professor of Law and Interim Co-Dean, University of Minnesota Law School.

Kenneth M. Murchison, James E. & Betty M. Phillips Professor of Law, Louisiana State University, Paul M. Hebert Law Center.

Cynthia Nance, Dean and Professor, University of Arkansas, School of Law.

Nell Jessup Newton, William B. Lockhart Professor of Law, Chancellor and Dean, University of California at Hastings College of Law.

Maureen A. O’Rourke, Dean and Professor of Law, Michaels Faculty Research Scholar, Boston University School of Law.

Margaret L. Pascoe, Dean, Elmer Sahlstrom Senior Fellow, University of Oregon School of Law.

Stuart L. Deutsch, Dean and Professor of Law, Rutgers School of Law-Newark.

Stephen Dycus, Professor, Vermont Law School.

Allen K. Easley, President and Dean, William Mitchell College of Law.

Christopher Edley, Jr., Dean and Professor, Boalt Hall School of Law, UC Berkeley.

Cynthia L. Fountaine, Interim Dean and Professor of Law, Texas Wesleyan University School of Law.

Stephen J. Friedman, Dean, Pace University School of Law.

Dean Bryant G. Garth, Northwestern School of Law, Los Angeles, California.

Charles W. Fraser, Dean and Professor of Law, William H. Bowen School of Law, University of Arkansas at Little Rock.

Mark G. Gordon, Dean and Professor of Law, University of Detroit Mercy School of Law.

Thomas F. Guernsey, President and Dean, Albany Law School.

Don Gutner, Dean, Duquesne University School of Law.

Jack A. Guttenberg Dean and Professor of Law, LeRoy Fennell, Dean and Professor, Northeastern Illinois University College of Law.

Rex R. Perschbacher, Dean and Professor of Law, University of California at Davis School of Law.

Raymond C. Pierce, Dean and Professor of Law, North Carolina Central University School of Law.

Peter Pitegoff Dean and Professor of Law, University of Maine School of Law.

Efren Rivas Ramos, Dean, School of Law, University of Puerto Rico.

William J. Rich, Interim Dean and Professor of Law, Washburn University School of Law.

James V. Rowan, Associate Dean, Northeastern University School of Law, Boston, Massachusetts.

Edward Rubin, Dean and John Wade-Kent Syverud Professor of Law, Vanderbilt University.

David Rudenstine, Dean, Cardozo School of Law.

Lawrence G. Sager, Dean, University of Texas School of Law, Alice Jane Drysdale Sheffield Regents Chair in Law, Capital University Law School.

Joseph D. Harbaugh, Dean and Professor, Shepard Broad Law Center, Nova Southern University School of Law.

Lawrence K. Hellman, Dean and Professor of Law, Oklahoma City University School of Law.

Patrick E. Hobbs, Dean and Professor of Law, Seton Hall University School of Law.

José Roberto Juaréz, Jr., Dean and Professor of Law, University of Denver Sturm College of Law.

W. H. Knight, Jr., Dean and Professor, University of Washington School of Law.

Brad Saxton, Dean & Professor of Law, Quinnipiac University School of Law.

Stewart J. Schwab, the Allan R. Teessel Dean and Professor of Law, Cornell Law School.

Geoffrey B. Shields, President and Dean and Professor of Law, Vermont Law School.

Avram Soifer, Dean and Professor, William S. Richardson School of Law, University of Hawai‘i.

Emily A. Speiler, Dean, Edwin Hadley Professor of Law, Northeastern University School of Law.

Kurt A. Strasser, Interim Dean and Phillip I. Blumenfeld Professor, University of Connecticut Law School.

Leonard P. Strickman, Dean, Florida International University, College of Law.

Steven L. Baechler, Dean & Schmoker Professor of Law, University of Nebraska College of Law.

Frank H. Wu, Dean, Wayne State University School.

David Yellen, Dean and Professor, Loyola University Chicago School of Law.

Mr. LEAHY. Kenneth Starr, the former independent Counsel and Solicitor General for the first President Bush, wrote that the Constitution’s conditions for suspending habeas corpus have not been met and that doing so would be problematic.

The post-9/11 world requires us to make adjustments. In the original PATRIOT Act five years ago, we made adjustments to accommodate the needs of the Executive, and more recently, we sought to fine-tune those adjustments. I think some of those adjustments sacrificed civil liberties unnecessarily, but I also believe that many provisions in the PATRIOT Act were appropriate. I wrote many of the provisions of the PATRIOT Act, and I voted for it.

This bill is of an entirely different nature. The PATRIOT Act took a cautious approach to civil liberties and while it may have gone too far in some areas, this bill goes much further than that. It takes an entirely different and cavalier approach to basic human rights and to our Constitution.

In the aftermath of 9/11, Congress provided in section 412 of the PATRIOT Act that an alien may be held without charge if, and only if, the Attorney General certifies that he is a terrorist or that he is engaged in activity that endangers the national security. He may be held for seven days, after which he must be placed in removal proceedings, charged with a crime, or released. There is judicial review through habeas corpus proceedings, with appeal to the D.C. Circuit.

Compare that to section 7 of the current bill. The current bill does not provide for judicial review. It would preclude it. It does not even require certification by the Attorney General that the alien is a terrorist. It would apply if the alien was “awaiting” a Government determination whether the alien is an “enemy combatant.” And it is not limited to seven days. It would enable the Government to detain an alien for life without any recourse whatsoever to justice.

What has changed in the past 5 years that justifies not merely suspending but abolishing the writ of habeas corpus for a broad category of people who have not been found guilty, who have not even been charged with any crime? What has turned us? What has made us so frightened as a nation that now the United States will say, we can pick up somebody on suspicion, hold them forever, they have no right to even ask why they are being held, and besides that, we will not even charge them with anything, we will just hold them? What has changed in the last 5 years? Government for so inept and our people so terrified that we have to do what no bomb or attack could ever do, and that is take away
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the very freedoms that define America? We fought two world wars, we fought a civil war, we fought a revolutionary war, all these wars to protect those rights.

And now, think of those people who have been the defenders of our lives, who fought so hard to protect those rights. What do we do? We sit here, privileged people of the Senate, and we turn our backs on that. We throw away those rights.

Why would we allow the terrorists to win the battle for our souls? What do they think we could never do and abandoning the principles for which so many Americans today and throughout our history have fought and sacrificed? What has happened that the Senate is willing to turn America from a bastion of freedom into a cauldron of suspicion, ruled by a government of unchecked power?

Under the Constitution, a suspension of the writ may only be justified during an invasion or a rebellion, when the public safety demands it. Six weeks after the attacks of September 11, what could we possibly be suspending? Our own Constitution.

That was a time when it was appropriate to conduct a war that might be against this irresponsible and flagrantly unconstitutional bill. That is what I will do.

The Senator from Vermont answers to the Constitution and to his conscience; I do not answer to political pressure.

Madam President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Madam President, I believe that is so plain as to be with

habeas corpus—the right to have your

The PRESIDING OFFICER. Senator WARNER controls 11 minutes.

Mr. WARNER. Eleven minutes.

The PRESIDING OFFICER. Senator SPECTER controls 20 minutes.

Mr. SESSIONS. Madam President, if the chairman would approve, I would ask for 3 minutes.

Mr. WARNER. Yes. And following that, Senator CORNYN for such time as he may need.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, habeas corpus—the right to have your complaints heard while in custody—is a part of our Constitution. But we have to remember habeas corpus did not mean everything in the whole world when it was adopted. So what did "habeas" mean? What does it mean today and at the time it was adopted? It was never, ever, ever, ever intended or imagined during the War of 1812, if British soldiers were captured burning the Capitol of the United States—as they did—that they would have been given habeas corpus rights. It was never thought to be. Habeas corpus was applied to citizens, really, at that time. I believe that is so plain as to be without dispute.

So to say: Habeas corpus, what does it mean? What did those words mean when the people ratified it? They did not mean to give the terrorists, the people who were attacking the United States of America. We provide special protections for prisoners of war who lawfully conduct a war that might be against the United States. We give them great protections. But unlawful combatants, the kind we are dealing with today, have never been given the full protections of the Geneva Conventions.

Second, my time is limited, and I have been so impressed with the debate that has gone on with Senators KYL and C ORNYN and G RAHAM, and I associate myself generally with those remarks, but I want to recall that in a spate of an effort to appease critics and those who had "vague concerns," not too many years ago, this Congress passed legislation that said that CIA-gathered information could not be shared with the FBI. We passed a law in this Congress to appease the left in America, the critics of our efforts against communism. And we have put a wall between the CIA and FBI.

So that was politically good. Everybody must have been happy about that. I was not in the Senate then. Then there were complaints that we were talking with people who had criminal records who may have been involved in violence, and this was somehow making our CIA complicit in dealing with dangerous people, and we banned that. We passed a statute that eliminated that. And everybody felt real good that we had done something special.

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

Mr. SESSIONS. Madam President, I ask unanimous consent for an additional minute.

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

Mr. SESSIONS. After 9/11, we realize both of those were errors of the heart perhaps, but of the brain. And so what happened? We reversed both of them. We reversed them both. And we need to be sure that the legislation we are dealing with today does not create a long-term battle with the courts over everybody who is being detained. That is a function of the military and the executive branch to conduct a war.

Madam President, I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I understand I have 6 minutes on the bill in general.

The PRESIDING OFFICER. The Senator controls.

Mr. FEINGOLD. Madam President, I oppose the Military Commissions Act.

Let me be clear: I welcomed efforts to bring terrorists to justice. Actually, it is about time. This administration has too long been distracted by the war in Iraq from the fight against al-Qaeda. We need a renewed focus on the terrorist networks that present the greatest threat to this country.

We would not be where we are today, 5 years after September 11, with not a single Guantanamo Bay detainee having been brought to trial, if the President had come to Congress in the first place, rather than unilaterally creating military commissions that did not comply with the law. The Hamdan decision was a historic rebuke to an administration that has acted for years as if it is above the law.

I have hoped that we would take this opportunity to pass legislation that allows us to proceed in accordance with our laws and our Constitution. But I also know that what separates America from our enemies. These trials, conducted appropriately, have the potential to demonstrate to
the world that our democratic constitutional system of government is our greatest strength in fighting those who attack us.

That is why I am saddened I must oppose this legislation because the trials conducted in this legislation send a very different signal to the world, one that I fear will put our troops and personnel in jeopardy both now and in future conflicts. To take just a few examples, this legislation would permit an individual to be convicted of coerced testimony and hearsay, would not allow full judicial review of the conviction, and yet would allow someone convicted under these rules to be put to death.

That is just simply unacceptable.

Not only that, this legislation would deny detainees at Guantanamo Bay and elsewhere—people who have been held for years but have not been tried or even charged with any crime—the ability to challenge their detention in court. The legislation before us is better than that originally proposed by the President, which would have largely codified the procedures the Supreme Court has already rejected. And that is thanks to the efforts of some of my Republican colleagues, for whom I have great respect and admiration. But this bill remains deeply flawed, and I cannot support it.

One of the most disturbing provisions of this bill eliminates the right of habeas corpus for detainees designated as enemy combatants. I support an amendment by Senator SPECTER to strike that provision from the bill.

Habeas corpus is a fundamental recognition that in America the Government does not have the power to detain people indefinitely and arbitrarily. And in America, the courts must have the power to review the legality of executive detention decisions.

This bill would fundamentally alter that historical equation. Faced with an executive branch that has detained hundreds of people without trial for years now, it would eliminate the right of habeas corpus.

Under this legislation, some individuals, at the designation of the executive branch alone, could be picked up, even in the United States, and held indefinitely without trial and without any access whatsoever to the courts. They would not be able to call upon the laws they are subject to under which they are held or to question or challenge their detention because they would have been put outside the reach of the law.

Some have suggested that terrorists who take up arms against this country should not be allowed to challenge their detention in court before a neutral decision-maker. The alternative is to allow people to be indefinitely detained without the ability to argue that they are not, in fact—that they are not, in fact—enemy combatants.

There is another reason we must not deprive detainees of habeas corpus, and that is the fact that the American system of government is supposed to set an example for the world as a beacon of democracy.

A group of retired diplomats sent a very moving letter to explain their concerns about this habeas-stripping provision. Here is what they said:

"To proclaim democratic government to the rest of the world as the supreme form of government at the very moment we eliminate the most important avenue of relief from arbitrary governmental detention will not serve our interests abroad.

Many dedicated patriotic Americans share these grave reservations about this particular provision of this bill. Unfortunately, the suspension of the Great Writ is not the only problem with this legislation. Unfortunately, I do not have time to discuss them all.

But the bill also appears to permit individuals to be convicted, and even sentenced to death, on the basis of coerced testimony. According to the legislation, statements obtained through cruel, inhuman, or degrading treatment, as long as it was obtained prior to December 2005, when the McCain amendment became law, would apparently be admissible in many instances in these military commissions.

Now, it is true that the bill would require the commission to find these statements have sufficient and probative value. But why would we go down this road of trying to convict people who have been subjected to through cruel, inhuman, or degrading interrogation techniques? Either we are a nation that stands against this type of cruelty and for the rule of law or we are not. We cannot have it both ways.

In closing, let me do something I do not do very often, and that is quote my former colleague, John Ashcroft. According to the New York Times, in a private meeting of high-level officials in 2003 about the military commission structure, then-Attorney General Ashcroft reportedly said:

"Timothy McVeigh was one of the worst killers in U.S. history. But at least we had fair procedures for him. How sad that this Congress would seek to pass legislation about which the same cannot be said."

Mr. President, I strongly support Senator SPECTER’s amendment to strike the habeas provision from this bill.

At its most fundamental, the writ of habeas corpus protects against abuse of government power. It ensures that individuals detained by the government without trial have a method to challenge their detention. Habeas corpus is a fundamental recognition that in America, the government does not have the power to detain people indefinitely and arbitrarily. And that in America, the courts must have the power to review the legality of executive detention decisions.

It goes without saying that this is not a new concept. Habeas corpus is a longstanding vital part of our American tradition, and is enshrined in the U.S. Constitution, article 1, section 9, where it states:

"The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it."

The Founders recognized the importance of this right. Alexander Hamilton in Federalist Paper No. 84 explained the importance of habeas corpus and its centrality to the American system of government and the concept of personal liberty. He quoted William Blackstone, who warned against the “dangerous engine of arbitrary government” that could result from unchallengeable confinement, and the “bulwark” of habeas corpus against this abuse of government power.

As a group of retired judges wrote to Congress, habeas corpus “safeguards the most hallowed judicial role in our constitutional democracy—ensuring that no man is imprisoned unlawfully.”

This bill would fundamentally alter that historical equation. Faced with an administration that has detained hundreds of people without trial for years now, it would eliminate the right of habeas corpus for anyone the executive branch labels an alien ‘enemy combatant.’

That’s right. It would eliminate the right of habeas corpus for any alien detained by the United States, anywhere in the world, and designated by the government as an enemy combatant. And it would do so in the face of years of abuses of power that—thus far—have been reined in primarily through habeas corpus challenges in our Federal courts.

Let me be clear about what it does. Under this legislation, some individuals, at the designation of the executive branch alone, could be picked up, even in the United States, and held indefinitely without trial and without any access whatsoever to the courts. They would not be able to call upon the laws of our great Nation to challenge their detention because they would have been put outside the reach of the law.

That is unacceptable, and it almost surely violates our Constitution. The rule of law is something deeper and more profound than the collection of laws that we have on paper. It is a principle that undergirds our society, and that has been central to our nation since its very founding. As Thomas Paine explained at the time of our country’s birth in 1776, the rule of law is that principle, that paramount commitment, “that in America, the law is king, and there is no other.” The rule of law tells us that no man is above the law—and as an extension of that principle—that no executive will be able to act unchecked by our legal system.

Yet, by stripping the habeas corpus rights of any individual who the executive branch decides to designate as an enemy combatant, that is precisely
where we end up—with an executive branch subject to no external check whatsoever. With an executive branch that is king.

Now, it may well be that this provi-
sion will be found unconstitutional as an ill-conceived aspect of the writ of habeas corpus. But that determination will take years of protracted litigation. And for what? The President has been urging Congress to pass legislation so that Khalid Sheikh Mohammed, the alleged mastermind of 9-11, and other ‘high value’ al Qaida detainees can be tried. This bill is supposed to create a framework for prosecuting unlawful enemy combatants for war crimes that the Supreme Court can accept follow-
ing the decision this summer in the Hamdan case. There is absolutely no reason why we need to restrict judicial review of the detention of individuals who have not been charged with any crime.

That raises another point. People who are actually subject to trial by military commission will at least be able to argue their innocence before some tribunal, even if I have grave con-
cerns about how those military com-
misions would proceed under this legis-
lation. People who have been charged with any crime will have no guaranteed venue in which to proclaim and prove their innocence. As three re-
tired generals and admirals explained in a letter to Congress:
The framers anticipated greater protec-
tions to the likes of Khalid Sheikh Moham-
med than to the vast majority of the Guan-
tamo detainees.

How does this make any sense? Why would we turn our back on hundreds of years of history and our Nation’s com-
mitment to liberty?

We have already, in the Detainee
Treatment Act, said that no new habeas challenges can be brought by de-
tainees at Guantanamo Bay. The Su-
preme Court has held that the Detainee Treatment Act did not apply to Hamdan’s pending habeas petition, and went forward with his argument that the Constitution, laws of the United States, and not the military, apply to detainees located at Guantanamo Bay, they are simply flying in the face of the Detainee Treatment Act that we passed in December 2005, which pro-
vides not only a review through a com-
batant status review tribunal, with elaborate procedures to make sure there is a fair hearing, but that a right to appeal to the Columbia Circuit Court of Appeals, not only to make sure that the right standards were applied—that is, whether the military applied the right rules to the facts—but also to attack the constitu-
tionality of the system that they chose to do so. So those who claim we are simply stripping habeas corpus rights are simply flying in the face of the facts as laid out in the Detainee Treatment Act.

Now, the question may be: Are we going to provide what the law requires? Are we going to provide additional rights and privileges that some would like to confer upon those high-value detainees located at Guantanamo Bay? The answer is no. The fact is that proponents of this amendment propose would be to divert our soldiers from the battlefield and to tie their hands in ways with frivolous litigation and ap-
peals. And the last thing that I would think any of us would want to do would be to provide an easy means for terror-
ists to sue U.S. troops in U.S. courts, particularly when it is not required by the Constitution, laws of the United States, not mandated by the Supreme Court, and we have the ade-
quate substitute remedy, which I believe is entirely consistent with the U.S. Supreme Court’s decisions in this area.

We have provided an avenue or a process by which these detainees can have their rights protected, such rights as they have being unlawful combat-
ants attacking innocent civilians. America is conferring rights upon them that we do not have to confer, but we are conferring them because we believe they have the right to be heard. And we ought to be consistent with our Con-
stitution and with the decisions of the U.S. Supreme Court.
The last thing I would think any of us would want to do would be to tie the hands of our soldiers to permit terrorists to sue U.S. troops in Federal court at will.

The PRESIDING OFFICER. (Mr. Ensign.) The Senator’s time has expired.

The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I ask unanimous consent for 10 minutes from Senator Warner on the bill.

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

Mr. BOND. Mr. President, I appreciate the opportunity to talk generally about what I have already spoken about the importance of not affording habeas corpus to the unlawful combatants when they have more protections than international law requires, or than any other country provides.

Speaking on the bill, for the last 5 years, our most important job has been to protect our families from another terrorist attack.

Our children, our mothers, fathers, grandparents and children—none of them deserved to die in the 9/11 attacks; none deserve to die in another terrorist attack. That is why we are doing everything we can to protect our families by stopping terrorists, capturing them, learning their secrets, following their plots, and bringing the terrorists to justice.

Through our hard work, there has not been another direct attack on U.S. soil since 9/11. We have worked hard to prevent and stop attacks in the last 5 years and must continue to prevent future attacks. We dramatically boosted airport and airline security. We hired new airport screeners, implemented new checks, and even put armed agents on flights where necessary.

We added thousands of new FBI agents, thousands of new intelligence officers, and increased their budgets by billions to provide new armies against terrorism.

We passed the PATRIOT Act to provide the tools needed to discover terrorist plots and stop them. We reorganized our intelligence agencies to bring a single focus and purpose against terrorism.

We tore down the walls between law enforcement and intelligence to get terror planning and plot information to authorities as quickly as possible.

All of this is going on as I speak, as we sleep at night, as our children go to school, as we are fighting the war on terrorism.

The President recently highlighted some of the successes we have had because of our terror fighting tools and efforts. He recounted how we have captured terrorists, used new tools to learn their secrets, captured additional terrorists, connected the dots of their conspiracies, and foiled their terror attack plans.

But now some want to tie the hands of our terror fighters, they want to take away the tools we use to fight terror—handcuff us, hamper us—in our fight to protect our families.

It’s not new, really. Partisans have slowed our efforts to fight terror every step of the way.

Many on the other side voted against the PATRIOT Act.

Many blocked authorization of the PATRIOT Act for months. The Democratic Leader actually boasted, “We killed the PATRIOT Act.”

Thank heavens that wasn’t true. Now, I know that they all love our country. They just don’t understand the terrorist enemies we face.

These critics are not willing to do what is necessary to protect fully our families from terrorists.

You don’t have to take my word for it, just look at their record over the last 5 years. Whether or not you would say terror war critics have a weak record on terror, they have certainly tried to block, slow down, and take away our terror fighting tools.

Some congressional Democrats voted to cut and run from Iraq. Nothing would embolden terrorists more than to see the U.S. turn tail and run home. Osama bin Laden cited America quitting Somalia, and failing to respond to the U.S.S. Cole bombing, as signs of U.S. weakness and vulnerability. We all know what happened later.

Democrats in the Senate have blocked the appointment of senior anti-terror officials. The 9/11 commission report recommended better coordination between law enforcement and intelligence officials. Only last week did Democrats stop blocking the appointment of the senior Justice Department official for National Security.

Partisans readily spread classified information leaked to the public or the media. They call new developments to highlight cherry-picked intelligence information, or quote newspaper articles betraying our Nation’s secret terror fighting programs. Don’t they think this encourages the enemy or demoralizes our troops?

Some propose to handcuff our ability to discover terrorist plots. They propose to make it hard to listen in on a potential terrorist calling from a foreign country, or to a foreign country to discuss terror plans.

If al-Qaida calls in, we ought to be listening. That is authorized under the Constitution. The Constitution clearly gives the President the power to intercept phone calls under the foreign intelligence exception of the Constitution.

In my meetings with intelligence officials both abroad and here at home I have heard repeatedly how the disclosure, not only of classified information, but also of our interrogation techniques, are extremely damaging.

Our personnel have encountered enemy combatants trained to resist disclosed interrogation techniques thanks to leakers in our media.

If we lay out precisely the techniques that will help us defeat them in the Federal Register, they will be in an al-Qaida training manual within 48 hours.

Critics support trial procedures that would give terrorists secret intelligence information.

Why on Earth would we hand over classified evidence and information to terrorists so that information could be used against us in the future?

Remember the 1993 World Trade Center bombing? The prosecution of terror suspects there involved giving over 200 names of terror suspects to the attorneys representing the terrorists. They gave them that in a trial, and some months later, after an investigation of the bombings in Africa, we captured the al-Qaida documents which had all of that information that had been given to the attorneys. So once you give it to a detainee or the detainee’s attorney, you can count on it getting out.

One other thing is important. Some would propose exposing our terror fighters to legal liability. They oppose giving our terror fighters certainty and clarity in how to go about their jobs. They leave them vulnerable to prosecution and handcuff their efforts and leave the rest of us vulnerable to terror plots that went undiscovered.

Right now, these people are worried and they are buying insurance. People who are trying to carry out the very important intelligence missions of the United States, if they ask any questions, or if they don’t give them four square meals a day and keep them in a comfortable motel, they are afraid they are going to get sued. We need to give protection to the people who are operating within the law as we are laying it out to make sure they don’t cross over the line.

The problem we have is that if the critics take away the valuable tools we have in breaking apart terror plots, we are going to be significantly less safe. As the President said, the CIA interrogation program has already succeeded in breaking apart terror conspiracies and preventing several terror attacks. Critics within the CIA are preventing us from punishing terrorists and gaining valuable information that could prevent future attacks.

One thing I, along with the President and my Republican colleagues, share with the war critics is a strong opposition to torture. It is abhorrent, evil, and has no place in the world. What I oppose is how terror war critics would go soft on terror suspects, allowing them comforts they surely don’t deserve.

Critics are being tough on targets. Terrorists argue that we should treat them like prisoners of war under the
Geneva Conventions. Article 72 of the Geneva Conventions on treatment of prisoners of war says POWs shall be allowed to receive parcels containing foodstuffs. Is that what critics think the 9/11 Commissionideators deserve? Article 71 says POWs shall be allowed to send and receive letters and cards. Is that what opponents of the bill believe people who conspire to cut off our heads deserve—letters from home? "Mail call Ramzi bin al-Shibh.

Article 60 requires us to grant all POWs monthly advances of pay. It even says how much: below sergeant, 8 Swiss francs; officers, 50 Swiss francs; generals, 75 Swiss francs.

Do the critics think Khalid Sheikh Mohammed deserves 50 Swiss francs or 75?

Critics of being tough on terrorists say that we should adhere to international standards of decency. Where was the decency when international troops withdrew without a fight from Srebrenica, Bosnia allowing the genocide of its men and boys?

What about the decency when the U.N. allowed Sudan, guilty of genocide in Darfur, to serve on the Human Rights Commission, and allowed Cuba to help monitor international human rights? This was neither moral nor decent.

Some say that the tough treatment we are debating will lead to bad treatment of America’s soldiers in the future. That is a close cousin to the argument that if we leave the terrorists alone they will stop attacking us, or that America made them do it.

Do we need a reminder of how badly they are already treating us? The Wall Street Journal reporter kidnapped by terrorists, Daniel Pearl, had his head cut off long before the criminal acts of Abu Grahb or news of the CIA prisons. The charred bodies of our Special Forces dragged through the streets of Mogadishu tell us what the vague standards of the Geneva Convention got us.

As I said before, I support a torture ban. I also support provisions that allow law enforcement and intelligence agents, blocking our terror fighting leadership, releasing and spreading our terror war secrets, giving terror suspects our terror fighting methods and techniques, granting terrorists overly comfortable protections, going soft on terrorists who hold the secrets of their plots, their attacks.

Our agents deserve better, our soldiers deserve better, our families deserve better.

To start where I began, this is what all our efforts are about. Protecting our vulnerable families, protecting our children, protecting our mothers and fathers, protecting grandparents and grandchildren. None of the vulnerable it protects deserves to die in the 9/11 attacks, and none deserve to die again in another terrorist attack.

I urge my colleagues to support this legislation.

Mr. WARNER. Mr. President, we are anxious to move to a vote on the Specter amendment to accommodate a number of colleagues. Protecting our children, protecting our mothers and fathers, protecting grandparents and grandchildren. None of the vulnerable it protects deserves to die in the 9/11 attacks, and none deserve to die again in another terrorist attack.

I urge my colleagues to support this legislation.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. That is not a unanimous consent request, is it?

Mr. WARNER. No.

Mr. LEVIN. We have three Senators who have been allocated time specifically, and that time may be used relative to the amendment or in general debate on the bill. I will not agree to any restriction of time that the Senator has been allocated.

Mr. WARNER. I recognize that. It is in our mutual interests to the move ahead on the bill. There will be time after the vote for Senators to speak. You have 18 hours under my control on general debate.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. WARNER. Mr. President, the time for the Senator from California is under which category?

The PRESIDING OFFICER. General debate time.
Guantanamo, described how he was held for years, even though he had never been a terrorist or a soldier. He was never even on a battlefield. He had been sold by Pakistani bounty hunters to the United States military for $5,000. Qassim has been held only because of the availability of habeas corpus that this mistake was able to be corrected. That is why Senator SPECTER’s amendment is right.

If innocent people are at Guantanamo—and they presumably are and have been—their families are in no way being held as a Nation.

They should lead us to abandon our core values. The Founding Fathers created specific constitutional limitations. And since that time the United States has been at the forefront of demanding humane treatment of all people. We must not turn our back on these fundamental principles.

I am disappointed to be voting against this bill. I had hoped a real bipartisan compromise could be reached. The PRESIDING OFFICER. The Senator’s time has expired. Who yields time?

Mr. SPECTER. Mr. President, I yield 10 minutes to the distinguished Senator from Ohio.

The PRESIDING OFFICER. The distinguished Senator is recognized for 10 minutes.

Mr. SMITH. Mr. President, this is a most difficult issue we are engaged in. We are arguing about what I believe is a cornerstone principle of the rule of law, and that is the issue of habeas corpus.

I know this is an unusual war, and I don’t know its duration. No one fully does. But I am required to be true to our Constitution and to the rule of law, we have to be true to that law.

I have traveled as a Senator all over this globe and have spoken with great pride about the superiority of democracy to other means of government. While I support this bill in providing due process for these detainees, I rise because I am concerned about the provisions relating to habeas corpus.

I am reminded of the words of Thomas Jefferson who once said:

The habeas corpus secures every man here, alien or citizen, against everything which is not law, whatever shape it may assume.

On another occasion he said:

I would rather be exposed to the inconveniences attending too much liberty than to those attending too small a degree of it.

What we are talking about today is section 7 of this bill, which will further strip the Federal courts of jurisdiction to hear pending Gitmo cases as it applies to all pending and future cases. Had this proposal been law earlier this year, the Supreme Court may not have had jurisdiction to hear the Hamdan case, which is what brings us here today.

At the heart of the habeas issue is whether the President should have the sole authority to indefinitely detain unlawful enemy combatants without any judicial restraints. Congress will be providing the unilaterally by enacting legal restrictions aimed at stripping courts of jurisdiction to hear habeas claims. In doing so, the President does not have to show any cause for detaining an individual labeled an “unlawful enemy combatant.”

Striped of jurisdiction by recent legislation, U.S. courts will not have the ability to hear an individual’s request to learn why he is even being detained. Providing detainees with the right to a court to evaluate the legality of their detention I believe would not cost U.S. lives. However, it will test American laws.

Claims have been made that providing detainees the right to hear why they are being detained necessitates providing them with classified information. I do not believe this to be true. Similar to the military commission legislation, it would only allow a judge to examine the evidence to see the evidence against the defendant to evaluate its reliability and probative value.

Permanent detention of foreigners without reason damages our moral integrity regarding international rule of law issues. To quote: “History shows that in the wrong hands, the power to jail people without showing cause is a tool of despotism.” A responsibility this Nation has always assumed is to ensure that no one is held prisoner unjustly.

Stripping courts of their authority to hear habeas claims is a frontal attack on our judiciary and its institutions, as well as our civil rights laws. Habeas corpus is a cornerstone constitutional order, and a suspension of that right, whether for U.S. citizens or foreigners under U.S. control, ought to trouble us all. It certainly gives me pause.

As a matter of right to judicial appeal is enshrined in our Constitution. It is part and parcel of the rule of law. The Supreme Court has described the writ of habeas corpus as “the fundamental instrument for safeguarding individual freedom against arbitrary and unlawful State action.”

Some of the darkest hours in our Nation’s history have resulted from the suspension of habeas corpus, notably the internment of Japanese Americans during World War II.

Obviously, I am not here to question the wisdom of Abraham Lincoln. We have had no wiser President. But one of the most controversial decisions of his administration was the suspension of habeas corpus for all military-related cases, ignoring the ruling of a U.S. circuit court against this order. He, in fact, I believe, if my memory of history serves me, imprisoned the entire Maryland Legislature because of their attempts to secede from the Union. He did it. He happened. It is not necessarily the proudest moment of his administration. But it is something that has been raging with controversy ever since.

Habeas petitions are not clogging the courts and are not frivolous. The administration claims that the approximately 200 pending habeas claims are clogging our courts and are for the most part frivolous. These petitions are not an undue administrative burden. Judges always have the discretion to dismiss frivolous claims, and indefinitive detention of a foreigner without showing cause, Mr. President, is not frivolous.

I suppose what brings me to the floor today is my memory of my study of the law. While I was in law school, I was particularly taken with the study of the Nuremberg trials. The words of
Justice Robert H. Jackson inspired me then and inspire me still. He was our chief counsel for the allied powers. What he said on that occasion in his closing address to the international military tribunal is an inspiration. Said he:

"Of one thing we may be sure. The future will never have to ask with misgiving, what could the Nazis have said in their favor. History will know that whatever could be said, they were allowed to say. They have been given the right to say all that, in the days of their pomp and power, never gave to any man. But fairness is not weakness. The extraordinary fairness of these hearings is an attribute of strength."

I simply feel this particular provision in this bill ought to be taken out. We ought not to suspend the writ of habeas corpus. We should go the extra mile, not as a sign of weakness, but as evidence of our strength.

The provision even applies to lawful permanent residents. Unlike the provision that was included in the Detainee Treatment Act last year, this court-strippping provision would apply on a world-wide basis, not just at Guantanamo. It would apply to detainees of all Federal agencies and to detainees of DOD defense. It would attempt to expressly strip the courts of jurisdiction over all pending cases.

"This provision goes beyond stripping the courts of any jurisdiction. It also prohibits the U.S. courts from hearing or considering ‘any other action against the United States or its agents relating to any aspect of the detention, treatment, or trial’ of an alien detainee. As a result, this provision would leave many detainees without any alternative legal remedy at all, even after released, even if there is every reason to believe that the detention was in error, and even if the defendant was not a terrorist, not a torture victim."

For example, the Canadian Government recently concluded, after a comprehensive review, that one of its citizens had been handed over by U.S. authorities to Afghan officials which subjected him to torture and cruel and inhuman treatment, without any evidence that he was an enemy combatant or that he supported any terrorist group. Under this habeas corpus court-stripping provision, this individual would have no legal remedy in the U.S. courts even after he was finally released from illegal detention, unless the United States acknowledges that it made a mistake when it determined that he was an enemy combatant.

The fundamental premise of last year’s Detainee Treatment Act, DTA, was that we could restrict future habeas corpus suits, because we were providing an alternative course of access to the courts.

The language in the bill before us would deprive many detainees of the right to file a writ of habeas corpus without providing any alternative form of relief. This provision applies on a worldwide basis, not just at Guantanamo. DOD detainees outside Guantanamo do not have access to Combatant Status Review Tribunals—CSRTs—so they can’t get to court to review CSRTs. Because this bill would deprive them of the writ of habeas corpus or any other legal remedy, they would have no access to the courts at all.

The provision applies to detainees of all Federal agencies, not just DOD. Detainees of other Federal agencies do not get CSRTs, so they can’t get to court to review CSRTs. Because this bill would deprive them of the writ of habeas corpus or any other legal remedy, they would have no access to the courts at all.

The provision even applies to lawful permanent aliens who are detained and held inside the United States. Because this bill would deprive them of the writ of habeas corpus or any other legal remedy, they would have no access to the courts at all.

Even in cases where DOD regulations provide detainees a right to Combatant Status Review Tribunals—CSRTs—such tribunals may not be an adequate substitute for judicial review under a writ of habeas corpus. CSRTs are permissive, meaning the government can say evidence and evidence, and that is never disclosed to the accused. Detainees before those status review tribunals are denied access to witnesses and documents needed to rebut allegations made by the government. CSRTs reviewing CSRT determinations are not authorized to make an independent determination whether there is a lawful basis for the detention.

The court strippping provision in the bill does more than just eliminate habeas corpus rights for detainees. It also prohibits the U.S. courts from hearing or considering “any other action against the United States or its agents relating to any aspect of the detention, treatment, or trial” of an alien detainee. As a result, this provision would leave many detainees without any alternative legal remedy at all, even after released, even if there is every reason to believe that the detention was in error, and even if the defendant was not a terrorist, not a torture victim.

A separate provision in the bill adds that no person—whether properly held as an alien detainee or not—may institute any action against the United States or its agents for any aspect of the detention, treatment, or trial of an alien detainee. As a result, this provision would deprive them of the writ of habeas corpus. CSRTs are permissive, meaning the government can say evidence and evidence, and that is never disclosed to the accused. Detainees before those status review tribunals are denied access to witnesses and documents needed to rebut allegations made by the government. CSRTs reviewing CSRT determinations are not authorized to make an independent determination whether there is a lawful basis for the detention.

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Some persons detained at Guantanamo may be terrorists guilty of plotting against the people and the Government of these United States. Of course terrorists must be properly detained and prosecuted for their evil deeds. But Pentagon advisers continue to chip away at the separation of powers. They relentlessly pursue their dangerous goal of consolidating power in the hands of the Executive at the expense of the Congress, the judiciary, and, sadly, the People. How can we even contemplate such an irresponsible and dangerous course as this de facto canceling of the writ of habeas corpus precisely to subject to arbitrary and unfair action by the state.

This flagrant attempt to deny a fundamental right protected by the Constitution reveals how White House and Pentagon advisers continue to chip away at the separation of powers. They relentlessly pursue their dangerous goal of consolidating power in the hands of the Executive at the expense of the Congress, judiciary, and, sadly, the People. How can we, the U.S. Senate, in this bill abolish habeas corpus by approving a provision that so clearly contravenes the text of the Constitution? Where is our respect for the checks and balances that were built into our system by the Framers? They included an explicit prohibition against blanket suspension of the writ of habeas corpus precisely to protect innocent persons from being subject to arbitrary and unfair action by the state.

The provision in the bill before us deprives Federal courts of jurisdiction over matters of law that are clearly entrusted to them by the Constitution of the United States. The Constitution is clear on this point: The two only instances in which habeas corpus may be suspended are in the case of a rebellion or an invasion. We are not in the midst of a rebellion, and there is no invasion. It is suspicious that those who drafted the Constitution deliberately used the word “suspended.” They did not say that habeas corpus could be forever denied, abolished, revoked, or eliminated. They said that, in only two instances, it could be temporarily, not forever. Not like in this bill.

How can we, the U.S. Senate, in this bill abolish habeas corpus by approving a provision that so clearly contravenes the text of the Constitution? Where is our respect for the checks and balances that were built into our system by the Framers? They included an explicit prohibition against blanket suspension of the writ of habeas corpus precisely to protect innocent persons from being subject to arbitrary and unfair action by the state.

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The Constitution of the United States is a time-tested contract between the people and their Government, for which thousands of American military men and women have died. Why would we seek to violate its terms? Are we fighting the terrorists precisely to preserve individual liberties and the rule of law? If we as a people jettison the very democratic ideals that have made our Nation great and we become, instead, exactly like those whom we seek to imprison—standing for nothing and capable of anything—then what are we fighting for? Why am I opposing the vote? Why am I voting no? What is humane, what is not; what is right, what is wrong. I have tried to balance the interests of our troops and the interests of many others.

If we don’t strike this court-stripping language in the bill before us, if instead of Congress being a check on executive power, Congress at the expense of the courts, not just suspects picked up overseas but even those taken into custody on U.S. soil.
of our country when it comes to dealing with people who find themselves in our capture.

Why not habeas for noncitizen, enemy combatant terrorists housed at Gitmo? No. 1, the whole Congress has agreed that habeas is not available; the Detainee Treatment Act will be available. The only reason we are here is because of the Hamdan decision. The Hamdan decision did not apply to the Detainee Treatment Act retroactively, so we have about 200 and some some of those left unattended and we are going to attend to them now.

Why do we—I and others—want to take habeas off the table and replace it with something else? I don’t believe judges should be making military decisions in a time of war. There is a reason the Germans and the Japanese and every other prisoner held by America have never gone to Federal court and asked the judge to determine their status. That is not a role the judiciary should be playing. They are not trained to make those decisions.

Under the Geneva Conventions article 5, the combatant tribunal requirement is a military decision. So I believe very vehemently that the military is better qualified to determine who an enemy combatant is over a Federal judge. That is the way it has been, that is the way it should be and, with my vote, that is the way it is going to be.

What is the problem? Why am I worried about having Federal judges turning every enemy combatant decision into a trial? In 1950 the Supreme Court, denying habeas rights to German and Japanese prisoners, said:

Such trials would hamper the war effort and bring aid and comfort to the enemy.

I agree with that. They would diminish the prestige of our commanders not only with enemies, but war-believing neutrals.

I agree with that.

It would be difficult to devise a more effective and clear commander than to allow the very enemies he has ordered to refuse to submission to call him to account in his own court and divert his efforts and attention from the military offensive to the legal defensive at home.

I agree with that. That is why we shouldn’t be doing habeas cases in a time of war. Nor is it unlikely that the result of such enemy litigiousness would be conflict between judicial and military opinion—highly comforting to the enemies of the United States.

These trials impede the war effort. It allows a judge to take what has historically been a military function.

What is the reason for this body and our country is to allow the military to do what they are best at doing: controlling the battlefield. Let them define who an enemy combatant is under the Geneva Conventions requirements. Indefinitely, the Combatant Status Review Tribunal system, which is Geneva Conventions compliant, in my opinion, and let the Federal courts come in after they made their decision to see if the military applied the correct law, the procedures were followed, and the evidence justifies the decision of the military.

To substitute a judge for the military in a time of war to determine something about who our enemy is is not only not necessary under our Constitution, it impedes the war effort, it is irresponsible, it needs to stop, and it should never have happened. I am confident Congress has the ability, if we choose to define the rights of an enemy combatant, noncitizen—what rights they have in a time of war and what has happened.

The PRESIDENTIAL OFFICER. The Senator’s time has expired.

Mr. GRAHAM. Mr. President, I will ask unanimous consent to have printed in the RECORD, if I may, examples of the habeas petitions filed on behalf of detainees against our troops

There before the court, the material was ordered to be printed in the RECORD, as follows:

EXAMPLES OF Habeas Petitions Filed of BEHALF OF DETAINERS

1. Canadian detainee who threw a grenade that killed an Army Medic and who comes from family with longstanding al Qaeda ties moves for preliminary injunction forbidding interrogation of him or engaging in “cruel, inhuman, or degrading” treatment of him (n.b. this motion was denied by Judge Bates).
2. “J.A. Odd motion for dictionary Internet search security forms”—Kuwaiti detainees seek court orders that they be provided dictionaries in contravention of GTMO’s force protection policy and can use a lawyer to provide them with high-speed internet access at their locker base and be allowed to use classified DoD telecommunications facilities, all on the theory that otherwise their “right to counsel” is unduly burdened.
3. “Alaadeen—Motion for TRO re transfer”—Egyptian detainee who Combatant Status Review Tribunal adjudicated as no longer an enemy combatant, and who was therefore due to be released by the United States, files motion to block his repatriation to Egypt.
4. “Paracha Motion for US re Conditions”—Motion by high level al Qaeda detainee complaining about base security procedures, speed of mail delivery, and medical treatment, seeks that he be transferred to the “least onerous conditions” at GTMO and asking the court to order that GTMO allow him to keep any books and reading materials sent to him and to “report to the Court” on “his opportunities for exercise, communication, recreation, worship, etc.”
5. “Motion for PI re Medical Records”—Motion by detainee accusing military’s health professionals of “gross and intentional medical interference” in alleged violations of the 4th, 5th, 8th, and 14th Amendments, 2 USC 1981, and unspecified international agreements.
6. “Abdah—Emergency Motion re DVDs”—“emergency” motion seeking court order requiring GTMO to set aside its normal security policies and show detainees DVDs that are purportedly held by legal representatives.
7. “Petitioners’ Supp. Opposition”—Filing by detainee requesting that, as a condition to any further appeal of a GTMO appeal, the Court involve itself in his medical situation and set the stage for them to second-guess the provision of medical care and other conditions.
8. “Al Odah Supplement to PI Motion”—Motion by Kuwaiti detainees unsatisfied with the Koran they are provided as standard issue by GTMO, seeking court order that they be allowed to keep various other supplementary religious materials, such as a “tafsir” or 4-volume Koran with commentary, in their cells.

Mr. SPECTER. Mr. President, how much time do I have remaining?

Mr. WARNER. Mr. President, very definitely. As soon as all time on this amendment is allocated or yielded back, my intention is to move to a vote.

Mr. SPECTER. I thank my distinguished colleague.

Mr. President, I fully realize it is unpopular to speak for aliens, unpopular to speak on what might be interpreted to be in favor of enemy combatants, but that is not what this Senator is doing. What I am trying to establish is that the constitutional procedure to determine whether they are enemy combatants.

I submit that the materials produced on this floor and in the hearings of the Judiciary Committee show conclusively that the Combatant Status Review Tribunals do not have an adequate way of determining whether these individuals are enemy combatants. What we are doing is defending the jurisdiction of the Federal courts to maintain the rule of law. If the Federal courts are not open, if the Federal courts do not have jurisdiction to determine constitutionality, then how are we to determine what is constitutional?

My own background is one of a reverence for the law, a reverence for the independence of the judiciary, and a reverence for the rule of law as interpreted by our Constitution. If it hadn’t been for the Federal courts, the Supreme Court of the United States, we would not have seen the decision in Brown v. Board of Education in 1954. The legislative branches were too mired in politics, the executive was too mired in politics, and it was only the Supreme Court which could recognize the injustice of segregation and it led to that decision.

Similarly, it was the Federal courts which changed the criminal procedure in this country as a matter of basic fairness. Prior to the decision of the case of Brown v. Mississippi in 1963, the Federal courts did not establish standards for State criminal courts. It was determined as a matter of States rights that States could establish their own determinations. But in that case, the evidence was overwhelming about a constitutional violation. For the first time, the Supreme Court of the United States stepped in and said: States may not take an individual,
take him across State lines, have a feigned hanging, extract a confession, and use that to convict him. That was done by the Federal courts.

I had the occasion when I was in the Philadelphia district attorney’s office to work on a daily basis in a revolution in constitutional criminal procedure. I was litigating the issues in the criminal courts when Mapp v. Ohio came down, imposing the rule of exclusion of evidence in State courts if obtained in violation of the fourth amendment, and when Escobedo came down, limiting admissions and confessions if not in conformity with rules. Then Miranda v. Ohio came down. I found those decisions as a prosecutor very limiting and impeding. But the course of time has demonstrated that those decisions have improved the quality of justice in America. Chief Justice Rehnquist, a recognized conservative, sought to eliminate or limit Miranda when he came to the Supreme Court of the United States. Later in his career, he said in Miranda that the protections of those warnings were appropriate and were helpful in our society.

There are four fundamental, undeniable principles and facts involved in the issues we are debating today. The first undeniable principle is that a statute cannot overrule a Supreme Court decision on constitutional grounds, and a statute cannot contradict an explicit constitutional provision.

Point No. 1, the Constitution is explicit in the statement that habeas corpus may be suspended only with rebellion or invasion. Fact No. 3, uncontroverted. We do not have a rebellion or an invasion. Fact and principle No. 4, the Supreme Court says that aliens are covered by habeas corpus.

We have already had considerable exposition of the opinion by Justice O’Connor in the constitutional right of habeas corpus applies to individuals, which means citizens and aliens. The case of Rasul v. Bush, which explicitly involved an alien, says this in the opinion of Justice Stevens speaking for the Court:

Habeas corpus received explicit recognition in the Constitution, which forbids the suspension of—

Then Justice Stevens cites the constitutional provision.

The privilege of the writ of habeas corpus cannot be suspended unless in the cases of rebellion or invasion, and neither is present here. So you have the express holding of the Supreme Court in Rasul v. Bush that habeas corpus applies to aliens.

Justice Stevens went on to say that: Executive imprisonment has been considered oppressive and lawless since John, at Runnymede.

What this bill would do in striking habeas corpus and take a daily based society back some 900 years to King John at Runnymede which led to the adoption of the Magna Charta in 1215, which is the antecedent for habeas corpus and was the basis for including in the Constitution of the United States the principle that habeas corpus may not be suspended.

I believe it is unthinkable, out of the question, to enact Federal legislation today which denies habeas corpus—right which would take us back some 900 years and deny the fundamental principle of the Magna Charta imposed on King John at Runnymede.

Mr. President, how much time do I have?

The PRESIDING OFFICER. There is 3½ minutes remaining.

Mr. SPECTER. Mr. President, the argument has been made that there is an alternative procedure which passes constitutional muster. But the provisions of the statute which set up the Combatant Status Review Tribunal are conclusively insufficient on their face. The statute provides that the Combatant Status Review Tribunal may be reviewed by the Court of Appeals for the District of Columbia only to the extent that the ruling was consistent with the standards and procedures specified by the Secretary of Defense.

Now, to comply with the standards of procedures determined by the Secretary of Defense does not mean exclude on its face a factual determination as to what happens to the detainee.

When the Senator from South Carolina argues that judges should not make military decisions, I agree with him totally. But the converse of that is that judges should make judicial decisions, that process is decided. The converse, that judges should not make military decisions, is the principle that the Secretary of Defense ought not to decide what the constitutional standards are. The Secretary of Defense should not decide what the constitutional standards are. That is up to the Supreme Court of the United States, and the Supreme Court of the United States has decided that aliens are entitled to that explicit constitutional protection of habeas corpus.

The argument is made that the Secretary of Defense does not mean exclude on its face a factual determination as to what happens to the detainee.

A Kuwaiti detainee sought a court order that would provide dictionaries in contravention of Gitmo force protection policy and that their counsel have high-speed Internet access.

Another one applied for a motion that would allow them to change the base security procedures to allow speedy mail delivery medical treatment. He sought an order transferring him to the least onerous condition at Gitmo. He asked the court to allow him to keep any books and reading materials sent to him and report to the court over his opportunities for exercise, communication, recreation and worship.

We are not going to turn this war over to a series of court cases, where our troops are having to account for a bunch of junk by people trying to kill Americans. They will have their day in court, but they are not going to turn this whole war into a mockery with my vote.

I yield back.

Mr. WARNER. Mr. President, I believe there is no time remaining?

The PRESIDING OFFICER. There is no time remaining.
Mr. WARNER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The legislative clerk called the roll.

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

The PRESIDENT PRO Tempore (Mr. GRAHAM). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 51, as follows:

[Rollcall Vote No. 255 Leg.]

YEAS—48

Akaka  Feingold  Mikulski
Baucus  Feinstein  Murray
Bayh  Harkin  Nunn (FL)
Biden  Inouye  Obama
Bingaman  Jeffords  Pryor
Boxer  Johnson  Reid
Byrd  Kennedy  Reid
Cantwell  Kerry  Rockefeller
Carper  Kohl  Salazar
Chafee  Landrieu  Sarbanes
Clinton  Lautenberg  Schumer
Conrad  Leahy  Smith
Dayton  Levin  Specter
Dodd  Lieberman  Stabenow
Dorgan  Lincoln  Sununu
Durbin  Menendez  Wyden

NAYS—51

Alexander  DeMint  Lugar
Allard  DeWine  Martinez
Allen  Dole  McCain
Bennett  Domenici  McConnell
Bond  Enzi  Murkowski
Brownback  Enzi  Nelson (NE)
Bunning  Frist  Roberts
Burns  Graham  Sessions
Burk  Grassley  Sessions
Chambliss  Gregg  Shelby
Cochrane  Hagel  Stevens
Coleman  Hutchison  Thomas
Collins  Inouye  Thurmond
Cornyn  Isakson  Vitter
Craig  Kyl  Voinovich
Crapo  Leahy  Warner

NOT VOTING—1

Snowe

The amendment (No. 5087) was rejected.

Mr. WARNER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, the managers of this bill will have notified there are still three amendments remaining, one by Senator ROCKEFELLER, one by Senator KENNEDY, one from Senator BYRD. If I understand from my distinguished ranking member, we will proceed to the amendment of Senator ROCKEFELLER.

Mr. ROCKEFELLER. I have yielded 5 minutes to the Senator from Massachusetts, if that is okay, on a separate matter.

The PRESIDENT PRO Tempore. Without objection, it is so ordered.

Mr. WARNER. Mr. President, the ranking member is about to advise the Senator with regard to which amendment might be forthcoming.

Mr. LEVIN. If Senator ROCKEFELLER is ready, I understand there is a time agreement of 1 hour equally divided.

The PRESIDING OFFICER. That is correct.

Five minutes of the time of the Senator from West Virginia has been previously allocated to the Senator from Massachusetts, Mr. KERRY.

Mr. KERRY. If I could correct that, my time is now supposed to come from the Senator from West Virginia. I believe I have time already allocated, so it would be separate.

Mr. ROCKEFELLER. If the situation is it is deducted from this Senator’s time, I would consider it the same.

The PRESIDENT PRO Tempore. It is the understanding of the Chair that the Senator from Massachusetts, the unanimous consent was obtained at 10 o’clock with 5 minutes coming from the time of the Senator from West Virginia.

Mr. LEVIN. Mr. President, that unanimous consent request was apparently agreed to and is in place right now?

The PRESIDENT PRO Tempore. That is correct.

The Senator from West Virginia.

AMENDMENT NO. 5095

Mr. ROCKEFELLER. Mr. President, I send an amendment to the desk on behalf of myself, and Senators CLINTON, WYDEN, MIKULSKI, and FEINGOLD.

The PRESIDENT PRO Tempore. The clerk will report.

The Senator from West Virginia, [Mr. ROCKEFELLER], for himself, Ms. CLINTON, Mr. WYDEN, Ms. MIKULSKI, and Mr. FEINGOLD, proposes an amendment numbered 5095.

The amendment is as follows:

SEC. 11. OVERSIGHT OF CENTRAL INTELLIGENCE AGENCY REPORTS ON DETENTION AND INTERROGATION PROGRAM.—

(A) DIRECTOR OF CENTRAL INTELLIGENCE AGENCY REPORTS ON DETENTION AND INTERROGATION PROGRAM.—

(1) QUARTERLY REPORTS REQUIRED.—Not later than three months after the enactment of this Act, and every three months thereafter, the Director of the Central Intelligence Agency shall submit to the congressional intelligence committees a report on the detention and interrogation program.

(B) ELEMENTS.—In addition to any other matter necessary to keep the congressional intelligence committees fully and currently informed about transfers out of the detention program of the Central Intelligence Agency, each report under paragraph (1) shall include (but not be limited to), for the period covered by such report, the following:

(A) A description of each legal opinion of the Central Intelligence Agency, each report under this subsection;

(B) A description of the intelligence obtained as a result of the interrogation techniques utilized;

(C) A description of each interrogation technique authorized for use and guidelines on the use of each such technique;

(D) A description of each legal opinion of the Department of Justice and the General Counsel of the Central Intelligence Agency that is applicable to the detention and interrogation program;

(E) The actual use of interrogation techniques;

(F) A description of the intelligence obtained as a result of the interrogation techniques utilized;

(G) Any violation of law or abuse under the detention and interrogation program by Central Intelligence Agency personnel, other United States Government personnel or contractors, or anyone else associated with the program;

(H) An assessment of the effectiveness of the detention and interrogation program.

(I) An appendix containing all guidelines and legal opinions applicable to the detention and interrogation program, if not included in a previous report under this subsection.

(b) DIRECTOR OF CENTRAL INTELLIGENCE AGENCY REPORTS ON DISPOSITION OF DETAINEES.—

(1) QUARTERLY REPORTS REQUIRED.—Not later than three months after the enactment of this Act, and every three months thereafter, the Director of the Central Intelligence Agency shall submit to the congressional intelligence committees a report on the detainee who, during the preceding three months, were transferred out of the detention program of the Central Intelligence Agency.

(2) ELEMENTS.—In addition to any other matter necessary to keep the congressional intelligence committees fully and currently informed about transfers out of the detention program of the Central Intelligence Agency, each report under paragraph (1) shall include (but not be limited to), for the period covered by such report, the following:

(A) For each detainee who was transferred to the custody of the Department of Defense for prosecution before a military commission, the name of the detainee and a description of the activities that may be the subject of the prosecution;

(B) For each detainee who was transferred to the custody of the Department of Defense for any other purpose, the name of the detainee and the purpose of the transfer.

(C) For each detainee who was transferred to the custody of the Attorney General for prosecution in a United States district court, the name of the detainee and a description of the activities that may be the subject of the prosecution.

(D) For each detainee who was rendered or otherwise transferred to the custody of another nation—

(i) the name of the detainee and a description of the suspected terrorist activities of the detainee;

(ii) the rendition process, including the locations and custody from, through, and to which the detainee was rendered; and

(iii) the knowledge, participation, and approval of foreign governments in the rendition process.

(E) For each detainee who was rendered or otherwise transferred to the custody of another nation—

(i) the knowledge of the United States Government, if any, concerning the subsequent treatment of the detainee and the efforts made by the United States Government to obtain that information;

(ii) the requests made by United States intelligence agencies to foreign governments for information to be obtained from the detainee;
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(3) Law.—The term “law” includes the Constitution of the United States and any applicable treaty, statute, Executive order, or regulation.

Mr. ROCKEFELLER. Mr. President, for 4 years the Central Intelligence Agency’s program was kept from the full membership of the Senate and House Intelligence Committees.

For 4 years the CIA imprisoned and interrogated suspected terrorists at secret sites, a policy that prevented Congress from not only knowing about the program but from acting on it and regulating it.

For 4 years, the White House refused to brief Intelligence Committee members about the program’s legal business and operations, as is required by law.

For 4 years, the members of the Senate and the House Intelligence Committees, whose duty it is to authorize the Foreign Intelligence Surveillance Act program, were kept in the dark by an administration which ignored the legal requirement to keep the Congress fully and currently informed on all intelligence activities.

The amendment I have offered reverses the executive branch’s 4-year policy of indifference toward Congress.

My amendment corrects a serious omission in the pending bill: the need for Congress to reassert its fundamental right to understand the intelligence activities it authorizes and funds.

My amendment would subject the CIA’s detention and interrogation to meaningful congressional oversight for the first time, requiring a series of reviews and reports that will enable the Congress to evaluate the program’s scope and legality, as well as its effectiveness.

The amendment establishes this absent congressional oversight in four ways.

First, my amendment requires the Director of the CIA to provide a quarterly report to all members of the Intelligence Committees in both the House and the Senate detailing the detention facilities, how they are operated, and how they are used by the CIA.

It requires that the detainees held at these facilities be listed by name as well as the basis for their detention and the description of interrogation techniques used on them and the accompanying legal rationale.

This quarterly report also requires the recording of any violation or abuse under the CIA program as well as an assessment of the effectiveness of the detention and interrogation program.

This issue of the effectiveness of interrogation techniques is incredibly important and often overlooked as an aspect of the debate over the CIA program. Interrogations that coerce information can produce bad intelligence—not necessarily, but they can produce misleading intelligence—fabricated intelligence to get out of the treatment, information that can harm, not help, our efforts to locate and capture terrorists.

Second, my amendment would require the Director of the CIA to provide a quarterly report to all members of the Intelligence Committees on the disposition of each detainee transferred out of the CIA prisons, whether the detainee was transferred to the Department of Defense for prosecution before a military commissioner for further detention, or whether the detainee was transferred to the custody of the Attorney General to stand trial in civilian court, or whether the detainee was rendered or otherwise transferred to the custody of another nation.

It needs to be a comprehensive and accurate accounting of detainees held by the CIA. Congress has a responsibility to know who is held by the CIA, why they are held and for how long they are held.

The CIA detention and interrogation program cannot function as a black hole into which people disappear for years on end.

We have been told by CIA leaders that the agency does not want to be brought to the House and Senate and made to justify why they do not want to be the prison wardens for the United States Government. The goal of the CIA program should be to obtain, through lawful means, intelligence information that can identify other terrorist suspects or further terrorist attacks and then to bring to justice those who we believe to be criminals. This is the so-called endgame that everyone talks about.

If the CIA detention program is allowed to function as some sort of prisoner purgatory, we have then failed.

Also of concern to me is the lack of existing oversight in how the United States transports or renders detainees to other countries for imprisonment and interrogation.

The limited information the administration has shared with the Senate Intelligence Committee on the CIA’s rendition program does not by any means assure, at least this Senator, that the intelligence community has a program in place, so to speak, to assert what happens to these individuals when they are transferred to foreign custody, such as how they are treated, how they are interrogated, whether they divulge intelligence information of value, and whether this information is then provided to the CIA.

The CIA’s rendition program deserves far greater scrutiny and congressional oversight than it has been given to date.

The third way in which this amendment establishes a meaningful oversight of the CIA detention and interrogation program is to require the CIA Inspector General and the CIA general counsel each separately review the program on an annual basis to report their findings to the Intelligence Committees. These independent Agency reviews would assess the CIA’s compliance with any applicable law or regulation and the conduct of detention, interrogation and other activities as well as to report to Congress any violations of law or other abuse on the part of personnel involved in the program.
The annual reviews of the Inspector General and the general counsel also would evaluate the effectiveness of the detention and interrogation program; effectiveness at obtaining valuable and reliable intelligence.

Finally, my amendment requires the Attorney General to submit to Congress an unclassified certification whether or not each interrogation technique approved for use by the CIA complies with the United States Constitution and all applicable treaties, statutes, and regulations. I believe this is a very important certification.

All Americans, not just the Congress, need an ironclad assurance from our Nation’s top enforcement officer that the CIA program and the interrogation techniques it employs are lawful in all respects. The CIA officers in the field, I might say, above all, need this assurance.

I do not believe there is anything particularly controversial about this amendment: that Democrats and Republicans alike can embrace the need for restoring respect for the oversight role of the Intelligence Committees of the Congress over intelligence.

Only through reports that will be provided in this amendment will the Congress have the information it rightfully deserves to understand the CIA’s detention and interrogation program and determine whether the program is producing the unique intelligence that justifies its continued operation.

Only when the President works with the Congress are we able to craft intelligence programs that are legally sound and operationally effective. Only when the President works with the Congress can America stand strong in its fight against terrorism.

Intelligence gathering through interrogation is one of the most important tools we have in the war on terrorism. My amendment would provide the congressional oversight necessary to assure that our intelligence officers in the field have clear guidelines for effective and legal interrogation.

Before yielding the floor, I will address two other matters very briefly.

Those who have taken the time to read through the bill we are debating will find the word “coercion” repeatedly in the text of the legislation. Coercion is a fitting word when considering the Senate’s final vote was rushed into a bill with far-reaching legal and national security implications.

The final text of the underlying bill was negotiated by a handful of Republican Senators, many of whom I respect, and the White House. Democrats were not consulted. I was not consulted. This Senator was not consulted. Senator LEVIN was not consulted. We were kept out of these closed-door sessions.

I say that because the Senate Intelligence Committee is the only Senate committee responsible for authorizing CIA activities and the only committee briefed on classified details of the CIA’s detention and interrogation program. We were denied an opportunity to consider this bill, in fact, on sequential referral, which is our due.

In the mad dash to pass this bill before the Senate recesses, Senators are being given only five opportunities. I believe, to amend the bill, effectively preventing the Senate from trying to produce the best bill possible on the most important subject possible with respect to the gathering of intelligence. It does not have to be this way.

Finally, I am troubled by what I view as misleading statements about the current state of the CIA detention and interrogation program made by President Bush and senior administration officials. I say this for the record, and strongly.

The President and others have stated in recent weeks that the CIA program was halted as a result of the Supreme Court’s Hamdan decision on June 29, 2006. This assertion is false. Significant aspects of this program were halted following the passage of the Detainee Treatment Act in 2005, prohibiting cruel, inhuman, or degrading treatment, well before the Supreme Court decision.

The President has also been very forceful in his public statements asserting that the post-Hamdan application of Geneva Conventions Common Article 3 has created legal uncertainties about the CIA interrogation procedures that the Congress must resolve through legislation—only us—in order for the CIA program to continue. This assertion is misleading, and it is false as well.

Concerns over the legal exposure of CIA officers have existed since the program’s inception and did not begin with the Supreme Court’s Hamdan decision. These mischaracterizations illustrate to me why it is important for Congress to understand all facts about the CIA program.

Congress cannot and should not sit on the sidelines blithely ignorant about the details of a critical intelligence program that has been operating without meaningful congressional scrutiny for years.

I thank the Presiding Officer and yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts?

Mr. LEVIN. Mr. President, will the Senator from Massachusetts yield for a unanimous consent request?

Mr. KERRY. Yes.

Mr. LEVIN. Mr. President, I ask unanimous consent that I be added as a cosponsor to the Rockefeller amendment.

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

The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, the last week before we leave for a long recess has always been extraordinarily busy—particularly when an election is only 42 days away. But, sadly, this has become too much the way the Senate does business and often its most important business.

Today, the leadership of the Senate has decided that legislation that will impact America’s authority in the world merits only a few hours of debate. What is at stake is the authority that is essential to winning and to waging a legitimate and effective war on terror, and also one that is critical to the safety of American troops who may be elsewhere.

If, in a few hours, we squander that moral authority, blur lines that for decades have been absolute, then no speech, no rhetoric, and no promise can restore it.

Four years ago, we were in a similar situation. An Iraq war resolution was rushed through the Senate because of election-year politics—a political calendar, not a state’sman’s calendar. And 4 years later, the price we are paying is that the public is saying that in a President and an administration that we would trust.

Today, we face a different choice—to prevent an irreversible mistake, not to correct one. It is to stand and be counted. It is saying that in a President and an administration that we would trust.

Every Senator must ask him or herself: Does the bill before us treat America’s authority as a precious national asset that does not limit our power but magnifies it? Does it make clear that the U.S. Government recognizes beyond any doubt that the protections of the Geneva Conventions have to be applied to prisoners in order to comply with the law, restore our moral authority, and best protect American troops? Does it make clear that the United States of America does not engage in torture, period?

Despite protests to the contrary, I believe the answer is clearly no. I wish it were not so. I wish this compromise actually protected the integrity and letter and spirit of the Geneva Conventions. But it does not. In fact, I regret to say, despite the words and the protests to the contrary, this bill permits torture. This bill gives the President the discretion to interpret the meaning and application of the Geneva Conventions. It gives confusing definitions of “torture” and “cruel and inhuman treatment” that are inconsistent with the Detainee Treatment Act, which we passed 1 year ago, and inconsistent with the Army Field Manual. It provides exceptions for pain and suffering “incidental to lawful sanctions,” but it does not tell us what the lawful sanctions are.

So what are we voting for with this bill? We are voting to give the President the power to interpret the Geneva Conventions. We are voting to allow pain and suffering incident to some undefined lawful sanctions, unlawful.

This bill gives an administration that lobbied for torture exactly what it wanted. And the administration has
been telling people it gives them what they wanted. The only guarantee we have that these provisions will prohibit torture is the word of the President. Well, I wish I could say the word of the President were enough on an issue as fundamental as torture. But we have been down this road before.

The administration said there were weapons of mass destruction in Iraq, that Saddam Hussein had ties to al-Qaeda, that they would exhaust diplomacy before they went to war, that the insurgents was in its last throes. None of these statements were true.

The President said he agreed with Senator McCain’s antitorture provisions in the Detainee Treatment Act. Yet he issued a signing statement rezoning the right to ignore them. Are we supposed to trust that word?

He says flatly that “The United States does not torture,” but then he tries to push the Congress into allowing him to do exactly that. And even here, he is even on the side of allowing his interpretations of the Geneva Conventions to the Federal Register. Yet his Press Secretary announced that the administration may not need to comply with that requirement. And we are supposed to trust that?

Obviously, another significant problem with this bill is the unconstitutional limitation of the writ of habeas corpus. It is extraordinary to me that in 2 hours, and a few minutes of a vote, the Senate is going to wash away with something as specific as habeas corpus, of which the Constitution says: “[t]he privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.”

Well, we are not in a rebellion, nor are we being invaded. Thus, we do not have the constitutional power to suspend the writ. And I believe the Court will ultimately find it unconstitutional.

The United States needs to retain its moral authority to win the war on terror. We all want to win it. We all want to stop terrorist attacks. But we need to do it keeping faith with our values and the Constitution of the United States.

Mr. President, a veteran of the Iraq War whom I know, Paul Rieckhoff, wrote something the other day that I wish I could say the word of the President were enough on an issue as fundamental as torture. Paul wrote:

America’s moral integrity was the single most important weapon we possessed on the streets of Iraq. It saved innumerable lives, encouraged cooperation with our allies and deterred Iraqis from joining the growing insurgency. Now those days are over. America’s moral standing has eroded, thanks to its flawed rationale for war and scandals like Abu Ghraib, Guantánamo and Haditha. The last thing we need to add is a relic of Article 3 of the Geneva Conventions open to reinterpretation, as President Bush proposed to do and can still do under the compromise bill that emerged last week.

We each need to ask ourselves, in the rush to find a “compromise” we can all embrace, are we strengthening America’s moral authority or eroding it? Are we doing the right thing for the thousands of Paul Rieckhoffs in uniform today, or are we making their mission harder and even worse, putting them in greater danger if they are captured?

Paul writes eloquently:

If America continues to erode the meaning and spirit of the Geneva Conventions, the world will see the ground upon which to prosecute dictators and warlords. We will also become unable to protect our troops if they are perceived as being no more bound by the rule of law than dictators and warlords themselves. The question facing America is not whether to continue fighting our enemies in Iraq and beyond but how to do it best. My soldiers and I learned the hard way that policy at the point of a gun cannot, by itself, create democracy. The success of America’s fight against terrorism depends on the strength of its moral integrity than on troop numbers in Iraq or the flexibility of interrogation options.

I wish I could say this compromise serves America’s moral mission and protects our troops, but it doesn’t. No eloquence we can bring to this debate can change what this bill fails to do.

We have been told in press reports that it is a great compromise between the White House and my good friend, Senator McCain, and the Senate. We have been told that protects the “integrity and letter and spirit of the Geneva Conventions.”

I wish what we are being told is true. It is not. Nothing in the language of the bill supports this claim. Let me be clear about something—something that is seems few people are willing to say. This bill permits torture.

This bill gives the President the discretion to interpret and the application of the Geneva Conventions. This bill gives an administration that lobbied for torture exactly what it wanted.

We are supposed to believe that there is an effective check on this expanse of Presidential power with the requirement that the President’s interpretations be published in the Federal Register.

We shouldn’t kid ourselves. Let’s assume the President publishes his interpretation of the Conventions, it will mean nothing. The interpretation, like the language in this bill, is vague and inconclusive. A concerned Senator or Congresswoman calls for oversight. Unless he or she is in the majority at the time, there won’t be a hearing. Let’s assume they are in the majority and get a hearing. Do we really think a bill will get through both houses of Congress? A bill that directly contradicts a Presidential interpretation of a matter of national security? The only guarantee is that it won’t happen, but maybe it will. Assume it does. The bill has no effect until the President actually signs it. So, unless the President chooses to reverse himself, all the power remains in the President’s hands. And all the while, America’s moral authority is in tatters, American troops are in greater jeopardy, and the war on terror is set back.

Would the President ever grab power to be controlled by the courts? After all, it was the Supreme Court’s decision in Hamdan that invalidated the President’s last attempt to consolidate power and establish his own military tribunals. The problem now is that the bill strips the courts the power to hear such a case when it says “no person may invoke the Geneva Conventions . . . in any habeas or civil action.”

What are we left with? Unfettered Presidential power to interpret what—other than the statutorily proscribed “grave violations”—violates the Geneva Conventions. No wonder the President was so confident that his CIA program could continue as is. He gets to decide. And his administration have spent years now trying to blur.

Presidential discretion is not the only problem. The definition of what constitutes “grave breaches” of Article 3 is murky. Even if the definition is not consistent with either the Detainee Treatment Act or the recently revised Army Field Manual. These documents prohibit “cruel, inhumane, or degrading treatment” defined as the cruel, inhuman, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments.”

The definition is supported by an extensive body of case law evaluating what treatment is required by our constitutional standards of “dignity, civilization, humanity, decency, and fundamental fairness.” And, I think quite tellingly, it is substantially similar to the definition that my good friend, Senator McCain, chose to include in his bill. And there is simply no reason why the standard adopted by the Army Field Manual and the Detainee Treatment Act, which this Congress has already approved, should not apply for all interrogations in all circumstances.

In the bill before us, however, there is no reference to any constitutional standards. The prohibition of degrading conduct has been dropped. And, there are caveats allowing pain and suffering “incidental to lawful sanctions.” Nowhere does it tell us what “lawful sanctions” are.

So, what are we voting for with this bill? We are voting to give the President the power to interpret the Geneva Conventions. We are voting to allow pain and suffering incidental to some unspecified, lawful sanctions. The only guarantee we have that these provisions really will prohibit torture is the word of the President.

The word of the President. I wish I could say the words of the President were enough on an issue as fundamental as torture. Fifty years ago, President Kennedy sent his Secretary of State abroad on a crisis mission—to

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prove to our allies that Soviet missiles were being held in Cuba. The Secretary of State brought photos of the missiles. As he prepared to take them from his briefcase, our ally, a foreign head of state said, simply, “put them away. The President has pointed out, the President of the United States is good enough for me.”

We each wish we lived in times like those—perilous times, but times when America’s moral authority, our credibility, were unquestioned, unchallenged.

But the word of the President today is questioned. This administration said there were weapons of mass destruction in Iraq, that Saddam Hussein had ties to Al Qaeda, that they would exhaust diplomacy before we went to war, that the insurgency was in its last throes. None of these statements were true, and now we find our troops in the crossfire of civil war in Iraq with no end in sight. They keep saying the war in Iraq is making us safer, but our own intelligence agencies say it is only fanning the flames of jihad, creating a whole new generation of terrorists and putting our country at greater risk of terrorist attack. It is no wonder then that we are hesitant to blindly accept the word of the President on this question today.

The President said he agreed with Senator MCCAIN’S antitorture provisions in the Detainee Treatment Act. Yet, he issued a signing statement regarding the torture provisions, and says that the real problem is that abusive practices were used. And additionally, it would do more harm than good when it inevitably became known that abusive practices were used. We can’t afford to go down that road.

Neither justice nor good intelligence comes at the hands of torture. In fact, both depend on the rule of law. It would be wrong—tragically wrong—to authorize the President to require our sons and daughters to use torture for something that won’t even work.

Another significant problem with this bill is the unconstitutional elimination of the writ of habeas corpus. No less a conservative than Ken Starr got it right: Congress should act cautiously to strike a balance between the need to detain enemy combatants during the present conflict and the need to honor the historic privilege of the writ of habeas corpus.

Ken Starr says, “Congress should act cautiously.” How cautiously are we acting when we eliminate any right to challenge an enemy combatant’s indefinite detention? When we eliminate habeas corpus rights for aliens detained inside or outside the United States so long as the Government believes they are enemy combatants? When we not only do this for future cases but apply it to hundreds of cases currently making their way through our court system?

The Constitution is very specific when it comes to habeas corpus. It says, “[t]he Privilege of the writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.” We are not in a case of rebellion, nor are we being invaded. Thus, we really don’t have the constitutional power to suspend the Great Writ. And, even if we did, the Constitution allows only for the writ to be suspended. It does not allow the writ to be permanently taken away. Yet, this is exactly what the bill does. It takes the writ away—forever—from anyone the administration determines is an “enemy combatant,” even if they are lawfully on U.S. soil and otherwise entitled to full constitutional protections, and even if they have absolutely no other recourse.

Think of what this means. This bill is giving the administration the power to pick up any non-U.S. citizen inside or outside of the United States, determine in their sole and unreviewable discretion that he is an unlawful combatant, and hold him in jail—be it Guantanamo Bay or a secret CIA prison—indefinately. And additionally, the United States Review Tribunal determines that person is an enemy combatant, that is the end of the story—even if the determination is based on evidence that even a military commission would not be allowed to consider because it is so unreliable. That person would never get the chance to challenge his detention; to prove that he is not, in fact, an enemy combatant.

We are not talking about whether detainees can file a habeas suit because they don’t have access to the Internet or cable television. We are talking about something so much more fundamental: whether people can be locked up forever without the chance to prove that the Government was wrong in detaining them. Allow this to become the policy of the United States and just imagine the difficulty our law enforcement and our Government will have arranging the release of an American citizen the next time our citizens are detained in other countries.

Mr. President, we all want to stop terrorist attacks. We all want to effect more effective means of intelligence as humanly possible. We all want to bring those who do attack us to justice. But, we weaken—not strengthen—our ability to do that when we undermine our own Constitution; when we throw away our system of checks and balances; when we hold detainees indefinitely without trial by destroying the writ of habeas corpus; and when we permit torture. We endanger our moral authority at our great peril. I oppose this legislation because it will make us less safe and less secure. I urge my colleagues to do the same.

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

Mr. WARNER. Mr. President, I yield 5 minutes to our colleague from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 5 minutes.

Mr. BOND. Mr. President, I thank the manager of the bill for yielding me 5 minutes.

There is no question that this bill, the military commissions bill, is absolutely essential if we are going to continue to have good intelligence and move forward with the program of interrogating and containing detainees in an appropriate manner that will maintain our standing, our honor, and puts tighter control on the United States than other countries do on their unlawful combatants.

I respectfully suggest that the Rockefeller amendment is not only unnecessary, but the fact is, the unintended effect is it would complicate the passage of this important military commissions bill. It would either delay or perhaps even derail this bill, which is absolutely essential if we are going to contain our CIA agents back in the field doing appropriately limited interrogation techniques to find out what attacks are planned against the United States.

As the President has pointed out, the interrogation is the thing that has uncovered plots that could have been very serious. We need to have our CIA professionals under carefully controlled moral authority, but torture does not work. As LTG John Kimmons, the Army’s deputy chief of staff for intelligence, put it: No good intelligence is going to come from abusive practices. I think history tells us that. I think the empirical evidence of the last five years, hard years, tell us that. Any piece of intelligence which is obtained under duress, through the use of abusive techniques, would be unreliable. And additionally, it would do more harm than good when it inevitably became known that abusive practices were used. We can’t afford to go down that road.

That was wrong, profoundly wrong. The President’s experts have told him that not only does torture put our troops at risk and undermine our intelligence, put it: that not only does torture put our troops at risk and undermine our moral authority, but torture does not work. As LTG John Kimmons, the Army’s deputy chief of staff for intelligence, put it: No good intelligence is going to come from abusive practices. I think history tells us that. I think the empirical evidence of the last five years, hard years, tell us that. Any piece of intelligence which is obtained under duress, through the use of abusive techniques, would be unreliable. And additionally, it would do more harm than good when it inevitably became known that abusive practices were used. We can’t afford to go down that road.

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As to the question about whether this is about oversight, well, our committee should be all about oversight. We need to be looking at these things. We need to be looking every day at what the agencies are doing. What the intelligence community is doing. But as I have said here on the floor before, unfortunately, for the last 4 years, we have been looking in the rearview mirror. It has been our fault, not the fault of the agencies, that we have not done enough oversight because when we spent 2 years in the Phase I investigation, we found out the intelligence was flawed because our intelligence assets were cut 20 percent in the 1990s. We had no human intel on the ground.

But, most of all, there was no pressure, no coercion by administration officials of the intelligence agencies, and there was no misrepresentation of the findings of the intelligence community—same intelligence that we in the Congress relied upon in supporting the decision to go to war against the hotbed of terrorism, Iraq.

Now, I do not take issue with that first phase of the Rockefeller amendment. It has cost us another 2 years, and we have not learned anything more than we learned in the first phase and with the WMD and the 9/11 Commission.

If we would stop looking back to looking out the rearview mirror, we would stop doing precisely this kind of interrogations in the oversight committee. And I take no issue with many of the questions the Senator from West Virginia raises. As a matter of fact, I probably would have some of my own. But I do question the need for a very lengthy, detailed report every 3 months. If you read all of the requirements, this is a paperwork nightmare. They are going to have to comply with all of them. One of them, like Khalid Shaikh Mohammed, we have no way to hold him, no way to ask him the questions and get the information we need, because the uncertainty has brought the program to a close. It is vitally important to our security, and unfortunately the Rockefeller amendment would imperil it.

General Hayden promised to come before the committee, and I look forward, in our oversight responsibilities, to hearing how they are implementing this act.

I thank the Chair.

Mr. ROCKEFELLER. That is simply not true.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, at this juncture, I ask unanimous consent that we step off of this amendment and allow the distinguished Senator from New Mexico to speak for up to 10 minutes regarding the SPECTER amendment.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 10 minutes.

Mr. DOMENICI. Mr. President, I will speak on this vital subject. I rise to speak in support of the Military Commission Act of 2006.

First off, we must ask ourselves a very simple question: Do we believe the United States must have a terrorist attack prevention program?

I submit that the answer is a clear and resounding yes. I believe the American people expect us to have a strong terrorist attack prevention program and that they believe if we don't, we are derelict in our duty. They know that we are at risk, that this is a war, and that there are many people out there who are waiting to do damage and harm to our people. To have anything less than a terrorist prevention program, which is the best we can put together, is simply not acceptable. We cannot support any legislation that would prevent the CIA from protecting America and its citizens.

The legislation before us allows the Federal Government to continue using the most effective tools we have in our war on terror—the CIA terrorist interrogation program.

The global war on terror is a new type of war against a new type of enemy, and we must use every tool at our disposal to fight that war—not just some tools, but all of them. These tools include interrogation programs that help us prevent new terrorist attacks.

The CIA interrogation program is such a program. It is helping us deny terrorists the capabilities to attack America. It has allowed us to foil at least eight terrorist plots, including plans to attack west coast targets with airplanes, blow up tall buildings across our Nation, use commercial airliners to attack Heathrow Airport, and bomb our U.S. Marine base in Africa.

Mr. President, clearly, this program is valuable. Clearly, this program is necessary in the global war on terror. We must take legislative action that strengthens this program to continue. The CIA must be allowed to continue going after those who have information about planned terrorist attacks against our Nation and our friends. The CIA must be allowed to go after those who are in combat with us.

I applaud the White House, the Senate leadership, and the Armed Services Committee for working together to craft a bill that, No. 1, authorizes military tribunals and establishes the trial by a military tribunal; No. 2, clarifies the standards the CIA must comply with in conducting terrorist interrogations. We must keep the bill in its current form, ending off amendments that would put the CIA’s program in jeopardy.

Regarding the Byrd sunset amendment, we don’t know when the global war on terror will end, so we cannot arbitrarily tie one hand behind the CIA’s back by suddenly terminating the interrogation program with a sunset provision.

We have already voted on the habeas corpus amendment, and I am glad we did not add habeas provisions to this bill. We cannot give terrorists the right to use commercial airliners to attack Heathrow Airport and bomb our U.S. Marine base in Africa. Examples of the frivolous petitions that have been filed include an al-Qaida terrorist complaining
about base security procedures, speed of mail delivery, and medical treatment; as well as a detainee asking that normal security policies be set aside so that he could be shown DVDs that are alleged to be family videos. Such petitions are necessary.

The underlying bill allows appeals of judgments rendered by military commissions to the District of Columbia Circuit Court of Appeals—a very significant court. These are appeals of judgments rendered by the military commissions. That is a totally appropriate way to do it. When I finally understood that, I could not believe that some would come to the floor and argue as they did. My colleagues have said we are abandoning habeas corpus; we have never done anything like this before. They act as if we have decided to be totally unjust and unfair when, as a matter of fact, this is about as fair a treatment as you could give terrorist suspects and still have an orderly process.

Throughout the fall while Memorial Day was closed, the administration has informed me that the vice president wants to destroy the CIA program to continue. I seek that information as a critical piece of information. The answer to that question is no, then we are fools. The answer to that question must be yes. If the answer to that question is no, then we are fools. Giving terrorist suspects access to the court known as the second highest court in America provides an adequate opportunity for review of detainees' cases.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I yield to the chairman of the Intelligence Committee, the Senator from Kansas, Mr. Roberts.

Mr. ROBERTS. Mr. President, I thank the chairman of the Armed Services Committee, who is an ex officio member of my committee, and does extremely valuable work as we try to work in a commensurate fashion on national security.

I rise in opposition to the amendment being offered by my good friend from West Virginia, Senator Rockefeller.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, I thank the chairman of the Armed Services Committee, who is an ex officio member of my committee, and does extremely valuable work as we try to work in a commensurate fashion on national security.

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The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, I thank the chairman of the Armed Services Committee, who is an ex officio member of my committee, and does extremely valuable work as we try to work in a commensurate fashion on national security.

I rise in opposition to the amendment being offered by my good friend from West Virginia, Senator Rockefeller.
briefings, if people want to basically get questions, if people need to get more briefs, if the vice chairman and ranking member of the Intelligence Committee, if people have questions, if people need to get more briefs, if people want to basically get into some—say "some" because I think some of the questions are not reasonable—say they have questions about this, all they have to do is ask. I can guarantee as chairman that those in charge of this particular program at the CIA will be there and have been there.

The inspector general of the CIA has briefed the committee—I am not going to get into the details of that briefing—both the vice chair and myself in regards to any question on what has happened, the situation generally alleged or otherwise with the interrogation and detention program, and we get an update as to where are those cases. If there was egregious behavior, what is happening to those people? Are they being prosecuted? And the answer to that is yes.

All we have to do is ask. As I look at this, I must say in scope, it is unprecedented. They ask questions that I think, quite frankly, it is going to be a rather unique situation when we have a lot of work to do. We have briefings, as the Senator from Virginia indicated, every week. We have one this afternoon—it is terribly important—requests by members. Yet, I think we are going to have to hire more people to do this if, in fact, we do this, and I think the CIA will as well.

I am not too sure, again, if I were an individual interrogator that I would want to stay in the business.

Mr. WARNER. Mr. President, in thank you. Another observation of all of us have had the responsibility of being a chairman and ranking member is know it is sometimes difficult to get witnesses to appear, but I found thus far, certainly with General Hayden—and I have known him for a number of years—I have a high degree of confidence in his ability to administer the Agency, the CIA. It is of great importance to this Senator because it is in Virginia, if I may say. I view the agency and each and every one of its employees as someone for whom I have an obligation to speak on their behalf when necessary.

I find that General Hayden is very forthcoming, very responsive. When the Chair and ranking member desire to see him, my understanding is he makes himself available. It is not as if we have to wait until a report comes, read it, and then decide to bring him down. The Chair, in consultation with the ranking member—he and his team are quite responsive; am I not correct in that?

Mr. ROCKEFELLER. Mr. President, I thank you. Just call them in; call in the head of the CIA and have them be responsive to the committee because they don’t want to be responsive to the committee, because they are directed not...
to be responsive to the committee, I am assuming, by the Director of the National Intelligence Office. We don't have oversight on these programs we are talking about. Anybody who suggests otherwise is wrong. I heard the last question to the committee say it is going to slow down the passage of the bill. Now, that is brilliant. We could have started this in a timely fashion, and all the House has to do is accept the Senate amendment, if one were to have been brought forth, if it had been done. What is in that argument?
The Senator from Missouri has stated—and this is very important for my colleagues to hear—that the amendment would require public disclosure of the CIA's interrogation. That is categorically false—wrong. It is a dangerous thing to say. It is an irresponsible thing to say on the floor of the Senate. The reports on the CIA program would be classified and they would be sent to the congressional Intelligence Committees and them alone. So we need to get that straight right now.
The information that is provided in the reports is made sound like we are rewriting the Constitution 17 times in a hot summer's several months. This is information which has not been provided to us for 4 years, what these reports would be asked to do, and then they could taper off if we found a responsive intelligence community. But we have not been provided these in 4 years. Am I meant to be worried about that? Is it the job of the Senate Intelligence Committee and the House to do oversight? Yes, it is, and we can't because they won't have the information. The chairman can say that he and I are briefed, but that is seldom and on very discrete matters that don't cover this bill. So the Senator from Virginia, whom I obviously greatly respect, suggests this amendment is a substitute for oversight. This amendment, to the contrary, is going to allow us to do oversight, and that is, my point. It is our responsibility under the law to do it. We cannot do it. We are not allowed to do it. We are systematically prevented from getting information from the people who are required by law to give it to us. That is an important, not being transparent, and that is called us not knowing what is going on and thus not being able to help with the war on terror. I thank the Chair. The PRESIDING OFFICER. Who yields time? Mr. ROCKEFELLER. Mr. President, I yield 4 minutes to the Senator from Michigan.
The PRESIDING OFFICER. The Senator from Michigan is recognized for 4 minutes.
Mr. LEVIN. I thank the Chair, and I thank my friend from West Virginia.
Mr. President, this amendment just simply requires regular reports on interrogation and interrogation programs. It will give us access to legal opinions. It is essential that this amendment be adopted.
I just want to ask my good friend from West Virginia if he heard the chairman say that all we have to do is ask for reports and we will get them. Did I hear that right?
Mr. ROCKEFELLER. The Senator from Michigan heard that correctly.
Mr. LEVIN. Well, Mr. President, just one example here. I have been trying to get a memo called the second Bybee memo now for 2½ years. I haven't even asked twice. I have probably asked a dozen times for the Bybee memo, and my good friend, the chairman of the Armed Services Committee, has asked for the Bybee memo, without any luck. So the idea that all we have to do is ask is just simply wrong.
Chairman WARNER asked on May 13, 2004—2004—that all legal reviews and related documentation concerning approval of interrogation techniques be provided to the committee. It has never been responded to.
On April 12, 2005, I submitted questions to John Negroponte, who was the nominee for the Director of National Intelligence, requesting to see if the intelligence community has copies of the so-called Bybee memo. In April of 2005, I asked General Hayden, on his nomination to be Deputy National Intelligence Director, to see if he could determine if the intelligence community has a copy of the second Bybee memo and to provide it to the committee.
Then on the intelligence budget hearing, April 28, 2005, I asked Secretary Cambone: Can you get us a copy of the second Bybee memo? This has to do with what interrogation techniques are legal. This is written by the Office of Legal Counsel, this memo. He says he will get a reply to me. That was April 2005.
In May of 2005, I wrote the Director of Central Intelligence, Porter Goss, requesting the second Bybee memo. Then I get a letter from the Director of Congressional Affairs, Joe Whipple, saying the memorandum can only be released by the Department of Justice. So in July, I wrote the Department of Justice, the Attorney General: Can we get a copy of the second Bybee memo? Letter after letter after letter.
Then there is a hearing by the Senate Intelligence Committee, July 2005. This is a hearing on his nomination to be general counsel in the Office of the Director of National Intelligence. I asked Mr. Powell: Can you provide us for the record a copy of that second Bybee memo? That decision, we are told a week later, is not a decision he can make: that is within the Department of Justice's purview, and on it goes.
Another year of stonewalling, of denial, of coverup by the Department of Justice. We haven't asked for a memo which is critically important, according to press reports and according now also to the acknowledgment by the Department of Justice. It sets a legal framework for the interrogation of detainees, and the Senate can't get a copy.
Apparently, two Members of the Senate, the chairman and vice chairman of the Intelligence Committee, have seen this memo. That is it. Members of the Intelligence Committee can't get it. Members of the Armed Services Committee can't get it. All we have to do is ask? How many times do we have to ask before we get documents?
There are 70 documents we still can't get from the Department of Defense related to the Petraeus shop. All we have to do is ask? There are documents we have asked of the Intelligence Committee for years beyond the Bybee amendment without any response.
The PRESIDING OFFICER. The Senator from Virginia is recognized.
Mr. WARNER. Mr. President, in consultation with my distinguished ranking member, I would like to inquire if there is further debate desired on this amendment. If not, my understanding is the leadership will select a time—joint leadership—for votes on this amendment and others at some point this afternoon and with that full expectation that this matter will be voted on final passage.
So at this time, could I inquire as to the time for the Senator from Virginia and the Senator from Michigan?
Mr. LEVIN. Mr. President, may I inquire of the Senator from West Virginia as to whether, if he has completed debate on this amendment, he would be willing to yield the balance of his time to the Senator from Michigan for use on the bill?
Mr. ROCKEFELLER. I would, with the exception of 1 minute to summarize just before we vote on it, so you can have the balance of the time.
Mr. LEVIN. Mr. President, I ask unanimous consent that the balance of the time of the Senator from West Virginia be allotted to the Senator from Michigan for use or allocation on the bill itself.
The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.
Mr. WARNER. Mr. President, I would make a similar request that the balance of my time be allocated to me for use on the bill.
The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.
Mr. WARNER. Therefore, I believe all time has been yielded back on both sides, and we can prepare the floor now for the receiving of an amendment
from the distinguished Senator from Massachusetts.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I believe my amendment No. 5088 is at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk reads as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 5088.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

AMENDMENT NO. 5088

(Purpose: To provide for the protection of United States persons in the implementation of treaty obligations)

On page 83, between lines 8 and 9, insert the following:

(2) PROTECTION OF UNITED STATES PERSONS.—The Secretary of State shall notify other parties to the Geneva Conventions that—

(A) the United States has historically interpreted the law of war and the Geneva Conventions, including in particular common Article 3, to prohibit a wide variety of cruel, inhuman, and degrading treatment of members of the United States Armed Forces and United States citizens;

(B) in the following previous armed conflicts, the United States Government has prosecuted persons for engaging in cruel, inhuman, and degrading treatment, including the use of waterboarding techniques, stress positions, including prolonged standing, the use of extreme temperatures, beatings, sleep deprivation, and other similar acts;

(C) this Act and the amendments made by this Act preserve the capacity of the United States to prosecute nationals of enemy powers for engaging in acts against members of the United States Armed Forces and United States citizens that have been prosecuted by the United States as war crimes in the past; and

(D) should any United States person to whom the Geneva Conventions apply be subjected to any of the following acts, the United States would consider such act to constitute a punishable offense under common Article 3 and would act accordingly.

Such acts, each of which is prohibited by the Army Field Manual include forcing the person to stand or sit in a sexual act, or post in a sexual manner; applying beatings, electric shocks, burns, or other forms of physical pain to the person; waterboarding the person; using dogs on the person; inducing hypothermia or heat injury in the person; conducting a mock execution of the person; and depriving the person of necessary food, water, or medical care.

Mr. KENNEDY. Mr. President, I understand we have an hour evenly divided on the amendment.

The PRESIDING OFFICER. Under the agreement, the Senator has 25 minutes and I ask for its immediate consideration.

Mr. KENNEDY. Mr. President, I yield myself 10 minutes on the amendment.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I have here before me the Department of Army regulations and rules for interrogating prisoners. In the document I have here, which is the official military document to define permissible interrogation techniques, it outlines certain interrogations which are prohibited and it lists these: forcing the person to stand, performing sexual acts, or pose in a sexual manner; applying beatings, electric shock, burns, or other forms of physical pain; waterboarding; using dogs; inducing hypothermia or heat injury; conducting mock executions; depriving the person of necessary food, water, and medical care.

These techniques are prohibited by the Department of Defense. Those techniques are prohibited from being used against adversaries in any kind of a conflict, blatant violations the require to do that; those we capture, and what I would consider to be torture. Certainly the Army and Department of Defense have effectively found that out that these techniques do not work. They have been banned and there has not been any objection to it.

What does our amendment say? Well, it says we in the United States are not going to tolerate those techniques if any of our military personnel are captured. But not all of the people who are representing the United States in the war on terror are wearing a uniform. For example, we have SEALs, we have some special operations, special forces, we have CIA agents. We have contractors and aid workers. We have more people around the world looking out for our security interests than any other country in the world.

What does this amendment say? Well, if our military personnel are not going to do that those we capture, we are saying to countries around the world: You cannot do this against any American personnel you are going to capture in this war on terror, or in any other conflict. This amendment is about protecting Americans that are involved in the war on terror. It is saying to foreign countries: If you use any of these techniques, the United States will say this is a war crime and you will be held accountable. How can anybody be against that? This administration has sown confusion about our commitments to the Geneva Conventions, so that protection does not exist now. That protection does not exist now, Restoring that protection is basically what this amendment is all about.

I am not going to take much time, but I just want to remind our colleagues about how we viewed some of these techniques in our conflicts in previous wars.

On the issue of waterboarding, the United States charged Yukio Asano, a Japanese officer on May 1 to 28, 1947, with war crimes. The offenses were recounted by John Henry Burton, a civilian victim:

After taking me down into the hallway they laid me out on a stretcher and strapped me on. The stretcher was then stood on end with my head almost touching the floor and my feet in the air. They then began pouring water over my face and at times it was impossible for me to breathe without sucking in water. The torture continued and continued. Yukio Asano was sentenced to fifteen years of hard labor. We punished people with 15 years of hard labor when waterboarding was used against Americans in World War II.

What about the case of Matsukichi Muta, another Japanese officer, tried on April 15 to 25, 1947, for, among other charges, causing a prisoner to receive shocks of electricity and beating prisoners. Shocks of electricity. He was sentenced to death by hanging. Death by hanging. We could go on.

In another case prosecuted from March 3 to April 30, 1948—the Japanese officer was sentenced for exposing prisoners to extreme cold temperatures, forcing them to spend long periods of time in the nude, making the prisoner stand in the cold for long periods of time; hour after hour; pouring water on him and inducing hypothermia. This officer received 15 years of hard labor.

Fifteen years.

We didn’t tolerate those abuses, and we should not tolerate those abuses imposed on any Americans who are going to be taken in the war on terror. That is what this amendment is all about. It will tell the Secretary of State to notify every signatory from 194 nations, that if any of their governments are going to use any of these techniques on Americans that are taken in this war on terror, that we will consider this a violation of the Geneva Conventions and that they will be accountable.

This is to protect our servicemen and servicewomen, those who are in the intelligence agencies, those performing dangerous duties, those who are not wearing the uniform in their battle against terror. We are putting everyone on notice.

We did not make up this list. All these techniques are taken right out of the Defense Department’s code of conduct for interrogations.

I would take more time and review for my colleagues, where we tried individuals in World War II and sentenced individuals who performed these kinds of abuses on Americans to long periods of incarceration and even to death.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, at this moment I suggest the absence of a quorum, with the time not chargeable to either side.

Mr. KENNEDY addressed the Chair.

Mr. WARNER. I beg your pardon. I thought my colleague yielded the floor.

Mr. KENNEDY. I did. If you want to yield your time, I wouldn’t object to it, but I object if you are calling for equal time.

Mr. WARNER. No, I said charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered.
The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. KENNEDY. Mr. President, do I have additional time? How much time have I used?

The PRESIDING OFFICER. There are 18 minutes 20 seconds remaining on the time of the Senator.

Mr. KENNEDY. I would like to yield myself 5 more minutes.

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

Mr. KENNEDY. Mr. President, it will be quite surprising to me if the Senate is not prepared to accept this amendment. I look back at the time that we actually passed the War Crimes Act of 1996. It is an amendment that was offered by Walter B. Jones, a Republican Congressman. It was offered in response to our Vietnam experience, where American servicemen—including one of our own colleagues and dear friends, Senator McCain—had been subjected to torture during that period of time.

When this matter came up, both in the House of Representatives and the Senate of the United States, it passed in the Senate of the United States without objection. It passed the House by voice vote. This is what it says, under War Crimes, chapter 118:

Whoever, whether inside or outside the United States, commits a war crime...

And it talks about the circumstances—

...as a member of the armed forces of the United States or a national United States. It is in Title 18 so those out of uniform are subject to the code.

So that is the CIA. Those are the SEALS. Those are the people involved now in our war on terror. Then it continues along to define a war crime as a violation of Common Article 3 of the Geneva Conventions. That provision protects against cruel treatment and torture. It prevents the taking of hostages. It prohibits outrages upon personal dignity. Those are effectively the kinds of protections that act affords.

We heard a great deal from the administration, from the President, that he wanted specificity in the War Crimes Act and the Geneva Conventions in terms of what is permitted and what is not permitted. He felt those terms are too vague. Well, on that he is right. There is confusion in the world. There is confusion in the world about our commitment to the Geneva Conventions and what we think it means. There is a good deal of confusion in the world in the wake of what happened at Abu Ghraib. There we found out that these harsh interrogation techniques had been used. Sure, we have had 10 different reviews of what happened over there. What we always find out is it is the lower lights, the corporals and the sergeants who are the ones being tried and convicted. Those in the higher ranks are not. No one has stood up and said clearly, those are violations of the Geneva Conventions. So we have Abu Ghraib, which all of us remember. And it has caused confusion.

We have extraordinary abuses in Guantanamo—the conduct of General Miller, who brought these harsh interrogation techniques to Guantanamo at Secretary Rumsfeld’s direction. When the Armed Services Committee questioned his whole standard of conduct, he announced his early retirement to avoid coming up and facing the music. This caused confusion about our commitments to the Geneva Conventions.

Then you had the Bybee memorandum, which was effectively the rule of law for some 2 years, which permitted torture, any kind of torture, and it said that any individual who is going to be involved in torturing would be absolved from any kind of criminality if the purpose of their abusing any individual was to obtain information and there was no specific intent to have bodily harm for that individual. This caused confusion about our commitments to the Geneva Conventions.

That was the Bybee amendment. Finally, Alberto Gonzales had to repudiate that or he never would have been approved as the Attorney General of the United States. That is the record in the Judiciary Committee. I sat through those hearings. I heard the Attorney General say they were repudiating the Bybee memorandum on that.

This is against a considerable background of where we have seen some extraordinary abuses.

Then we have tried to clarify our commitment. We have the action in the Senate of the United States, by a vote of 90 to 9, accepting Senator McCain’s Amendment to prohibit cruel, inhumane, and degrading treatment and torture. It is written down by the Department of Defense. This amendment says if a foreign country is going to practice these kinds of behavior against an American national who is out there in the war on terror and is being picked up, we are going to consider this to be a war crime. This is about protecting Americans.

I don’t understand the hesitancy on the other side, not being willing to accept this amendment. Let’s go on the record about what we say is absolutely prohibited and what we know has been favored techniques that have been used by our adversaries at other times. Let’s go on the record for clarity.

Looking back in history, at the end of World War II and otherwise, we are all familiar with the different examples where these techniques—frighteningly familiar to the series of techniques used in Iraq and Guantanamo—and are often frequently used against Americans.

I am reminded—I gave illustrations: electric shocks, waterboarding, hypothermia, heat injury. We all remember the 52 American hostages who were held in the U.S. Embassy in Iran. They were subjected to the mock executions.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. KENNEDY. Mr. President, I hope we could accept this amendment. I yield myself 1 more minute.

It basically incorporates what the Senate did several years ago with war crimes. It is trying to respond to what the President says. He wants specificity about what is going to be prohibited and what will not be.

The Department of Defense has found these areas to be off limits for the military. All we are saying is if other countries are going to do that to Americans, they are going to be held accountable.

This is about protecting Americans. That is the least we ought to be able to do. Those who are sacrificing their lives in very difficult circumstances.

I yield the floor.

Mr. LEVIN. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

Mrs. CLINTON. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mrs. CLINTON. Mr. President, the Senate is currently debating a bill on how we treat detainees in our custody, and, more broadly, on how we treat the principles on which our Nation was founded.

The implications are far reaching for our national security interests abroad; the rights of Americans at home, our reputation in the world; and the safety of our troops.

The threat posed by the evil and nihilistic movement that has spawned terrorist networks is real and very serious. We must do all we can to defeat the enemy with all the tools in our arsenal and every resource at our disposal. All of us are dedicated to defeating this enemy.

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The challenge before us on this bill, in the final days of session before the November election, is to rise above partisanship and find a solution that serves our national security interests. I fear that there are those who place a strategy for winning elections ahead of strategy for winning the war on terrorism.

Democrats and Republicans alike believe that terrorists must be caught,
captured, and sentenced. I believe that there can be no mercy for those who perpetrated 9/11 and other crimes against humanity. But in the process of accomplishing that I believe we must hold on to our values and set an example we can point to with pride, not shame. Those captured are living nowhere—they are in jail now—so we should follow the duty given us by the Supreme Court and carefully craft the right piece of legislation to try them. The President acted without authority and I believe that his actions should be reversed. I am handing this President just the right amount of authority to get the job done and no more.

During the Revolutionary War, between the signing of the Declaration of Independence, which set our founding ideals to paper, and the writing of our Constitution, which fortified those ideals under the rule of law, our values—our beliefs as Americans—were already being tested.

We were at war and victory was hardly assured, in fact the situation was closer to the opposite. New York City and Long Island had been captured. General George Washington and the Continental Army retreated across New Jersey to Pennsylvania, suffering tremendous casualties and a body blow to the cause of American independence.

It was at this time, among these soldiers at this moment of defeat and despair, that Thomas Paine would write, “These are the times that try men’s souls.” Soon afterward, Washington led his soldiers across the Delaware River and onto victory in the Battle of Trenton. There he captured nearly 1,000 foreign mercenaries and he faced a crucial choice.

How would General Washington treat these men? The British had already committed atrocities against Americans, including torture. As David Hackett Fischer describes in his Pulitzer Prize-winning book, “Washington’s Crossing,” thousands of American prisoners of war were “treated with extreme cruelty by British captains.” There are accounts of injured soldiers who surrendered being murdered instead of quartered, countless Americans dying in prison hulks in New York harbor, starvation and other acts of inhumanity perpetrated against American confined to churches in New York City.

Can you imagine.

The light of our ideals shone dimly in those early dark days, years from an end to the conflict, years before our improbable triumph and the birth of our democracy.

General Washington wasn’t that far from where the Continental Congress had met and signed the Declaration of Independence. But it is easy to imagine how far that must have seemed. General Washington announced a decision unique in human history, sending the following order for handling prisoners: “Treat them with humanity, and let them have no reason to complain of our Copying the brutal example of the British Army in their treatment of our unfortunate brethren.”

Therefore, George Washington, our commander-in-chief before he was our President, laid down the indelible marker of our Nation’s values even as the Founding Father of a Nation—and his courageous act reminds us that America was born out of faith in certain basic principles. In fact, it is these principles that made and still make our country exceptional and allow us to serve as an example. We are not bound together as a nation by bloodlines. We are not bound by ancient history; our Nation is a new nation. Above all, we are bound by our values.

George Washington understood that how you treat enemy combatants can reverberate around the world. We must convict and punish the guilty in a way that reinforces their guilt before the world and does not undermine our constitutional values.

There is another element to this. I can’t go back in history and read General Washington’s mind, of course, but one purpose of the rule of law is to organize a society’s response to violence. Allowing coercion, coercive treatment, and inhumane actions toward prisoners not only violates the fundamental rule of law and the institutionalization of justice, but it helps to radicalize those who are tortured.

Zawahiri, bin Laden’s second in command, the architect of many of the attacks on our country, throughout Europe and the world, has said repeatedly that it is his experience that torture of innocents is central to radicalization. Zawahiri has said over and over again that being tortured is at the root of jihad; the experience of being tortured has a long history of serving radicalized populations; abusing prisoners is a prime cause of radicalization.

For the safety of our soldiers and the reputation of our Nation, it is far more important to take the time to do this job right than to do it quickly and badly. There is no reason we need to rush to judgment. This broken process and the blatant politics behind it will cost our Nation dearly. I fear also that it will cost our men and women in uniform. The Supreme Court laid out what it expected from us.

I ask unanimous consent to have printed in the RECORD letters and statements from former military leaders, from 9/11 families, from the religious community, retired judges, legal scholars, and law professors. All of them have registered their concerns with this bill and the possible impact on our effort to win the war against terrorism.

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

HON. JOHN WARNER, Chairman, Hon. Carl Levin, Ranking Member, Senate Armed Services Committee, U.S. Senate, Washington, DC.

Dear Chairman Warner and Senator Levin: As retired military leaders of the U.S. Armed Forces and former officials of the Department of Defense, we write to express our profound concern about a key provision of S. 3861, the Military Commissions Act of 2006, which was enacted into law last week by the President. We believe that the language that would redefine Common Article 3 of the Geneva Conventions as equivalent to the standards enshrined in the Geneva Conventions and the War Crimes Act violates the core principles of the Geneva Conventions and poses a grave threat to American service-members, now and in future wars.

We supported your efforts last year to clarify that all detainees in U.S. custody must be treated humanely and that the U.S. is bound to the Geneva Conventions, particularly the Geneva Conventions. We believe that allowing torture and cruel treatment is not consistent with our values as a Nation, and it is our duty now to be careful in our effort to win the war against terrorism.

While we are in the midst of a war against terrorism, we believe that the United States must remain true to the values it holds most dear. In this case, those values include our commitment to abide by the Geneva Conventions and the War Crimes Act, and to treat prisoners in accordance with those standards. We believe that these standards are important because they reflect our commitment to respect the rule of law and to protect the innocent.

We are particularly concerned about the language that would redefine Common Article 3 of the Geneva Conventions. This provision would allow the U.S. to treat prisoners in a way that is inconsistent with the principles enshrined in the Geneva Conventions. We believe that this would undermine our commitment to the rule of law and to protecting the innocent.

We urge you to reject this effort. Common Article 3 of the Geneva Conventions provides the minimum standards for humane treatment and fair justice that apply to anyone captured in armed conflict. These standards were specifically designed to ensure that those who are captured are treated with respect and dignity, and that they are afforded the protections afforded to all persons in armed conflict.

We believe that allowing torture and cruel treatment is not consistent with our values as a Nation, and it is our duty now to be careful in our effort to win the war against terrorism. We urge you to reject this effort.

Sincerely,

Chairman Warner and Senator Levin: As retired military leaders of the U.S. Armed Forces and former officials of the Department of Defense, we write to express our profound concern about a key provision of S. 3861, the Military Commissions Act of 2006, which was enacted into law last week by the President. We believe that the language that would redefine Common Article 3 of the Geneva Conventions as equivalent to the standards enshrined in the Geneva Conventions and the War Crimes Act violates the core principles of the Geneva Conventions and poses a grave threat to American service-members, now and in future wars.

We supported your efforts last year to clarify that all detainees in U.S. custody must be treated humanely and that the U.S. is bound to the Geneva Conventions, particularly the Geneva Conventions. We believe that allowing torture and cruel treatment is not consistent with our values as a Nation, and it is our duty now to be careful in our effort to win the war against terrorism.

While we are in the midst of a war against terrorism, we believe that the United States must remain true to the values it holds most dear. In this case, those values include our commitment to abide by the Geneva Conventions and the War Crimes Act, and to treat prisoners in accordance with those standards. We believe that these standards are important because they reflect our commitment to respect the rule of law and to protect the innocent.

We are particularly concerned about the language that would redefine Common Article 3 of the Geneva Conventions. This provision would allow the U.S. to treat prisoners in a way that is inconsistent with the principles enshrined in the Geneva Conventions. We believe that this would undermine our commitment to the rule of law and to protecting the innocent.

We urge you to reject this effort. Common Article 3 of the Geneva Conventions provides the minimum standards for humane treatment and fair justice that apply to anyone captured in armed conflict. These standards were specifically designed to ensure that those who are captured are treated with respect and dignity, and that they are afforded the protections afforded to all persons in armed conflict.

We believe that allowing torture and cruel treatment is not consistent with our values as a Nation, and it is our duty now to be careful in our effort to win the war against terrorism. We urge you to reject this effort.

Sincerely,

Chairman Warner and Senator Levin: As retired military leaders of the U.S. Armed Forces and former officials of the Department of Defense, we write to express our profound concern about a key provision of S. 3861, the Military Commissions Act of 2006, which was enacted into law last week by the President. We believe that the language that would redefine Common Article 3 of the Geneva Conventions as equivalent to the standards enshrined in the Geneva Conventions and the War Crimes Act violates the core principles of the Geneva Conventions and poses a grave threat to American service-members, now and in future wars.

We supported your efforts last year to clarify that all detainees in U.S. custody must be treated humanely and that the U.S. is bound to the Geneva Conventions, particularly the Geneva Conventions. We believe that allowing torture and cruel treatment is not consistent with our values as a Nation, and it is our duty now to be careful in our effort to win the war against terrorism.

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We believe that allowing torture and cruel treatment is not consistent with our values as a Nation, and it is our duty now to be careful in our effort to win the war against terrorism. We urge you to reject this effort.

Sincerely,
long with unclear and unlawful guidance on detainee treatment, and some have been left to take the blame when things went wrong. The guidance is now clear. But that clarity will be short-lived if the approach taken by Administration’s bill prevails. In contrast to the Pentagon’s new rules regarding evidence, the bill would limit our definition of Common Article 3’s terms by introducing a flexible, sliding scale that might allow certain coercive interrogation techniques to be deemed permissible, while forbidding them under others. This would replace an absolute standard—Common Article 3—with a relative one. To do so will weaken the Geneva. Moreover, were we to take this step, we would be viewed by the rest of the world as having formally renounced the clear strictures of the Geneva Conventions. Our enemies would be encouraged to interpret the Conventions in their own way as well, placing our troops in jeopardy in future conflicts. And American moral authority in the war would be further damaged.

All of this is unnecessary. As the senior serving Judge Advocates General recently testified, our armed forces have trained to Common Article 3 and can live within its requirements while waging the war on terror effectively.

As the United States has greater exposure militarily than any other nation, we have long emphasized the reciprocal nature of the Geneva Conventions. That is why we believe—and the United States has always asserted—that a broad interpretation of Common Article 3 is vital to the safety of U.S. personnel. But the Administration’s bill would put us on the opposite side of that argument. We urge you to consider the impact that redefining Common Article 3 would have on Americans who put their lives at risk in defense of our Nation. We believe their interests, and their safety and protection should be your highest priority as you address this issue.

With respect,

General John Shalikashvili, USA (Ret.); General Joseph Hoar, USMC (Ret.); Admiral Gregory G. Johnson, USA (Ret.); Admiral Jay L. Johnson, USA (Ret.); General Samuel J. Locklear, USA (Ret.); General Merrill A. McPeak, USAF (Ret.); Admiral Stansfield Turner, USA (Ret.); General William G.T. Tuttle, Jr., USA (Ret.); General James A. Jones, USA (Ret.); General David S. Robinson, USA (Ret.); Lieutenant General Paul E. Funk, USA (Ret.); Lieutenant General Robert G. Gard Jr., USA (Ret.); Lieutenant General John F. Campbell, USA (Ret.); Lieutenant General Lee F. Gunn, USA (Ret.); Lieutenant General Arlen D. Jameson, USA (Ret.); Lieutenant General Claudia J. Kennedy, USA (Ret.); Lieutenant General Donald L. Kerrick, USA (Ret.); Vice Admiral Albert H. Keating, Jr., USN (Ret.); Lieutenant General Michael C. Root, USA (Ret.); Vice Admiral Jack Shanahan, USA (Ret.); Lieutenant General Harry E. Lyon, USA (Ret.); Lieutenant General Paul K. Van Riper, USMC (Ret.); Major General John Batiste, USA (Ret.); Major General Eugene Fox, USA (Ret.); Major General John J. Lejeune, USA (Ret.); Rear Admiral Don Gutner, USN (Ret.); Major General Fred E. Haynes, USMC (Ret.); Rear Admiral John C. Ransom, USA (Ret.); Rear Admiral Lawrence M. Wilkerson, USA (Ret.); Brigadier General Richard D. Hing, USA (Ret.); Brigadier General Charles J. H. Upham, USA (Ret.); Brigadier General Anthony Verrengia, USAF (Ret.); Brigadier General Stephen N. Xenakis, USA (Ret.); Ambassador Pete Peterson, USA (Ret.); Brigadier General Susan Lawrence, USAF (Ret.); Honorable Richard Danzig; Honorable William H. Taft IV; Frank Kendall III; Esq.

THE AMERICAN JEWISH COMMITTEE,


DEAR SENATOR: We write on behalf of the American Jewish Committee, a national human relations organization with over 150,000 members and supporters represented by 32 regional chapters, to urge you to oppose the compromise Military Commissions Act of 2006, S. 3930, and to vote against attaching the bill to H.R. 6061, absent correcting amendments.

To be sure, we oppose the compromise that produced the current bill resulted in the welcome addition of provisions making clear that the humane treatment standards of Common Article 3 of the Geneva Conventions should be the floor for the treatment of detainees as well as specifying that serious violations are war crimes. Nevertheless, S. 3930 is unacceptable in its present form for the following reasons:

The bill arguably opens the door to the use of interrogation techniques prohibited by the Geneva Conventions. It permits the prosecution to introduce evidence obtained through coercive means, i.e., the prosecution) to show that the accused is not given access to the facts under the rules and tools necessary to protect us from the serious threat that terrorists continue to pose to all Americans, and, indeed, the civilized world. But the homeland can be secured in a fashion consistent with the values of due process and fair treatment for which Americans have fought and for which they continue to fight. We urge you to revisit and revise this legislation so that it accords with our highest principles.

Respectfully,

Robert Goodkind, President;
Richard T. Poltin, Legislative Director

THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK,


Dear Majority Leader Frist:

I am writing on behalf of the American Jewish Committee to urge you to oppose the Administration’s proposed Military Commissions Act of 2006 (the “Act”). The Association is an independent non-governmental organization of more than 22,000 lawyers, judges, law professors, and government officials. Founded in 1870, the Association has a long history of dedication to human rights and the rule of law. As the Association explains in a particularly deep historical engagement with the law of armed conflict and military justice.

The Association has now reviewed the amended version of the Senate Detainee Treatment Act on December 31, 2005. Hearing the concerns of our members who presently or may in the future serve their nation in the uniformed services or in the intelligence services.

The compromise clarifies many of the most important failings of the prior draft by bringing the military commissions process more in line with the Uniform Code of Military Justice and the Manual on Courts-Martial. The Association shares the view presented by the service members who opposes generalizing the existing court-martial system, which in many respects is exemplary, provides an appropriate process for trial of traditional battlefield detaineess as well as the control structures of terrorist organizations engaged in combat with the United States, and that the commissions should closely follow the law and practice. The changes preferred here in that regard are therefore welcome.

However, the bill gives the military judge discretion to admit coerced testimony if, as will presumably be the case, the coercion occurred before the enactment of the Detainee Treatment Act on December 31, 2005. The Association has now reviewed the compromise agreement between Senators Warner, McCain and Graham, on one hand, and the Administration, on the other. The compromise addresses two distinct aspects of the Administration’s proposal: first, the operation of the military commissions, which have been envisioned, and second, aspects of United States enforcement of its treaty obligations under the Geneva Conventions. We will address our concerns in this order, keeping in mind particularly the position of our members who may be called upon to serve as defense counsel, prosecutors and judges in the military commissions, as well as the evidence of our members who presently or may in the future serve their nation in the uniformed services or in the intelligence services.

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However, the bill gives the military judge discretion to admit coerced testimony if, as will presumably be the case, the coercion occurred before the enactment of the Detainee Treatment Act on December 31, 2005. Hearing the concerns of our members who presently or may in the future serve their nation in the uniformed services or in the intelligence services.

The Association has now reviewed the amended version of the Senate Detainee Treatment Act on December 31, 2005. Hearing the concerns of our members who presently or may in the future serve their nation in the uniformed services or in the intelligence services.
standing, and hypothermia or cold cell if indeed they are not precluded as outright torture. However, the language of the current draft would create a crime defined in terms differing from the international "anti-torture" treaty, thereby introducing ambiguity where none previously existed.

This ambiguity produces risks for United States personnel. It suggests to those who employ techniques such as waterboarding, long-standing time and hypothermia on Americans cannot be charged for war crimes. Moreover, Common Article 3 contains important protections for United States personnel who do not qualify for prisoner of war treatment under the Third Geneva Convention. This may include reconnaissance personnel, special forces operatives, private military contractors and intelligence services personnel. The language of Common Article 3 standards thus directly imperils the safety of United States personnel in future conflicts. We strongly share the perspective of five former chairs of the Joint Chiefs of Staff in their appeal to Congress to avoid any erosion of these protections.

The draft also seeks to strike the ability of hundreds of detainees held as “enemy combatants” to seek review of their cases through petitions of habeas corpus. The Greater Good view has been viewed as one of the most fundamental rights under our legal system. It is an essential guarantor of justice in difficult cases, particularly in a conflict situation where the rights of indefinite duration, possibly for generations. Holding individuals without according them any right to seek review of their status or conditions of detention raises fundamental questions of justice. This concern is compounded by the draft’s provision that the Geneva Convention is unenforceable, thus leaving detainees without recourse should they receive cruel and inhumane treatment.

On July 19, 2006, Michael Mernin, the chair of our Committee on Military Affairs and Justice, testified before the Senate Armed Services Committee concerning this legislative initiative. He appealed at that time for caution and proper deliberation in the legislative process and urged that a commission of military law experts be convened to advise Congress on the weighty issues presented. The current project confronts us with flaws which are likely to prove embarrassing to the United States if it is enacted. We therefore strongly urge that the matter be handled with the utmost care and concern before it is acted upon and that the advice of prominent military justice and international humanitarian law experts be secured and followed in the bill’s finalization.

Very truly yours,
BARRY KAMINS
President.

SEPTMBER 14, 2006.
DEAR SENATOR: As members of families who lost loved ones in the 9/11 attacks, we are writing to respectfully inform you of the provisions of the Administration’s proposed Military Commissions Act of 2006.

There are those who would like to portray the legislation as a choice between supporting the rights of terrorists and keeping the United States safe. We reject this argument. We believe that adopting policies against terrorism which honor our values and our international commitments makes us safer and is the smarter strategy.

We do not believe that the United States should decriminalize cruel and inhuman interrogations. The Geneva Convention rules against brutal interrogations have long had the support of U.S. military leaders as well as the American public, and should protect our citizens. We should not be sending a message to the world that we now believe that torture and cruel treatment is sometimes acceptable. Moreover, the Administration’s own representatives at the Pentagon have strongly affirmed in just the last few days that torture does not produce reliable information. No legislation should have your support if it is at all ambiguous on this issue.

Nor do we believe that it is in the interest of the United States to create a system of military courts that violate basic notions of due process and lack truly independent judicial oversight. Not only does violating our most cherished values and send the wrong message to the world, it also runs the risk that the system will again be struck down in eventual review.

We believe that we must have policies that reflect what is best in the United States rather than compromising our values out of fear. As John McCain has said, “This is about who the terrorists are, this is about who we are.” We urge you to reject the Administration’s ill-conceived proposals which will make us both less safe and less proud as a nation.

Sincerely,
Marilynn Rosenthal, Nicholas H. Ruth, Adele Wolfe, Nissa Youngren, Terry Greene, John LeBlanc, Andrea LeBlanc, Ryan Amundson, Barry Amundson, Colleen Kelly, Terry Kay Glick, Gretchen Rockefield Harris, David Portorti, Donna Marsh O’Connor, Kjell Youngren, Blake Allison, Tina Kminek, Jennifer Glick, Lorie Van Aukun, Mandy Kleinberg, Anthony Aversano, Paula Shapiro, Valerie Lucznikowska, Lloyd Glick.

James and Patricia Perry, Anna M. Mukherjee, Marlon Kminek, Allissa Rosenbaum-Torres, Kelly Campbell, Bruce Wallace, John M. Leinung, Kristen Breitweiser, Patricia Casazza, Michael Casazza, Loretta J. Filipov, Joan Glick.

SEPTEMBER 20, 2006.
Re Evangelical religious leaders speak out on cruel, inhuman, degrading treatment.

DEAR MEMBERS OF CONGRESS: The Congress faces a defining question of morality in the coming hours: whether it is ever right for Americans to inflict cruel and degrading treatment on suspected terrorist detainees. We are writing to express our strong support for the approach taken on this issue by Senators McCain, Warner and Graham and a strong, bipartisan majority of the Senate Armed Services Committee.

We read with dismay—some from FBI agents—that prisoners have been stripped naked, sexually humiliated, chained to the floor, and left to defecate on themselves. These and other practices like “waterboarding” (in which a detainee is made to feel as if he is being drowned) may or may not meet the technical definition of torture, but most experts agree that these practices are cruel, inhuman, and degrading.

Today, the question before the Congress is whether it will support Sen. McCain’s efforts to make it clear to the world that the United States has outlawed such abuse or support an Administration proposal which creates grave ambiguity about whether prisoners can legally be abused in secret prisons without Red Cross access.

Evangelicals have often supported the Administration on public policy questions because we believe that the biblical use of legal, nonviolent and proportional expediency, however compelling, should determine fundamental moral issues of marriage, abortion, or bioethics. Instead, these questions should be decided by the revealed moral absolutes, granted by a righteous and loving Creator.

As applied to issues of cruel, inhuman and degrading treatment, the practical application of this moral outlook is clear: even if it is expedient to inflict cruelty and degrading treatment, it is not right to do so. Experts seem very much divided on this question, yet the moral teachings of Christ, the Torah and the Prophets do not permit it for those who bear the Imago Dei.

It will not do to say that the President’s policy on the treatment of detainees already rules out torture because there are serious ambiguities that still remain—ambiguities that carry heavy moral implications and that are intended to preserve options that some would rather not publicly defend.

The terrorist attacks of September 11 were one of the most heinous acts ever visited upon this nation. The Commander in Chief (the President) has the authority and the practical tools and policies to fight a committed, well-resourced, and immoral terrorist threat. At the same time, the President must also defend the deepest and best values of our moral tradition.

As Christians from the evangelical tradition, we support Senator McCain and his colleagues in their effort to defend the permanent moral values of this nation which are embodied in international law and our domestic statutes. The United States Congress must send an unequivocal message that cruel, inhuman and degrading treatment has no place in our society and violates our most cherished moral convictions.

Sincerely,
Rev. Dr. David Gushee, Union University, Jackson, TN.
Gary Haugen, president, International Justice Mission.
Rev. Dr. Roberta Hestenes, teaching pastor, Community Presbyterian Church, Danville, CA.
Frederica Mathewes-Green, author and commentator.
Dr. Brian D. McLaren, founder, Cedar Ridge Community Church, Spencerville, MD.
Dr. Richard Mouw, president, Fuller Theological Seminary.
Dr. Glen Stassen, professor of Christian Ethics, Fuller Theological Seminary.
Dr. Nicholas Wolterstorff, professor of Philosophical Theology, Yale University.

MRS. CLINTON. Now these values—George Washington’s values, the values of our founding—are at stake. We are debating far-reaching legislation that will have fundamental effects on our Nation’s conduct in the world and the rights of Americans here at home. And we are debating it too hastily in a debate too steeped in electoral politics.

The Senate, under the authority of the Republican majority and with the blessing and encouragement of the Bush-Cheney administration, is doing a great disservice to our history, our principles, our citizens, and our soldiers.

The deliberative process is being broken under the pressure of partisanship and the policy that results is a travesty.

 Fellow Senators, the process for drafting this legislation to correct the administration’s missteps has not been fitted the “world’s greatest deliberative body.” Legitimate, serious concerns raised by our senior military and intelligence community have been marginalized, difficult issues glossed over, and real solutions that should have been shut off in order to pass a misconceived bill before Senators return home to campaign for reelection.
For the safety of our soldiers and the reputation of our Nation, it is far more important to take the time to do the job right than to do it quickly and badly. There is no reason other than partisanship for not continuing deliberation to find a solution that works to achieve a true consensus based on American values.

In the last several days, the bill has undergone countless changes—all for the worse—and differs significantly from what was brokered between the Bush administration and a few Senate Republicans last week.

We cannot have a serious debate over a bill that has been hastily written with little opportunity for serious review. To vote on a proposal that evolved by the hour, on an issue that is so important, is an insult to the American people, to the Senate, to our troops, and to our Nation.

Let’s pass a bill that’s been honestly written, with little stress and under threat. We must show that we uphold our most profound values.

We need a set of rules that will stand up to judicial scrutiny. We in this Chamber know that a hastily written bill driven by partisanship will not withstand the scrutiny of judicial oversight.

We need a set of rules that will protect our values, protect our security, and protect our troops. We need a set of rules that recognizes how serious and dangerous the threat is, and enhances, not undermines, our chances to deter and defeat our enemies.

Our Supreme Court in its Hamdan v. Rumsfeld ruled that the Bush administration’s previous military commission system had failed to follow the Constitution and the law in its treatment of detainees.

As this Supreme Court noted, the Bush administration has been operating under a system that undermines our Nation’s commitment to the rule of law.

The question before us is whether this Congress will follow the decision of the Supreme Court and create a better system that withstands judicial examination—or attempt to confound that decision, a strategy destined to fail again.

The bill before us allows the admission into evidence of statements derived through cruel, inhuman and degrading interrogation. That sets a dangerous precedent that will endanger our own men and women in uniform overseas. Will our enemies be less likely to surrender? Will informants be less likely to come forward? Will our soldiers be more likely to face torture if captured? Will and degrade we obtain be less reliable? These are the questions we should be asking. And based on what we know about warfare from listening to those who have fought for our country, the answers do not support this bill.

Let’s pass a bill that is bipartisan and open to debate how much torture we are willing to allow a discredited policy ruled by the Bush administration and a few Senators to continue. This broken process and its blatant disrespect for our values, will we still be able to lead the world in service to our interests and our security interests in the world are vital. And nothing should be of greater concern to those of us in this chamber than the young men and women who are, right now, wearing our Nation’s uniform, serving in dangerous territory.

After all, our standing, our morality, our beliefs are tested in this Chamber and their impact and their consequences are tested under fire, they are tested when American lives are on the line, they are tested when our strength and ideals are questioned by our friends and by our enemies.

When our soldiers face an enemy, when our soldiers are in danger, that is when our decisions in this Chamber will be felt. Will that enemy surrender? Or will he continue to fight, with fear for how he might be treated and with hope directed not at us, but at the patriot wearing our uniform whose life is on the line?

When our Nation seeks to lead the world in service to our interests and our values, will we still be able to lead by example?

Our values, our history, our interests, and our military and intelligence experts all point to one answer. Vladimir Bukovsky, who spent nearly 12 years in Soviet prisons, labor camps, and psychiatric institutions for non-violent, human rights activities had this to say. ‘If Vice President Cheney is right, that some “cruel, inhumane, or degrading” treatment of captives is a necessary tool for winning the war on terrorism, then the war is lost already.’

Let’s pass a bill that is honest and openly debated, not hastily cobbled together.

Let’s pass a bill that unites us, not divides us.

Let’s pass a bill that strengthens our moral standing in the world, that declares clearly that we will not retreat from our values before the terrorists.
We will not give up who we are. We will not be shaken by fear and intimidation. We will not give one inch to the evil and nihilistic extremists who have set their sights on our way of life.

I say with confidence and without fear that we are the United States of America, and that we stand now and forever for our enduring values to people around the world, to our friends, to our enemies, to anyone and everyone.

Before George Washington crossed the Delaware, before he could achieve that long-needed victory, before the tide would turn, before he ordered that prisoners be treated humanely, he ordered that his soldiers read Thomas Paine’s writing. He ordered that they read about the ideals for which they would fight, the principles at stake, the importance of this American project.

Now we find ourselves at a moment when we feel threatened, when the world seems to have grown more dangerous, when our Nation needs to ready itself for a long and difficult struggle against a new and dangerous enemy that means us great harm.

Just as Washington faced a hard choice up to us to decide how we wage this struggle and not up to the fear fostered by terrorists. We decide.

This is a moment where we need to remind ourselves of the confidence, fearlessness, and bravery of George Washington—then we will know that we cannot, we must not, subvert our ideals—we can and must use them to win.

Finally, we have a choice before us. I hope we make the right choice. I fear that we will not; that we will be once again back in the Supreme Court, and we will be once again held up to the world as failing our own high standards.

When our soldiers face an enemy, when our soldiers are in danger, will that enemy surrender if he thinks he will be tortured? Will he continue to fight? How will our men and women be treated?

I hope we both pass the right kind of legislation and understand that it may very well determine whether we win this war against terror and protect or troops who are valiantly fighting for us.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that it not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. LEVIN. Mr. President, the Kennedy amendment would require the Secretary of State to notify other countries around the world that seven specific categories of actions, each of which is specifically prohibited by the Army Field Manual, are punishable offenses under common Article 3 of the Geneva Conventions that would be applicable to any United States person. Those seven categories of actions are: (1) Forcing the detainee to be naked, perform sexual acts, or pose in a sexual manner; (2) applying beatings electric shock, burns, or other forms of physical pain; (3) “waterboarding”; (4) using military working dogs; (5) inducing hypothermia or heat injury; (6) conducting mock executions; and (7) depriving the detainee of necessary food, water, or medical care.

I listened very carefully to what my colleague from Virginia, the Chairman of the Armed Services Committee, had to say about this amendment. He stated:

Now Senator Kennedy’s amendment, depending on how, and I’m on the opinion that this chamber will reject it, I don’t want that rejection to be misconstrued by the world in any way as asserting that the practices listed in the amendment are consistent with the Geneva Convention or that they could legitimately be employed against our troops or anyone else. . . . We must not leave that impression as a consequence of the decisions soon to be made by way of vote on the Kennedy amendment. The types of conduct described in this amendment, in my opinion, are in the category of grave breaches of Common Article Three of the Geneva Convention. These are clearly prohibited by the bill.

I am in complete agreement with Senator WARNER that each of these practices is a grave breach of Common Article 3. I agree that these practices are unlawful today and that they will continue to be unlawful if this bill is enacted into law.

However, I am concerned that the administration may have muddied the record on these issues through its unwillingness to clearly state what practices are permitted, and what practices are prohibited, under Common Article 3. While I reach the same conclusion as Senator WARNER as to the unlawfulness of the practices listed in the Kennedy amendment, I am afraid that others around the world may not.

We agree that these practices are prohibited by Common Article 3. We need to send a clear message to the world that this is the case, so that the rest of the world will abide by the same standard. That is why I strongly support the Kennedy amendment.

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Ten minutes remain under the Senator’s control.

Mr. KENNEDY. Mr. President, I yield myself 4 minutes.

Mr. President, I want to point out why this is so necessary and so essential.

In reviewing the underlying legislation, if you look under the provisions dealing with definitions on page 70 and 71, and then read on, you will find that it is difficult to read that without having a sense of the kind of vagueness which I think surrounds prohibited interrogation techniques. It talks about substantive risks and common physical pain. But the statute does not have specifics to define the areas which are prohibited. The techniques in my amendment are the same ones the Department of the Army and, to my best knowledge, our colleague and friend from Arizona has identified. Voting for my amendment would provide those specifics.

The President has asked for specificity, but he has refused to say whether Common Article 3 would prohibit these kinds of acts. That has left the world doubting our commitment to Common Article 3 and has endangered our people around the globe—those who are working for the United States in the war on terror. The administration’s obfuscation comes at a great risk.

This amendment provides the clarity and sends a message to the world that these techniques are prohibited. They are prohibited from our military bringing them to bear on any country.

We interpret the legislation so that any country in the world that has signed on to the Geneva Conventions, any of those countries that are going to practice activities prohibited by the field manual, that I consider to be torture, are going to be held by the United States interrogating committing a war crime. This is important. It is essential. It is necessary.

The general concept was improved without objection a number of years ago in the wake of the Vietnam situation, regarding the definition of war crimes. We ought to restate and recommit ourselves to protecting Americans involved in the war on terror and ensure they will not be subject to these activities.

At the present time, without this amendment, it will be left open. If we accept this amendment, it would make it clear it is prohibited. That is what we should do.

I withhold the remainder of my time.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Virginia.

Mr. WARNER. I suggest the absence of a quorum and that it not be chargeable to either side.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, I ask unanimous consent the pending amendment be laid aside so that I may offer an amendment.

Mr. WARNER. Mr. President, reserving the right to object, and I will not object, I would simply like to make it clear in laying aside the amendment...
the times remaining under the control of the Senator from Virginia and the Senator from Michigan remain in place. We will now, to accommodate our distinguished senior colleague, go off of the Kennedy amendment and proceed to the Byrd amendment.

The PRESIDING OFFICER. That would be the case.

Without objection, it is so ordered.

The Senator from West Virginia is recognized.

Mr. President, I shall offer an amendment today that provides a 5-year sunset to any Presidential authorization of any military commission enacted under the legislation currently being debated. This amendment would offer Congress a mechanism to retain its power of oversight and as an important check on future executive actions.

As I stand here now, Members are readying themselves to beat a path home to their States—I understand that—so they may get in their final politicking. Unfortunately, though, in the feverish climate of a looming election, the most important business of the Senate may indeed be left to the Members. I have seen that happen over the years. This is no surprise. We have seen before the fever of politics can undermine the serious business of the Congress once November and the winds of November draw near. We have seen the mistakes that can come when Congress rushes to legislate without the benefit of thorough vetting by committees, without adequate debate, without the opportunity to offer amendments.

Likewise, when legislation is pushed as a means of political showboating—we all know what that is—instead of by a diligent commitment to our constitutional duties, the results can be disastrous. In fact, there have been various proposals to bring congressional oversight to the military tribunals which were first authorized in November, 2001. Senators SPECTER, LEAHY, and DURBIN were instrumental in attempting to push back against unilateral action by the President to establish these commissions. These attempts were to reassert the power of the Congress—yes, the constitutional duty embodied in Article I of this Constitution that is vested in the Congress and in the Congress alone, to make our country’s laws and specifically to make rules concerning captures on land and water.

Let me say that again. I will repeat the verbiage of the Constitution: to make our country’s laws and specifically to draft laws concerning captures on land and water."

Nothing came of these proposals. Since then, the Congress has ignored its responsibilities and this most important issue has been shoved aside.

What is this new impetus spurring congressional action and a renewed interest in the issue? Did Congress find its way back to embracing its Article I role in the legislative branch and wake up to realize it is not within its purview to dictate the laws of the land? No. It was the Supreme Court’s decision in the Hamdan case.

While the President grabbed the wheel of the Court stepped in to remind us of the separation of powers and the constitutional role of each branch, thank God. Yes, thank God for the separation of powers envisioned by our forefathers. Thank God for the Supreme Court. Yes, I said this before; I say it again: Thank God for the Supreme Court.

It is no coincidence that the traditional pathways of legislation through the committee and amendment process and ample opportunity for debate are the bedrock against which the enactment of bad, bills, this is the way the Senate was designed to operate and this is how it separates in the best interests of the people.

Unfortunately, because of the timing of the Supreme Court’s decision and the charged atmosphere of the midterm elections, we are again confronted with slap-happy legislation that is changing by the minute.

The bill reported by the Senate Committee on Armed Services, which I supported, was the product of a thorough process, a deliberative process. Unfortunately, this bill’s progress was halted by the administration’s objections, and the product suffered mightily. Then, in closed-door negotiations with the White House, many of the successes announced less than a week ago in the previous version wereashed.

When the administration met stiff opposition by former JAG—judge advocate general—officers and previous members of its own Cabinet, it realized it must come back to the table. Last Friday’s version of the bill was superseded by Monday’s version, and changes are still forthcoming. In such a frenzied, frenetic, and uncertain state, who really knows the nature of the beast? This bill could very well be the most important piece of legislation—certainly one of the most important pieces of legislation this Congress enacts, and the adoption of my amendment, which I shall offer, ensures—ensures—a reasonable review of the law authorizing military tribunals.

There is nothing more important to scrutinize than the process of bringing suspected terrorists to justice for their crimes in a fair proceeding, without the taint—without the taint—of a kangaroo court. Those are the values of our country. We dare not handle the matter sloppily. The Supreme Court has once struck down the President’s approach to military commissions, has it not? Do we want the product of this debate subjected to the same fate? Do we want it stricken also?

The original authorization of the PATRIOT Act is a case study of the risks we run in legislating from the hip—too much haste—and how, in our haste, we can get it wrong. The Patriot Act was dynamic, we hold most dear. Apparently, the Senate has not recognized the error of its ways. This legislation is complex. The legislation defines the processes and the procedures for bringing enemy combatants to trial for offenses against our country, and it involves our obligations under the Geneva Conventions. This bill defines rules of evidence, it determines defendants’ access to secret evidence, and it seeks to clarify what exactly ‘reason’—the remedy of reason. We cannot afford to get this wrong.

As with the PATRIOT Act, my amendment offers us an opportunity to provide a remedy for the unanticipated consequences that may arise as a result of the hasty creation. Along with the sweeping changes made by the PATRIOT Act, the great hope included in it was the review that was required by the sunset provision. Everyone knows that the saying ‘hindsight is 20-20,’ but the lack of this type of congressional review gives us the opportunity both to strengthen the parts of the law that may be found to be weak, and to right the wrongs of past transgressions.

So if we will not today legislate in a climate of steady deliberation, then let us at least prescribe for ourselves an antidote for any self-inflicted wounds. Let us prescribe for ourselves the remedy of reason—the remedy of reason. Let this be the age of reason once more. Sunset provisions have historically been used to repair the unforeseen consequences of acting in haste. You have heard that haste makes waste. If ever there was legislative procrastination that cries out to be reviewed with the benefit of hindsight, it is the current bill.

My amendment, which I hold in my hand, provides that the actuality through a 5-year sunset provision. Now, what is wrong with that? There is nothing wrong with that—a 5-year sunset provision. And I thank Senator OBAMA and I thank Senator CLINTON for their cosponsorship of my amendment. I urge my colleagues to support it.

Mr. President, I send my amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

"The Senator from West Virginia (Mr. BYRD), for himself and Mr. OBAMA, and Mrs. CLINTON, proposes an amendment numbered 5104:

On page 5, line 19, add at the end the following: "The authority of the President to establish new military commissions under this section shall expire on December 31, 2011. However, the expiration of that authority shall not be construed to prohibit the Senate to the finality of the proceedings of a military commission established under this section before that date."."
The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, we are about to receive a copy of the amendment. But I listened very carefully to my distinguished colleague's remarks.

The Senator from Virginia.

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error. Adam and Eve were driven from the Garden of Eden because of error. So from the very beginning of history, the very history of mankind, this race of human beings, there has been evidence of errors, mistakes. People did not foresee the future, and this language is a product of that.

What is wrong with providing an expiration date for the authority given to the President in this bill, after a period of 5 years? Can we not be mistaken? Might we not see the day when we wish that that authority has been terminated. I think it was the part of the Senate in conducting its constitutional oversight, to say that we will do it this far and then we will take another look at it in the light of the new day, in the light of the new times, the new circumstances; we will take another look at it. We are not passing any judgment on that legislation 5 years out.

I am flabbergasted—flabbergasted—that my friend would take umbrage at this legislation.

I only have a few minutes left.

Mr. WARNER. May I reply at the appropriate time?

Mr. BYRD. Absolutely. I will yield right away.

Mr. WARNER. Many times, the two of us have stood right here and had our debates together. It is one of those rich moments in the history of this institution when two colleagues, without all of the prepared text and so forth, can draw upon their experience and knowledge and their own love for the Constitution of the United States and engage.

I say to my good friend, 3 weeks ago, there were headlines that three Senators were in rebellion against their President, three Senators were disidents, and on and on it went. Well, the fact is, the three of us—and there were others who shared our views, but somehow the three of us were singled out—believed as a matter of conscience we were concerned about an issue.

The concern was that the bill proposed by the administration, in our judgment, could be construed as in some way contravening the doctrine of constitutional oversight, to say that after 5 years, let us double back and doublecheck—double back and doublecheck—so that we can be confident that what we have done comport with the Constitution of the United States. This amendment does it very carefully. It does not disturb any pending proceeding under the commissions that have just been uttered by my friend. My amendment does not affect, in any way, the portions of this bill that relate to the Geneva Conventions. It sunsets only the authority of the President to convene military commissions and, as Senator From West Virginia is, more than any other person in the history of this body, the custodian in his person of the Constitution of the United States. The bill that is before us obviously raises a number of very significant issues involving our Constitution.

What the amendment of Senator BYRD does very wisely is say that after 5 years, let us double back and doublecheck—so that we can be confident that what we have done complies with the Constitution of the United States. This amendment does it very carefully. It does not disturb any pending proceeding under the commissions that the Senator from West Virginia has written this amendment so carefully that he says even though it will sunset, forcing us to go back and doublecheck, to look at our work, that it will not in any way disturb any existing or pending proceeding.

I believe this is such an important statement of our determination that we act in a way that is constitutional, not in the heat of a moment which is obviously critical to us, but that we comport in every way with this Constitution.

Mr. WARNER. I say to my good friend, it is just not wise to go in and try and put any imprint on this that expiration could occur. It could raise, again, the debate, and I do not think that is in the interest of the country. I think this debate, this legislation has been settled, and I do not think that we are going to see this legislation. I think it has been the President's intention in the course of the preparation of his legislation, but some fear it could.

Mr. BYRD. Mr. President, it could be a Democratic President, as far as I am concerned. I think it was the part of the Senate in conducting its constitutional oversight, to say that we will do it this far and then we will take another look at it in the light of the new day, in the light of the new times, the new circumstances; we will take another look at it. We are not passing any judgment on that legislation 5 years out.

Mr. LEVIN. Will the Senator from West Virginia yield for 3 minutes?

Mr. BYRD. Yes, I yield 3 minutes.

Mr. LEVIN. Mr. President, I think the Senator from West Virginia is, more than any other person in the history of this body, the custodian in his person of the Constitution of the United States. The bill that is before us obviously raises a number of very significant issues involving our Constitution.

I think it constitutes an affirmation of the treaties. I would not want to send a message that this Nation has reconciled, hopefully, this body, as we vote this afternoon, and will send a strong bipartisan message that we are reconciled behind this legislation to ensure that in the end of this bill, we are going to live fully within the confines of the treaties of 1949.

Mr. BYRD. We are not dealing with the treaties of 1949. Mr. WARNER. I respectfully say that our bill does, in my judgment. Clearly, it constitutes an affirmation of the treaties. I would not want to send a message at this time that there could come a point, namely, December 31, 2011, that somehow as we have given about those treaties might expire. That is what concerns me.

Mr. BYRD. Mr. President, I am almost speechless. I listened to the words that have just been uttered by my friend. My amendment does not affect, in any way, the portions of this bill that relate to the Geneva Conventions. It sunsets only the authority of the President to convene military commissions and, as Senator From West Virginia is, more than any other person in the history of this body, the custodian in his person of the Constitution of the United States. The bill that is before us obviously raises a number of very significant issues involving our Constitution.

I say 5 years. Do we want to make that 6 years? Do we want to make it 7 years? Fine. It will expire at that time. It simply means that the Senate and the House take a look at it again and renew it. What is wrong with that?

Mr. WARNER. I say to my friend, Mr. President, from a technical standpoint, he is correct. He is going in there and incurring out regarding commissions. But the whole debate has been focused around how the commissions will conduct themselves in accordance with the common understanding of Article 3, particularly.

So while the Senator, in his very fine and precise way of dealing with the legislation, takes out just that, it might not be fully understood beyond our shores. The headline could go out that there is going to be an expiration.

I say to my good friend, it is just not wise to go in and try and put any imprint on this that expiration could occur. It could raise, again, the debate, and I do not think that is in the interest of the country. I think this debate, this legislation has been settled, and I do not think that we are going to see this legislation. I think it has been the President's intention in the course of the preparation of his legislation, but some fear it could.

The PRESIDING OFFICER. Without objection, it is so ordered.
Mr. BYRD. Mr. President, I have 4 minutes remaining; do I?

The PRESIDING OFFICER. The Senator has 5 minutes 14 seconds remaining.

Mr. BYRD. I yield 5 minutes to my friend, the distinguished Senator from Illinois, Mr. OBAMA.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. OBAMA. Mr. President, I thank my dear friend and colleague from West Virginia.

I am proud to be sponsoring this amendment with the senior Senator from West Virginia. He is absolutely right that Congress has abrogated its oversight responsibilities, and one way to reverse that troubling trend is to adopt a sunset provision in this bill. We did it in the PATRIOT Act, and that allowed us to make important revisions to the bill that reflected our experience about what worked and what didn’t. I do believe we could have done the same thing here. We should do that again with this important piece of legislation.

It is important to note that this is not a conventional war we are fighting, as has been noted oftentimes by our Presidents. And on the other side of the aisle. We don’t know when this war against terrorism might end. There is no emperor to sign a surrender document. As a consequence, unless we build into our own processes some mechanism to oversee what we are doing, we are going to have an open-ended situation, not just for this particular President but for every President for the foreseeable future. And we will not have any formal mechanism to require us to take a look and to make sure it is being done right.

This amendment would make a significant improvement to the existing legislation, and it is one of those amendments that would, in normal circumstances, I believe, garner strong bipartisan support. Unfortunately, we are not in normal circumstances.

Let me take a few minutes to speak more broadly about the bill before us.

I may have only been in this body for a short while, but I am not naive to the political considerations that go along with many of the decisions we make here. I realize that soon—perhaps today, perhaps tomorrow—we will adjourn for the fall. The campaigning will begin in earnest. There are going to be attack ads and mail pieces criticizing people who don’t vote for this legislation as caring more about the rights of terrorists than the protection of Americans. And I know that this vote was specifically designed and timed to add more fuel to the fire. Yet, while I know all of this, I am still disappointed because what we are doing here today, a debate over the fundamental human rights of the accused, should be bigger than politics. This is serious and this is somber, as the President noted today and was insisting that this is supposed to be our primary concern. He is absolutely right it should be our primary concern—which is why we should be approaching this with a sobriety and seriousness that this administration has not displayed with this legislation.

Now let me make clear—for those who plot terror against the United States, on this sunset provision, I have fixed all several years ago in a way that allows us to detain and interrogate and try suspected terrorists while still protecting the accidentally accused from spending their lives locked away in Guantanamo Bay. Easily. This was not an either-or question. We could do that still.

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

Mr. OBAMA. Mr. President, I ask unanimous consent for 2 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, charged against the allocation under the proponent of the amendment.

The PRESIDING OFFICER. The proponent has no time remaining.

Mr. WARNER. We are under fairly rigid time control, but I will give the Senator from Illinois a minute.

Mr. OBAMA. I will conclude, then, I appreciate the Senator from Virginia. The Intercept. Instead of taking this President—or any President—to decide what does and does not constitute torture, we could have left the definition up to our own laws and to the Geneva Conventions, as we would have if we passed the bill that the Armed Services Committee showed us how to do it.

All of us, Democrats and Republicans, want to do whatever it takes to track down terrorists and bring them to justice as swiftly as possible. All of us want to give our President every tool we can to do it. All of us were willing to do that in this bill. Anyone who says otherwise is lying to the American people.

In the 5 years the President’s system of military tribunals has existed, the fact is not one terrorist has been tried, not one has been convicted, and in the end, the Supreme Court of the United States found the whole thing unconstitutional because we were rushing through a process and not overseeing it with sufficient care. Which is why we are here today.

We could have fixed all this several years ago in a way that allows us to detain and interrogate and try suspected terrorists while still protecting the accidentally accused from spending their lives locked away in Guantanamo Bay. Easily. This was not an either-or question. We could do that still.

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

Mr. OBAMA. I conclude, then, I appreciate the Senator from Virginia. The Intercept. Instead of taking this President—or any President—to decide what does and does not constitute torture, we could have left the definition up to our own laws and to the Geneva Conventions, as we would have if we passed the bill that the Armed Services Committee showed us how to do it.

Instead of detainees arriving at Guantanamo and facing a Combatant Status Review Tribunal that allows them no real chance to prove their innocence with evidence or a lawyer, we could have developed a real military system of justice that would sort out the suspected terrorists from the accidentally accused.
State, I hope God has mercy on their soul, because I certainly do not.

For those who our Government sus-
spects of terror, I support whatever
tools are necessary to try them and un-
cover their plot.

We also know that some have been
detained who have no connection to
terror whatsoever. We have already
had reports from the CIA and various
generals over the last few years saying
that many of the detainees at Guanta-
namo have been there—as one U.S. commander of Guantanamo
told the Wall Street Journal, “Some-
times, we just didn’t get the right folks.” And we all know about the re-
cent case of the Canadian man who was
suspected of terrorist connections, de-
tained in New York, sent to Syria, and
tortured, only to find out later that it
was all a case of mistaken identity and poor
information. In the future, people
like this may never have a chance to
prove their innocence. They may re-
main forever.

The sad part about all of this is that
this betrayal of American values is un-
necessary.

We could have drafted a bipartisan,
well-structured bill that provided ade-
quately for our needs. The military
courts, had an effective review process
that would’ve prevented frivolous law-
suits being filed and kept lawyers from
clogging our courts, but upheld the
basic ideals that have made this coun-
try great.

Instead, what we have is a flawed
document that in fact betrays the best
instincts of some of my colleagues on
both sides of the aisle—those who
worked in a bipartisan fashion in the
Armed Services Committee to craft a
bill that we could have been proud of.
And they essentially got steamrolled
by this administration and by the im-
peratives of November 7.

That is not how we should be doing
business in this Senate, and that is not
how we should be prosecuting this
war on terrorism. When we are sloppy
and cut corners, we are undermining
those very virtues of America that will
lead us to success in winning this war.

At bare minimum, I hope we can at
least pass this provision so that cooler
cracks can prevail after the silly season
of politics is over.

I conclude by saying this: Senator
BYRD has spent more time in this
Chamber than many of us combined.
He has seen the ebbs and flows of politics
in this Nation. He understands that
sometimes we get caught up in the
heat of the moment. The design of the
Senate has been to cool those passions
and try step back and take a somber
look and a careful look at what we are
doing.

Passions never flare up more than
during times where we feel threatened.
I strongly urge, despite my great admi-
ration for one of the sponsors of the
underlying bill, that we accept this ex-
traordinarily modest amendment that
would allow us to go back in 5 years’
time and make sure that we are doing
serves American ideals, American val-
es, and ultimately will make us more
successful in prosecuting the war on
terror about which all of us are con-
cerned.

Thank you, Mr. President. Mr. BYRD, Mr. President, I ask the
distinguished Senator from Virginia,
may I have 10 seconds?

Mr. WARNER. I am going to give the
Senator more than 10 seconds. I have
to do a unanimous consent request on
behalf of the leadership.

ORDER VITIATED—S. 285
I think unanimous consent that the
order with respect to S. 285 be vitiated.
The PRESIDING OFFICER. Is there
objection?

Mr. LEVIN. Reserving the right to
object.

No objection.

Mr. WARNER. I understand there is
no objection. Will the Chair kindly
rule?

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

The Senator from Virginia is recog-
nized.

Mr. WARNER. Mr. President, I yield
such time as Mr. BYRD wishes to take.
The PRESIDING OFFICER. The Sen-
ator from West Virginia.

Mr. BYRD. Mr. President, I thank
my friend from Virginia. I merely wanted
to thank the distinguished Senator
from Illinois, Mr. Obama, for his state-
ment. I think it was well said, I think
it was wise, and I thank him for his
strong support of this amendment.

I also close by asking that the clerk
once again read this amendment. I will
then yield the floor. I thank the Sen-
ator from Virginia.

Mr. WARNER. Mr. President, I say to
my good friend, I fully understand
what you endeavor to do here, and I re-
spectfully strongly disagree with it.
I think many of us share this. This is
going to be a very long war against
those peoples whom we generically call
terrorists. The course of that war,
this President and his successor must
have the authority to continue to con-
duct these courts-martial—these trials
under these commissions—and not send
out a signal to terrorists: If you get
under the time limit and you don’t get
cought, this thing may end.

Mr. WARNER. If you are not caught
within this period of time, when this
went into effect, then you are no
longer going to be held accountable. Mr.
President, that is why I am raising
my voice on this side. I respect the
Chair, but the idea, the concept, is not
what we propose to do. I will go into
the subject of the Kennedy amendment
right now.

The PRESIDING OFFICER. The Sen-
ator from Michigan is recognized.

Mr. LEVIN. Mr. President, I am
afraid that the way this now is set up,
the Senator from Virginia has about
six speakers who will have time, and
that is why I am raising my voice on
this side. I am not going to get into
that debate, but the fact is he is still at
large. There could be other Osama bin
Ladens, and it may take years to appre-
hand them, no matter how diligently we pursue
them, we cannot send out a signal that
at this definitive time, it is the respon-
sibility of the President, of the execu-
tive branch, to hold those accountable
for crimes against humanity. They
would not be held accountable if this
provision went into power.

Need I remind this institution of the
most elementary fact that every Sen-
ator understands, that what we do one
day can be changed the next. If there
comes a time when we feel this Presi-
dent or a subsequent President does
not exercise authority consistent with
this act, Congress can step in, and
with a more powerful action than a sunset,
a very definitive action.

Mr. President, it is my understanding
I have a few minutes left under this
amendment.

The PRESIDING OFFICER. (Mr.
COLEMAN). The time of the Senator
from Virginia is 9% minutes.

Mr. WARNER. I would like to have
that time transferred under my time
on the bill as a whole. I hope Senator
CORNYN, who has expressed an interest
in this, gets the opportunity to use
that time to address this amendment.

Now, Mr. President, as I look at the
number of Senators who are desiring to
speak on my side—and I think perhaps
it would be helpful if you could, I say
to my colleague, the ranking member,
check on the other side—we still have
some debate, and we are prepared to
to get into debate on the Kennedy amend-
ment now. Therefore, I will undertake
to do that just as soon as I finish.

But then we are in that time period
where all time has expired or utilized
or otherwise allocated on the several
amendments. We will soon receive an
indication from the leadership as to
to what just as soon as I finish.

So I am going to manage that as fairly
and as equitably as I can. That is
what we propose to do. I will go into
the subject of the Kennedy amendment
right now.

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ator from Michigan is recognized.

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this side. I respect the
Chair, but the idea, the concept, is not
what we propose to do. I will go into
the subject of the Kennedy amendment
right now.
Mr. LEVIN. How much time all together on the majority side?

The PRESIDING OFFICER. On the bill, 50 minutes; on the Kennedy amendment, 30 minutes.

Mr. LEVIN. I think everybody ought to recognize there is a situation we are in. I hope we will withhold our comments until those on the other side who have been indicated as having time allocated to them speak so that we will have some time to respond to them. Thus Senator Warner is recognized. The Senator from Virginia is recognized.

AMENDMENT NO. 5088

Mr. WARNER. Mr. President, I would now like to address the amendment offered by the senior Senator from Massachusetts. I have read this very carefully and I have studied it. I say to my good friend. There are certain aspects of this amendment that are well-intentioned. But I strongly oppose it, and I do encourage colleagues to oppose it, because a number of the specific powers is involved here, and that is the subject on which this Chamber has resonated many times. But here I find the amendment invade the authority of the executive branch in the area of the conduct of foreign affairs by requiring the Secretary of State to notify other state parties to the Geneva Conventions of certain U.S. interpretations of the Geneva Conventions, in particular Common Article 3 and the law of war. It is up to the executive branch in its discretion to take such actions in terms of its relations with other states in this world—not the Congress directing that they must do so—such communications with foreign governments. But in the balance of powers, it is beyond the purview of the Congress to say to the Secretary of State: You shall do thus and so. This bill speaks for itself by defining grave breaches of Com mon Article 3 of the Geneva Conventions. These are clearly prohibited by our bill. Rather than listing specific techniques, Congress has exercised its proper constitutional role by defining such conduct in broad terms as a crime under the War Crimes Act. The techniques in Senator Kennedy’s amendment are not consistent with the Common Article 3 and would strongly protest their use against our troops or any others. So I say with respect to my good friend, this is not an amendment that I would in any way want to be a part of this bill.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized. Mr. KENNEDY. Mr. President, I would like to inquire of the Senator from Virginia, and I yield myself 3 minutes. As I understand, one of the reasons this amendment is being rejected is because it is going to place on our State Department to notify the 194 countries that we expect, if these techniques are used against Americans, they would be considered a war crime. That is a possible difficulty for us? That would burden our foreign relations? Or, is the reason we are objecting because we can’t foresee all of the different kinds of techniques that might be used against individuals and therefore we shouldn’t list these. We list them in the Army Field Manual specifically, called out of the air; they are listed specifically in the Army Field Manual. That is where they come from. And a number of the Members on the other side of the aisle have said that these techniques are prohibited. So we have taken the Department of Defense list and incorporated it.

Then the last argument is that: Well, if it is rejected, we don’t want this to be interpreted as a green light for these techniques. There must be stronger arguments. Maybe I am missing something around here. With all respect, I have difficulty in understanding why the Senator from Virginia, the chairman of the Armed Services Committee, does not address the fundamental issue, which is included in this amendment, and that is this amendment protects Americans who are out on the front lines of the war on terror, the SEALs, the CIA, others who are fighting, and it gives our Alliance and our security: Yes we have the head with any of these techniques and you are committing a war crime and will be held accountable.

Now, if I could get a good answer to that, I would welcome it, but I haven’t heard it yet. With all respect, I just haven’t heard why the Senator is refusing and effectively denying opposition to this amendment is denying that kind of protection. I read, and it was when the Senator was here, when we found out that similar kinds of techniques were used against Americans in World War II, and we sentenced offenders to 10, 15 years and even executed some. Now we are saying: Oh, no, we can’t list those because it is going to be a bother to our State Department, notifying these countries. My, goodness.

There has to be a better reason that we are not going to protect our service men and women from these kinds of techniques. We are saying to those countries: If you use these techniques, you are a war criminal. What are those techniques? They are in the Department of Defense listing. That is what this is about. How often is this? I gave the illustrations of how they were used repeatedly, whether it has been by Iran or whether it has been by Japan, or any of our adversaries in any other war.

The PRESIDING OFFICER. The Senator has consumed 3 minutes.

Mr. KENNEDY. I yield myself 1 minute. I want to put in the RECORD the excellent letter from Jack Vessey, who is a distinguished former Joint Chief of Staff:

I continue to read and hear that we are facing a different enemy in the war on terror. No matter how true that may be, humanity and cruelty are still the hallmarks of warfare, whether to enemies we have faced in the past. In my short 46 years in the armed forces, Americans confronted the horrors of the prison camps in World War II, the Japanese in the Korean War, the North Koreans in 1950 to 1953, and the North Vietnamese in the long years of the Vietnam War, as well as knowledge of the Nazi’s holocaust deprivations in World War II. Through those years, we held to our own values. We should continue to do so.

The Kennedy amendment does it. That is what this amendment is about. I reserve the remainder of my time. I ask unanimous consent the letter be printed in the RECORD.

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

Hon. John McCain, U.S. Senate, Washington, D.C.

DEAR SENATOR MCCAIN: Sometimes, the news is a little garbled by the time it reaches the forests of North-central Minnesota. But I call you these recent reports that the Congress is considering legislation which might relax the United States support for adherence to Common Article 3 of the Geneva Convention. If that is true, it would seem to weaken the effect of the McCain Amendment on torture of last year. If such legislation is being considered, I fear that it may weaken America in two respects. First, it would undermine the moral basis which has generally guided our conduct in war throughout our history. Second, I could very well be a legal argument for the mistreatment of Americans being held prisoner in time of war.

In 1980, 3 years after the creation of the Department of Defense, the then Secretary of Defense, General George C. Marshall, issued a small book, titled The Armed Forces Officer. In this book, he summarized the laws and traditions that governed our Armed Forces through the years. As the Senate deals with the issue it might consider a short quote from the last chapter of that book which General Marshall sent to every American Officer. The last chapter is titled “Americans in Combat” and it lists 29 general propositions which governs our Americans in war. Number XV, which I long ago underlined in my copy, reads as follows:
on the floor of the U.S. Senate because the opponents are saying that is unconstitutional and we cannot find a way to do it. I find this unwillingness to compromise is outrageous.

Mr. WARNER. Mr. President, at this point I wish to have such time as remains under the control of the Senator from Virginia accorded to me under the control of the time on the bill. The PRESIDING OFFICER. The time will be so allocated.

Mr. WARNER. Mr. President, I wish to inform the Chamber that we are at that juncture where we will consider the statements of others, very important statements to be made. I listed them in a recitation of those who have indicated their desire to speak. But I also bring to the attention of the body that I have just been told by the leadership they are anxious to proceed to the votes.

At this time I would ask—if I can get my colleague's attention—that there be yeas and nays on all of the pending amendments.

The PRESIDING OFFICER. Without objection, the yeas and nays may be requested on all pending amendments.

Mr. LEVIN. Will the Senator withhold that request for 2 minutes? Will the Senator withhold?

Mr. WARNER. Surely.

Mr. President, we will now put in a quorum call to accommodate the ranking member, such that the time is not charged to either side.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. WARNER. Mr. President, the managers with me, Senator GRAHAM, Senator MCCAIN, Senator MCCONNELL, Senator KENNEDY, and others, are endeavoring to do the following. There are three amendments to be voted on and then final passage. We hope to have as much time used on the bill as we can, to be consumed prior to the initiation of the votes. But then subsequent to the three votes, there will be a block of time. A Senator on this side has reserved 12 minutes. I intend to reserve, on my side, time to Senator MCCAIN. I am trying to work in that category following the votes. But until we are able to reconcile this, I ask that we now proceed.

Let me allow the Senator from Georgia to proceed. He has indicated a desire to speak for 5 or so minutes at this time. But I hope Senators are following what the two managers are saying. Those desiring to speak on the bill, with the exception of Senator MCCAIN, would they kindly come down and utilize this time before the amendments start?

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I rise today in support of the Military Commissions Act of 2006. This historic legislation is the result of much work, thought, and debate.

I commend the administration, I commend Senator MCCAIN, Senator GRAHAM, and all those who were involved in the ultimate compromise we have come to on this very sensitive and very complex issue. I am pleased we were able to find common ground on this critical issue and ensure that the President can authorize the appropriate agencies to move forward with an appropriate interrogation program.

There is no question that this program provides essential intelligence that is vital to America's success in the war on terrorism. At the same time, it honors our agreement under the Geneva Conventions and scores to other nations that America is a nation of laws. This has been a difficult debate, and all sides worked so diligently to achieve this result. In this new era of threats, where the stark and sober reality is that America must confront international terrorists committed to the destruction of our way of life, this bill is absolutely necessary. Our prior concept of war has been completely altered, as we learned so tragically on September 11, 2001. We must address threats in a different way. If we are going to get at this root of terrorist activity, we need to be able to get critical information to do so.

There has been much discussion during the course of the drafting of this bill about the rule of law, and the rule of law relative to detainees is, indeed, reflected in this bill. It provides for tribunals, for judges, for counsel, for discovery, and for rules of evidence.

Most importantly, however, in my view, is that while this bill provides important rule of law procedures for illegal enemy combatants, it does not give them the same protections which we afford lawful enemy combatants or our own military personnel, and that is a critical distinction. And that is how it ought to be. We have made that distinction for no other reason than to provide incentive for every nation across the world to observe international agreements for the proper treatment of captives. It bears repeating that this bill applies to the trial of illegal enemy combatants—those who make no pretense whatsoever of conformity with even minimal standards or international norms of civilized behavior when it comes to the treatment of those they capture.

We hear repeatedly that we should be concerned about what we do, for fear that we encourage others to treat our captured service men and women in a similar manner. But let's be very clear here and state what every American knows to be true. The al-Qaeda terrorists treat our captured service men and women by beheading them and by dragging their bodies through the streets.
They need no encouragement or excuse for their actions by reference to our treatment of their captives. As a result of the Supreme Court’s ruling, we are creating military commissions that provide rule of law protections which are embodied in this bill—courts, judges, legal counsel, and rules of evidence. So this bill appropriately meets our international obligations and America’s sense of what is right and it is in keeping with our highest values.

However, this bill will allow the President to move forward with a terrorist interrogation program that will ensure that we continue to get critical information from those who are plotting to carry out hateful acts against America and against Americans.

I commend the President for his determination to respond to the new reality confronting us. I commend Chairman WARNER and my colleagues on the Armed Services Committee who worked in good faith to craft a bill which is the right bill to respond to the challenges we face. And again, I am pleased we were able to find common ground on this critical issue and ensure that the President can move forward with an appropriate interrogation program.

I think it is important that we send a bill to the White House, to the desk of the President that is exactly the same as the bill that has already been passed by the House so we can put this program in place immediately. The way we do that is to continue to defeat all the amendments that have been put forward, and that we send the President the same bill that has already been passed by the House so that this program can be reinitiated immediately.

I yield the floor.

Mr. WARNER. Mr. President, I thank our distinguished colleague from Georgia, a very valued member of the Armed Services Committee who has from time to time participated in the extensive deliberations and consultations to shape the original bill which we worked on should be shaped and finally amended. I thank him.

Again, I call to the attention of colleagues that I shall put in a quorum for the purpose of trying to accommodate Members on my side who desire to speak.

I now see the distinguished Senator from South Carolina. We are prepared to allocate to him such time as he may desire. How much time does he need?

Mr. GRAHAM. Would 15 minutes be OK?

Mr. WARNER. Yes.

Mr. GRAHAM appreciates the chairman. The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, in 15 minutes I will try to explain the processes as I know it to be in terms of how we are working.

No. 1, I am glad we are here. I think the country is better off having the bill voted on in the current fashion.

I have gotten to know Senator WARNER very well over the last 30 days. I had a high opinion of the Senator before this process started, but I, quite frankly, am in awe of his ability to stand up for the institution as a U.S. Senator, who was a former Secretary of the Navy who has been an unabashed advocate of an appropriate approach about what we are trying to do.

It is no secret that Senator MCCAIN is one of my closest friends in this body, and I respect him in so many ways. But unlike myself and most of us, Senator MCCAIN paid a heavy price while serving this country. He and his colleagues in Vietnam were treated very poorly as prisoners of war. When he speaks about the Geneva Conventions, he does so as someone who has been in an environment where the Conventions would not apply. But Senator MCCAIN believes very strongly in the Geneva Conventions. When it comes to the Vietnam war, he has told me more than once that if it were not for the insistence of the United States and the international community that constantly pushed back against the North Vietnamese, he thought the torture would have continued and all of them would eventually be killed. But the North Vietnamese became concerned about international criticism after a point in time.

While the Geneva Conventions were not applied evenly by any means, it did have an effect on the North Vietnamese.

I have been a military lawyer for over 20 years. I have had the honor of wearing the Air Force uniform while serving my country and being around great men and women in uniform. It has been one of the highlights of my life. I have never been shot at. The only people who wanted to kill me were probably some of my clients. But I do appreciate why the Geneva Conventions exist and that the law of armed conflict is a body of law unique to itself and has a rich tradition in our country and throughout the world and it will work to make us safe and live within our values if we properly apply it.

The reason we are here is because the Supreme Court ruled in the Hamdan case that the military commissions authorized by the President were in violation of Common Article 3 of the Geneva Conventions. They were not regularly constituted courts. The problem with the military commission was that it deviated from the formal Code of Military Justice, the court-martial model, without showing the practical need. But we don't need to be like them to win. As a matter of fact, we need to show the world that we are different than them.

When the Geneva Conventions were applied to the war on terror, we had a problem. We had to renew the Military Commission Tribunal in line with Common Article 3. Common Article 3 is a mini-human-rights tree that is common to all four Convention articles. You have one about lawful combatants and unlawful combatants, civilians and wounded people. Common Article 3 is throughout all of the treaties regarding the Geneva Conventions. It says you would have to have a regularly constituted court to pass judgment or render sentences against those who are in your charge during time of war; that is, unlawful combatants.

The problem with the military commission order authorized by the President was that it deviated from the formal Code of Military Justice, the court-martial model, without showing a practical need. The Uniform Code of Military Justice, it says military commissions are authorized, but they need to be like the court-martial system to the extent practicable.

What I am proud of is we have created a new military commission based on UCMJ and deviations are there because of the practical need. The military commission is the right forum, but we are basing what we are doing on UCMJ. In practical differences, I think, will be sustained by the Court.

The confrontation rights that were originally posed by the administration gave me great concern. I do not believe that to win this war we need to create any procedure where we can rereceive evidence classified in nature, convict the accused, and the accused never knows what the jury had to render a
verdict upon, could not answer that accusation, rebut or examine the evidence. That was the proposal which I thought went too far and that would come back to haunt us. As a result of this compromise, it has been taken out.

We have a national security privilege available to the Government to protect that prosecutor's file from being given over to the defense or to the accused so our secrets can be protected. But we will now allow the prosecutor to give that to the jury and let them bring it out on the side of the accused and the accused never knowing what he was convicted upon. That could come back to haunt us if one of our soldiers falls into enemy hands.

We would not want a future conviction based on evidence that our soldiers and CIA operative never saw. I think we have a military commission model that affords due process under the law. So our adversaries can be confident that they will be able to prove their case in a military commission model that is Geneva Conventions compliant; we have a model commission model that is Geneva Conventions compliant. We will not want to endanger our standing in the world by rendering justice to these terrorists. We would not want to abandon our Geneva Conventions obligations to our enemies in war that there is no reason to abandon our Geneva Conventions obligations to afford the defendents accused due process in the way that will not come back to haunt us.

What else do we try to accomplish? We reauthorize the military commissions in a way to be Geneva Conventions-compliant to afford the defendents accused due process in the way that will not come back to haunt us. We want to be able to say in future wars that there is no reason to abandon our Geneva Conventions obligations to render justice to these terrorists.

So not only do we have a military commission model that is Geneva Conventions compliant; we have a model that I think we should be proud of as a nation.

The idea that the changes between the committee bill and the compromise represents some grave departure, quite frankly, I vehemently disagree with. I didn't get into this discussion and political fight to take all the heat that we have taken to turn around and do something that undercuts the purpose of being involved in it to begin with. This model that will be used in a military commission trial of an enemy combatant was adopted from the International Criminal Court.

I will place into the RECORD statements from every Judge Advocate General in formulating the services that have certified from their point of view that the evidentiary standard that the judge will apply to any statements coming into evidence against an enemy combatant are legally sufficient, will not harm our standing in the world, and, in fact, are the model of the International Criminal Court which try the war criminals on a routine basis.

The provision I added, along with Senator McCAIN, dealing with the provisions of the Detainee Treatment Act, 5th, 8th, and 14th amendment concepts within the Detainee Treatment Act, will also be a standard in the future designed to reinforce the relevance of the Detainee Treatment Act in our national policy, in our legal system, not to undermine anything but to enforcing the concept the Detainee Treatment Act and the judicial standard that our military judges will apply to terrorists accused is the same that is applied in the International Criminal Court. I have been a member of the JAG court for over 20 years. I have had the honor of serving with many men and women who will be in that court-martial scene. The chief prosecutor, Joe Davis, I met as a captain. There is no finer officer in the military than Colonel Davis. He is committed to render justice. I am very proud of the fact that the men and women who will be doing these military commissions believe in our system as much as anybody I have ever met, and they want to render justice.

What else do we try to accomplish? We reauthorize the military commissions in a way to be Geneva Conventions-compliant to afford the defendents accused due process in the way that will not come back to haunt us. What else did we have to deal with? A CIA program that is classified in nature. There is a debate in this country: Should we have a CIA interrogation program classified in nature that would allow techniques not in the Army Field Manual that would allow torture for the war crimes to get good intelligence from high value targets? The answer, from my point of view, is yes, we should, but not because we want to torture anybody, because we want to be humane as a nation.

The reason we need a CIA program classified in nature to get good information is because in this war information saves lives just as much as anybody I have ever met, and they want to render justice.

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They are bringing every kind of action. The habeas cases that have existed in time of war? Who should make the decision regarding enemy combatant status? The military has decided the battlefront and is not to violate the Geneva Conventions, we have delegated to the President what was already our constitutional responsibility to enforce the treaty—not to rewrite it but to enforce it and fulfill its purpose.

My concern was that in the process of complying with Hamdan, we would be seen by the world as redefining the treaty for our own purposes. We have not redefined the Geneva Conventions. We have put in the first time in our domestic law, clearly defined what a crime would be against the Geneva Conventions, and we have told the President, as a Congress: It is your job to fulfill the other obligations outside of criminal law. That is the way it should be, and it is something of which I am extremely proud.

We have been at war for over 5 years. Here we are 5 years later trying to figure out the basic legal infrastructure. It has been confusing. It has been contentious. We have had two Supreme Court cases where the Government’s work product was struck down.

My hope is that our homework will be graded by the Supreme Court, that this bill eventually will go to our Federal courts, as it should, and the courts will say the following: the military commissions are Geneva Conventions compliant and meet constitutional standards set out by our country when it comes to trying people. I am confident the Supreme Court will rule that way. I am confident the Supreme Court will understand that the power we gave the President to fulfill the treaty is consistent with his role as President and the war crimes we have put into those bills matters which he believed were in the best interests of the men and women of the Armed Forces and, indeed, his consultation throughout this process with the Judge Advocate Generals and other past and present Judge Advocates and some of the younger officers who will be future Judge Advocates General. I thank the Senator from South Carolina for his very valuable contribution to this deliberative process in the Senate.

Now I yield the floor to our last speaker before we proceed to the votes. As I understand, we will be voting at the conclusion of this statement?

Mr. WARNER. I don’t know if the unanimous consent agreement has been finished yet. That is our hope.

Mr. WARNER. We are finishing a unanimous consent request, but I alert the Senate that it is my strong hope and prediction we will soon be voting in sequence on three amendments.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I first compliment the distinguished chairman of the Senate Committee on Armed Services, the Senator from Virginia, for being the calm and steady hand on the rudder during the course of the discussions and debates involving the important piece of legislation. His work and demeanor have always been constructive and civil, and any disagreements we have had are befitting of the great traditions of this institution. I thank him for that.

Mr. WARNER. If I may, I thank the Senator from Texas. Several times we came to the Senate’s office in the course of the deliberations on this bill because the Senator, too, brings to the debate a vast experience, having risen through the ranks of the legal profession to become a judge in his State. The Senator is very well equipped and did provide a very valuable input into this debate.

Mr. CORNYN. My thanks to the Senator from Virginia—nothing could be further from the truth. In fact, what this bill does is make sure that the provisions of the Detainee Treatment Act,
which were passed in December of 2005 in this same Senate, that ban torture, cruel, inhuman, and degrading treatment of detainees, that we comply with those laws which reflect upon our international treaty obligations as well as our domestic laws and which reflect our American values.

We are a nation at war. But there is no equivalency with the way this war is fought and prosecuted by the United States and our allies, no equivalency with the methodology in which the war is prosecuted by our enemies. We have learned that our enemies have been at war against us for much longer than just September 11, 2001, and date back many years before we even realized America was under attack.

We know that this enemy, represented by Islamic extremism, justifies the use of murder against innocent civilians in order to accomplish its goals. America complies with all of its international treaty obligations and domestic laws. What this bill is about is to try to provide our intelligence authorities the clear direction they need so they know how to comply with those laws and, at the same time, preserve an absolutely critical means of collecting intelligence through the interrogation of high-value detainees at Guantanamo Bay.

But no civilian employee of the U.S. Government, war or otherwise, is going to risk their career, their reputation, and their assets using some sort of cloudy law or gray law that does not make clear what is permitted and what is not permitted. This bill we are prepared to pass in a few minutes provides that kind of clear direction. What it says is that we in the U.S. Congress are stepping up to take the responsibility ourselves to provide that kind of clarity that will allow our intelligence authorities to gain this important intelligence while at the same time be secure in the knowledge that what they are doing fully complies with our law, including our international treaty obligations.

We know the aggressive interrogation techniques that are legal under the provisions of the McCain amendment in the Detainee Treatment Act under the Detainee Treatment Act provide much valuable intelligence that has saved American lives. We know the CIA’s high-value terrorist detainee program works. For example, detainees have provided the names of approximately 86 individuals whom al-Qaeda deemed suitable for Western operations. Half of these individuals have now been removed from the battlefield and are no longer a threat to the United States of America or our allies. This program is effective and has saved American lives and must be preserved. Yet there are people who would go so far as to intimate that we are torturing people. But we are not torturing people. But we are using legal, aggressive interrogations consistent with the U.S. Constitution, U.S. laws, and our treaty obligations. In doing so, we are keeping faith with the American people that the Federal Government will use every legal means available to us to keep the American people safe.

Now, we may disagree—and we do disagree on the Senate floor—with the level of rights that an accused terrorist should have. I happen to believe these individuals, who are high-value detainees at Guantanamo Bay, do not deserve the same protections that are reserved for American citizens in our legal system. But I would hope that we would all agree that the CIA interrogation program must continue. We must not allow the brave patriots who conduct these interrogations to be at risk unnecessarily by providing a gray zone as opposed to absolute clarity insofar as it is within our power to give it so that we may interrogate these captured terrorists to the fullest extent of the law.

Let me just say a word about who that enemy is. We have heard we are engaged in a global war on terror, and that is absolutely true. But it does not necessarily tell us who that enemy is. Unfortunately, the enemy that has hijacked one of the world’s great religions, Islam, in pursuit of their extremist goals that justifies the murder of innocent civilians in order to accomplish those goals.

Some on the Senate floor have said this debate is all about Iraq. It is not just about Iraq. If it were just about Iraq, how would those critics explain the attempted terrorist plot that was broken up at Heathrow Airport just a few short weeks after the attacks in Madrid or Beslan in Russia or Bali or elsewhere or, for that matter, New York and Washington, DC?

The fact is, we have prevented another terrorist attack on our own soil by using this interrogation program to allow us to detect and deter and disrupt terrorist activity, and the fact we have also taken the fight on the offensive where the terrorists plot, plan, train, and try to export their terrorist attacks to the United States and elsewhere.

If we would do what some would apparently want us to do and simply pull the covers over our head and wish the bad guys away, then we would be less safe and we would not be able to stand here and say that due to the vigilance of the American people, due to the vigilance of the U.S. Congress and the executive branch of Government, we have been successful in preventing another terrorist attack on our own soil, after 5 years from September 11, 2001.

So, Mr. President, I hope our colleagues will vote against these ill-advised amendments to this bill and will send a clean bill to be reconciled with the House version and sent to the President right away so that before too long we can see that some of the war criminals who sit detained at Guantanamo Bay may be brought to justice, people like Khalid Shaikh Mohammed, who was the mastermind of the 9/11 plot that killed nearly 3,000 Americans. Mr. President, I yield the floor.

Mr. CHAFEE. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank my distinguished colleague from Texas. He has been a valuable addition to those who are trying to structure this piece of legislation.

Momentarily, I will seek a unanimous consent request ordering the votes and the allocation of such time as remains between Senators.

At this point in time, I will suggest the absence of a quorum, unless the Senator from Massachusetts would like to take the additional 3 minutes that he has at this time on his amendment.

Mr. KENNEDY. Yes.

Mr. President, just quickly, the proceedings we are going to have—if I can inquire—I use the 3 minutes, and then we are moving toward a series of votes; is that right?

Mr. WARNER. That is correct, I say to the Senator from Massachusetts.

Mr. KENNEDY. Then, I would ask when I have 30 seconds left—Mr. President, I have 3½ minutes; am I correct?

Mr. President, I yield myself the 3 minutes.

Mr. KENNEDY. Three minutes. Mr. WARNER. Mr. President, I may have misunderstood my colleague. That is the 3 minutes remaining on your amendment held in abeyance.

Mr. KENNEDY. That is correct.

Mr. President, I yield myself the 3 minutes.

AMENDMENT NO. 5088

Mr. President, just for the benefit of the membership, in my hand is the report of the committee, says we cannot do it ahead with this. That is why this is so important.

Now, my good friend, the chairman of the committee, says we cannot do it...
because it violates the Constitution because it is instructing—instructing—the President of the United States through the State Department to notify the 194 countries.

We thought it was not unconstitutional on the Port Security Act, when we said:

When the Secretary . . ., after conducting an assessment . . ., decides that an airport does not maintain and carry out effective security, the Secretary shall notify the appropriate authorities of the government of the foreign country . . .

Now is port security.

Here is on the pollution issues. The State shall notify without delay foreign states concerned . . .

That is the second one.

And I have the third illustration in terms of foreign carriers.

In 15 minutes we got these cases. And here we are going to say we are going to refuse to protect Americans who are on the cutting edge of the war on terror because we will not let our State Department go on an e-mail and notify the 192 countries because that is unconstitutional. The chairman of the Armed Services Committee feels that way, we could strike that provision and just say it is the policy of the United States. Then we would not be instructing anyone. Either way, this is about protecting Americans. It is about protecting Americans.

I believe those Americans who are out there in the hills and in the mountains of Afghanistan today and tonight, those people who are in the hills and mountains and deserts of Iraq, those people who are out in Southeast Asia or all over the world in order to try to deal with the problems of terrorism ought to know, if they are in danger of getting captured, if any of their host countries are going to perform some kind of procedure and torture on them, they will be war criminals.

That is what this amendment is about. I hope it will be accepted. It should be.

Mr. President, I yield what time I have to my ranking member.

Mr. WARNER. Mr. President, at this time we are waiting for clearance by the State Department to go on an e-mail and notify the 192 countries, that is unconstitutional. The chairman of the Armed Services Committee feels that way, we could strike that provision and just say it is the policy of the United States. Then we would not be instructing anyone. Either way, this is about protecting Americans. It is about protecting Americans.

I believe those Americans who are out there in the hills and in the mountains of Afghanistan today and tonight, those people who are in the hills and mountains and deserts of Iraq, those people who are out in Southeast Asia or all over the world in order to try to deal with the problems of terrorism ought to know, if they are in danger of getting captured, if any of their host countries are going to perform some kind of procedure and torture on them, they will be war criminals.

That is what this amendment is about. I hope it will be accepted. It should be.

Mr. President, I yield what time I have to my ranking member.

Mr. WARNER. Mr. President, at this time we are waiting for clearance by the leadership of the UC. But I will ask at this time we get the yeas and nays on all the votes, the amendments and final passage.

Mr. ROCKEFELLER. Mr. President, without objection, does any unanimous consent request allow me to close on my amendment for 2 minutes?

Mr. WARNER. Mr. President, the UC, as presently drafted, gives 2 minutes to each side for the purpose of addressing amendments.

Mr. ROCKEFELLER. I thank the Senator.

Mr. WARNER. Mr. President, I once again restate the request for the yeas and nays on the amendments and final passage unanimous consent that it be in order to ask for the yeas and nays on the amendments and final passage.

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

Mr. WARNER. Mr. President, I ask for the yeas and nays on the amendments and final passage.

The PRESIDING OFFICER. If there is a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the quorum call be rescinded.

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

Mr. WARNER. Mr. President, I ask unanimous consent that any remaining time be yielded back, other than as noted below, and that the Senate proceed to votes in relation to the amendments in the following order:

The Rockefeller amendment No. 5095, the Byrd amendment No. 5104, and the Kennedy amendment No. 5098.

I further ask unanimous consent that there be 4 minutes for debate, equally divided, prior to each of the above votes.

I further ask unanimous consent that prior to passage of the bill, Senator LEAHY be recognized for his remaining 11 minutes and 10 seconds of the initial unanimous consent request, which was provided for under the original consent order, Senator LEVIN be in control of 4 minutes, Senator WARNER in control of 16 minutes, to be followed by closing remarks by the two leaders and, following that time, the Senate proceed to passage of the bill; further, that there then be 5 minutes equally divided prior to the vote on invoking cloture on the border fence legislation; provided further that with respect to the border fence bill, it be in order to file second degrees at the desk no later than 5 p.m. today under the provisions of rule XXII.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Mr. President, reserving the right to object, I did not understand the part about the fence.

Mr. WARNER. Can the Senator repeat that?

Mr. LEAHY. I did not understand the part about the timing of the fence bill.

Mr. WARNER. I will repeat it.

Mr. LEAHY. Just that part.

Mr. WARNER. It reads as follows: Following that time, the Senate proceed to passage of the bill; further, there then be 5 minutes equally divided prior to the vote on invoking cloture on the border fence legislation; provided further that with respect to the border fence bill, it be in order to file second degrees at the desk no later than 5 p.m. today under the provisions of rule XXII.

Mr. LEAHY. Mr. President, even though I believe we have made a terrible and tragic mistake in the Senate, including major changes in our constitutional rights willy-nilly to get out to campaign, I realize they have locked this in and there is not much one can do about it. I think it is a farce in the Senate.

Mr. WARNER. Mr. President, I renew the unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 5095

There will now be 4 minutes of debate, equally divided, on the Rockefeller amendment.

The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, my amendment would require, as I explained this morning, the CIA to provide the Congressional Intelligence Committees, which are required by law to be informed of what is going on in the intelligence world, fully the most basic and fundamental information it needs to oversee the CIA detention and interrogation program.

Frankly, for the past 4 years we have not had that information. The administration has withheld this information from us. I am not saying that in partisan fashion. It is a fact.

It has been very frustrating as a member of the Intelligence Committee, much less as a Member of the Senate. We have made repeated requests and the Intelligence Committee has been prevented from carefully reviewing the program. The program has operated, as a result, without any meaningful congressional oversight whatsoever, and that is our responsibility under the law.

All of my colleagues should be troubled by this fact. We cannot assure ourselves, we cannot assure the American people, and we cannot assure our agents overseas that the CIA program is both legally sound and effective without the basic information required under my amendment.

My amendment is simply about oversight and accountability, nothing more, nothing less. Nothing in the amendment would require the public disclosure of any classified document or aspect of the CIA program.

Mr. President, I ask unanimous consent that Senator FEINSTEIN be added as a cosponsor of my amendment.

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

The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I spoke in strong opposition to this amendment. Again, I think it tries to displace the oversight that is performed by the Intelligence Committee. I would like to add the following bit of information.

On September 29, this year, GEN Michael V. Hayden, who is the current Director of the CIA, wrote a letter to Chairman PAT ROBERTS of the Intelligence Committee in the Senate. In it he said:

On September 6, 2006, I briefed the full SSCI membership on key aspects of the detainee program, providing a level of detail
Previously not made available to SSCI members, I made clear to the committee that upon passage of the new detainee legislation, I would brief the SSCI on how CIA would execute the future program, and I agreed to promptly notify the committee when any modifications to the program were proposed, or when the status of any individual detainee changed.

I think that is dispositive of a very clear indication by the executive branch to allow the Senate to perform its oversight through the properly designated committee, the Senate Committee on Intelligence.

Mr. ROCKEFELLER. Mr. President, how much time do I have remaining?

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

Mr. WARNER. Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

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


Dear Mr. Chairman: I write today regarding the Rockefeller amendment to the military commissions legislation now pending on the Senate floor. The CIA strongly opposes adoption of the Rockefeller amendment.

Since the inception of its detention program, the CIA has a strong and consistent record of keeping its oversight committees fully and currently informed of critical aspects of the program. Further, the bipartisan leadership of Congress has been briefed regularly by the CIA on this program since its inception, and I personally briefed the Majority and Minority Leaders of the Senate only weeks ago. The CIA remains committed to a frank and open dialogue with the Congress on detailed aspects of the detainee program, while ensuring the secrecy of this particularly sensitive activity. Senate adoption of the Rockefeller amendment would go far beyond traditional CIA reports to Congress by mandating detailed information about assets, capture locations and individuals involved in sensitive operations. In addition, detailing in public law the amount of sensitive information that CIA must provide to Congress will chill some of our counterterrorism partners whose cooperation is fully conditioned on the absolute secrecy of their support.

When the Rockefeller amendment was first introduced, I personally briefed the Majority and Minority Leaders of the Senate on detailed aspects of the detainee program. In July, I updated you and SSCI Vice Chairman Rockefeller on the program, sharing sensitive aspects, including information about specific detainees, examples of actionable intelligence gained from the program and about ways in which the program could continue to be successful in the future. Following this briefing and despite its highly sensitive nature, at your request—and that of Sen. Rockefeller—I fully supported briefing the entire SSCI membership.

On September 6, 2006, I briefed the full SSCI membership on key aspects of the detainee program, providing a level of detail previously not made available to SSCI members. I made clear to the committee that upon passage of the new detainees legislation, I would brief the SSCI on how CIA would execute the future program and I agreed to promptly notify the committee when any modifications to the program were proposed, or when the status of any individual detainee changed.

Upon Senate passage of the military commissions legislation, I stand ready to again brief your committee and the bipartisan Senate leadership on the future of the detainee program.

Sincerely,

Michael V. Hayden, General, USAF Director.

Mr. WARNER. Mr. President, are we prepared to move to a vote?

The PRESIDING OFFICER. Yes. The question is on agreeing to the amendment of the Senator from West Virginia.

The yeas and nays have been ordered. 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 result was announced—yeas 46, nays 53, as follows:

[Special Roll Call Vote No. 256 Leg.]

YEAS—46


NAYS—53


The amendment (No. 5095) was rejected.

Mr. MCCONNELL. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table. The motion to lay on the table was agreed to.

AMENDMENT NO. 5095

The PRESIDING OFFICER. There will now be 4 minutes equally divided on the Byrd amendment.

Who yields time?

The Senator from West Virginia is recognized.

Mr. BYRD. Friends, Senators, lend me your ears. Friends, Senators, lend me your ears. I voted to report a fair and balanced bill from the Armed Services Committee, but the legislation before the Senate today bears little resemblance to that legislation. It has been changed so many times, we don't know the real implications of this ever-changing bill. The Byrd-Obama-Clinton-Levin amendment sunsets the authority of the President to convene military commissions after 5 years. There is nothing wrong with that.

This amendment ensures that Congress will not simply stand aside and ignore its oversight responsibilities after this bill is enacted. This amendment will not stop any trials of suspected terrorists that commence before the sunset date. It simply forces Congress to revisit—revisit—the weighty constitutional implications of this bill in 5 years' time and then be in a position on the basis of new knowledge and experience, to make a decision again.

It is a very reasonable amendment. I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I say to our most distinguished senior colleague that this amendment was well debated on the floor, but I would bring to the attention of all Senators that we do not have any estimates of how long the war on terrorism against the jihadists is going to take place. We may be having those who commit crimes today not apprehended until after this sunset provision. Then they will go free. They are not subject, unless the Senate at that time somehow restores the importance of the next Senator to continue—to continue, Mr. President—brining to justice and trial under our rules these individuals who are committing war crimes. So I urge all Senators to oppose this amendment.

Mr. BYRD. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator has 36 seconds.

Mr. BYRD. This amendment will not set any terrorists free. Let Senators who are here 5 years from now take a new look on the basis of experience and make a decision in the light of the then circumstances. That is all I am asking. This is nothing new.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the Byrd amendment No. 504.

The yeas and nays have been ordered.

The clerk will call the roll.

The 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 result was announced—yeas 47, nays 52, as follows:

[Roll Call Vote No. 257 Leg.]

YEAS—47

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Here it is on voting rights. The Attorney General is authorized and directed to institute suits that are going to be involved in poll taxes.

The Secretary of State shall notify without delay foreign states that are involved in pollution. The list goes on. If we can do it for pollution, we can do it for violation of basic and fundamental rights of Americans overseas. This is effectively about what we adopted when we adopted the War Crimes Act, which was virtually unanimous, with not a single vote in opposition.

This is basically a restatement. I hope it will be accepted overwhelmingly.

Mr. WARNER. Mr. President, this is an amendment that requires close attention by all colleagues.

In the preparation of this bill, we defined in broad terms the conduct that is regarded as a grave breach of Common Article 3. These are war crimes. We the Congress should not try to provide a specific list of techniques. We don’t know what the future holds. That is not the responsibility of the Congress. We are not going to direct. We try to make a list of techniques, that the United States describe every technique that violates Common Article 3. We cannot foresee into the future every technique that might violate Common Article 3. We should not step on that situation. It is not ours to do.

Under the separation of powers, it is reserved to the executive branch to work this out. But if at any time it is the judgment of any Member of this body, or collectively, that we are not abiding by this law, I am confident that this institution’s oversight will correct and quickly remedy the situation.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered 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 (Mr. CHAFEE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 53, as follows:

[Rollcall Vote No. 258 Leg.]
The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. I ask unanimous consent that the order for the quorum call be rescinded.

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

UNANIMOUS CONSENT REQUEST—S. 2761

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar S. 2761, and I ask unanimous consent that the committee-reported amendment be, for the third time, passed and the motion to reconsider be laid upon the table.

Mr. JEFFORDS. I object. I agree that wastewater security is an important issue. In fact, it is made even more important because the Homeland Security appropriations conference has exempted these facilities from security requirements—a decision that I understand was due in large part to the Senator's efforts to include these facilities within the protections of that bill.

Although I would like to have seen stronger chemical security provisions than those cited I understand are forthcoming from the Homeland Security appropriations conference, I anticipate supporting that measure. I will support including wastewater facilities in that measure. But I will not support a bill like S. 2761 that provides weaker protections.

By contrast, I long ago introduced S. 995, The Wastewater Treatment Works Security Act of 2005. I feel certain that if I asked unanimous consent to pass this bill, the Senator would object to my request. I prefer a more constructive pathway to providing essential protection to our communities.

We should fill this gap in our Nation's security, and in order to do so, we must seize the opportunity to offer amendments to cure the serious deficiencies in this bill.

Mr. President, I ask unanimous consent to insert a statement in the Record concerning my objection to consideration of the Wastewater Security bill.

THE PRESIDING OFFICER. The objection is heard.

Mr. INHOFE. Mr. President, I wanted to call the Senate's attention to the fact we do have wastewater legislation that has passed both the House and the Senate, in the House by a vote of 413 to 2. It is something which is desperately needed. We need to attend to that as soon as possible.

I suggest the absence of a quorum.

THE PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll, including these facilities within the protections of that bill.

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

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

PROVISIONS OF THE MILITARY COMMISSIONS ACT

Mr. LEVIN. Senators WARNER and MCCAIN, over the last year, you have played an instrumental role in bringing needed clarity to the rules for the treatment of detainees in U.S. custody. I understand that you also played a key role in negotiating the provisions of the military commissions bill regarding the Detainee Treatment Act and Common Article 3 of the Geneva Conventions. As you said last year when the Detainee Treatment Act was adopted, this is not an area in which ambiguity is helpful. For this reason, I hope that you will help me in providing a clear record of our policy on these issues.

In particular, section 8(a)(3) of the bill provides that "the President has the authority for the United States to interpret the meaning and application of the Geneva Conventions", that these interpretations shall be issued by Executive order, and that such an Executive order "shall be authoritative (as to non-grave breach provisions of Common Article 3) as a matter of United States law, in the same manner as other administrative regulations."

Would you agree that nothing in this provision gives the President or could give the President the authority to modify the Geneva Conventions or U.S. obligations under those treaties?

Mr. MCCAIN. I agree entirely with the distinguished ranking member that this legislation clearly defines grave breaches of Common Article 3, which are criminalized and ultimately punishable by death. It is critical for the American public to understand that we are criminalizing breaches of Common Article 3 that rise to the level of a felony. Such acts—including cruel or inhuman treatment, torture, rape, and murder, among others—will clearly be considered war crimes.

Where the President may exercise his authority to interpret treaty obligations is in the area of "non-grave" breaches of the Geneva Conventions—those breaches that do not rise to the level of a felony. In interpreting the conventions in this manner, the President is bounded by the conventions themselves. Nothing in this bill gives the President the authority to modify the conventions or our obligations under those treaties. That understanding is at the core of this legislation.

Mr. WARNER. I concur with the Senator from Arizona.

Mr. LEVIN. Would you agree that nothing in this provision gives the President, or could give the President, the authority to modify the requirements of the Detainee Treatment Act?

Mr. WARNER. The purpose of this legislation is to strengthen, not to weaken or modify, the Detainee Treatment Act. For the first time, this legislation is required to "take action to ensure compliance" with the DTA's prohibition on cruel, inhuman, or degrading treatment, as defined in the U.S. reserve to the Convention Against Torture. He is directed to do so through, among other actions, the establishment of administrative rules and procedures. Nothing in this legislation authorizes the President to modify the requirements of the DTA, which were enshrined in a law passed last December. I would point out as well to the distinguished ranking member that the President himself never proposed to weaken the DTA. Rather, he proposed the opposite—namely, that the DTA tantamount to compliance with Common Article 3 of the Geneva Conventions. That proposal is not included in this legislation.

Mr. MCCAIN. I agree entirely with Senator WARNER's arguments.

Mr. LEVIN. Would you agree that any interpretation issued by the President under this section would only be valid if it is consistent with U.S. obligations under the Geneva Conventions and the Detainee Treatment Act?

Mr. MCCAIN. That is correct.

Mr. WARNER. I agree.

Mr. LEVIN. Section 8(b) of the bill would amend the War Crimes Act to make it clear that only "acts of" Common Article 3 of the Geneva Conventions constitute war crimes under U.S. law. The provision goes on to define those grave breaches to include, among other things, torture, and cruel or inhuman treatment. The term "acts of torture" is defined to include acts "intended to inflict severe or serious physical or mental pain or suffering."

Would you agree that the changes to the War Crimes Act in section 8(b) do not authorize the President to modify U.S. obligations under the Geneva Conventions or under the Detainee Treatment Act?

Mr. MCCAIN. The changes to the War Crimes Act are actually a responsible modification in order to better comply with America's obligations under the Geneva Conventions to provide effective penal sanction for grave breaches of Common Article 3. It is important to note, as has the Senator from Michigan, that in this section "cruel or inhuman treatment" is defined for purposes of the War Crimes Act only. It does not infringe, supplant, or in any way alter the definition of cruel, inhuman, or degrading treatment or punishment prohibited in the DTA and defined therein with reference to the 5th, 8th, and 14th amendments to the U.S. Constitution. Nor do the changes to the War Crimes Act alter U.S. obligations under the Geneva Conventions.

Mr. WARNER. I would associate myself with the comment from the Senator from Arizona.

Mr. LEVIN. Would you agree that nothing in this section or in this bill requires or should be interpreted to authorize any modification to the new Army Field Manual on interrogation procedures, which was issued last month and provides important guidance to our soldiers on the field as to what is and is not permitted to the interrogation of detainees?

Mr. WARNER. The executive branch has the authority to modify the Army Field Manual on Intelligence Interrogation at any time. I welcomed the new version of the field manual issued last...
month and agree that it provides critical guidance to our soldiers in the field. That said, the content of the field manual is an issue separate from those at issue in this bill, and it was not my intent to effect any change in the field manual through this legislation.

Mr. MCCAIN. I concur wholeheartedly with the Senator from Virginia. As the Senator from Virginia is aware, there is a provision in the bill before the Senate that defines "cruel and inhuman treatment" under the War Crimes Act. I would note first that this definition is limited to criminal offenses under the War Crimes Act and is distinct from the broader prohibition contained in the Detainee Treatment Act. That act defined the term "cruel, inhuman and degrading treatment" with reference to the reservation the United States took to the Convention Against Torture.

In the war crimes section of this bill, cruel and inhuman treatment is defined. It is intended to extend the severe or serious physical or mental pain or suffering. It further makes clear that such mental suffering need not be prolonged to be prohibited. The mental suffering need only be more than transitory and of an extended duration. I note that the "nontransitory" requirement applies to the harm, not to the act producing the harm. Thus if a U.S. soldier is, for example, subjected to some terrible technique that lasts for a brief time but that causes serious and nontransitory mental harm, a criminal act has occurred.

Mr. WARNER. That is my understanding and intend as well, and I agree with the Senator's other clarifying remarks.

In the same section, the term "serious physical pain or suffering" is defined as a bodily injury that involves one of four characteristics: "a substantial risk of death," "extreme physical pain," "physical disfigurement or a serious nature," or "significant loss or impairment of the function of a bodily member, organ or mental faculty." I do not believe that the term "bodily injury" adds a separate requirement which must be met for an act to constitute serious physical pain or suffering.

Mr. MCCAIN. I am of the same view.

Mr. LEVIN. And would the Senator from Arizona agree with my view that section 8(a)(3) does not make lawful or give the President the authority to make lawful any technique that is not permitted by Common Article 3 or the Detainee Treatment Act?

Mr. MCCAIN. I do agree.

Mr. WARNER. I agree with both of my colleagues.

Mr. KENNEDY. Mr. President, in times of war, our obligation is to protect our Nation and to protect those men and women who risk their lives to defend it. This bill fails that duty. By failing to renounce torture, it inflames an already dangerous world and makes new enemies for America in our war against terror. This puts cause or people and our troops at greater risk. That is why so many respected military leaders oppose this bill.

Throughout our history, America has led the world in promoting human rights and decency. We have fought wars against tyranny and oppression. Our enemies use illegal and inhumane tactics that were rightly and roundly condemned by the civilized world. We maintained American strength and honor by refusing to stoop to the level of our enemies. And we should not stoop to the low lifestyles of the terrorists in the war on terror.

I rise to express my profound opposition to this bill both in terms of its substance and the procedure by which it reached the floor. The Armed Services Committee reported out a bill that I supported. That bill was not perfect, but it preserved our commitment to the Geneva Conventions, limited the possibility that detainees would be treated abusively and set up procedures for judicial review that generally respected the fundamental requirements of fairness.

Republican members of the Armed Services Committee then began a process of secret negotiation with the White House. The result of this bill that is far worse than the committee bill. Indeed, we have continued to see changes in that bill as it has been moved toward the floor in a rush to achieve passage before the Senate recesses for the election. This rush to passage to serve a political agenda is no way to produce careful and thoughtful legislation on profound issues of national security and civil liberties. At this point, most Members of this body hardly know what they are being asked to approve.

The bill as it now appears on the floor works profound and disastrous changes in our law.

This legislation sets out an overly broad definition of unlawful enemy combatant. This definition would allow the President to pick up anyone citizen and legal residents included anywhere around the world, and throw them into prison in Guantanamo without even charging or trying them. These people would never get a day in court to prove their innocence. There is no check whatsoever on the President's ability to detain people in an arbitrary manner.

We already know that our military has made mistakes in detaining people. We are currently holding dozens of people at Guantánamo who we know based on the military's own records are not guilty of anything. Yet they have not been allowed to go.

This legislation also makes a distinction between citizens and lawful permanent residents. Citizens cannot be subject to military commissions and their flawed procedures. Yet lawful permanent residents, those green card holders on the path to citizenship, could be sent to military commissions. Green Card holders must obey our laws, pay taxes, and register for the draft. They are serving our country in Iraq. They have an obligation to protect our laws, and they deserve the protection of those same laws.

The Geneva Conventions were adopted in the wake of the horrific atrocities during World War II. These conventions reflect the consensus on how individuals should be treated in times of war. They set a minimum floor of humane treatment for all prisoners, military and civilian alike. This floor is known as Common Article 3 because it is common to all of the Conventions. Yet this bill gives the President authority to decide what conduct violates Common Article 3 of the Geneva Conventions. Again, the President's authority to define the meaning of Common Article 3 is virtually unreviewable. He is required to publish his interpretation in the Federal Register, but the administration has already made clear that it will not make public which interrogation tactics are being used. Moreover, the bill expressly states that the Geneva Conventions cannot be relied upon in any U.S. court as a source of rights. The President's interpretation may well likely escape judicial review, as well.

As the final method of concealing its activities, the administration has stripped the courts of their ability to review the confinement or treatment of detainees. The administration won a provision that eliminates the ability of any detainee anywhere in the world to file a habeas corpus petition challenging the justification for or conditions of his or her confinement. This provision applies to all existing petitions and would require their dismissal, including the Hamdan case itself. There is no justification for stripping courts of jurisdiction to issue the Great Writ of habeas corpus which has been a foundation of our legal system with roots in the Magna Carta. The availability of the Great Writ is assured in the Constitution itself, which permits its suspension only in times of invasion or rebellion. This provision of the bill is most likely unconstitutional.

The administration has pursued a strategy to defeat accountability since it first began to take detainees into custody. It chose Guantánamo and secret prisons abroad because it thought U.S. law would not apply. It fought hard to prevent detainees from obtaining counsel and then argued that U.S. Courts lacked jurisdiction to hear detainees' complaints. It sought the prohibition on habeas corpus petitions adopted in the Detainee Treatment Act and then urged courts to misconstrue it to wipe out all pending habeas cases. This new effort to prohibit habeas petitions is a continuation of this effort to escape judicial scrutiny.

The bill also for the first time in our history will authorize the introduction of evidence obtained by torture in a judicial proceeding. Our courts have always rejected this type of evidence...
because it is inconsistent with fundamental notions of justice, and also because it is unreliable. We know that detainees were subjected to harsh interrogation techniques, and made statements as a result. Under this legislation, if those statements were made, they could be enforced with the passage of the McCain Amendment last winter, then they are admissible. The Congress is saying for the first time in our nation’s history that statements obtained by torture are admissible. This fact, alone, is a stunning statement of how far we have strayed from our bedrock values.

It defines conduct that can be prosecuted as a war crime in a very narrow way that appears designed to exclude many of the abusive interrogation practices that this administration has employed. While some have argued that cruel andinhumane practices such as waterboarding, induced hypothermia and sleep deprivation would surely be covered, the White House and the Republican leadership have refused to commit to this basic interpretation of the bill.

We tried to improve this bill. A number of amendments were offered and should have been adopted. I offered an amendment that responds to the lack of clarity about which practices are prohibited by the bill. Because the administration has refused to commit itself to stop using specific abusive interrogation procedures, our commitment to the provisions of Common Article 3 of the Geneva Conventions is in doubt. That puts our own people at risk. As military leaders have repeatedly stated, our adherence to the Geneva Conventions is essential to protect our own people around the world. America has thousands of people across the globe who do not wear uniforms, but put their lives on the line to protect this country every day. CIA agents, Special Forces members, contractors, journalists and others will all be learning our back on the standards of Common Article 3.

The bill as it has reached the floor would diminish the security and safety of Americans everywhere and further erode our civil liberties. I strongly oppose this bill.

Mr. GRASSLEY. Mr. President, we hear on a daily basis about the war we are currently engaged in, the war on terror, but I don’t think most of us stop to think about what that actually means.

As citizens of the greatest country in the world, we have become so accustomed to all the rights afforded us by our Constitution that we now take them for granted. We are incredibly fortunate to live in a nation that our freedom and safety is our Government’s first priority.

We aren’t living in the world I grew up in. Our Nation was rocked to its core 5 years ago when we were attacked on our soil. Thousands of innocent Americans were murdered simply because they lived in the one country that, above all others, embodies freedom and democracy. The mastermind behind those attacks was Khalid Shaikh Mohammed, who is now in custody and soon will be brought to justice.

In the aftermath of these attacks, Congress has made it clear that our first priority to “use all necessary force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons.” President Bush used this authorization, combined with his constitutional powers to make these sorts of judgments during times of war, to try enemy combatants in military commissions.

Earlier this month, we observed the 5-year anniversary of the horrific attacks on America. I cannot imagine the reaction that would have come if, 5 years ago, Members of Congress had stood on this floor and suggested that we were wrong to try to prevent another attack on our country. Five years ago, with the images of the collapsing Twin Towers and the burning Pentagon and the smoldering Pennsylvania field seared into our memories, we should have had a sense of faith that we intended to protect Americans first.

In Hamdan v. Rumsfeld, which the Supreme Court decided earlier this year, the Court ruled that the administration’s use of military commissions to try unlawful enemy combatants violated international law. This decision forced our interrogators, key in defending America from terrorist attack, to curtail their investigations. Without a clarification of the vague requirements, these interrogators might be subject to prosecution for war crimes. It also brought to an end the prosecution of unlawful enemy combatants through the military commissions.

It is key to point out that military commissions have been used throughout American history to bring enemy combatants to justice since before the United States was even officially formed. George Washington used them during the American Revolution, and since our Constitution was ratified, Presidents have used military commissions to try those who seek to harm Americans during every major conflict. Some of our most popular Presidents from history have taken this route, including Abraham Lincoln and Franklin Roosevelt. Whenever the leaders of this great Nation have seen threats posed by those who refuse to abide by the rules of war, they have taken the necessary steps to protect us.

Our President has come to us and asked for help in trying these terrorists whose sole goal is to kill those who love freedom. He has asked for our help in ensuring that those investigating potential terrorist plots against our Nation and our citizens are secure from being tried for undefined war crimes. These people are part of our first line of defense in securing the safety of our country—we owe it to them to protect them. Because of the Supreme Court’s decision in Hamdan, the only way these terrorists will be brought to justice and our interrogators will be protected for doing their jobs is for Congress to write a new law that establishes the military commissions and clarifying our obligations under the Geneva Conventions.

I firmly believe that enemy combatants in our custody enjoyed ample due process in the military commissions established by the administration, which were brought to a halt by the Supreme Court. The compromise that we are considering here today gives more rights to terrorists who were caught trying to harm America and our allies private rights of action, although it did not put our soldiers in danger. I firmly believe that the terrorism that seeks to destroy America are properly dealt with. This bill affords these unlawful enemy combatants rights that they themselves would never consider granting to American soldiers. It is beyond reasonable, beyond fair, and beyond time for Congress to act. We must pass this bill and reinstate the programs that, I believe, have been a crucial part of our Nation’s security over the last 5 years. Mr. WARNER. Mr. President, I ask unanimous consent to have printed in the RECORD a joint statement regarding alleged violations of the Geneva Conventions.

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

JOINT STATEMENT OF SENATORS MCCAIN, WARNER, AND GRAHAM ON INDIVIDUAL RIGHTS UNDER THE GENEVA CONVENTIONS, SEPTEMBER 28, 2006

Mr. President, we are submitting this statement into the record because it has been suggested by some that this legislation would prohibit litigants from raising alleged violations of the Geneva Conventions. This suggestion is misleading on three counts.

First, it presumes that individuals currently have a private right of action under Geneva. Secondly, it implies that the Congress is restricting individuals from raising claims that the Geneva Conventions have not been violated as a collateral matter. And, in fact, they have an independent cause of action. Finally, this legislation would not stop in any way a court from exercising any power it has to consider the United States’ obligations under the Geneva Conventions, regardless of what litigants say or do not say in the documents that they file with the court.

The Supreme Court’s decision in Hamdan left untouched the widely-held view that the Geneva Conventions provide no private rights of action to individuals. And, in fact, the majority in Hamdan suggested that the Geneva Conventions do not afford individuals private rights of action, although it did not need to reach that decision. This view has been underscored by judicial precedent—and even Salim Hamdan
himself did not claim in his court filings that he had a private right of action under Geneva.

Still, this legislation would not bar individual suits or FISA court suits on their pleadings any allegation that a provision of the Geneva Conventions—or, for that matter, any other treaty obligation that has the force of law—has been violated. Not the intent of Congress to dictate what can or cannot be said by litigants in any case.

By the same token, this legislation explicitly reserves untouched the constitutional functions and responsibilities of the judicial branch of the United States. Accordingly, when Congress says that the President can interpret Geneva, it is simply reasserting a longstanding constitutional principle. Congress does not intend with this legislation to prohibit the Federal courts from considering whether the obligations of the United States under any treaty have been met. To paraphrase an opinion written by Chief Justice Roberts recently, if treaties are to be given effect as Federal law under our legal system, determining their meaning as a matter of Federal law is the province and duty of the judiciary headed by the Supreme Court. Thus, the President ordinarily has the constitutional authority to interpret our Nation's treaty obligations, such interpretation is subject to judicial review. We are at war, the most important consideration we face is, Does this bill protect the American people? I submit that this bill does just that. It does so by permitting the President's CIA interrogation program to continue. This is of profound importance. If the attacks of September 11, 2001, taught us anything, it is that self-imposed limitations on the intelligence-gathering efforts of the CIA and others on the front lines to continue protecting America.

In addition, this bill protects classified information from being released to al-Qaeda terrorists. This also is a serious concern. The leaks, intelligence officials and informants—men and women who put their lives at risk to defend this Nation—must be protected at all costs.

If we needed any reminding why terrorists should not be given sensitive information, we should just look at the prosecuted of the 1993 World Trade Center bombers. According to the man who prosecuted these Islamic extremists, intelligence from U.S. Governors was sensitive information and was fought by permitting the President's CIA in 2001 to provide far greater procedural safeguards than any previous military commission, including Nuremberg. Let me say that again: liberal law professor Cass Sunstein has written that the military commissions authorized by the President's 2001 military order provided far greater procedural safeguards than any previous military commission, including Nuremberg. Let me say that again: liberal law professor Cass Sunstein has written that the military commissions authorized by the President's 2001 military order provided far greater procedural safeguards than any previous military commission, including Nuremberg. And in this legislation, we provide defendants with even broader procedural safeguards than the President's 2001 military order.

This system is exceedingly fair since al-Qaeda in no way follows the Geneva Conventions or any other international norm. Al-Qaida respects no law, no authority, no legitimacy but that of its own twisted strain of radical Islam. Al-Qaida grants no procedural rights to Americans they capture. Look at journalist Daniel Pearl, who was beheaded by al-Qaida in Pakistan in 2002. Al-Qaida simply executes those they capture, even civilians like Pearl. Not only do they inappropriately kill innocent civilians, they broadcast these brutal executions on the Internet for all to see.
Mr. President, I would just conclude by stating that this legislation is vitally important. It is vitally important because it is wartime legislation. It is vitally important because this bill protects our national security, it protects classified information, and it protects the rights of defendants. Most important, it protects America. For these reasons, I urge its passage.

Mr. CORNYN. Mr. President, once the Military Commissions Act, MCA, is signed into law, Section 7 is effective, Congress will finally accomplish what it sought to do through the Detainee Treatment Act—DTA—last year. It will finally get the lawyers out of Guantanamo Bay. It will substitute the blizzard of litigation instigated by Rasul v. Bush with a narrow DC Circuit—only review of the Combatant Status Review Tribunal—CSRT—hearings.

Perhaps even more important than the narrow standards of review created by the DTA is the fact that that review is exclusive to the court of appeals. This is by design. Courts of appeals do not hold evidentiary hearings or otherwise take in evidence outside of the administrative record. The DC Circuit will only review the CSRT review provisions of the DTA. The circuit court will review the administrative record of the CSRTs to make sure that the right standards were applied, the standards that the military used for CSRTs. The circuit court will determine whether the CSRT system as a whole is consistent with the Constitution and with Federal statutes.

There is no invitation in the DTA or MCA for Congress to reconsider the sufficiency of the evidence. Weighing of the evidence is a function for the military when the question is whether someone is an enemy combatant. Courts simply lack the competence—the knowledge of the battlefield and the nature of our foreign enemy—that enables them to judge whether particular facts show that someone is an enemy combatant. By making review exclusive to the DC Circuit, the DTA helps to ensure that the narrow review standards it sets do not somehow grow into something akin to Federal courts’ habeas corpus review of State criminal convictions. The court’s role under the DTA is to simply ensure that the military applied the right rules to the facts. It is not the court’s role to interpret those facts and decide what they mean.

Because review under the DTA and MCA will be limited to the administrative record, there is no need for any lawyer to ever again go to Guantanamo to represent an enemy combatant challenging his detention. The military, I am certain, will make the paper record available inside the United States. This is one of the major benefits of enacting the MCA. As I and others have noted previously, the hundreds of lawyer visits to Guantanamo sparked lawsuits that have seriously disrupted the operation of the Naval facility there. They have forced reconfiguration of the facility and consumed enormous resources, and have led to leaks of information that have made it harder for our troops there to do their job, to keep order at Guantanamo. Some of these detainee lawyers have even bragged about what a burden their activities have been on the military, and how they have disrupted interrogations at Guantanamo.

Putting an end to that was the major purpose of the DTA. Today, with the MCA, we see to it that this goal is effectively achieved.

Another major improvement that the MCA makes to the DTA is that it tightens the bar on nonhabeas lawsuits contained in 28 U.S.C. §2241(e)(2). That paragraph, as enacted by the DTA, barred postrelease conditions-of-confinement lawsuits, but only if the detainee had been found to be properly detained as an enemy combatant by the U.S. Court of Appeals on review of a CSRT hearing. Although nothing in the DTA or MCA directly requires the military to conduct CSRTs, this limitation on the bar to nonhabeas actions effectively did compel the military to hold CSRTs—and to somehow get the detainee to appeal to the DC Circuit. Otherwise, the allegations have been to allow the detainee to sue U.S. troops at Guantanamo after his release.

The MCA revises section 2241(e)(2) by, among other things, adopting a much narrower exception to the bar on post-release conditions-of-confinement lawsuits. Similarly, under 2242(e)(2) will bar nonhabeas lawsuits so long as the detainee “has been determined by the United States to have been properly detained as an enemy combatant or is awaiting such determination.” This new language does several things. First, it eliminates the requirement that the DC Circuit review a CSRT, or that a CSRT even be held, before nonhabeas actions are barred. This is important because many detainees were released before CSRT’s were held. We do want to make sure that those who were properly detained as enemy combatants to be able to sue the U.S. military. And we do not want to force the military to hold CSRT hearings forever, or in all future wars. Instead, under the new language, the determination that is the precondition to the litigation bar is purely an executive determination. It is only what the United States has decided that will matter.

In addition, the language of (e)(2) focuses on the propriety of the initial detention. There inevitably will be detainees who are captured by U.S. troops, or who are handed over to us by third parties, who initially appear to be enemy combatants. But who, upon further inquiry, are found to be unconnected to the armed conflict. The U.S. military should not be punished with litigation for the fact that they initially detained such a person. As long as the individual was at least initially detained as an enemy combatant, the nonhabeas litigation is now barred, even if the U.S. later decides that the person was not an enemy combatant or no longer poses any threat. The inquiry created here is not unlike that for reviewing, in the civilian criminal justice context, the propriety of an arrest. An arrest might be entirely legal, might be based on sufficient probable cause, simply because the suspect was not later convicted of a crime. The arresting officer cannot be sued and held liable for making that initial arrest, so long as the arrest itself was supported by probable cause, even if the arrestee is later conclusively found to be innocent of committing any crime. The arresting officer cannot be sued and held liable for making that initial arrest, so long as the arrest itself was supported by probable cause, even if the arrestee is later conclusively found to be innocent of committing any crime. The arresting officer cannot be sued and held liable for making that initial arrest, so long as the arrest itself was supported by probable cause, even if the arrestee is later conclusively found to be innocent of committing any crime. The arresting officer cannot be sued and held liable for making that initial arrest, so long as the arrest itself was supported by probable cause, even if the arrestee is later conclusively found to be innocent of committing any crime. The arresting officer cannot be sued and held liable for making that initial arrest, so long as the arrest itself was supported by probable cause, even if the arrestee is later conclusively found to be innocent of committing any crime. The arresting officer cannot be sued and held liable for making that initial arrest, so long as the arrest itself was supported by probable cause, even if the arrestee is later conclusively found to be innocent of committing any crime. The arresting officer cannot be sued and held liable for making that initial arrest, so long as the arrest itself was supported by probable cause, even if the arrestee is later conclusively found to be innocent of committing any crime. The arresting officer cannot be sued and held liable for making that initial arrest, so long as the arrest itself was supported by probable cause, even if the arrestee is later conclusively found to be innocent of committing any crime. The arresting officer cannot be sued and held liable for making that initial arrest, so long as the arrest itself was supported by probable cause, even if the arrestee is later conclusively found to be innocent of committing any crime. The arresting officer cannot be sued and held liable for making that initial arrest, so long as the arrest itself was supported by probable cause, even if the arrestee is later conclusively found to be innocent of committing any crime. The arresting officer cannot be sued and held liable for making that initial arrest, so long as the arrest itself was supported by probable cause, even if the arrestee is later conclusively found to be innocent of committing any crime. The arresting officer cannot be sued and held liable for making that initial arrest, so long as the arrest itself was supported by probable cause, even if the arrestee is later conclusively found to be innocent of committing any crime. The arresting officer cannot be sued and held liable for making that initial arrest, so long as the arrest itself was supported by probable cause, even if the arrestee is later conclusively found to be innocent of committing any crime.
precedents governing jurisdictional statutes were trumped in that case by a legislative intent to preserve the pending lawsuits. This congressional intent, the majority concluded, was manifested in minor changes that had been made to the language of the bill and, most expressly, in statements made by Senators regarding the intended effect of the bill. As Senator GRAHAM has explained in detail in remarks in the CONGRESSIONAL RECORD on August 3, at 152 Cong. Rec. S9777, it appears that the Supreme Court was misled about the legislative history of the DTA by the lawyers for Hamdan. Those lawyers misrepresented the nature of the statements made in the Senate and caused the court to believe that Congress had an intent other than that reflected in the text of the statute. It certainly was not my intent, when I voted for the DTA, to exempt all of the pending Guantanamo lawsuits from the provisions of that act.

Section 7 of the Military Commissions Act fixes this feature of the DTA and ensures that there is no possibility of comparable future. Subsection (b) provides that the bill's revised litigation bar "shall take effect on the date of the enactment of this Act, and shall apply to all cases, without exception, pending on or after the date of the enactment of this Act which relates 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." I don't see how there could be any exception to the effect of this act on the pending Guantanamo litigation. The MCA's jurisdictional bar applies to that litigation "without exception."

The new bill also bars all litigation by anyone found to have been properly detained as an enemy combatant, regardless of whether the detainee has been through the DC Circuit under the DTA or has been through a Combatant Status Review Tribunal hearing. The previous version of this bar, the DTA, allowed detainees to bring conditions-of-confinement lawsuits after their release if their detention was not reviewed by the DC Circuit. Obviously, the Government could not force the detainee to appeal, and there are some who were released before CSRT hearings were instituted. The new bill states that as long as the military decides that it was appropriate to take the individual into custody in the first place, the individual into custody in the first place.

The biggest change that the MCA makes to section 2241(e) is that the new law applies globally, rather than just to Guantanamo detainees. We are legislating through this law for future generations, creating a system that will operate not only in this war but for future wars in which our Nation fights. In the future, we may again find ourselves involved in an armed conflict in which we capture large numbers of enemy soldiers. It is not unlikely that the safest and most secure place to hold those soldiers will be inside the United States. The fact that we hold those enemy soldiers in this country should not be an invitation for each of them to sue our Government. We held very large numbers of enemy soldiers in this country during World War II. They did not sue our Government seeking release. The Rusal decision would seem to have required that enemy combatants held in this country during wartime can have access to our courts. If Congress is right on that, the military arrangement that the detainees are constitutional and are consistent with nontreaty Federal law. I imagine that, now that Congress has clearly shut off access to habeas, the courts should be allowed to review the evidence—"without exception." The DTA restricts the court to determine whether the prior CSRTs followed their own procedures.

It has been suggested that the court of appeals, in reviewing the CSRT decisions, can fix the problem simply by choosing to review the evidence itself. But that is simply not the way the statute reads. The government has chosen the first option and to support the Secretary of Defense. The DTA states that no review even of "significant exculpatory evidence" is permitted under the DTA. If Congress believes that the courts should be allowed to review evidence, and they clearly should be—then it should change the statute to say so. It is no solution to hope that the courts will ignore the act and rewrite the statute to correct the deficiency.

There you have it. Senators have been told in floor debate by the chairman of the Judiciary Committee that the DTA "excludes on its face" any factual determination with regard to the Guantanamo detainees, by groups lobbying Senators with regard to the MCA have pointed out that having courts make their own factual determinations, to judge the sufficiency of the evidence behind the military's findings, "is simply not the way the statute reads." We are informed that the Justice Department has taken the "firm position" that no evidentiary review is permitted under the DTA. And we are told that if we disagree with this system, if we think that it "limits the ability to second-guess the military's evidentiary findings." We are informed that the Department has taken the "firm position" that no evidentiary review is permitted under the DTA. And we are told that if we disagree with this system, if we think that it "limits the ability to second-guess the military's evidentiary findings." We are informed that the Department has taken the "firm position" that no evidentiary review is permitted under the DTA. And we are told that if we disagree with this system, if we think that it "limits the ability to second-guess the military's evidentiary findings." We are informed that the Department has taken the "firm position" that no evidentiary review is permitted under the DTA. And we are told that if we disagree with this system, if we think that it "limits the ability to second-guess the military's evidentiary findings." We are informed that the Department has taken the "firm position" that no evidentiary review is permitted under the DTA. And we are told that if we disagree with this system, if we think that it "limits the ability to second-guess the military's evidentiary findings." We are informed that the Department has taken the "firm position" that no evidentiary review is permitted under the DTA. And we are told that if we disagree with this system, if we think that it "limits the ability to second-guess the military's evidentiary findings." We are informed that the Department has taken the "firm position" that no evidentiary review is permitted under the DTA. And we are told that if we disagree with this system, if we think that it "limits the ability to second-guess the military's evidentiary findings." We are informed that the Department has taken the "firm position" that no evidentiary review is permitted under the DTA. And we are told that if we disagree with this system, if we think that it "limits the ability to second-guess the military's evidentiary findings." We are informed that the Department has taken the "firm position" that no evidentiary review is permitted under the DTA. And we are told that if we disagree with this system, if we think that it "limits the ability to second-guess the military's evidentiary findings." We are informed that the Department has taken the "firm position" that no evidentiary review is permitted under the DTA. And we are told that if we disagree with this system, if we think that it "limits the ability to second-guess the military's evidentiary findings." We are informed that the Department has taken the "firm position" that no evidentiary review is permitted under the DTA. And we are told that if we disagree with this system, if we think that it "limits the ability to second-guess the military's evidentiary findings." We are informed that the Department has taken the "firm position" that no evidentiary review is permitted under the DTA. And we are told that if we disagree with this system, if we think that it "limits the ability to second-guess the military's evidentiary findings." We are informed that the Department has taken the "firm position" that no evidentiary review is permitted under the DTA. And we are told that if we disagree with this system, if we think that it "limits the ability to second-guess the military's evidentiary findings." We are informed that the Department has taken the "firm position" that no evidentiary review is permitted under the DTA. And we are told that if we disagree with this system, if we think that it "limits the ability to second-guess the military's evidentiary findings." We are informed that the Department has taken the "firm position" that no evidentiary review is permitted under the DTA. And we are told that if we disagree with this system, if we think that it "limits the ability to second-guess the military's evidentiary findings." We are informed that the Department has taken the "firm position" that no evidentiary review is permitted under the DTA. And we are told that if we disagree with this system, if we think that it "limits the ability to second-guess the military's evidentiary findings."
will work, what the statute says on its face, how the Justice Department has construed that statute. By rejecting the Specter amendment earlier today, and by passing the MCA later today, the Senate makes clear that it does not disagree with the Justice Department and does not want to change this system.

I will close my remarks by quoting at length from the testimony of U.S. Attorney General William Barr, who spoke on the matters addressed by this legislation at the Judiciary Committee on June 15, 2005. Mr. Barr’s testimony informs our understanding of the history, law, and practical reality underlying the DTA and the MCA. I would commend his statement to anyone seeking to understand these statutes and the complex relationship between the President’s war-making power and the judiciary. This relationship is superficially similar to, but is fundamentally different from, the judiciary’s role in the civil and criminal law systems. In each of these areas, the underlying principles are the same—due process, fair procedures, and equal protection of the laws. As Justice Kennedy has observed, “The Constitution does not create, nor do general principles of law create, any juridical relation between our country and some undefined, limitless class of non-citizens who are beyond our territory.”

Over a century ago, the Supreme Court said that due process under the Fifth Amendment requires at least two things. First, the government must follow its own procedures. Second, it must provide procedures that are adequate to protect one’s fundamental rights. The Court has recognized fundamental rights as those that are “essential to [a person’s] being as a free and equal member of our society.”

As Mr. Barr notes, “the point here is that the ultimate substantive decision rests with the President and that the courts have no authority to substitute their judgments for that of the President.”

Mr. Barr went on to explain the distinction between the judicial and executive role. He explained: "The threshold determination in deciding whether the Convention applies is a "group" decision, not an individualized decision. The question of whether military information to which the detainee belonged was covered by the Convention. This requires that the military be that of a signatory power and that it be in violation of the laws of war. This involves individualized findings of guilt. Throughout our history we have used military tribunals to try enemy forces engaging in war crimes. Shortly after the attacks of 9/11, the President established military commissions to address war crimes committed by members of al-Qaeda and their Taliban supporters.

Again, Mr. Barr, our experience in World War II provides a useful analog. While the vast majority of Axis prisoners were simply held as enemy combatants, military commissions were convened at various times during the war to try particular Axis prisoners for war crimes. One notorious example was the massacre of American troops at Malmedy during the Battle of the Bulge. The German troops responsible for these violations were tried before military commissions. Let me turn to address some of the challenges of the way we have proceeded with these al-Qaeda and Taliban detainees. 1. The determination that foreign persons are enemy combatants. The Guantanamo detainees’ status as enemy combatants has been reviewed and re-reviewed within the Executive Branch and the military command structure. Nevertheless, the Supreme Court has determined that foreign persons captured by American forces on the battlefield have a Due Process right under the Fifth Amendment to an evidentiary hearing. While the vast majority of Axis prisoners were simply held as enemy combatants, military commissions were convened at various times during the war to try particular Axis prisoners for war crimes. One notorious example was the massacre of American troops at Malmedy during the Battle of the Bulge. The German troops responsible for these violations were tried before military commissions.

Let me turn to address some of the challenges of the way we have proceeded with these al-Qaeda and Taliban detainees.

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rules of the body politic. The Framers recognized that in the name of maintaining domestic tranquility an overseas government could oppress the very body politic it is meant to preserve. The very governance itself could become an oppressor of ‘the people.’

Thus our Constitution makes the fundamental precept of efficiency in the realm of law enforcement by guaranteeing that no punishment can be meted out in the absence of virtual certainty of individual guilt. The Bill of Rights’ Fourth Amendment provides for adherence to tidy evidentiary standards, some of which expressly provide for a neutral adversary ‘check’ on executive power. In this realm, the Executive’s subjective judgments are irrelevant; it must gather and present objective evidence as to each individual, satisfy specific constitutional standards at each stage of a criminal proceeding. The underlying premise in this realm is that it is better for society to suffer the cost of the guilty going free than mistakenly to deprive an innocent person of life or liberty. The situation is entirely different in armed conflict where the entire state of war may turn external threat into a neutral one; in armed conflict, the body politic is not using its domestic disciplinary powers to sanction an errant member, rather it is exercising its nation’s power to neutralize an external threat and preserve the very foundation of all our civil liberties. Here the Constitution is not concerned with handicap the government in its tasks of preserving the nation. Rather it is designed to maximize the government’s efficiency to achieve victory—even at the cost of ‘collateral damage’ that would be unacceptable in the domestic realm.

It seems to me that the kinds of military decisions—namely, the judgment of what constitutes a threat and what level of coer- cing that capacity as to negate the Con- judicially manageable standards to either gov- ern or evaluate military operational judg- ments. Narrowing the definition of military operations, divert resources from winning the war into demonstrating the individual ‘fault’ of persons confronted in the field of battle, and thereby uniquely disadvantage our military vis-à-vis every other fighting force in the world.

Second, the introduction of an ultimate decision maker outside of the normal chain of command, or altogether outside the Executive Branch, would disrupt the unity chain of command and undermine the effectiveness of frontline troops in their superior officers. The impartial tribunals could literally over- rule command decisions regarding battlefield tactics and set free persons whom American soldiers have risked or given their lives to capture. The effect of such a prospect on military discipline and morale is im- possible to predict.

The Supreme Court’s decision in Rasul v. Bush does not undercut these long-standing principles. In Rasul, the Supreme Court ad- ded the habeas statute applies extra-territorially—and expressly refrained from addressing these settled constitutional questions. The Court, in concluding that the habeas statute reached aliens held at Guantanamo Bay, re- lied on the peculiar language of the statute and the ‘extraordinary territorial ambit’ of the writ at common law.’ Of course, the idiosyncrasies of the habeas statute do not have any impact on judicial interpretation of the reach of the Fifth Amendment or other substantive constitutional provisions. Moreover, the Court’s recognition in Rasul that the United States exercises control, but ‘not ultimate sovereignty’ over the leased Guantanamo Bay territory confirms the in-applicability of the Fifth Amendment to aliens held there.

Nevertheless, even if Guantanamo Bay is somehow deemed sovereign United States territory, the Fifth Amendment is still inapplicable. The Supreme Court, in addition to the requisite detention on sovereign United States territory, demands that the aliens only receive constitutional protections. The habeas statute reaches aliens held at Guantanamo Bay, re- lied on the peculiar language of the statute and the ‘extraordinary territorial ambit’ of the writ at common law.’ Of course, the idiosyncrasies of the habeas statute do not have any impact on judicial interpretation of the reach of the Fifth Amendment or other substantive constitutional provisions. Moreover, the Court’s recognition in Rasul that the United States exercises control, but ‘not ultimate sovereignty’ over the leased Guantanamo Bay territory confirms the inapplicability of the Fifth Amendment to aliens held there.

Nevertheless, even if Guantanamo Bay is somehow deemed sovereign United States territory, the Fifth Amendment is still inapplicable. The Supreme Court, in addition to the requisite detention on sovereign United States territory, demands that the aliens only receive ‘constitutional protections’ that they have also ‘developed substantial privileges and expectations under the law.’ The Court’s formulation, ‘lawful but invol- untary’ presence in the United States is ‘not of the sort to indicate any substantial connection with our country’ sufficient to trigger constitutional protections. The ‘vol- entary connection’ necessary to trigger the Fifth Amendment’s due process guarantee is somehow lacking with respect to enemy com- batants.

Whatever else may be said, there can be no dispute that these individuals did not arrive in Guantanamo Bay by accident. The captured enemy combatants that have been trans- ported to Guantanamo Bay for detention thus are not entitled to Fifth Amendment due process rights. In Rasul, the Court held that the Supreme Court’s decision in Rasul was a statutory ruling, not a constitutional
one. In other words, the Court concluded only that the federal habeas statute confers jurisdiction on federal district courts to hear claims brought by aliens detained at Guantánamo. The Court nowhere suggested that the Constitution grants such aliens a right of access to American courts.

An important consequence follows: Congress could consider enacting legislation—either by creating special procedural rules for enemy alien detainees, by requiring any such habeas petitions to be filed in a particular court, or by prohibiting enemy aliens from halting military officials into court altogether."

Mr. President, with the Military Commissions Act, the Senate today enacted Mr. Barr’s third suggestion. We create a system that is consistent with our treaty obligations but that also is consistent with military tradition and the needs of our fighting forces in a time of war. It is a system that will serve this Nation well. I look forward to the day when this system is no longer needed.

Mr. HARKIN. Mr. President, since my years as a pilot with the U.S. Navy, nothing has been more important to me than protecting the American people and ensuring the security of our country.

Today, we are at war with extremists who want to do grievous harm to America. We all want to fight these extremists and defeat them. We all want to ensure that those who committed or supported acts of terror are brought to justice. The only disagreement is about how best to do that. What is the smartest, most effective way to fight and defeat our enemies?

Unfortunately, as the newly declassified National Intelligence Estimate testifies very clearly, our current course is, in many ways, playing into the hands of the terrorists. It is stirring up virulent anti-Americanism around the world, it is drawing new recruits to its cause, and it is making America less safe.

We have to do a better job, and we can do a better job. It is not good enough to be strong and wrong. We need to be strong and smart. This is especially true when it comes to our policies on interrogating and trying suspected terrorists. Again, we all want to extract information from these suspects. We all want to try them and, if guilty, punish them. The only disagreement is about how best to do it. What is the smartest, most effective way to interrogate and to try these suspected terrorists?

There is plenty of evidence that our current course, which clearly includes torturing suspects and imprisoning them without trial, is not working. To take just one case in point, consider the Canadian citizen, whom we now know to be completely innocent, who was arrested by the CIA—I use the word “arrested” loosely. He was picked up by the CIA, blindfolded, and sent to Syria for interrogation under torture. Not surprisingly, he told his torturers exactly what they wanted to hear—that he had received terrorist training in Afghanistan. The truth, of course, is that he was never in Afghanistan, had no terrorist ties, and is completely innocent.

The cost to the United States for this misconduct of our spies is our forfeited reputation and moral standing, has been disastrous—just as the revelations of torture and abuse at Abu Ghraib. What is more, it has endangered our troops in the field—now and in the future—should they fall into the hands of the enemy. They have the right to subject American prisoners to the same torture and abuse.

Again, it is not enough to be strong and wrong. We need to be strong and smart. We need to be true to 230 years of American jurisprudence, our Constitution, and the humane values that define us as Americans.

Back during the dark days of McCarthyism in the 1950s, former Senator Joseph McCarthy went on a rampage. He was allowed to the American people is that we have to become like the Communists in order to defeat them. Cooler heads prevailed but not until Senator McCarthy had done a lot of damage in this country, not only that, Congress was blacklisted, denied employment, many of whom committed suicide because they had no place to turn. The dark days of Joseph McCarthy come back to us in the guise of this military tribunal bill.

We do not have to become like the jihadists. We don’t have to become like the terrorists in order to defeat them. The best way to defeat them is the same way we defeated Joseph McCarthy and the Communists. We stayed true to our American ideals, our American jurisprudence, and the humane values we cherish as a free society. Regrettably, the bill before us fails this test. I cannot, in good conscience, support it.

The bill includes no barrier on the President’s reinterpreting our obligations under the Geneva Conventions as he pleases, allowing practices such as simulated drowning, induced hypothermia, and extreme sleep deprivation. The President can allow all of those to continue, in contravention of the Geneva Conventions. The bill before us rewrites the War Crimes Act in a way that fails to give clarity as to interrogation techniques that are allowed or forbidden, effectively allowing the administration—any administration—to continue the abusive techniques I just mentioned.

The bill creates a very bizarre double standard, immunizing, on the one hand, policymakers and the CIA and its contractors for committing acts of torture—immunizing them—while leaving our military troops subject to prosecution under the Uniform Code of Military Justice for the exact same practices. The bill creates this double standard: it immunizes the CIA, for example, and any contractors with the CIA, for committing acts of torture, while at the same time those same acts, if committed by a military person, would subject that military person to prosecution under the Uniform Code of Military Justice.

What kind of a signal does this send? What kind of a signal does this send? This bill completely eliminates the ability of noncitizens to bring a habeas corpus petition, effectively removing the only remaining check on the administration’s decision regarding torture and other abuses.

The habeas provisions in this bill would permit—get this—the bill would permit a legal permanent resident of the United States—a legal permanent resident of the United States—to be snatched off the street in the dark of night, bound, blindfolded, subject to indefinite detention, even torture, with absolutely no way for that person to challenge it in court.

Is that what we want to become as a nation? A legal permanent resident in the United States—all of whom there are millions in this country, taken out of his or her home at night, and we don’t know what happens to them? They go into the dark dungeons of who knows where. Maybe Guantánamo Bay, maybe Guantánamo Bay, where the habeas corpus is the only independent remedy available to people being held in indefinite detention who, in fact, have no connection to terrorism.

I heard one of my colleagues on the other side of the aisle going on yesterday about this habeas provision. He went on about how habeas corpus is to protect U.S. citizens. It is in no way, he went on, aimed at protecting enemy combatants who are picked up.

Therein lies the problem. How do we know they are enemy combatants? Is it because the CIA says they are an enemy combatant? Who says they are an enemy combatant? This is not World War II, folks, where the Germans wore one side of the uniform, the Japanese are on the other side and they have uniforms, and the Japanese have on uniforms. This is an amorphous terrorist war where the terrorists don’t wear uniforms. They can be dressed like you or me. They can look just like you or me. So we don’t know.

We have instances where people have been thrown into Guantánamo, for example, and they were fingered by a neighbor who didn’t like them and wanted their property or house or didn’t like them because of something they had done to them in the past. They fingered them and said: Guess what. They are big terrorists. People were picked up and thrown in jail.

Habeas is the one provision that allows someone snatched off the streets here or anywhere else suspected of being a terrorist to at least come forward and say: What are the charges against me?

We have seen this happen in Guantánamo. People kept for months, for years, without ever having a charge filed against them, and many of them we found out were totally innocent.
What does this say to the rest of the world?

Senator Obama from Illinois told the story the other day about when he was in Chad in August and heard about an American citizen who was picked up in Sudan and held by the Sudanese. He made a point to get this person released. It was an American journalist. After a while, he was released.

The American journalist came back and said: I was picked up by the Sudanese officials. I asked for permission to contact the U.S. Embassy with a phone call so I could talk to our Embassy.

The Sudanese captor said: Why should we let you do that? You don’t let the people in Guantanamo Bay do that.

The use of habeas is not just to protect the people who are suspected so that we know whether they really are an enemy combatant. It is also as a protection for our troops, our soldiers, our civilians, our business people traveling around the world, people traveling on vacation, journalists, just like this one, who may be snatched, picked up by a foreign government. We want to be able to say to that government: Produce the person. What are the charges? Don’t allow it. We are giving the green light to every other would-be dictator anywhere in the world to do the same thing—any government anywhere.

If the moral argument against torture does not hold any weight with this administration, they should just examine the abundant evidence that torture simply doesn’t work. This is not just my opinion, this is what the experts are saying.

Let me quote from a letter signed by 20 former U.S. Army interrogators and interrogation technicians:

Prisoners/detainee abuse and torture are to be avoided at all costs, in part because they can degrade the intelligence collection effort by interfering with or undermining interrogators’ efforts to establish rapport with the subject.

Simply put, torture does not help gather useful, reliable, actionable intelligence. In fact, it inhibits the collection of such intelligence.

Earlier this month, the U.S. Army released its new field manual 222.3: “Human Intelligence Collector Operations,” which covers interrogations by the U.S. military in detail. This manual replaces the previous manual and is written by our military personnel around the world in performing interrogations.

The Army Field Manual explicitly bans, among other things, beating prisoners, sexually humiliating them, threatening them with dogs, depriving them of food and water, performing mock executions, shocking them with electricity, burning them, causing other pain, or subjecting them to the technique called waterboarding, which simulates drowning.

So why are these techniques explicitly banned in the Army Field Manual, why shouldn’t they be explicitly banned for CIA personnel or CIA contract personnel? Why do we have a high standard for our military and effectively no standard for the CIA and its contractors?

For me, this debate about illegal imprisonment and officially sanctioned torture is not an abstraction. It strikes very close to home.

Thirty-six years ago this summer at the height of the Vietnam war, I brought back photographs of the so-called tiger cages at Con Son Island where the North Vietnamese prisoners, as well as civilians who had committed no crime whatsoever, were being tortured and killed with the full knowledge and sanction of the U.S. Government. That was July of 1970 when I was a staff person in the House of Representatives working with a congressional delegation on a fact-finding trip to Vietnam.

We had all heard reports about the possible existence of these so-called tiger cages in which people were brutally tortured and killed. Our State Department and our military officials denied their existence. They said it was only Communist propaganda.

Through various sources, I thought that the reports about the tiger cages were at least credible and should be investigated further.

Thanks to the courage of Congressman William Anderson of Tennessee and Congressman Augustus Hawkins of California and to Don Luce, an American working for a nongovernmental organization, and because of the bravery of a young Vietnamese man who gave us the maps on how to find the prison, we were able to expose the tiger cages on Con Son Island.

This young Vietnamese man about whom I speak was let out of the tiger cages, but they kept his brother, and they said: If you breathe one word about this, we are going to kill your brother.

Why did they let him out of the tiger cages? Because he was president of the student body at Saigon University. What had been his crime? He had demonstrated against the war. So they picked up he and his brother and threw them in the tiger cages and tortured them.

The students refused to go back to class—this was a big deal—until they returned this young man to his university, which they did, but they kept his brother. And if you breathe a word of this, we will kill him.

This young man decided he needed to take a chance, and he took a chance on me. He drew the maps and gave us the story on how to find these tiger cages which were well hidden, and without the maps we would have never found them. Fortunately, I had a camera and a hidden tape recorder which proved useful when I returned to the United States.

Supporters of the war claim that the tiger cages were not all that bad. But then Life magazine published my pictures, and the world saw the horrific conditions where, in clear violation of the Geneva code, North Vietnamese, Vietcong, as well as civilian opponents of the war—just civilians—who committed no crimes whatsoever—were all crowded together in these cages, as I said, in clear violation of the Geneva Conventions and the most fundamental principles of human rights.

At the same time, the U.S. Government had been insisting that the North Vietnamese abided by the Geneva Conventions in their treatment of prisoners in North Vietnam. Yet here we are, condoning and punishing the torture of civilian Vietnamese, along with Vietnamese soldiers and others in clear violation of the Geneva Conventions.

We may not have known about it—but the Vietnamese sure knew about it.

I thought we had learned our lesson from that, and then I saw Abu Ghraib and thought: Wait a minute. Haven’t we learned our lesson? And, Mr. President, as 36 years ago as Abu Ghraib, the tiger cages were first talked about, they were denied—and they thought they could deny them because it was hard to get to the island. You couldn’t really get out there. As far as they were concerned, no one had ever taken pictures of it and no one had ever really escaped from there, like a Devil’s Island kind of place.

So the military denied it. Our Government denied it year after year until I was able to take the pictures and bring back the evidence.

Mr. President, I submit to you and everyone here and the American people that had not that courageous soldier taken the pictures of Abu Ghraib and kept those pictures, they would have denied that ever happened. They would have denied that high Heaven that such things took place at Abu Ghraib.

Thankfully, one courageous young soldier decided this was wrong. It was inhumane, it was not upholding the highest standards of America, and it was in violation of the Geneva Conventions. Had he not taken those pictures, it would be denied forever that that ever happened at Abu Ghraib.

So now, as if we learned nothing from that previous tragedy of the tiger cages 36 years ago or Abu Ghraib just a couple of years ago, here we go again denying obvious instances of torture and abuse, effectively giving the green light to torture by U.S. Government agents and contractors and watering down the War Crimes Act.

This is a betrayal of our laws. It is a betrayal of our values. It is a betrayal of everything that makes us unique and proud to be Americans.

The administration apparently thinks that we will just go along with this betrayal because there is an election in 6 weeks. Apparently they think we are afraid of being branded weak on terrorism. Indeed, some are no doubt hoping that we will go against this bill so they can use it as a bludgeon against us in the election. All I can say is: Shame on them. What is more, it is not going to work. Because opposing
this bill, which would give the green light to torture, is far, far bigger than the outcome of the November election.

This is about preserving our core values as Americans. It is about standing up for our troops and ensuring that they do not become subject to the same acts of torture and retaliation. It is about standing up for American citizens, civilians, and others who may be caught up in some foreign land with false charges filed against them, and yet not even being able to contact our embassies to protect them as Americans. And it is about changing course and beginning to wage an effective war against the terrorists who attacked us on September 11, 2001.

It is time to quit being strong and wrong, and it is time to start being strong and smart. Being strong and wrong has been a disaster. It has turbocharged the terrorists. It has made America less safe. So it is time to change the course and get smart. It is time to say no to indefinite—indefinite—incarceration. It is time to be strong and smart. It is time to say no to torture in all its forms now and at any time in the future.

Mr. President, I yield the floor.

Mr. BIDEN. Mr. President, I want to start by complimenting Senators W ARNER, McCAIN and GRAHAM and the work that they did to improve this bill, particularly in two areas.

First, our colleagues did the right thing by rejecting the attempt by the administration to reinterpret, by statute, Common Article III of the Geneva Conventions. That would have been an enormous mistake—and an invitation for other countries to define for themselves what the Geneva Conventions require.

Second, our colleagues were right to reject the use of secret evidence in military commissions. Such a proposal is not consistent with American jurisprudence, and would not have satisfied the requirements of the Supreme Court decision in Hamdan.

Overall, the bill provides a much better framework for trying unlawful enemy combatants than under the flawed order issued by the President. All this is positive, and our three colleagues deserve credit for their good work.

But the bill contains a significant flaw. It limits the right of habeas corpus in a manner that is probably unconstitutional. Don’t take my word for it. Listen to the words of a conservative Republican, Kenneth Starr, who used to sit on this nation’s second highest court, and is now one of the country’s leading appellate advocates, in a letter written to Senator SPECTER earlier this week:

Article 1, section 9, clause 2 of the United States Constitution provides that “[t]he privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.” The United States is neither in a state of rebellion nor invasion. Consequently, it is inappropriate for Congress to modify the constitutionally protected writ of habeas corpus under current events.

Accordingly, I believe this bill is likely unconstitutional. I hope that I am wrong. But I fear that I am right, and that we will be back here in a few years debating this issue again.

We had one this right— to ensure that we don’t end up back here again after a new round of litigation. There was no reason to rush. No one challenges our right to detain the high-value prisoners the President just transferred to Guantanamo. We are not about to release them—nor should we.

But rush we did. In the last week, there have been two different versions of the legislation that emerged from closed-door negotiations with the administration. That is not consistent with American jurisprudence and would not have satisfied the requirements of the Supreme Court when it acted against the terrorists who attacked us on September 11, 2001.

It is time to be strong and smart. It is time to say no to indefinite—incarceration. It is time to be strong and smart. It is time to say no to torture in all its forms now and at any time in the future.

Mr. President, I yield to the distinguished Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank the Senator. I would be glad to.

Mr. LEVIN. Mr. President, I heartily join my good friend from Virginia in his assessment of Senator McCAIN. I know there has been some disagreement as to who would go first, but that should not in any way, I hope, cloud the real affection which I think everybody in this body holds for Senator McCAIN.

This Chamber, and indeed all of America, knows full well about the extraordinary record that this man has in the service of his Nation, showing unselfishness, showing courage, showing foresight.

I am proud to have worked with him as a partner in these past weeks, indeed, months now, on this piece of legislation.

I just want to express my gratitude, and I think the gratitude of many people across this country, for the service it is rendering the Senate and hopefully will continue to render the Senate in the coming years.

When I step down under the caucus, it is my hope that JOHN MCCAIN is elected to succeed me as chairman of the Senate Armed Services Committee.

But at this point in time, I am proud to yield, as manager, my time to the Senator from Arizona.

Mr. LEVIN. Mr. President, will the Senator from Arizona yield?

Mr. MCCAIN. I would be glad to.

Mr. LEVIN. Mr. President, I heartily join my good friend from Virginia in his assessment of Senator McCAIN. I believe our colleague, the distinguished Senator from Arizona, knows full well about the extraordinary record that this man has in the service of his Nation, showing unselfishness, showing courage, showing foresight.

I thank the Senator.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 14 minutes.

Mr. MCCAIN. Mr. President, I thank both my friends of many years, Senator LEVIN and Senator WARNER, for the collegiality, the bipartisanship, and the effort that we all make under their leadership on the Armed Services Committee for the betterment of the men and women who serve our country and our Nation’s defense. I am honored to serve under both.

For the record, I believe I just calculated how long I say to my colleagues from Virginia, it has been 33 years since I came home from Vietnam and found that our distinguished Secretary of the Navy was very concerned about the welfare of those who had the lack of talent that we were able to get shot down. So I thank my friend from Virginia especially, and I thank my friend from Michigan. I believe our committee conducts itself in a fashion...
which has been handed down to us from other great Members of the Senate, such as Richard Russell and others.

Mr. President, before I move on to other issues, I have heard some criticism on the Senate floor today about the way in which the bill treats admissibility of coerced testimonies.

A New York Times editorial today said that in this legislation ‘coercion is defined in a way that exempts anything done before the passage of the 2006 Detainee Treatment Act, and anything else Mr. Bush chooses’ in their inimitable style.

This is thoroughly incorrect, and I would like to correct not only the impression but the facts.

This bill excludes any evidence obtained through illegal interrogation techniques, including those prohibited by the 2006 Detainee Treatment Act. The goal is to bolster the Detainee Treatment Act by ensuring that the fruits of any illegal treatment will be per se inadmissible in the military commissions.

For evidence obtained before passage of the Detainee Treatment Act, we adopted the approach recommended by the military JAGs. In order to admit such evidence, the judge—without the accused present—must find that it passes the legal reliability test—and, as applied in practice, the greater the degree of coercion, the more likely the statement will not be admitted; the evidence possesses sufficient probative value; and that the degree of coercion would best be served by admission of the statement into evidence.

Mr. President, I ask unanimous consent that three different letters from three different JAGs—Air Force, Navy, and Marine Corps—be printed in the RECORD.

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


Hon. John McCain, Russell Senate Office Building, Washington DC.

Dear Senator McCain: Thank you for your letter of 23 August 2006, in which you requested my written recommendations on the military commissions legislation Congress is expected to consider next month. You specifically ask for my personal views on the most pressing issues involving the legislation.

As of the date of this letter, several bills have been introduced and I believe the administration is also considering legislation for congressional consideration. I appreciate the opportunity to provide my personal perspective and comments on the general nature of the potential legislation.

I begin with the premise that legislation is appropriate. As the Supreme Court noted again in Hamdan v. Rumsfeld, 548 U.S. , 126 S.Ct. 2749 (2006), the President’s powers in warfighting are plenary and subject to specific statutory authority only. Existing criminal justice systems, including the process established by Military Commission Order 1, should be reviewed to develop a system that will best serve the interests of justice and the United States. The Uniform Code of Military Justice (10 U.S.C. §801 et. seq.) (UCMJ) provides that order could provide superb starting points. The processes and procedures in the UCMJ and MCM have served us well and can be readily adapted to meet the needs of military commissions.

As I have testified, Congress could enact a UCMJ Article 135a to establish the basic substantive requirements for military commissions, and that order could provide detailed guidance, just as the MCM provides detailed guidance for the trial of courts-martial. Alternatively, Congress could create a separate Code of Military Commissions as a new chapter in Title 10, modeled to an appropriate degree after the UCMJ, and similarly leave the details to an executive order. Either approach must address the requirements of the Geneva Conventions and the concerns articulated in Hamdan.

There will necessarily be differences between current court-martial procedures and the rules and procedures for military commissions. However, the processes and procedures should be readily adapted to meet the needs of military commissions and still meet the requirements of criminal justice systems established by common Article 3 of the Conventions.

The legislation must appropriately address access to evidence and the accused’s presence during the trial. Specifically, it is my strong belief that evidence admitted against an accused and provided to members of a military commission must also be provided to the accused and accused counsel.

Any statement evidence to be admitted outside the presence of the accused would mean the military commission could convict and possibly impose a sentence of death without the accused being present for knowing the evidence considered against him:

Such a procedure is extremely problematic, both constitutionally and from a Common Article 3 perspective.

The accused’s presence is a critical facet of this legislation. The United States is more than a nation of laws; it is a country founded upon strong moral principles of fairness to all. Moreover, our country—to the delight of all—has been heavily criticized because of the perceived unfairness of the pre-Hamdan military commission process was unfair and did not afford “all the judicial guarantees which are recognized as indispensable by civilized nations.”

Now is the time to correct that perception and clearly establish procedures and rules that meet that standard. These procedures and rules will do more than merely correct legal deficiencies; they will help reestablish the United States as the leading advocate of the rule of law. I firmly believe doing so is an important facet of winning the global war on terrorism.

Inextricably tied to that concept is a awareness of reciprocity. We cannot hold out our standards of justice and law to the rest of the world and then refuse to meet our own. Our international law does not anticipate situations in which the United States will not be able to take the same actions as those it offers to others.

Additionally, concerns have been raised about other evidentiary and procedural issues, including the ability of the accused to represent himself, and the admissibility of hearsay, classified evidence, and an accused’s own statements.

The right of the accused to represent himself pro se is well recognized in our jurisprudence. In the context of military commissions, it presents difficult issues. Current military practices do provide the accused with the right to waive the right to be represented and conduct his defense personally. That option should be available if the accused competently demonstrates to the military judge he understands the potential disadvantages and consequences of self-representation and has voluntarily and intelligently waived his right to representation. The military judge should have the authority to require that a defense counsel remain present even if the accused waives representation. However, if the accused is disruptive or fails to follow the basic rules of decorum and procedure, this right is obviously contingent on the presence and cooperation of the accused in proceeding as well as access to the evidence.

Again, I recommend that Congress detail the evidentiary standards in the legislation and then permit an executive order to flesh out the details, just as the MCM provides evidentiary details for the UCMJ. Evidence should be admissible if, in the judgment of an experienced military judge, there are guarantees of its trustworthiness, the evidence has probative value, and the interests of justice are best served by its admission.

There has been some comment that the admission of hearsay is improper. In my view, such criticisms reflect a misunderstanding of the rules of evidence used in Federal, military and state trials today. Under the Military Rules of Evidence, hearsay is not admissible except as provided in the MREs or by statute. The MREs further define statements that are not hearsay and provide for exceptions conditioned on the reliability of the declarant. Additionally, there is a residual hearsay rule that permits the introduction of other statements, having equivalent circumstantial guarantees of trustworthiness, if the court determines that the statement is material evidence; has more probative value than other available evidence; and serves the interests of justice.

The Supreme Court recently narrowed the application of residual hearsay as it applies to out-of-court statements that are testimonial in nature. Such statements are now barred unless there is a showing that the witness is unavailable and the accused had a prior opportunity to cross-examine the witness. The overall application of the residual hearsay rule is functionally very much like that used in international tribunals and requires a military judge to find the evidence is probative and reliable. These procedures provide a meaningful starting point for addressing the hearsay issues arising in military commissions.

As to the use of classified evidence, I believe the procedures of MRE 505 adequately protect national security. MRE 505 is based on the Classified Information Procedures Act (CIP A) (Title 18, U.S.C. App III). CIP A is designed to prevent unnecessary or inadvertent disclosures of classified information and addresses the government of the national security implications of going forward with certain evidence. MRE 505 achieves a reasonable accommodation of the United States’ interest regarding informing the accused’s need to be able to mount a defense. The rule permits in camera, ex parte consideration of the Government’s concerns by a judge, the substitution of unclassified summaries or other alternative forms of evidence, and ensures fairness to the accused. Under MRE 505, both the prosecution and the accused would be aware of the evidence going to the court. The accused knows all that is to be considered by the trier-of-fact, has an opportunity to respond, and is able to assist the military judge in the decision.

Concerns about the admissibility of state evidence made by an accused primarily involve the current requirement to provide Miranda warnings in military commissions (codified in the UCMJ at Article 31) and whether the statement is the product of torture or coercion.
The military commission process must recog-
nize the battlefield is not an orderly place. 
The requirement to warn an individual be-
fore questioning is one area where deviation 
from the established UCMJ framework may 
be well warranted. 
Generally, if a military judge concludes 
the confession or admission of an accused 
is involuntary, the statement is not admissible 
in a court-martial over the accused’s objec-
tion. Commonly, a statement is involuntary 
if it is obtained in violation of the self-in-
incrimination privilege or due process clause 
of the Fifth Amendment to the Constitution of 
the United States; Article 31; or through the 
use of coercion, unlawful influence, or 
unlawful inducement. Obvi-
ously fact determinative and the military 
judge decides whether the statement is vol-
untary considering the totality of the cir-
cumstances. I trust the judgment of experi-
enced military judges. Military commissions 
should not be permitted to consider evidence 
that is found to be unlawfully coerced and 
thus involuntary. 
Finally, appellate jurisdiction over mili-
tary commission decisions should be clearly 
established and appropriately vested in 
the United States Court of Appeals for the District of Columbia 
Circuit (consistent with the Detainee Treat-
ment Act of 2005). 
The introduction of evidence outside the 
presence of an accused is, in my view, incon-
venient and in many cases counter to the 
Supreme Court held in Handan v. Rumsfeld, 126 S.Ct. 2749 (2006), that absent a sufficient 
practical need to deviate from existing U.S. 
law and criminal trial procedures, an ac-
accused must be present at trial and have 
access to all evidence presented against him. 
A four-justice plurality also opined that 
Common Article 3 of the 1949 Geneva Conventions 
requires, at a minimum, that an accused be 
present at trial and have access to the evi-
dence in a court-martial over the accused’s objec-
tion to the introduction of hearsay evi-
dence, which is partly based on the Classified Infor-
mation Procedures Act (CIPA). M.R.E. 505 
permits a military judge to conduct an 
in camera, ex parte review of the Government’s interest in protecting classified information and 
encourages the substitution of unclassi-
fied summaries and forms of evidence 
in lieu of the classified information. 
This type of procedure ensures that classified 
information is not disclosed under circum-
cumstances that could injure national secu-
rity.

While it is true that application of a 
M.R.E. 505-style process might erroneously 
result in the Government being unable to in-
roduce evidence against an accused under certain circumstances, it is my view that we are better 
positioned to know the law of war, which requires that we afford even terrorists the judicial guarantees which are 
recognized as indispensable amongst civ-
lized peoples to prosecute. For it is that very same law that allows us to hold terrorists for the duration of hos-
tilities, however long those hostilities might last. 

With regard to hearsay evidence, I have no 
option to the introduction of hearsay evi-
dence so long as the evidentiary standard is 
clarified to exclude information that is unre-
liable, not probative, unfairly prejudicial, 
confusing, or misleading, or when such ex-
clusion is necessary to preserve the integrity 
of the proceedings. Such an approach 
would be consistent with the practice of inter-
national war crimes tribunals supported by 
the United States in Rwanda and the former 
Yugoslavia. Those tribunals satisfy the re-
quirements of the law of war including Com-
mon Article 3 of the Geneva Conventions of 
1949.

With regard to statements alleged to have 
been derived from coercion, the presiding 
military judge has discretion to inquire into the underlying 
factual circumstances and exclude any state-
ment derived from coercion, in order to pro-
tect the integrity of the proceeding. 
As I noted earlier, the legislation should 
emulate all offenses triable by military 
commission. Conspiracy should be included, 
but only conspiracies to commit one of the 
substantive offenses specifically enumerated 
and there must be a requirement to prove the 
coerced statement was made in further-
ance of the conspiracy. This would 
mean, for example, that conspiracy to 
commit murder in violation of the laws of war 
with affiliation with a terrorist organization, standing 
alone, would not be cognizable. 
I also believe that I was 
consistent with the practice of inter-
national war crimes tribunals supported 
by the United States in Rwanda and the former 
Yugoslavia. Those tribunals satisfy the re-
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As I noted earlier, the legislation should 
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and there must be a requirement to prove the 
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mon Article 3 of the Geneva Conventions of 
1949.
And the other two Judge Advocate Generals say the same thing, that the provisions of this bill are exactly in line with their opinions. Frankly, that had a great deal of weight in our adopting them.

Almost exactly 3 months ago, the Supreme Court decided the groundbreaking case of Hamdan v. Rumsfeld. In that case, a majority of the Court ruled that the military procedures used to try detainees held at Guantanamo Bay fell short of the standards for the Uniform Code of Military Justice and the Geneva Conventions.

The Court also determined that Common Article 3 of the Geneva Conventions applies to al-Qa‘ida because our conflict with that terrorist organization is “not of an international character.” Some of my colleagues may disagree with the Court’s decision, but once issued it became the law of the land.

Unfortunately, the Hamdan decision left in its wake a void and uncertainty that Congress needed to address—and address quickly—in order to continue fighting the war on terrorism. I believe this act allows us to do that in a way that protects our soldiers and other personnel fighting on the front lines and respects core American principles of justice. I would like to thank Senators GRAHAM and WARNER and many others for their unceasing work on this bill.

I would like to take a few moments to describe some of the key elements of the legislation.

As is by now well known, Senators WARNER, GRAHAM, and I, and others, have resisted any redefinition or modification of our Nation’s obligations under Common Article 3 of the Geneva Conventions. We did so because we care deeply about legal protections for American fighting men and women and about America’s moral standing in the world. More than 50 retired military generals and admirals expressed grave concern about redefining our Geneva obligations, including five former Chairmen of the Joint Chiefs of Staff.

Mr. President, I ask unanimous consent to have printed in the Record letters from GEN Colin Powell, GEN Jack Vessey, and GEN Hugh Shelton, and a letter from the former Commandant of the Marine Corps, General Krulak.

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

SEPTEMBER 13, 2006.

DEAR SENATOR MCCAIN: I just returned to town and learned about the debate taking place in Congress to redefine Common Article 3 of the Geneva Convention. I do not support such a step and believe it would be inconsistent with the McCain amendment on torture which I supported last year.

I have enclosed an eloquent letter sent to you by one of my distinguished predecessors as Chairman of the Joint Chiefs of Staff, General Jack Vessey. I fully endorse in the strongest manner this statement. The United States is once again at war, and the entire world is beginning to doubt the moral basis of our fight against terrorism. To redefine Common Article 3 would add to those doubts. Furthermore, it would put our own troops at risk.

I am as familiar with The Armed Forces Officer as the Commandant. Mr. William J. Vessey, and GEN Hugh Shelton, and a letter from the former Commandant of the Marine Corps, General Krulak.

Thank you for your own personal courage in maintaining those values, both in war and peace, and for your vision and wisdom. But it is not too late to revisit the provisions of the McCain Amendment and consult with our military leaders before a final decision is made.

Sincerely,

GENERAL COLIN L. POWELL, USA (RET.).

September 12, 2006.

Hon. JOHN MCCAIN, U.S. Senate, Heartland, DC.

DEAR SENATOR MCCAIN: Sometimes, the news is a little garbled by the time it reaches the forests of North-central Minnesota, but I call your attention to recent reports that the Congress is considering legislation which might relax the United States’ support for adherence to Common Article 3 of the Geneva Convention. If that is true, it would seem to weaken the effect of the McCain Amendment on torture of last year. If such legislation is being considered, I fear that it may weaken America in two respects. First, it would destroy the moral basis which has generally guided our conduct in war throughout our history. Second, it could give opponents a legal argument for the mistreatment of Americans being held prisoner in time of war.

In 1990, 3 years after the creation of the Department of Defense, the then Secretary of Defense, General Colin L. Powell, issued a small booklet, titled The Armed Forces Officer. The book summarized the laws and traditions that governed our Armed Forces throughout the years. As it deals with the issue, it might consider a short quote from the last chapter of that book which General Marshall sent to every American Officer. The last chapter is titled “Americans in Combat” and it lists 29 general propositions which govern the conduct of Americans in war. Number XV, which I long ago underlined in my copy, reads as follows:

“The United States abides by the laws of war. Its Armed Forces, in their dealing with all other peoples, are expected to comply with the laws of war, in the spirit and the letter. The American soldier is forever waging war, we do not distinguish helpless non-combatants, if it is within our power to avoid so doing. Wanton killing, torture, cruelty or the working of unusual hardships upon enemy prisoners is not justified in any circumstance. Likewise, respect for the reign of law, as that term is understood in the United States, is expected to follow the flag wherever it goes.”

For the long term interest of the United States as a nation and for the safety of our own forces in battle, we should continue to maintain those principles. I continue to read and hear that we are facing a “different enemy” in the war on terror; no matter how true that may be, inhumanity and cruelty are not new to warfare nor to enemies we have faced in the past. In my short 46 years in the Armed Forces, Americans confronted the horrors of the prison camps of the Japanese in World War II, the North Koreans in the 1950-53 war and the North Vietnamese in the long years of the Vietnam War, as well as knowledge of the Nazi’s holocaust depredations in World War II. Through those years, we have never wavered in our own values. We should continue to do so.

Thank you for your own personal courage in maintaining those values, both in war and peace, and for your vision and wisdom. But it is not too late to revisit the provisions of the McCain Amendment and consult with our military leaders before a final decision is made.

Sincerely,

GENERAL COLIN L. POWELL, USA (RET.).

September 12, 2006.
Convention is in error, and if not that the Senate will reject any such proposal. Very respectfully,

GENERAL JOHN W. VESSY, USA (Ret.)

SEPTEMBER 20, 2006

Hon. JOHN MCCAIN, U.S. Senate, Washington D.C.

DEAR SENATOR MCCAIN: I have followed with great interest the debate over whether to redefine in law Common Article 3 of the Geneva Convention. I join my distinguished predecessors as Chairman of the Joint Chiefs of Staff, Generals Vessey and Powell, in expressing concern regarding the contemplated changes. I believe, hinder our efforts to win America's wars and protect American soldiers.

Common Article 3 and associated Geneva provisions have offered legal protections to our troops since 1949. American soldiers are trained to Geneva standards and, in some cases, these standards constitute the only protections remaining after capture. Given our military's extraordinary presence around the world, Geneva protections are critical.

Should the Congress redefine Common Article 3 in domestic statute, the United States would be inviting similar reciprocal action by other parties to the treaty. Such an action would send a terrible signal to other nations that the United States is attempting to water down its obligations under Geneva. At a time when we are deeply engaged in a war of ideas and war on the battlefront, this would be an egregious mistake. I firmly believe that not only is such a move unnecessary, it potentially subjects our men and women in uniform to unnecessary danger.

The legislation sponsored by Senator Warner, which would enumerate war crime offenses while remaining silent on America's obligations under Common Article 3, is a better course of action. By doing so, our men and women in field will have the clarity they require, we can still interrogate terrorists, and our service personnel will have the undiluted protections offered by the Geneva Convention.

Respectfully,

GENERAL H. HUGH SHELTON.

SENATOR MCCAIN: This is the first time I have been asked about the administration policy regarding the war against terror but my professionalism and my conscience leads me to comment on the proposed interpretation/change to the Geneva Convention.

My concerns are as follows:

1. A redefinition or reinterpretation of the Geneva Convention, a document that has been taught to every recruit and officer candidate since its inception, would immediately attack the moral dimension with which every Soldier, Sailor, Marine and Airman is inculcated during their time as a war fighter. Whereas previous precedents during the first battle of the Civil War set the precedent that any future war fought by the United States must be conducted in a manner that up our honor because our enemy is without honor? If we do, we begin to mimic the very behavior we abhor.

2. Many countries already look at the United States as arrogant. This redefinition/reinterpretation/semper fideli would make clear that the United States will abide by law. The idea that the United States would "pick and choose" what portion of the Geneva Convention to follow for the purposes of our military operations does not comport with our understanding of "redemptor interpret." . . .

3. The legislation would also mandate changes to the Detainee Treatment Act. This legislation also requires the President to publish his interpretations of the Geneva Conventions, including what violations constitute war crimes and what breaches, not war crimes, will be harder, not easier, to defeat our enemies. I am pleased that this legislation before the Senate does not amend, redefine, or modify the Geneva Conventions in any way. The conventions are preserved intact.

The bill does provide needed clarity for our personnel about what activities constitute war crimes. For the first time, there will be a list of nine specific activities that constitute criminal violations of Common Article 3, punishable by imprisonment or even death. There has been basic discussion about specific interrogation techniques that may be prohibited. But it is unreasonable to suggest that any legislation could provide an explicit and all-inclusive list of what specific activities are illegal and which are permitted. Still, I am confident that the categories included in this section will criminalize certain interrogation techniques, like waterboarding and other techniques that cause serious pain or suffering that need not be prolonged—"that need not be prolonged." Some critics of this legislation have asserted that it gives amnesty to U.S. personnel who have committed war crimes under the War Crimes Act. Nothing—nothing—could be further from the truth. As currently written, the War Crimes Act makes criminal any and all behavior that constitutes a violation of Common Article 3—specifically, any act that constitutes a war crime. This is not an amnest of our troops but of our dignity. . . .

Let me state this flatly: It was never our purpose to prevent the CIA from detaining and interrogating terrorists. On the contrary, it is important to the war on terror that the CIA have the ability to do so. At the same time, the CIA's interrogation program has to abide by the rules, including the standards of the Detainee Treatment Act.
I, like many of my colleagues, find troubling the reports that our intelligence personnel feel compelled to purchase liability insurance because of the lack of legal clarity that exists in the wake of the Hamdan decision. This legislation provides an affirmation of our country’s commitment to protect detainees. It would strip away any private right of action against our personnel based on a violation of the Geneva Conventions. The intent of this provision is to protect our personnel from suits for money damages or any other lawsuits that could harm the financial well-being of our personnel who were engaged in lawful—I emphasize “lawful”—activities.

It is important to note, however, that the fact that the Geneva Conventions lack teeth, that the Geneva Conventions are binding on the executive branch. Even if the Geneva Conventions do not enable us to sue our personnel for money damages, the President and his subordinates are nevertheless bound to comply with Geneva. That is clear to me and to all who have negotiated this legislation in good faith. It is important to note, however, that the fact that this legislation does not create such a right—has absolutely no bearing on whether the Conventions are binding on the executive branch.

The United States should champion the Geneva Conventions, not look for ways to get around them, lest we invite our enemies to strip back habeas. I cannot say in their favor? History will know that whatever could be said, they were allowed to say. They have been given the kind of a trial which they, in the days of their pomp and power, never gave to any man. But fairness is not weakness. The extraordinary fairness and legal clarity that our case for the Allied Powers responsible for trying German war criminals after World War II: “That four great nations, flushed with victory and stung by injury stand the hand of vengeance and voluntarily submit their captive enemies to the judgment of the law is one of the most significant tributes that Power ever has paid to Reason.” He quoted from great defenders of freedom that America should defend itself for the Allied Powers responsible for actions they reasonably believed to be legal at the time. That is a long-standing precedent. In addition, it would contradict our international posture, our international obligations under those Conventions. The intent of this provision is to protect our personnel from suits for money damages or any other lawsuits that could harm the financial well-being of our personnel who were engaged in lawful—activities.

I can give you many reasons, but let me take one. We will turn back the protections of the Great Writ of habeas corpus. Since 13th century Anglo jurisprudence, we have had the Great Writ. We have had habeas corpus since the birth of our Nation. We fought a revolution to establish it. We fought a civil war, and we fought through two world wars. Now, in a matter of hours, in a debate that has so often skirted the issues, we are ready to strip back habeas corpus. I cannot vote for that.

Senator SMITH spoke stirringly earlier today of the dangers of the bill’s provisions, which would eliminate the independent judicial check on Government overreaching and lawlessness. He quoted from great defenders of liberty. It was Justice Robert H. Jackson who said in his role as Chief Counsel for the Allied Powers responsible for trying German war criminals after World War II: “That four great nations, flushed with victory and stung by injury stand the hand of vengeance and voluntarily submit their captive enemies to the judgment of the law is one of the most significant tributes that Power ever has paid to Reason.” He quoted from great defenders of freedom that America should defend itself for the Allied Powers responsible for actions they reasonably believed to be legal at the time. That is a long-standing precedent. In addition, it would contradict our international posture, our international obligations under those Conventions.

Finally, I note that there has been opposition to this legislation from some quarters, including the New York Times editorial page. Without getting into a point-by-point rebuttal here on the floor, I simply say that I have been reading the Congressional Record trying to find the bill that page so vociferously denounced. The hyperbolic attack is aimed not at any bill this body is today debating, nor even at the administration’s original position. I could only characterize it as an effort for Congress simply ignore the Hamdan decision and pass no legislation at all. That, I suggest to my colleagues, would be a travesty.

This is a very long, difficult task. This is critical. Stability and security of this Nation, and we have done the very best we can. I believe we have come up with a good product. I believe good-faith negotiations have taken place. I hope we will pass this legislation very soon. I think you will find that people will be brought to justice and we can move forward with trials with treating people under the Geneva Conventions and restoring America’s prestige in the world.

I, like many of my colleagues, find troubling the reports that our intelligence personnel feel compelled to purchase liability insurance because of the lack of legal clarity that exists in the wake of the Hamdan decision. This legislation provides an affirmation of our country’s commitment to protect detainees. It would strip away any private right of action against our personnel based on a violation of the Geneva Conventions. The intent of this provision is to protect our personnel from suits for money damages or any other lawsuits that could harm the financial well-being of our personnel who were engaged in lawful—activities.

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This is not just a bad bill, this is truly a dangerous bill. I have been asking Secretary Rumsfeld’s question for the last several weeks: whether our actions are eliminating more of our enemies than are being created. But now we understand that we are creating more at risk than we are eliminating. Our intelligence agencies agree that the global jihadist movement is spreading and adapting; it is “increasing in both number and geographic dispersion.” We are putting ourselves more at risk.

“If this trend continues,” our intelligence agencies say, that is, if we do not wise up and change course and adopt a winning new strategy, “threats to U.S. interests at home and abroad will become more diverse, leading to increasing attacks worldwide.” Attacks have been increasing worldwide over the last 5 years of these failing policies and are, according to the judgment of our own, newly reconstituted intelligence agencies, increasingly likely to increase further in the days and months and years ahead. The intelligence agencies go on to note ominously that “new jihadist networks and cells, with anti-American agendas, are increasingly likely to form further and further apart, with an ‘operational threat that will grow,’ particularly abroad “but also in the homeland.”

“This is truly chilling. The Bush-Cheyney administration not only failed to stop the attacks on September 11, but in the 5 years they have failed to bring Osama bin Laden to justice, even though they had him cornered at Tora Bora. They yanked the special forces out of there to send them into Iraq. We have witnessed the growth of additional enemies.

And what do our intelligence agencies suggest is the way out of this dangerous quagmire? The National Intelligence Estimate suggests we have to “go way beyond operations to capture or kill terrorist leaders,” and we must foster democratic reforms. When America can be seen abandoning its basic American democratic values, its checks and balances, its great and wonderful legal traditions, and can be seen as becoming more autocratic and less accountable, how will that foster democratic reforms elsewhere? “As I say and not as I do” is a model that has never successfully inspired peoples around the world, and it doesn’t inspire me.

The administration has yet to come clean to the Congress or the American people in connection with the secret legal justifications it has generated and secret practices it has employed in detaining and interrogating hundreds, if not thousands, of people. Even they cannot dismiss the practices at Guantanamo as the actions of a few “bad apples.”

With Senate adoption of the antitorture amendment last year and the recent adoption of the Army Field Manual, I had hoped that 5 years of administration resistance to the rule of law and to the U.S. military abiding by its Geneva obligations might be drawing to a close. Despite the resistance of the Vice President and the administration, the new Army Field Manual appears to outlaw several of what the Administration euphemistically calls “inappropriate suggestions” of what the world regards as torture and cruel and degrading treatment. In rejecting the Kennedy amendment today, the Senate has turned away from the wise counsel and judgment of military professionals and the Presidents in the signing statement already undermined enactment of the antitorture law.

The administration is now obtaining license—before, they just did it quietly and against the law and on their own say-so, but now they are obtaining license—to engage in additional harsh techniques that the rest of the world will see as abusive, as cruel, as degrading, and even as torture. Fortunately, a growing number of our own people see it that way, too.

What is being lost in this debate is any notion of accountability and the guiding principles of American values and law. Where are the facts of what the administration has done in the name of the United States? Where are the legal justifications and technicalities the administration’s lawyers have been seeking to exploit for 5 years? The Republican leadership’s legislation strips away any restraints on our most basic national values without so much as an accounting of these facts and legal arguments. Senator Rockefeller’s amendment to incorporate some accountability in the process through oversight of the CIA interrogation program was unfortunately rejected by the Republican leadership in the Senate.

Secrecy for all time is to be the Republican rule of the day. Congressional oversight is no more. Checks and balances are no more. The fundamental check that was last provided by the Supreme Court is now to be taken away. This is wrong. This should be unconstitutional. It is certainly unconscionable. This is certainly not the action of any Senate in which I have served. It is not worthy of the United States of America. What we are saying is one person will make all of the rules; there will be no checks and balances. There will be no dissent, and there will be no body’s view, and we will remove, piece by piece, every single law that might have allowed checks and balances.

We are rushing through legislation that would have a devastating effect on our security and our values. I implore Senators to step back from the brink and think about what we are doing.

“The President recently said that “time is of the essence” to pass legislation authorizing military commissions. Time was of the essence when Sadaam Hussein was last in power. Time was of the essence when Osama bin Laden was trapped in Tora Bora. But this administration was more interested in going after Sadaam Hussein than in the President recently admitted had “nothing” to do with 9/11.

After 5 years of this administration’s unilateral actions that have left us less safe, time is now of the essence to take real steps to keep us safe from terrorism. Real steps like those included in the Real Security Act, S. 3875. We should be focusing on getting the terrorists and securing the nuclear material that this administration has allowed the last 5 years to be unaccounted for around the world. We should be doing the things Senator Kerry and others are talking about, such as strengthening our special forces and winning the peace in Afghanistan. The Taliban has regrouped and is growing in strength.

Instead, the President and the Republican Senate leadership call for rubberstamping more flawed White House proposals just in time for the runup to another election and for the fundraising appeals to go out.

I had hoped that this time, for the first time, even though the Senate is controlled by the President’s party, we could act as an independent branch of the Government and serve as a check on this administration. After this debate and the rejection of all amendments intended to improve this measure, I see that day has long passed. I will continue to speak out. That is my privilege as a Senator. But I weep for our country and for the American values, the principles on which I was raised and which I took a solemn oath to uphold. I applaud those Senators who stood up several times on the floor today and voted to uphold the best of American values.

Going forward, the bill departs even more radically from our most fundamental values. And provisions that were profoundly troubling a week ago will be the Armed Services Committee marked up the bill have gotten much worse in the course of closed-door revisions over the past week. For example, the bill has been amended to eliminate habeas corpus review even for persons inside the United States, and even for persons who have not been determined to be enemy combatants. It has moved from detention of those who are captured having taken up arms against the United States on a battlefield to millions of law-abiding Americans that the Government flatly accepts sympathy for Muslim causes and who knows what else—without any avenue for effective review.  

September 28, 2006 CONGRESSIONAL RECORD — SENATE S10415
Remember, we are giving a blank check to a Government whose incompet- ence was demonstrated in historic dimensions by the lack of preparation in response to Hurricane Katrina. This is the same Government which, in its fight for lives, has abandoned Senator KENNEDY and Congressman Lewis on terrorist watch lists, and could not get them off. This is a Government which repeatedly releases confidential family information about our Armed Forces. It is a Government which just refuses to admit any mistakes or to make any corrections but regards all of its representatives, from Donald Rumsfeld to Michael Brown, as the real victims.

The proponents of this bill talk about sending messages. What message does it send to the millions of legal immigrants living in America, participating in American families, working for America's tax dollars, whether or not they are paying American taxes? Its message is that our Government may at any minute pick them up and detain them indefinitely without charge, and without any access to any court, even to military tribunals, unless and until the Government determines that they are not enemy combatants—a term that the bill now defines in a tortured and unprecedentedly broad manner. And that power and any errors cannot be reviewed or corrected by a court. What message does that send about abuse of power? What message does that send to the world about America's freedoms?

Numerous press accounts have quoted administration officials who believe that a significant percentage of those detained at Guantanamo have no connection to terrorism. In other words, the Bush-Cheney administration has been holding for several years, and intends to hold indefinitely, waging war on our own American citizens, without charge, without trial or any recourse to justice, a substantial number of innocent people who were turned in by anonymous bounty hunters or picked up by mistake in the fog of war or as a result of a tribal or personal vendetta. The most important purpose of habeas corpus is to correct errors like that—to protect the innocent. It is precisely to prevent such abuses that the Constitution prohibits the suspension of the writ of habeas corpus "unless when in Cases of Rebellion or Invasion the public Safety may require it." But court review has now been embroiled with the government administration as the U.S. Supreme Court has three times rejected its lawyers' schemes. And, so how does the administration respond? It insists that there be no more judicial check on its actions and errors.

When the Senate accedes to this demand it abandons American principles and all checks on an imperial Presidency. The Senator from Vermont will not be a party to retreat from America's constitutional values. Vermonters don't retreat.

Senator SMITH, speaking this morning about the provisions of this bill, quoted Thomas Jefferson, who said:

The habeas corpus secures every man here, alien or citizen, against everything which is not law, whatever shape it may assume. Jefferson said on another occasion: I would rather be exposed to the inconveniences attendant upon error than to those attending too small a degree of it.

With this bill, the Senate reverses that profound judgment of history, chooses against liberty, and succumbs to fear.

When former Secretary of State Colin Powell wrote last week of his concerns with the administration's bill, he wrote about doubts concerning our "moral authority in the war against terrorism." This General, former head of the Joint Chiefs of Staff and former Secretary of State, was right. Now we have heard from a number of current and former diplomats, military lawyers, Federal judges, law professors and law school deans, the American Bar Association, and even the first President Bush's Solicitor General, Kenneth Starr, that they have grave concerns with the habeas corpus stripping provisions of this bill.

I agree with Mr. Starr that we should not suspend—and we should certainly not eliminate—Habeas. I also agree with more than 300 law professors, who described an earlier, less extreme version of the habeas provisions of this bill as "unwise and contrary to the most fundamental precepts of our country's traditions." And I agree with more than 30 former U.S. Ambassadors and other senior diplomats, who say that eliminating habeas corpus for aliens detained by the United States will harm our interests abroad, and put our own military, diplomatic, and other personnel stationed abroad at risk. We cannot spread a message of freedom abroad if our messages abroad at risk. We cannot spread a message of freedom abroad if our messages to those who come to America is that they may be detained indefinitely without any recourse to justice.

In the wake of the September 11 attacks, and in the face of the continuing terrorist threat, now is not the time for the United States to abandon its principles. Admiral Hutson was right to point out that when we do, there would be little to distinguish America from a "banana republic" or the repressive regimes against which we are trying to rally the world and the human spirit. Now is not the time to abandon American values, to shiver and quake, to rely on secret torture. Those are ways of repression and oppression, not the American way.

We need to pursue the war on terror with strength and intelligence, but we need to uphold American ideals. The President says he wants clarity as to the meaning of the Geneva Conventions and the War Crimes Act. Of course, he did not want clarity when his administration was using its twisted interpretation of the law to authorize torture and cruel and inhumane treatment. He did not want clarity when spying on Americans without warrants. And he certainly did not want clarity while keeping those rationales and programs secret from Congress. The administration does not seem to want clarity when it refuses even to tell Congress what its understanding of the law is following the withdrawal of a memo that said the President could authorize and immunize torture. That memo was withdrawn because it could not withstand the light of day. It seems the only clarity this administration wants is a clear green light from Congress to do whatever it wants. That is not clarity. That is immunity from crime. I cannot vote for that. That is what the current legislation would give to the President on interrogation techniques and the War Crimes Act. Of course, the President does not seem to want clarity when it comes to the rights of Americans. The Senate should not be a rubber stamp for policies that undercut America's values.

In reality, we already have clarity. Senior military officers tell us they know what the Geneva Conventions require and the military has repeatedly released confidential personnel information about our Armed Forces and veterans. It is a Government that repeatedly releases confidential family information about our Armed Forces and veterans. It is a formula for immunity for past and future abuses by the Executive.

Into that breach, this legislation throws the administration's solution to all problems: more Presidential power. It allows the administration to promulgate regulations about what conduct would and would not comport with the Geneva Conventions, though it does not require the President to specify which particular techniques can and cannot be used. This is a formula for still fewer checks and balances and for more abuse, secrecy, and power-grabbing. It is a formula for immunity for present and future abuses by the Executive.

I worked hard, along with many others of both parties, to pass the current version of the War Crimes Act. I think the current law is a good law, and the concerns that have been raised about it could best be addressed with minor adjustments, rather than with sweeping changes.
In 1996, working with the Department of Defense, Congress passed the War Crimes Act to provide criminal penalties for certain war crimes committed by and against Americans. The next year, again with the Pentagon’s support, Congress extended the War Crimes Act to violations of the basic humanitarian protections afforded by Common Article 3 of the Geneva Conventions. Both measures were supported by a broad bipartisan consensus, and I was proud to sponsor the 1997 amendments.

The legislation was uncontroversial for a good reason. As I explained at the time, the purpose and effect of the War Crimes Act as amended was to provide for the implementation of America’s commitment to the basic international standards we subscribed to when we ratified the Geneva Conventions in 1955. Those standards are truly universal: They condemn war criminals wherever and wherever they are.

That is a critically important aspect of the Geneva Conventions and our own War Crimes Act. When we are dealing with fundamental norms that define the commitments of the civilized world, we cannot have one rule for us and one for them, however we define “us” and “them.” As Justice Jackson said at the Nuremberg tribunals, “We are not prepared to lay down a rule of criminal conduct against others which we would not be willing to have invoked against us.”

In that regard, I am disturbed that the legislation before us narrows the scope of the War Crimes Act to exclude certain violations of the Geneva Conventions and, perhaps more disturbingly, to retroactively immunize past violations. Neither the Congress nor the Department of Defense had any problem with the War Crimes Act when we were focused on using it to prosecute foreign perpetrators of war crimes. I am concerned that this is yet another example of this administration overruling the law we ordained and our international obligations, and seeking to immunize others to break the law. It also could well prevent us from prosecuting rogues who we all agree were out of line, like the soldiers who mistreated prisoners at Abu Ghraib.

The President said on May 5, 2004 about prisoner mistreatment at Abu Ghraib:

I view those practices as abhorrent.

He continued:

But in a democracy, as well, those mistakes will be investigated, and people will be brought to justice.

The Republican leader of the Senate said on the same day:

I rise to express my shock and condemnation of these despicable acts. The persons who committed them must face justice.

Many of the tactics used in Abu Ghraib—the use of dogs, forced nudity, humiliation of various kinds—do not appear to be covered by the narrow definitions this legislation would draft into the War Crimes Act. Despite the President’s calls for clarity, the new provisions are so purposefully ambiguous that we cannot know for sure whether they are covered. If the Abu Ghraib abuses had come to light after the perpetrators left the military, they might have been brought to justice under the administration’s formulation.

The President and the Congress should not be in the business of immunizing people who violate the law, and make us less safe. If we lower our standards of domestic law to allow outrageous conduct, we can do nothing to stop other countries from doing the same. This change in our law does not prevent other countries from prosecuting our troops and personnel for violations of the Geneva Convention if they choose; it only changes our domestic law. But it could give other countries the green light to change their laws to allow them to treat our personnel in inhuman ways.

Let me be clear. There is no problem facing us about overzealous use of the War Crimes Act by prosecutors. In fact, as far as I can tell, the Ashcroft Justice Department and the Gonzales Justice Department have yet to file a single charge against anyone for a violation of the War Crimes Act. Not only have they never charged American personnel under the act, they have never used it to charge terrorists either.

This bill does not clarify the War Crimes Act. It authorizes and immunizes abhorrent conduct that violates our basic ideals. Perhaps that is why more than 40 religious organizations and human rights groups wrote to urge the Senate to take more time to consider the effects of this legislation on our safety, security, and commitment to the rule of law, and to vote against it if the serious problems in the bill are not corrected.

The proposed legislation would also allow the admission of evidence obtained through cruel and inhuman treatment into military commission proceedings. This provision would once again allow this administration to avoid all accountability for its misguided policies which have contributed to the rise of a new generation of terrorists who threaten us. Not only would the military commissions legislation before us immunize those who violated international law and stomped on basic American values, but it would allow them then to use the evidence obtained in violation of basic principles of fairness and justice.

Allowing in this evidence would violate our basic standards of fairness without increasing our security. Maher Arar, the Canadian citizen arrested by our government on bad intelligence and sent to Syria to be tortured, confessed to attending terrorist training camps. A Canadian commission investigating confessions had no basis in fact. They merely reflected that he was being tortured, and he told his torturers what they wanted to hear. It is only one of many such documented cases of bad information resulting from torture. We gain nothing from allowing such information.

The military commissions legislation depends in other unfortunate ways from the Warner-Levin bill. Early this week, apparently at the White House’s request, Republican drafters added a breathtakingly broad definition of “unlawful enemy combatant” which includes people—citizens and non-citizens alike—who have “purposefully and materially supported hostilities” against the United States or its allies. It also includes people determined to be unlawful enemy combatants by any administrator. And it permits the President to issue “competent tribunal” established by the President or the Secretary of Defense. So the Government can select any person, including a United States citizen, whom it suspects of supporting hostilities—whatever that means—and begin denying that person the rights and processes guaranteed in our country. The implications are chilling.

I am sorry the Republican leadership passed up the chance to consider and pass bipartisan legislation that would have made us safer in the fight on terrorism both by giving us the tools we need and by showing the world the values we cherish and defend. I will not participate in a legislative retreat out of weakness that undercuts everything this Nation stands for and that makes us more vulnerable and less secure.

The President from Vermont, consistent with my oath of office and my conscience and my commitment to the people of Vermont and the Nation, cannot—I will not—support this bill.

Mr. LEVIN. Mr. President, I believe I have 4 minutes allocated.

The PRESIDING OFFICER. There is 3 minutes remaining.

Mr. LEVIN. Mr. President, less than 2 weeks ago, the Armed Services Committee voted on a military commissions bill. The committee endorsed that bill on a bipartisan basis with a 15-to-9 vote. Yesterday, 43 of us voted for the same bill on the Senate floor.

The bill would have provided the administration with the tools that it needed to detain enemy combatants, conduct interrogations, and prosecute detainees for any war crimes they may have committed.

Unfortunately, that bill went off the tracks after it was approved by the Armed Services Committee. Instead of bringing to the Senate floor the bill that had been adopted by the Armed Services Committee on a bipartisan basis, we are voting now on a dramatically different bill based on changes made at the insistence of an administration that has been relentless in its determination to legitimate the abuse of detainees. This bill does not authorize the abuses, and to distort military commission procedures in order to ensure criminal convictions.
For example, the bill before us inexplicably fails to prohibit the use of statements or testimony obtained through cruel and inhuman treatment as long as those statements or testimony was obtained before December 30, 2005.

The argument has been made that the bill before us prohibits the use of statements that are obtained through torture. That was never in contention. The problem is that it permits the use of statements obtained through cruel and inhuman treatment that does not meet the strict definition of torture as long as those statements were obtained before December 30, 2005.

This is a compromise on the issue of cruel— an issue on which there should be no compromise by our Nation or by the Senate. If we compromise on that, we compromise at our peril. The men and women who represent us in uniform will be in much greater danger if we compromise on the issue of statements obtained through cruelty and inhuman treatment.

A compromise on this issue endangers our troops because if other nations apply the same standard and allow statements or confessions obtained through cruel and inhuman treatment to be used at so-called trials of our citizens, we will have little ground to stand on in our objecting to them.

This bill also does many other things which are dramatic changes from the bill that the Armed Services Committee. For instance, the bill would authorize the use of evidence seized without a search warrant or other authorization, even if that evidence was seized from U.S. citizens inside the United States in clear violation of the U.S. Constitution.

Both the committee bill and the bill before us provide the executive branch with the tools it needs to hold enemy combatants accountable for any war crimes they may have committed. On this issue we are in agreement. We all agree that people who are responsible for the terrible events of September 11 and other terrorist attacks around the world should be brought to justice.

However, the bill before us differs dramatically from the Senate Armed Services Committee bipartisan-approved bill, particularly when it comes to the accountability of the administration for policies and actions leading to the abuse of detainees.

The bill before us contains provision after provision designed to ensure that the administration will not be held accountable for the abuse of prisoners in U.S. custody, for violations of U.S. law, or for the use of such tactics that have turned our Nation against the world.

Over the last 2 days, we have debated the habeas corpus provision in the bill. Most of that debate has focused on the right of habeas corpus as an individual right to challenge the lawfulness of detention. The right of habeas corpus does serve that purpose.

But the writ of habeas corpus has always served a second purpose as well: for its 900-year history, the writ of habeas corpus has always served as a means of making the sovereign account for its actions. By depriving detainees of the opportunity to demonstrate that they were detained in error, this bill does not meet a critical right deeply embedded in American law, it also helps ensure that the administration will not be held to account for the illegal or abusive treatment of detainees.

Indeed, the court-stripping provision in the bill does far more than just eliminate habeas corpus rights for detainees. It also prohibits the U.S. courts from hearing or considering “any other action against the United States or its agents relating to any aspect of the detention, treatment, or trial” of an alien detainee. By depriving detainees of access to our courts, even if they have been subject to torture or to cruel and inhuman treatment, this provision seeks to ensure that the detention policies that appear to have violated our obligations under U.S. and international law will never be aired in court.

A number of other provisions in the bill before us appear to be directed at the same objective. For example, section 5 of the bill provides that no person—whether that person is an enemy combatant or anybody else—may invoke the Geneva Conventions as a source of rights. These provisions, like the habeas corpus provision, appear to be designed to ensure that administration policies that may have violated our obligations under U.S. and international law will never be aired in court.

Other provisions in the bill narrow the range of abuses that are covered by the War Crimes Act. As a result of these amendments, some actions that were war crimes at the time they took place will not be prosecutable. Indeed, because of a complex definition in the bill, some actions that violated the War Crimes Act at the time they took place and will violate that act if they take place in the future will not be prosecutable. In other words, this bill carves out a window to immunize actions of this administration from prosecution under the War Crimes Act.

The administration and its allies have argued that these provisions are necessary to protect CIA interrogators from prosecution for actions that they believed to be lawful and authorized at the time they were undertaken. However, we addressed that problem with the enactment of the Detainee Treatment Act. That law mandates a defense to any U.S. agent who engaged in specific operational practices that were officially authorized or reasonably believed to be lawful at the time they were undertaken.

This bill, however, goes far beyond protecting the front line interrogators and agents who believed that their actions were lawful: it changes the law to ensure that the administration officials who provided the authorization and knew or should have known that there was no legal basis for that authorization, will not be held accountable for their actions.

Last year, this Congress took an important stand for the rule of law by enacting the McCain amendment, which prohibits the cruel, inhuman, or degrading treatment of detainees in the custody of any U.S. citizen anywhere in the world. That landmark provision is at risk of being rendered meaningless, if we establish rules ensuring that it can never be enforced.

We need to provide the administration with the tools that are needed to prosecute unlawful enemy combatants for any war crimes that they may have committed. However, we should not do so in a way that is inconsistent with our own values and is designed to practice what we preach to the rest of the world.

The bill before us will put our own troops who might be captured in future conflicts at risk if other countries decide to apply similar standards to us, is likely to result in the reversal of convictions on appeal, and is inconsistent with American values. For these reasons, I will vote no on final passage.

The PRESIDING OFFICER. The minority leader.

Mr. REID. Mr. President, it is my understanding I am to speak and the majority leader will speak and then we will vote; is that true?

The PRESIDING OFFICER. That is correct.

Mr. REID. Mr. President, on a bright and sunny September morning 5 years ago, history changed. Our Nation was attacked. Nearly 3,000 of our citizens were murdered, and our lives as we knew them were forever changed.

The family members of those who died that day and we, their fellow Americans, have been waiting 5 years for those who masterminded that outrageous terrorist attack to be brought to justice. Osama bin Laden, a man whom we have seen on videotape bragging and laughing about his role in conceiving this deed, remains at large 5 years later. The American people are justifiably frustrated that he has not been brought to justice.

People have a right to ask whether our military and intelligence resources were unwisely diverted from that solemn task.

But some of Osama bin Laden’s lieutenants were captured overseas years ago. There is no disagreement whatsoever between Republicans and Democrats on the need to bring these people to justice. We all want to make sure the President has the tools he needs to make that happen.

For 5 years, Democrats stood ready to work with the President and the Republican Congress to establish sound
procedures for military tribunals. Mr. President, why do you think the Democratic ranking member of the Judiciary Committee has been so outraged at what has been going on? He is outraged because as the top Democrat on the Judiciary Committee, he introduced the bill in 2002 to solve the problems that are now before the Senate—4 years ago. No wonder he is incensed.

Unfortunately, President Bush chose to ignore Senator LEAHY and the Congress, to rubberstamp basically the same system that the Supreme Court struck down. Their one-sided and murky interrogation rules was opposed by such well-respected leaders as GEN Colin Powell and former Secretary of State George Shultz, both Republicans, and many others, Democrats and Republicans.

I must say, a handful of principled Republican Senators, led by the chairman of the Armed Services Committee, Senator WARNER, Senator GRAHAM from South Carolina, and Senator MCCAIN from Arizona stepped forward and forced the White House to back down from the worst elements of its extreme proposal. I appreciate the position of those Republican Senators, the name too you.

I repeat, Mr. President, I admire their courage. I appreciate the improvements they managed to make in this bill. But for them what is before us would be a lot worse.

However, since those Senators announced their agreement with the administration last Friday, the compromise has become much worse. The bill before us now looks more and more like the Nation bill these Senators fought so hard against.

I believe the bill approved by the Senate Armed Services Committee would have given the President all necessary authority. It was supported by the chairman and a bipartisan majority of that committee, as well as our Nation’s uniformed military lawyers.

The bill before us diverges from the committee bill in many ways, but let me focus on two.

First, it makes less clear that the United States will abide by our obligations under the Geneva Conventions. The President says the United States does not engage in torture and there should be no need to revisit this point, but this bill gives the President authority to reinterpret our obligations and limits judicial oversight of that process, putting our own troops at risk on the battlefield.

A four-star general, former Secretary of State, former Chairman of the Joint Chiefs of Staff, GEN Colin Powell, wrote:

"The world is beginning to doubt the moral basis of our fight against terrorism. To redefine Common Article 3 would add to those doubts. Furthermore, it would put our own troops at risk."

Second, this bill authorizes a vast expansion of the President’s power to detain people, even U.S. citizens, indefinitely and without charge. There are no procedures for doing so. There is no due process provided, and no time limit on the detention itself.

At the same time, the bill would deprive Federal judges of the power to review the legality of many such detentions. Judges—all judges—would have no power to review the legality of many such detentions. This is true even in the case of a lawful permanent resident arrested and held in the United States, and even if that person happens to be completely innocent.

The Framers of our Constitution understood the need for checks and balances. This bill would rip out the window. Many of the worst provisions were not in the committee-reported bill and were not in the compromise announced last Friday. They were added over the weekend. Because there was a bill that was put before the Senate last Thursday, and from Thursday to Monday, it changed after, I say, back-room meetings with White House lawyers.

We have tried to improve this legislation. My friends the ranking member of the Armed Services Committee, Senator CARL LEVIN, proposed to substitute the bipartisan bill reported by the Armed Services Committee. That amendment was rejected basically on a party-line vote.

Senators SPECTER and LEAHY, the two Members who are responsible for the Judiciary Committee, the chairman and ranking member, offered an amendment to restore the right of judicial review. That amendment was rejected on a party-line vote.

And Senator ROCKEFELLER, the ranking Democrat on the Intelligence Committee, offered an amendment to improve congressional oversight of the CIA programs. This amendment was rejected on a party-line vote.

Senator KENNEDY offered an amendment to clarify that inhumane interrogation tactics prohibited by the Army Field Manual could not be used on Americans. That amendment was rejected on a party-line vote.

Senator BYRD, who has seen things come and go in this body and who has been a Member of Congress for more than 50 years, offered an amendment to sunset military commissions so Congress would be required to reconsider this far-reaching authority after 5 years of having it in effect. That commonsense, realistic amendment was rejected on a party-line vote.

I personally believe, having been in a few of these committee hearings, that this legislation is unconstitutional. It will certainly be struck down by the Supreme Court in the years ahead, and when that happens, we will be back here debating how to bring terrorists to justice.

The families of the 9/11 victims and the Nation have been waiting 5 years for the perpetrators of these attacks to be brought to justice. They should not have to wait longer. We should do this right now; we should do it right. We are not doing so by passing this bill.

The national security policies of this administration and this Republican Congress may have been tough, but they certainly haven’t been smart. The American people are paying a tremendous price for their mistakes. History will judge our actions here today. I am convinced that future generations will view passage of this bill as a grave error. I will be recorded as voting against this piece of legislation.

Mr. President, I dislike, I find repulsive, and I do not condone these evil and horrible people, these terrorists. They should be brought before the bar of justice and given what they deserve. For 5 years, that has not been the case. We Democrats want terrorists brought to justice quickly and in a way in keeping with our Constitution and, in this case, give honor to the sacrifices made by American patriots in days past.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, for the past month we have debated how best to keep America safe. On one point I know all of our colleagues agree is that Khalid Sheikh Mohammed should be brought to justice and be prosecuted for masterminding the mass murders of almost 3,000 Americans on September 11. I know the American people and the families of those victims share that goal.

Every terrorist should be held accountable for their crimes against the innocent, against our enduring freedoms, against the values that we all share. Unfortunately, due to the Supreme Court’s decision in Hamdan v. Rumsfeld, prosecutions of suspected terrorists like Khalid Sheikh Mohammed are at a stand-still, and these prosecutions will remain at a stand-still until we act to authorize military commissions to try these suspected terrorists.

In addition to halting prosecutions of suspected terrorists, the Hamdan decision has undermined effective interrogation methods employed by our intelligence community. Methods that yield critical information that allows us to prevent terrorist attacks and to save innocent lives. The information provided by these enemy combatants is our primary source—our best source—one of our most vital tools.

Past interrogations have guided us to the precise location of terrorists in hiding, explained how al-Qaida leaders communicate with operatives in Iraq, and identified voices in intercepted communications. Without this information, we fight a blind war.

The bill we will vote on in a few minutes addresses the concerns raised by
the Hamdan decision. It provides the legislative framework authorizing military tribunals to prosecute suspected terrorists. It ensures certain protections and rights for the accused such as the right to counsel and the right to exclude evidence obtained through torture.

At the same time, the bill recognizes that because we are at war with a different type of enemy, we should not try terrorist detainees in the same way as our uniformed military or civilian criminals.

The bill also protects classified information from terrorists who could exploit it to plan another terrorist attack.

Finally, the bill allows key intelligence programs to continue while ensuring that our detention and interrogation methods comply with both domestic and international laws, including Geneva Conventions Common Article 3.

The bottom line is the bill before us allows us to bring terrorists to justice through full and fair military trials while preserving intelligence programs—intelligence programs that have disrupted terrorist plots and saved countless American lives.

Our national security demands that we pass this bill tonight. We need this tool in the war on terror. In the 5 years since 9/11 we have not suffered another terrorist attack on U.S. soil. One reason we have remained safe is by staying on the offense against emerging threats. This bill is another offensive strike against terrorism.

For the safety and security of the American people, Mr. President, I urge my colleagues to join us in supporting the Military Commission Act of 2006.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is, Shall the bill, as amended, pass?

The yeas and nays have been ordered.

The PRESIDING OFFICER. The question is, Shall the bill, as amended, pass, as follows:

Table: Yeas and Nays

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The bill (S. 3930), as amended, was passed, as follows:

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

SECTION 1. SHORT TITLE, TABLE OF CONTENTS. (a) SHORT TITLE.—This Act may be cited as the “Military Commissions Act of 2006”. (b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

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SEC. 2. CONSTRUCTION OF PRESIDENTIAL AUTHORITY TO ESTABLISH MILITARY COMMISSIONS.

The authority to establish military commissions under chapter 47A of title 10, United States Code, as added by section 3(a), may not be construed to alter or limit the authority of the President under the Constitution of the United States and laws of the United States to establish military commissions for areas declared to be under martial law or in occupied territories should circumstances so require.

SEC. 3. MILITARY COMMISSIONS.

(a) MILITARY COMMISSIONS.— (i) IN GENERAL.—Subtitle A of title 10, United States Code, is amended by inserting after chapter 47 the following new chapter:

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CHAPTER 47A—MILITARY COMMISSIONS

Subchapter I. General Provisions

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(b) AUTHORITY FOR MILITARY COMMISSIONS.—This Chapter is a proviso for the President to authorize to establish military commissions under this chapter for offenses triable by
military commission as provided in this chapter.

"(c) Construction of provisions.—The procedures for military commissions set forth in this chapter are based upon the procedures for trial by general courts-martial under chapter 47 of this title (the Uniform Code of Military Justice). Chapter 47 of this title does not, by its terms, apply to trial by military commission except as specifically provided in this chapter. The judicial construction and application of that chapter are not binding on military commissions established under this chapter.

"(d) Inapplicability of certain provisions.—To the extent that subsections (c) and (d) of section 813 (a), (b), and (d) (4) of the Uniform Code of Military Justice, relating to punishment, do not apply to trial by military commission under this chapter:

"(1) The section relating to trial by military commission established under this chapter may not be construed to extend the authority of the President or the Secretary of Defense to prescribe any punishment not provided for by this chapter, including the penalty of death when authorized under this chapter or the law of war.

"(2) The section relating to trial by military commission under this chapter may not be considered as extending the authority of the President or the Secretary of Defense to prescribe any punishment not provided for by this chapter, including the penalty of death when authorized under this chapter or the law of war.

"§ 949c. Annual report to congressional committees

"(a) Annual report required.—Not later than December 31 each year, the Secretary of Defense shall submit to the Committees on Armed Services of the House of Representatives a report on any trials conducted by military commissions under this chapter during such year.

"(b) Form.—Each report under this section shall be submitted in unclassified form, but may include a classified annex.

"SUBCHAPTER II.—COMPOSITION OF MILITARY COMMISSIONS

"Sec. 949b. Who may convene military commissions.

"949b. Who may convene military commissions.

"949c. Persons subject to military commissions.

"Any alien unlawful enemy combatant is subject to trial by military commission under this chapter.

"§ 948d. Jurisdiction of military commissions

"(a) Jurisdiction.—A military commission under this chapter shall have jurisdiction to try any offense made punishable by this chapter when committed by an alien unlawful enemy combatant before, on, or after September 11, 2001.

"(b) Laws and regulations.—Military commissions under this chapter shall not have jurisdiction over unlawful enemy combatants. Lawful enemy combatants who violate the law of war are subject to chapter 47 of this title. Courts-martial established under that chapter shall have jurisdiction to try a lawful enemy combatant for any offense made punishable by this chapter when committed by a lawful enemy combatant.

"(c) Determination of unlawful enemy combatant status disposition.—A finding, whether before, on, or after the date of the enactment of the National Defense Authorization Act for 2006, by a Combatant Status Review Tribunal or another competent tribunal established under the authority of the President or the Secretary of Defense that a person is an unlawful enemy combatant is dispositive of any jurisdictional issues raised by the person's unlawful enemy status.

"(d) Punishments.—A military commission under this chapter may, under such limitations as the Secretary of Defense may prescribe to avoid adulation any punishment not forbidden by this chapter, including the penalty of death when authorized under this chapter or the law of war.

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"(d) Punishments.—A military commission under this chapter may, under such limitations as the Secretary of Defense may prescribe to avoid adulation any punishment not forbidden by this chapter, including the penalty of death when authorized under this chapter or the law of war.
this chapter must be a judge advocate (as so defined) who is—

"(1) a graduate of an accredited law school or is a member of the bar of a Federal court or of a State court of a State; and

"(2) certified as competent to perform duties as defense counsel before general courts-martial by the Judge Advocate General of the armed forces for the district in which he is a member.

"(d) CHIEF PROSECUTOR; CHIEF DEFENSE COUNSEL.—(1) The Chief Prosecutor in a military commission under this chapter shall meet the requirements set forth in subsection (b)(1).

"(2) The Chief Defense Counsel in a military commission under this chapter shall meet the requirements set forth in subsection (c)(1).

"(e) INELIGIBILITY OF CERTAIN INDIVIDUALS.—No person who has acted as an investigator, military judge, or member of a military commission under this chapter in any case may act later as trial counsel or military defense counsel in the same case.

"(f) Prohibitions on serving as defense counsel before general courts-martial, military judge, or member of a military commission under this chapter may be sentenced to a penalty of death, the military commission shall have the number of members required by subsection (a), the trial shall be under the control of the convening authority, who shall also be responsible for preparing the record of the proceedings.

"§ 949m. Number of members; excuse of members; and additional members

"(a) NUMBER OF MEMBERS.—(1) A military commission under this chapter shall, except as provided in paragraph (2), have at least five members.

"(2) In a case in which the accused before a military commission under this chapter may be sentenced to a penalty of death, the military commission shall have the number of members prescribed by section 949m(c) of this title.

"(b) EXCUSE OF MEMBERS.—No member of a military commission under this chapter may be absent or excused after the military commission has been assembled for the trial of a case unless excused—

"(1) as a result of challenge;

"(2) by the military judge for physical disability or other good cause; or

"(3) by order of the convening authority forgood cause.

"(c) ABSENT AND ADDITIONAL MEMBERS.—Whenever a military commission under this chapter is reduced below the number of members required by subsection (a), the trial may not proceed unless the convening authority details new members sufficient to provide not less than such number. The trial may proceed only when a new number of members is present after the recorded evidence previously introduced before the members has been read to

the military commission in the presence of the military judge, the accused (except as provided in section 949a of this title), and counsel for both sides.

"§ 949c. Compulsory self-incrimination prohibited; treatment of statements obtained by torture and other statements

"(a) IN GENERAL.—No person shall be required to testify against himself at a proceeding of a military commission under this chapter.

"(b) EXCLUSION OF STATEMENTS OBTAINED BY TREATMENT OF THE SUSPECT.—In establishing procedures and rules of evidence for military commission proceedings, the Secretary of Defense may prescribe by regulation any rules of evidence that are consistent with this chapter.

"(c) STATEMENTS OBTAINED BEFORE ENACTMENT OF DETAINEE TREATMENT ACT OF 2005.—A statement obtained before December 30, 2005 (the date of the enactment of the Detainee Treatment Act of 2005) in which the degree of coercion is disputed may be admitted only if the military judge finds that—

"(1) the totality of the circumstances renders the statement reliable and possessing sufficient probative value; and

"(2) the interests of justice would best be served by admission of the statement into evidence.

"(d) STATEMENTS OBTAINED AFTER ENACTMENT OF DETAINEE TREATMENT ACT OF 2005.—A statement obtained on or after December 30, 2005 (the date of the enactment of the Detainee Treatment Act of 2005) in which the degree of coercion is disputed may be admitted only if the military judge finds that—

"(1) the totality of the circumstances renders the statement reliable and possessing sufficient probative value; and

"(2) the interests of justice would best be served by admission of the statement into evidence; and

"(3) the interrogation methods used to obtain the statement do not amount to cruel, inhuman, or degrading treatment prohibited by section 1003 of the Detainee Treatment Act of 2005.

"§ 949s. Service of charges

"The trial counsel assigned to a case before a military commission under this chapter shall cause to be served upon the accused and military defense counsel a copy of the charges upon which trial is to be had. Such charges shall be served in English and, if appropriate, in another language that the accused is competent to understand.

"(i) the military judge of the military commission in the presence of the judge advocate, the accused, and counsel for both sides.

"(ii) the record of trial.

"(iii) the accused.

"(iv) the convening authority.

"(v) the Secretary of Defense.

"(vi) the Attorney General.

"(vii) the Government.

"(viii) the Federal Government.

"(ix) the person charged.

"(x) the Government.

"(ii) the record of trial.

"(iii) the accused.

"(iv) the convening authority.

"(v) the Secretary of Defense.

"(vi) the Attorney General.

"(vii) the Government.

"(viii) the Federal Government.

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"(ii) the record of trial.

"(iii) the accused.

"(iv) the convening authority.

"(v) the Secretary of Defense.

"(vi) the Attorney General.

"(vii) the Government.

"(viii) the Federal Government.

"(ix) the person charged.

"(x) the Government.

"(ii) the record of trial.

"(iii) the accused.

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"(v) the Secretary of Defense.

"(vi) the Attorney General.

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"(vi) the Attorney General.

"(vii) the Government.

"(viii) the Federal Government.

"(ix) the person charged.

"(x) the Government.
“(ii) hearsay evidence not otherwise admissible under the rules of evidence applicable in trials by general courts-martial shall not be admitted in a trial by military commission if the proponent of the evidence makes known to the adverse party, sufficiently in advance to permit the adverse party with a fair opportunity to meet the evidence, the intention of the proponent to offer the evidence, and the particulars of the evidence (including information on the general circumstances under which the evidence was obtained). The disclosure of evidence under the preceding sentence is subject to the requirements and limitations applicable to the disclosure of classified information in section 949(c) of this title.

“(iii) Hearsay evidence not otherwise admissible under the rules of evidence applicable in trial by general courts-martial shall not be admitted in a trial by military commission if the party opposing the admission of the hearsay evidence demonstrates that the evidence is unreliable or lacking in probative value.

“(j) The military judge shall exclude any evidence the probative value of which is substantially outweighed—

“(1) by the danger of unfair prejudice, confusion of the issues, or misleading the commission; or

“(2) by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

“(k) The accused in a military commission under this chapter who exercises the right to self-representation under paragraph (1)(D) shall conform his deportment and the conduct of his defense to the rules of evidence, procedure, and decorum applicable to trials by military commission.

“(l) Failure of the accused to conform to the rules described in subparagraph (A) may result in a partial or total revocation by the military judge of any proposed modification of the procedures prescribed under section 949k of this title.

“§ 949c. Duties of trial counsel and defense counsel

“(a) Trial counsel.—The trial counsel of a military commission under this chapter shall prosecute in the name of the United States.

“(b) Defense counsel.—(1) The accused shall be represented in his defense before a military commission under this chapter as provided in this subsection.

“(2) The accused shall be represented by military counsel detailed under section 949k of this title.

“(c) The accused may be represented by civilian counsel if retained by the accused, but only if such civilian counsel—

“(1) is a United States citizen;

“(2) is admitted to the practice of law in a State, district, or possession of the United States or before a Federal court;

“(3) has not been the subject of any sanction of disciplinary action by any court, bar, or other competent governmental authority for relevant misconduct;

“(d) has been determined to be eligible for access to classified information that is classified at the level Secret or higher; and

“(e) has signed a written agreement to comply with all applicable regulations or instructions for counsel, including any rules of court for conduct during the proceedings.

“(2) Civilian defense counsel shall protect any classified information during the course of representation of the accused in accordance with all applicable law governing the protection of classified information and may furnish classified information to any person not authorized to receive it.

“(3) If the accused is represented by civilian counsel, detailed military counsel shall act as association counsel.

“(4) The accused is not entitled to be represented by more than one military counsel. However, authorized law enforcement agencies prescribed under section 948k of this title to detail counsel, in that person’s sole discretion, may detail additional military counsel to the military judge, but the rule in the preceding sentence applies to all stages of the proceedings of military commissions under this chapter.

“§ 949d. Sessions

“(a) Sessions Without Presence of Members.—(1) At any time after the service of charges which have been referred for trial by military commission under this chapter, the military judge may call the military commission to sessions for the purpose of determining the presence of the members for the purpose of—

“(A) hearing and determining motions raising defenses or objections which are capable of determination without trial of the issues raised by a plea of not guilty;

“(B) hearing and ruling upon any matter which may be ruled upon by the military judge under this chapter but not the matter is appropriate for later consideration or decision by the members;

“(C) if permitted by regulations prescribed by the Secretary of Defense, receiving the pleas of the accused; and

“(D) performing any other procedural function which may be performed by the military judge under this chapter or under rules prescribed pursuant to section 949a of this title and which does not require the presence of the members.

“(2) Except as provided in subsection (c), and (e), any proceedings under paragraph (1) shall—

“(A) be conducted in the presence of the accused, defense counsel, and trial counsel; and

“(B) be made part of the record.

“(b) Proceedings Without Presence of Accused.—Except as provided in subsections (c) and (e), all proceedings of a military commission under this chapter, including any consultation of the members with the military judge or counsel, shall—

“(1) be in the presence of the accused, defense counsel, and trial counsel; and

“(2) be made a part of the record.

“(c) Deliberation or Vote of Members.—When the members of a military commission under this chapter deliberate or vote, only the members may be present.

“(d) Closure of Proceedings.—(1) The military judge may close to the public all or part of the proceedings of a military commission under this chapter, but only in accordance with this subsection.

“(2) The military judge may close, in whole or in part, to the public all or any portion of the proceedings under paragraph (1) only upon making a specific finding that such closure is necessary to—

“(A) protect information the disclosure of which could reasonably be expected to cause serious harm to the national security, including intelligence or law enforcement sources, methods, or activities; or

“(B) ensure the physical safety of individuals.

“(2) A finding under paragraph (2) may be based upon a presentation, including a presentation of part of or in part of the record, by either trial counsel or defense counsel.

“(e) Exclusion of Accused from Certain Proceedings.—The military judge may exclude the accused from the hearing or reviewing authority with respect to any proposed modification of the procedures prescribed pursuant to section 949a of this title and which does not require the presence of the members.

“(f) Protection of Classified Information.—(1) National Security Privilege.—(A) Classified information shall be protected and is privileged from disclosure if disclosure would be detrimental to the national security.

“(B) The rule in the preceding sentence applies to all stages of the proceedings of military commissions under this chapter.
"(B) The privilege referred to in subparagraph (A) may be claimed by the head of the executive or military department or government agency concerned based on a finding by the head of that department or agency that—

(i) the information is properly classified; and

(ii) disclosure of the information would be detrimental to the national security.

"(C) A person who may claim the privilege referred to in subparagraph (A) may authorize a representative, witness, or trial counsel to act on his behalf to claim the privilege and make the finding described in subparagraph (B) on behalf of such person. The authority of the representative, witness, or trial counsel to do so is presumed in the absence of evidence to the contrary.

"(2) INTRODUCTION OF CLASSIFIED INFORMATION.—

(A) ALTERNATIVES TO DISCLOSURE.—To protect classified information from disclosure, the military judge, upon motion of trial counsel, shall authorize, to the extent practicable—

(i) the deletion of specified items of classified information from documents to be introduced as evidence before the military commission or court-martial;

(ii) the substitution of a portion or summary of the information for such classified document when introduction as evidence would be detrimental to the national security.

(iii) the substitution of a statement of relevant facts that the classified information would tend to prove.

(B) PROTECTION OF SOURCES, METHODS, OR ACTIVITIES.—The military judge, upon motion of trial counsel, shall permit trial counsel to introduce otherwise admissible evidence before the military commission, while protecting from disclosure the sources, methods, or activities by which the United States acquired the evidence if the military judge finds that—(i) the sources, methods, or activities by which the United States acquired the evidence are classified and, (ii) the evidence is reliable. The military judge may require trial counsel to present to the military commission and the defense, to the extent practicable and consistent with national security, an unclassified summary of the sources, methods, or activities by which the United States acquired the evidence.

(C) ASSERTION OF NATIONAL SECURITY PRIVILEGE AT TRIAL.—During the examination of any witness other than a trial counsel or one detailed to a military commission under this chapter, the military judge shall take suitable action to safeguard such classified information. Such action may include the review of trial counsel’s claim of privilege by the military judge in camera and on an ex parte basis, and the delay of proceedings to permit trial counsel to consult with the department or agency concerned as to whether the national security privilege should be asserted.

(3) CONSIDERATION OF PRIVILEGE AND RELATED MATERIALS.—A claim of privilege under this subsection, and any material submitted in support thereof, shall, upon request of the Government, be considered by the military judge in camera and shall not be disclosed to the accused.

(4) ADDITIONAL REGULATIONS.—The Secretary of Defense may prescribe additional regulations, consistent with this subsection, for the protection of classified information during proceedings of military commissions under this chapter. A report on any regulations so prescribed, or modified, shall be submitted to the Committees on Armed Services of the Senate and the House of Representatives not later than 60 days before the date on which such regulations or modifications, as the case may be, go into effect.

§ 949e. Continuances

"(a) The military judge in a military commission under this chapter may, for reasonable cause, grant a continuity to any party for such time, and as often, as may appear to be just.

"(b) Finding of Guilt After Guilty Plea.—With respect to any charge or specification to which a plea of guilty has been made by the accused in a military commission under this chapter, and accepted by the military judge, a finding of guilty of the charge or specification may be entered immediately without a vote. The finding shall constitute the finding of guilty unless the plea of guilty is withdrawn prior to announcement of the sentence, in which event the proceedings shall continue as if no such plea had been entered.

§ 949f. Challenges

"(a) CHALLENGES AUTHORIZED.—The military judge of a military commission under this chapter may be challenged by the accused or trial counsel for cause stated to the commission. The military judge shall determine the relevance and validity of challenges for cause. The military judge may not receive a challenge to more than one person at a time. Challenges by trial counsel may be ordinarily presented and decided before those by the accused are offered.

"(b) PEREMPTORY CHALLENGES.—Each accused and the trial counsel are entitled to one peremptory challenge. The military judge may not be challenged except for cause.

"(c) CHALLENGES AGAINST ADDITIONAL MEMBERS.—Whenever additional members are detailed to a military commission under this chapter, the military judge may authorize trial counsel for cause against such additional members are presented and decided, each accused and the trial counsel are entitled to one peremptory challenge against additional members previously subject to peremptory challenge.

§ 949g. Oaths

"(a) In General.—(1) Before performing their respective duties in a military commission under this chapter, military judges, members, trial counsel, defense counsel, reporters, and interpreters shall take an oath to perform their duties faithfully.

(2) The form of oath required by paragraph (1), the time and place of the taking thereof, the manner of recording the same, and whether the oath shall be taken for all cases in which duties are to be performed or for a particular case, shall be as prescribed in regulations of the Secretary of Defense. Those regulations may provide that—(A) an oath to perform faithfully duties as a military judge, trial counsel, or defense counsel may be taken at any time by any judge advocate or other person certified to be qualified for the duty; and

(B) if such an oath is taken, such oath need not again be taken at the time the judge advocate or other person is detailed to that duty.

"(b) WITNESSES.—Each witness before a military commission under this chapter shall be examined on oath.

§ 949h. Former jeopardy

"(a) In General.—No person may, without his consent, be tried by a military commission under this chapter a second time for the same offense.

(b) SCOPE OF TRIAL.—No proceeding in which the accused has been found guilty by military commission under this chapter upon any charge or specification is a trial in the sense of this section until the finding of guilty has become final after review of the case has been fully completed.

§ 949i. Pleas of the accused

"(a) ENTRY OF NON-GUILTY.—If an accused in a military commission under this chapter after a plea of guilty sets up matter inconsistent with the plea, or if it appears that the evidence does not establish a plea of guilty through lack of understanding of its meaning and effect, or if the accused fails or refuses to plead, a plea of not guilty shall be entered by the accused or the military commission shall proceed as though the accused had pleaded not guilty.

"(b) Right of Defense Counsel.—Defense counsel in a military commission under this chapter shall have full opportunity to obtain witnesses and other evidence as provided in regulations prescribed by the Secretary of Defense.

"(c) Process for Compulsion.—Process issued in a military commission under this chapter to compel witnesses to appear and testify and to compel the production of other evidence—

(i) shall be similar to that which courts of the United States having criminal jurisdiction may lawfully issue; and

(ii) shall run to any place where the United States shall have jurisdiction thereof.

"(d) Protection of Classified Information.—With respect to discovery obligations of trial counsel under this section, the military judge, upon motion of trial counsel, shall authorize, to the extent practicable,

(A) the deletion of specified items of classified information from documents to be made available to the accused;

(B) the substitution of a portion or summary of the information for such classified documents; or

(C) the substitution of a statement admitting relevant facts that the classified information would tend to prove.

(2) The military judge, upon motion of trial counsel, shall authorize trial counsel, in the course of complying with discovery obligations under this section, to protect from disclosure the sources, methods, or activities by which the United States acquired such evidence are classified. The military judge may require such discovery to be conducted in a manner that is as practicable, an unclassified summary of the sources, methods, or activities by which the United States acquired such evidence are classified. The military judge may require such discovery to be conducted in a manner that is as practicable, that is, to disclose in a trial by general court-martial such information to the defense the existence of any evidence known to trial counsel that reasonably tends to exculpate the accused. Where exculpatory evidence is classified, the accused shall be provided with an adequate substitute in accordance with the procedures under subsection (c).

(2) In this subsection, the term ‘evidence known to trial counsel’, in the case of exculpatory evidence, means exculpatory evidence that the prosecution would be required to disclose in a trial by general court-martial under chapter 47 of this title.

§ 949j. Defense of lack of mental responsibility

"(a) AFFIRMATIVE DEFENSE.—It is an affirmative defense in a trial by military commission under this chapter that, at the time of the commission of the acts constituting the offense, the accused, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of the acts committed. The commission of the offense by a person suffering from a severe mental disease or defect does not otherwise constitute a defense.
"(b) BURDEN OF PROOF.—The accused in a military commission under this chapter has the burden of proving the defense of lack of mental responsibility by clear and convincing evidence."

"(c) FINDINGS FOLLOWING ASSERTION OF DEFENSE.—Whenever lack of mental responsibility with respect to the offense is properly at issue in a military commission under this chapter, the military judge shall instruct the members of the commission as to the defense of lack of mental responsibility under this section and shall charge them to find the accused—

"(1) guilty;

"(2) guilty but not criminally responsible; or

"(3) subject to subsection (d), not guilty by reason of lack of mental responsibility.

"(d) REQUIRED FOR FINDING.—The accused shall be found not guilty by reason of lack of mental responsibility under subsection (c)(3) only if a majority of the members present at the time the vote is taken determines that the defense of lack of mental responsibility has been established.

8941. Voting and rulings

(a) VOTE BY SECRET WRITTEN BALLOT.—Voting by secret written ballot on the questions of law or an interlocutory question (other than the factual issue of mental responsibility of the accused) is conclusive and constitutes the ruling of the military judge. However, a military judge may change his ruling at any time during the trial.

(b) RULINGS.—(1) The military judge in a military commission under this chapter shall rule upon all questions of law, including the admissibility of evidence and all interlocutory questions arising during the proceedings.

"(2) Any ruling made by the military judge upon a question of law or an interlocutory question is final.

"(c) INSTRUCTIONS PRIOR TO VOTE.—Before a vote is taken of the findings of a military commission under this chapter, the military judge shall, in the presence of the accused and counsel, instruct the members as to the elements of the offense and charge the members—

"(1) that the accused must be presumed to be innocent until his guilt is established by legal and competent evidence beyond a reasonable doubt;

"(2) that in the case being considered, if there is reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused and he must be acquitted;

"(3) that, if there is reasonable doubt as to the degree of guilt, the finding must be in a lower degree as to which there is no reasonable doubt; and

"(4) that the burden of proof to establish the guilt of the accused beyond a reasonable doubt is upon the United States.

8941m. Number of votes required

(a) CONVICTION.—No person may be convicted by a military commission under this chapter of any offense, except as provided in section 949(b) of this title or by concurrence of two-thirds of the members present at the time the vote is taken.

(b) SENTENCES.—(1) No person may be sentenced by a military commission to suffer death as a punishment for any crime committed by members of a military commission. However, a military commission under this chapter may direct that a military judge by reason of his death, disability, or absence, shall be authorized under this chapter to pronounce sentence in the name of the military judge.

"(A) the penalty of death is expressly authorized by reason of the nature of the military commission by which the accused is being tried;

"(B) a submittal under paragraph (1) shall be made in writing within 20 days after the accused has been given an authenticated record of the findings and sentence of a military commission under this chapter.

"(C) if the accused is confined or committed by the courts of the United States or of the State, District of Columbia, or place in which the institution is situated.

8940. Record of trial

(a) RECORD; AUTHENTICATION.—Each military commission under this chapter shall keep a separate, verbatim record of the proceedings, and shall preserve it, and the record shall be authenticated by the signature of the military judge. If the record cannot be authenticated by the military judge by reason of his death, disability, or absence, it shall be authenticated by the signature of the trial counsel or by a member of the commission if the trial counsel is unable to authenticate it by reason of his death, disability, or absence. Where appropriate, and as provided in regulations prescribed by the Secretary of Defense, the record of a military commission under this chapter may contain a classified annex.

(b) COMPLETE RECORD REQUIRED.—A complete record of all proceedings and testimony shall be prepared in every military commission under this chapter.

(c) PROVISION OF COPY TO ACCUSED.—A copy of the record of the proceedings of the military commission under this chapter shall be given the accused as soon as it is authenticated. If the record contains classified information, a classified annex, the accused shall be given a redacted version of the record consistent with the requirements of section 948l of this title. Defense counsel shall have access to the record, and classified annex, as provided in regulations prescribed by the Secretary of Defense.

8950a. Error of law; lesser included offense

(a) ERROR OF LAW.—A finding or sentence of a military commission under this chapter may be set aside by the convening authority if the record of the findings and sentence of the military commission under this chapter is found to contain an error of law unless the error materially prejudices the substantial rights of the accused.

(b) LESSER INCLUDED OFFENSE.—Any reviewing authority with the power to approve or affirm a finding of guilty by a military commission under this chapter may approve or affirm, instead, so much of the finding as includes a lesser included offense.

8950b. Review by the convening authority

(a) NOTICE TO CONVENING AUTHORITY OF FINDINGS AND SENTENCE.—The findings and sentence of a military commission under this chapter shall be reported in writing promptly to the convening authority after the announcement of the sentence.

(b) SUBMITTAL OF MATTERS BY ACCUSED TO CONVENING AUTHORITY.—(1) The accused may submit to the convening authority matters for consideration by the convening authority with respect to the findings and the sentence of the military commission under this chapter.

"(A) Except as provided in subparagraph (B), a submittal under paragraph (1) shall be made in writing within 20 days after the accused has been given an authenticated record of the findings and sentence.

"(B) If the accused shows that additional time is required for the accused to make a
submittal under paragraph (1), the convening authority may, for good cause, extend the applicable period under subparagraph (A) for not more than an additional 20 days.

(3) A rehearing may be ordered by the convening authority if the convening authority disapproves the findings and sentence and does not order a rehearing, the convening authority shall dismiss the charges. A rehearing as to the findings may not be ordered by the convening authority when there is a lack of substantial evidence to support the findings. A rehearing as to the sentence may be ordered by the convening authority if the convening authority disapproves the sentence.

§ 950c. Appellate referral; waiver or withdrawal of appeal

(a) AUTOMATIC REFERRAL FOR APPELLATE REVIEW.—Except as provided under subparagraph (B), a proceeding in revision may be ordered by the convening authority on a finding of guilty under a specification laid under this chapter. If the convening authority takes action on the findings of a military commission under this chapter. If the convening authority is required to take action on the findings of a military commission, the convening authority may, in his sole discretion, approve, disapprove, commute, or suspend the sentence in whole or in part. The convening authority may not increase a sentence, but may decrease it, in whole or in part, in accordance with procedures prescribed by regulations of the Secretary.

(b) WAIVER OF RIGHT OR REVIEW.—(1) In each case subject to appellate review under section 950f of this title, except a case in which the sentence as approved under section 950c of this title extends to death, the accused may file with the convening authority a statement expressly waiving the right of the accused to such review.

(2) A waiver under paragraph (1) shall be signed by both the accused and a defense counsel.

(3) A waiver under paragraph (1) must be filed, if at all, within 10 days after notice on the record is served on the accused or on defense counsel under section 950c(4) of this title.

(c) WITHDRAWAL OF APPEAL.—Except in a case in which the sentence as approved under section 950b of this title extends to death, the accused may withdraw an appeal at any time.

(d) EFFECT OF WAIVER OR WITHDRAWAL.—A waiver of the right to appellate review or the withdrawal of an appeal under this section bars review under section 950f of this title.

§ 950d. Appeal by the United States

(a) INTERLOCUTORY APPEAL.—(1) Except as provided in paragraph (2), in a trial by military commission under this chapter, the accused may appeal in accordance with procedures prescribed by regulations prescribed by the Secretary, to the Court of Military Commission Review.

(b) Notice of appeal—(1) The United States shall take an appeal of an order or ruling under this section, by notice of appeal with the military judge within five days after the date of such order or ruling.

(c) Appeal.—An appeal under this section shall be heard by a Court of Military Commission Review. In ruling on an appeal under this section the Court of Military Commission Review may act only with respect to matters of law.

(d) Appeal from adverse ruling.—The United States may appeal an adverse ruling of the military commission under section 948j(b) of this title, based, or otherwise does not comply with the terms of the pretrial agreement or the terms of the plea bargain.

§ 950e. Review by Court of Military Commission Review

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Court of Military Commission Review. Each appellate military judge shall meet the qualifications for military judges prescribed by section 948(b) of this title or shall be a civilian with comparable qualifications. Each person may be appointed as an appellate military judge in any case in which that person acted as a military judge, counsel, or reviewing official.

(b) APPELLATE MILITARY JUDGES.—The Secretary shall assign appellate military judges to a Court of Military Commission Review. Each appellate military judge shall meet the qualifications for military judges prescribed by section 948(b) of this title or shall be a civilian with comparable qualifications. Each person may be appointed as an appellate military judge in any case in which that person acted as a military judge, counsel, or reviewing official.

(c) CASES TO BE REVIEWED.—The Court of Military Commission Review, in accordance with procedures prescribed by regulations prescribed by the Secretary, shall review the record in each case that is referred to the Court by the convening authority under section 950e of this title and for review in the Court of Appeals within 10 days after the date of such ruling. Review under this subsection shall be at the discretion of the Court of Appeals.

§ 950f. Review by the United States Court of Appeals for the District of Columbia Circuit and the Supreme Court

(a) EXCLUSIVE APPELLATE JURISDICTION.—(1)(A) Except as provided in paragraph (2), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of a final judgment rendered by a military commission (as approved by the convening authority) under this chapter.

(B) The Court of Appeals may not review the final judgment until all other appeals under this chapter have been waived or exhausted.

(c) Petition for review must be filed by the accused in the Court of Appeals not later than 20 days after the date on which—
dures as the Secretary may prescribe.

"(b) The accused submits, in the form prescribed by section 950c of this title, a written notice waiving the right of the accused to review by the Court of Military Commission Review the final judgment of the Court of Appeals pursuant to section 1257 of title 28.

**§ 950h. Appellate counsel**

"(a) APPOINTMENT.—The Secretary of Defense shall, by regulation, establish procedures for the appointment of appellate counsel for any appeals or reviews pending under this chapter in military commissions under this chapter.

Appellate counsel shall meet the qualifications for counsel appearing before military commissions under this chapter.

(b) REPRESENTATION OF UNITED STATES.—Appellate counsel appointed under subsection (a) shall represent the United States in any appeal or review proceeding under this chapter before the Court of Military Commission Review.

(2) may, when requested to do so by the Attorney General in a case arising under this chapter, represent the United States before the United States Court of Appeals for the District of Columbia Circuit, and the Supreme Court.

(c) REPRESENTATION OF ACCUSED.—The accused shall be represented by appellate counsel appointed under subsection (a) before the Court of Military Commission Review, the United States Court of Appeals for the District of Columbia Circuit, and the Supreme Court, by civilian counsel if retained by the accused. Any such civilian counsel shall meet the qualifications for counsel appearing before military commissions under this chapter and shall be subject to the requirements of paragraph (4) of that section.

**§ 950i. Execution of sentence; procedures for execution of sentence of death**

"(a) IN GENERAL.—The Secretary of Defense may, by regulation, establish procedures for the execution of a sentence of death, or part thereof, in any case in which (1) the sentence of death has been imposed by a military commission under this chapter, or (2) the sentence of death otherwise under review by the Court of Military Commission Review.

"(b) REPRESENTATION OF UNITED STATES.—Appellate counsel appointed under subsection (a) shall represent the United States in any appeal or review proceeding under this chapter before the Court of Military Commission Review.

"(c) REPRESENTATION OF ACCUSED.—The accused shall be represented by appellate counsel appointed under subsection (a) before the Court of Military Commission Review, the United States Court of Appeals for the District of Columbia Circuit, and the Supreme Court, by civilian counsel if retained by the accused. Any such civilian counsel shall meet the qualifications for counsel appearing before military commissions under this chapter and shall be subject to the requirements of paragraph (4) of that section.

"(d) SUSPENSION OF SENTENCE.—The Secretary of Defense, or the convening authority in the case (other than the Secretary), may suspend the execution of any sentence or part thereof in the case, except a sentence of death.

**§ 950j. Finality or proceedings, findings, and sentences**

"(a) FINALITY.—The appellate review of records of trials provided by this chapter, and the proceedings, findings, and sentences of military commissions under this chapter, unless affirmed by the Secretary, may be reviewed by the Court of Military Commission Review, by the United States Court of Appeals for the District of Columbia Circuit, and the Supreme Court.

(b) SCOPE OF OFFENSE.—An act, done with specific intent to commit an offense under this chapter, amounting to more than mere preparation and tendency, even though failing, to effect its commission, is an attempt to commit that offense.

(c) EFFECT OF CONSUMMATION.—Any person subject to this chapter may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated.

(d) spo. Solicitation

"Any person subject to this chapter who solicits or advises another or others to commit one or more substantive offenses triable by military commission under this chapter shall, if the offense solicited or advised is attempted or committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed or attempted, he shall be punished as a military commission under this chapter may direct.

**§ 950v. Crimes triable by military commission**

"(a) DEFINITIONS AND CONSTRUCTION.—In this section:

(1) MILITARY OBJECTIVE.—The term 'military objective' means—

(A) combatants; and

(B) those objects during an armed conflict:

(i) which, by their nature, location, purpose, or use, effectively contribute to the opposing force's war-fighting or war-sustaining capability; and

(ii) the total or partial destruction, capture, or neutralization of which would constitute a definite military advantage to the attacker under the circumstances at the time of the attack.

(C) PROTECTED PERSON.—The term 'protected person' means any person entitled to protection under one or more of the Geneva Conventions, including—

(1) civilians not taking an active part in hostilities:

(B) military personnel placed hors de combat by sickness, wounds, or detention; and

(C) military medical or religious personnel.

(D) PROTECTED PROPERTY.—The term 'protected property' means property specifically protected by the law of war (such as buildings dedicated to religion, education, art,
science or charitable purposes, historic monuments, hospitals, or places where the sick and wounded are collected), if such property is not being used for military purposes, or is not otherwise a military objective.

Such term includes objects properly identified by one of the distinctive emblems of the Geneva Conventions, but does not include civilian property that is a military objective.

“(4) Construction.—The intent specified for an offense paragraph (1), (2), (3), (4), or (12) precludes the applicability of such offense with regard to—

(A) collateral damage; or

(B) indirect damage, or injury incident to a lawful attack.

“(b) Offenses.—The following offenses shall be triable by military commission under this chapter at any time without limitation:

(1) MURDER OF PROTECTED PERSONS.—Any person subject to this chapter who intentionally kills one or more protected persons shall be punished by death or such other punishment as a military commission under this chapter may direct.

(2) ATTACKING CIVILIANS.—Any person subject to this chapter who intentionally engages in an attack upon a civilian population as such civilians not otherwise active in hostilities, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

(3) ATTACKING CIVILIAN OBJECTS.—Any person subject to this chapter who intentionally engages in an attack upon a civilian object that is not a military objective shall be punished as a military commission under this chapter may direct.

(4) ATTACKING PROTECTED PROPERTY.—Any person subject to this chapter who intentionally engages in an attack upon protected property shall be punished as a military commission under this chapter may direct.

(5) PILLAGING.—Any person subject to this chapter who, with effective command or control over subordinate groups, declares or otherwise indicates to those groups that there shall be no survivors or surrender accepted, with the intent to threaten an adversary or to conduct hostilities in that there would be no survivors or surrender accepted, shall be punished as a military commission under this chapter may direct.

(6) DENYING QUARTER.—Any person subject to this chapter who, with effective command or control over subordinate groups, declares or otherwise indicates to those groups that there shall be no survivors or surrender accepted, with the intent to threaten an adversary or to conduct hostilities in that there would be no survivors or surrender accepted, shall be punished as a military commission under this chapter may direct.

(7) TAKING HOSTAGES.—Any person subject to this chapter who, having knowingly seized or detained one or more persons, threatens to kill, injure, or continue to detain such person or persons with the intent of compelling any nation, person other than the hostage, or group of persons to act or refrain from acting as an explicit or implicit condition for the release of such person or persons, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

(8) EMPLOYING POISON OR SIMILAR WEAPONS.—Any person subject to this chapter who intentionally, as a method of warfare, employs a substance or weapon that releases a substance that causes death or serious and lasting damage to health in the ordinary medical sense, including asphyxiating, bacteriological, or toxic properties, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

(9) USING PROTECTED PERSONS AS A SHIELD.—Any person subject to this chapter who, contrary to the intent of, a protected person with the intent to shield a military objective from attack, or to shield, favor, or impede military operations, shall be punished as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

(10) USING PROTECTED PROPERTY AS A SHIELD.—Any person subject to this chapter who, contrary to the intent of, a civilian object that is not a military objective shall be punished as a military commission under this chapter may direct.

(11) TORTURE.—

(A) Offense.—Any person subject to this chapter who commits an act specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or control, including subjecting another person to inhuman treatment, such as such person to the torture of slow death, or to severe mental or physical suffering, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

(B) SEVERE MENTAL PAIN OR SUFFERING DEFINED.—In this section, the term 'severe mental pain or suffering' has the meaning given that term in section 2340(2) of title 18.

(C) CRIMES AND/OR OFFENSES.—

(i) The term 'severe physical pain or suffering' in section 2340(2) of title 18, given that term in section 2340(2) of title 18.

(ii) The term 'serious physical pain or suffering' means bodily injury that involves—

(I) a substantial risk of death;

(II) extreme physical pain;

(iii) serious and non- temporary incapacity for medical treatment or any other loss of significant quantity of body function or sensory ability;

(iv) significant loss or impairment of the structure or function of any body part or organ;

(v) life- threatening clonic convulsions, convulsions, or convulsions that are not self- limiting, or any other loss of significant quantity of body function or sensory ability;

(vi) specific loss or impairment of the function of a bodily member, organ, or mental faculty.

(D) MUTILATING OR MAIMING.—Any person subject to this chapter who intentionally kills one or more persons, including lawful combatants, in violation of the law of war shall be punished by death or such other punishment as a military commission under this chapter may direct.

(E) MURDER IN VIOLATION OF THE LAW OF WAR.—Any person subject to this chapter who intentionally kills one or more persons, including lawful combatants, in violation of the law of war shall be punished by death or such other punishment as a military commission under this chapter may direct.

(F) USING TREACHERY OR PERFIDY.—Any person subject to this chapter who, after informing the confidence or belief of one or more persons that they were entitled to, or obliged to accord, protection under the law of war, intentionally makes use of that confidence or belief in killing, wounding, or otherwise injuring, or causing injury to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct.

(G) IMPROPERLY USING A FLAG OF TRUCE.—Any person subject to this chapter who uses a flag of truce to feign an intention to negotiate surrender, and, in fact, to conduct or encourage hostilities when there is no such intention shall be punished as a military commission under this chapter may direct.

(H) EMPLOYING A DISTINCTIVE EMBLEM.—Any person subject to this chapter who intentionally uses a distinctive emblem
recognized by the law of war for combatant purposes in a manner prohibited by the law of war shall be punished as a military commission under this chapter may direct.

"(29) MURDERING A DEAD BODY.—Any person subject to this chapter who intentionally mistreats the body of a dead person, without justification by legitimate military necessity, shall be punished as a military commission under this chapter may direct.

"(30) RAPE.—Any person subject to this chapter who forcibly or with coercion or threat of force wrongfully invades the body of a person by penetrating, however slightly, the anal or genital opening of the victim with any part of the body of the accuser, or with any foreign object, shall be punished as a military commission under this chapter may direct.

"(31) INTENTIONAL MISTREATING A DEAD BODY.—Any person subject to this chapter who engages or conspires to commit one or more of the offenses set forth in section 3504 (a) (6) of title 18, United States Code, who is an agent of the United States, or who is an agent of any party as defined in paragraph (a) of section 786 of title 18, United States Code, who forcibly or with coercion or threat of force wrongfully invades the body of a person by penetrating, however slightly, the anal or genital opening of the victim with any part of the body of the accuser, or with any foreign object, shall be punished as a military commission under this chapter may direct.

"(32) INTENTIONAL MISTREATING A DEATH DEPRIVED OF LIFE THROUGH CRUELTY OR ITS EFFECTS.—Any person who intentionally mistreats the body of a person deprived of life through cruelity or its effects, shall be punished as a military commission under this chapter may direct.

"(33) SEDUCING, ABUSING, OR ABUSSING.—Any person subject to this chapter who seduces or abusess or abussion engages in sexual contact with one or more persons, or causes one or more persons to engage in sexual contact, shall be punished as a military commission under this chapter may direct.

"(34) RAPE AS A TERRORIST ACT.—Any person subject to this chapter who engages in a terrorist act against a national terrorist organization engaged in hostilities against the United States, knowing that such organization has engaged in terrorist activity and, in the carrying out, an act of terrorism (as set forth in paragraph (2)), or who intentionally provides material support or resources to an organization engaged in hostilities against the United States, knowing that such organization has engaged in terrorist activity (as set forth in paragraph (2)), shall be punished as a military commission under this chapter may direct.

"(35) PROVIDING MATERIAL SUPPORT FOR TERRORISM.—(a) OFFENSE.—Any person subject to this chapter who provides material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, an act of terrorism (as set forth in paragraph (2)), or who intentionally provides material support or resources to an organization engaged in hostilities against the United States, knowing that such organization has engaged in terrorist activity (as set forth in paragraph (2)), shall be punished as a military commission under this chapter may direct.

"(b) MATERIAL SUPPORT OR RESOURCES DEFINED.—In this paragraph, the term ‘material support or resources’ has the meaning given that term in section 2339A(b) of title 18.

"(36) CUSTOMARY INTERNATIONAL LAW.—(a) CONFORMING AMENDMENTS.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended as follows:

1. (1) APPLICABILITY TO LAWFUL ENEMY COMMISSIONS.—Section 802(a) (article 2(a)) is amended by adding at the end the following new item:

‘‘47A. Military Commissions ..... 948a’’.

2. (b) SUBMITTAL OF PROCEDURES TO CONGRESS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Army of the Department of the Army shall submit to the House of Representatives a report setting forth the procedures for military commissions prescribed under chapter 47A of title 10, United States Code (as added by subsection (a)).

SEC. 4. AMENDMENTS TO UNIFORM CODE OF MILITARY JUSTICE.—(a) CONFORMING AMENDMENTS.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended as follows:

1. (1) APPLICABILITY TO LAWFUL ENEMY COMMISSIONS.—Section 802(a) (article 2(a)) is amended by adding at the end the following new paragraph:

‘‘(12) EXCLUSIBILITY OF APPLICATION TO 47A COMMISSIONS.—Sections 821, 828, 848, 850(a), 904, and 906 (articles 21, 28, 48, 50(a), 104, and 106) are amended by adding at the end the following new sentence: ‘‘This section does not apply to a military commission established under chapter 47A of this title.’’

2. (2) INAPPLICABILITY OF REQUIREMENTS RESULTING TO MILITARY COMMISSIONS.—Section 836 (article 36) is amended—

(a) in subsection (a), by inserting ‘‘, except as provided in chapter 47A of this title’’, after ‘‘in respect of’’;

(b) in subsection (b), by inserting before the period at the end ‘‘, except insofar as applicable to military commissions established under chapter 47A of this title’’;

3. (B) PUNITIVE ARTICLE OF CONSPIRACY.—Section 881 of title 10, United States Code (article 81 of the Uniform Code of Military Justice), is amended—

1. (1) by inserting ‘‘(a)’’ before ‘‘Any person’’; and

2. (2) by adding at the end the following new subsection:

‘‘(b) Any person subject to this chapter who conspires to commit an offense under the law of war, and who knowingly does an overt act to effect the object of the conspiracy, shall be punished, if death results to one or more of the victims, by death or such other punishment as a court-martial or military commission may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

2. (2) CONSPIRACY.—Any person subject to this chapter who conspires to commit one or more substantive offenses triable by military commission under this chapter, and who knowingly does an overt act to effect the object of the conspiracy, shall be punished, if death results to one or more of the victims, by death or such other punishment as a court-martial or military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

3. (3) TERRORISM.—A military commission under this chapter may try offenses and impose such punishment as the military commission may direct for perjury, false testimony, or obstruction of justice under this chapter.

4. (4) CONTEMPT.—A military commission under this chapter may, for contempt, punish any person who uses any menacing word, sign, or gesture in its presence, or who disturbs its proceedings by any riot or disorder.

5. (5) TABLES OF CHAPTERS AMENDMENTS.—The tables of chapters at the beginning of subchapter I, and at the beginning of part II of subchapter II of title 10, United States Code, are each amended by inserting after the item relating to chapter 47 the following new item:

‘‘47A. Military Commissions ..... 948a’’.

6. (6) SUBMITTAL OF PROCEDURES TO CONGRESS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the procedures for military commissions prescribed under chapter 47A of title 10, United States Code (as added by subsection (a)).

SEC. 5. TREATY OBLIGATIONS NOT ESTABLISHING GROUNDS FOR CERTAIN CLAIMS.—(a) IN GENERAL.—No person may invoke the Geneva Conventions or any protocols thereto in any habeas corpus or other civil action or proceeding to which the United States, or a current or former officer, employee, member of the Armed Forces, or other agent of the United States is a party as a source of rights in any court of the United States or its States or territories.

(b) GENEVA CONVENTIONS DEFINED.—In this section, the term ‘‘Geneva Conventions’’ means—

(1) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3133); and

(2) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of the Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217).

(c) THE CONVENTION RELATIVE TO THE PROTECTION OF CIVILIAN PERSONS IN TIME OF WAR.—The Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

SEC. 6. IMPLEMENTATION OF TREATY OBLIGATIONS.—(a) IMPLEMENTATION OF TREATY OBLIGATIONS.—(1) IN GENERAL.—The acts enumerated in subsection (d) of section 2441 of title 18, United States Code, as added by subsection (c) of section 3 of this Act, constitute violations of conventional Article 3 of the Geneva Conventions prohibited by United States law.

(b) PROHIBITION ON GRAVE BREACHES.—The provisions of section 2441 of title 18, United States Code, as amended by this section, fully satisfy the obligation under Article 129 of the Third Geneva Convention for the United States to provide effective penal sanctions for grave breaches which are encompassed in common Article 3 in the context of an armed conflict not of an international character. No foreign or international source of law shall supply a basis for review of decision in the courts of the United States or its States or territories.

(c) PROHIBITION ON GRAVE BREACHES.—This section, the President has the authority for the United States to interpret the meaning and application of the Geneva Conventions and to promulgate higher standards and administrative regulations for violations of treaty obligations which are not grave breaches of the Geneva Conventions.
as to grave breaches of common Article 3 as a matter of United States law, in the same manner as other administrative regulations.

(D) Nothing in this section shall be construed to affect the constitutional functions and responsibilities of Congress and the judicial branch of the United States.

(4) Definitions.—In this subsection:

(A) Conspire.—The term "conspire" means—

(i) the Convention for the Amelioration of the Condition of Wounded, Sick, and Shipwrecked Members of the Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3311);

(ii) the Convention Relative to the Protection of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(iii) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316).

(B) Common Article 3.—The term "Common Article 3" means—

(i) as to conduct occurring after the date of the enactment of the Military Commissions Act of 2006, the term "serious and nontransitory mental harm (which need not be of a serious nature)" shall be applied for purposes of subparagraphs (A)(i), (D)(iii), and (E)(iii) in accordance with the meaning given that term in section 2340(2) of this title;

(ii) as to conduct occurring after the date of the enactment of the Detainee Treatment Act of 2005 (10 U.S.C. 801 note), no court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien detained by the United States who has been determined by the President to be properly detained as an enemy combatant or is awaiting such determination.

(2) Retroactive applicability.—The amendments made by this subsection, except as specified in subsection (d)(2)(E) of section 2441 of title 18, United States Code, shall take effect as of November 26, 1997, as if enacted immediately after the amendments made by section 581 of Public Law 105–118 (as amended by section 4002(e)(7) of Public Law 107–273).

(c) Additional prohibition on cruel, inhuman, or degrading treatment or punishment defined.—In this subsection, the term "cruel, inhuman, or degrading treatment or punishment" means—

(1) in general.—No individual in the custody or under the physical control of the United States Government, whether in the territory or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(2) Cruel, inhuman, or degrading treatment or punishment defined.—In this subsection, the term "cruel, inhuman, or degrading treatment or punishment" means—

(1) in general.—No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien detained by the United States who has been determined by the President to be properly detained as an enemy combatant or is awaiting such determination.

(2) Except as provided in paragraphs (2) and (3) of section 1005(e) of the Detainee Treatment Act of 2005 (10 U.S.C. 801 note), no court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien detained by the United States who has been determined by the President to be properly detained as an enemy combatant or is awaiting such determination.

(3) Effective date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and
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 conviction 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) is amended—

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

(2) by inserting “shall provide” before “the United States”;

(3) by inserting “or” after “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 8, United States Code; and

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

SEC. 9. REVIEW OF JUDGMENTS OF MILITARY COMMISSIONS.


(1) in subparagraph (A), by striking “pursuant to Military Commission Order No. 1, dated September 23, 2004, 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:—

(A) in clause (1)—

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

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

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

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

SEC. 10. DETENTION COVERED BY REVIEW OF DECISIONS OF COMBATTANT STATUS REVIEW TRIBUNALS OF PROPERTY OF DETENTION.


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 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 day was extended until 9:30 a.m. on the last day of the current Congress.

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move for a cloture 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!

The Congress did not reward illegal immigrants with U.S. citizenship. The Congress encouraged illegal immigration, with the amnesties, and rejected the call to offer U.S. citizenship to illegal aliens. They have said NO to amnesty! Hallelujah!

Competitive 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 any 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 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 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 recognize 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.

Now that it is continuing its 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. May, we passed by 83 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: “We can’t just think of this as 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
Mr. SESSIONS. Mr. President, we know that the fence 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 coherently about how to fix an absolutely broken immigration system.

I urge support of cloture.

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

The question is, Is it the sense of the Senate that debate on Calendar No. 615, S. 2611, the Comprehensive Immigration Reform Act of 2006, be opened, if any other Senator in the Chamber desires to vote? The yeas and nays resulted—yes 71, nays 28, as follows:

[Rollcall Vote No. 260 Leg.]

Mr. MCCONNELL. The following Senator from Maine (Ms. SNOWE).

Mr. MCCONNELL. The following Senator from Alabama.

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

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

[Concurrent Resolutions, S. Res. 318-433, S. Res. 447-450]

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 borders, including the 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, 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 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 security, but also brings people out of the shadows and ensures that our Government 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 I be granted the right to extend 10 minutes of the time previously allotted to the Senator from Hawaii.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The report will be stated by title.

The clerk then 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-

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 conferenced 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, Senator Inouye, for his support and invaluable counsel on the bill.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I rise to express my strong support for the conference report on H. R. 5631, the Defense appropriations 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
Mr. KENNEDY. Mr. President, I welcome the decision by the Senate Appropriations Subcommittee to support the Senate's request for a new National Intelligence Estimate on conditions inside Iraq for more than 2 years. That must change.

We passed in this Chamber, 96 to 1, an amendment which unequivocally concluded that the war in Iraq is creating a new generation of terrorists. It was especially shocking, given the administrations' statements 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 war in Iraq on the global threat of terrorism, outside of Iraq’s borders.

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 statements 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 war in Iraq 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.

Carter 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 he is 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 comprehensive and candid assessments from 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 first step—determining the scope of the issues to be covered—is 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 in Iraq:

- The prospects for controlling severe sectarian violence that could lead to civil war; these prospects for reconnecting 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 an effective and capable unified 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 whether Iraq is in or is descending into civil war, and 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 years since you and the United States president decided 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.
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 in the West 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 not 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 a 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 that this was 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.

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 been on the record that 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-Qaeda 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-Qaeda 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-Qaeda 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 on to be one of the hotbeds 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 I 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. I do have in hopes that some who have a hold on all of this are capable of having 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. CDC congratulated it, it was left 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 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 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 $569 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 funds—money they are taking in now. Yet those States’ Senators still want more at the expense of many other States that are currently underfunded.

Again, 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 treatment to be extended for 5 years. Those States that did not keep up with 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 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 for not meeting the deadline. When we pass 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.
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 sides of the aisle in opposition, 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 they are in fact working.

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. That 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, 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 care 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 the 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 and West. While we have made significant progress in understanding and treating this disease, there is still much more to do to ensure 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. ENZI. I think we unanimously 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 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, what would be the impact of 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 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 of 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 little bit of the same thing 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. 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. I thought I have one more answer 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 under the new bill, there are actually 14 States that would lose money under the old law.

What additional authorization would it cost to give those five States the same amount of money as they receive presently?

Mr. Enzi. If I may, Mr. President, I think we have come up with as reasonable a bill as we possibly can. 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.

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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 to the 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 chair. 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 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 of it, 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 lifesaving 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 did not take 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 Enzii—the leaders in the Senate who are blocking 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 $50 million. Nobody has 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 are asking, what are we 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 lifesaving drugs.

That is an incrimination on this process. It is an incrimination on this body. So 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—here is another. This past weekend, HHS spent $400,000 sending people—78 employees—78 employees in Toronto, 78 HHS employees. The New York Times said, this was a star-studded 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 stepped away from conferences this year and some supported 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 savings. 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.

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

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BURR. Mr. President, I thank Chairman Enzii 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 least, 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 State 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 of this body 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 could get $2.122 per person but North Carolina should get $1,029 per person? Can they tell me that is equitable? It is not only not equitable, it is unjust. It is unfair. It is wrong.

September 28, 2006
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 drugs. They have a right to have those drugs. That is about the rotten apples. That is about the quality of life. We allow them to have a Cadillac and, in fact, we don’t even have them. 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 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 “doubling the count,” “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 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 individual who is infected is multiplied 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. But 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 the urban areas. There are not 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.

Wealthy States that have 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 is 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. They 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 African-American women we have been taught. We have been taught. This is not the vision of America that we have been taught. This is giving exotic fruit to California and New York getting dog-walking services and massages while some of my constituents can’t even get HIV drugs.

It is a 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 individual who is infected is multiplied 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.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELTON. Mr. President, I thank Senator ENZI, our chairman, for his good leadership and persuasive remarks earlier on this important issue. My good friend, Dr. COBURN, has personally treated people with AIDS and he has seen, with women of color, he has been taught. We have been taught. This is giving exotic fruit to California and New York getting dog-walking services and massages while some of my constituents can’t even get HIV drugs.

Chairman ENZI, why should 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 we are afraid that the disease is more centered there and is spreading most readily 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 spreading the disease 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 the African-American community and is falling hardest on African 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 disingestion that this is 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 seen all reports of abuses of those moneys and some of the worst things are happening in some of the 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 young lady in pregnancy who had 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 not even aware that they have AIDS. They don’t realize that they need 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 things.

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 PRESIDENT pro tempore (Mr. DeMint). 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 reads, 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.

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 of 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 they would lose people. What will 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 and California instead will gain $34.3 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. HATCH. As my colleagues are aware, I was the author of the original 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 Leaders Burr and Reid, and Senators Burr 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 Koko, 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—Factor VIII—that was 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 causes painful pressure. To reduce these pressure, 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 for growth. This 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 and that there are new treatments available to those infected. 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 respected 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 and to help 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 vital to the 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, and even more of our fellow citizens have ended their lives because of the epidemic. To date, nearly 500,000 cases have been reported in the United States and the rest of the world.

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 more funding is clear, but the increase in funding is far 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 need for treatment in rural as well as urban areas, 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 the 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 these are actual human beings and not just numbers. Real people are affected by this epidemic, real people who need our help. Hundreds of thousands of people continue to live affected by this, real people who need our help. It is our job as lawmakers 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 our help for their financial security by helping to create jobs 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.

Therefore, we must act now to reauthorize the Ryan White Program for the next few years. We must act now to make sure that we are helping people who need our help the most. We must act now to help people who are losing money on September 30, even if they're already bankrupt. We need to make sure that we can get back. We need to help them get back on their feet. 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., as lawmakers Thursday amended 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 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 people 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," 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 long run if 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 postclement, 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.
DEENCY BLOCKING EDUCATIONAL CAMPAIGN

Mr. STEVENS. Mr. President, the television, cable, and satellite industries recently launched the “Be the Boss of What Your Kids Watch” campaign. This campaign, which is headed up by my good friend Jack Valenti, educated parents about how to protect their children from inappropriate television programming.

When Senator INOUYE and I first became co-chairmen of the Senate Commerce Committee, several groups and individuals approached us; they were concerned about television violence in media content. In November 2005, our Committee began the process of bringing each of these groups together. We convened an Open Forum on Decency and held hearings. In all, more than 30 groups and individuals shared their concerns and insights with us.

The “Be the Boss” campaign is one noteworthy initiative which developed from these efforts. Surveys show that only three percent of Americans know how to use the V-chip, a feature in every television set which enables parents to block programs based on ratings. This $300 million ad campaign seeks to teach parents how to use this—and other—blocking technologies and will help them better monitor television programs.

In July, Jack Valenti and Peggy Conlon, the president of the Ad Council, kicked off the “Be the Boss” campaign when they showed our committee their first two public service announcements. Thanks to these announcements and the campaign website, www.thetvboss.org, parents now have information about the V-chip, cable and satellite controls, and television ratings.

Earlier this week, kits containing information about this campaign were delivered to every Member of Congress. I urge my colleagues to share these valuable resources with their constituents, and I thank Jack Valenti and his colleagues for their leadership on this issue.

I yield the floor.

TRIBUTE TO SPECIAL AGENT JOHN BAILEY

Mr. REID. Mr. President, I rise to honor the life of Special Agent John Lawrence Bailey. More than 15 years ago, Special Agent Bailey gave his life in the line of duty. Today, in a fitting memorial, law enforcement agents throughout Nevada enter the Federal Bureau of Investigation building in Las Vegas that bears his name.

John Bailey was an American success story. Born in 1942, he attended the University of Pittsburgh on an athletic scholarship. Shortly after receiving his degree, he joined the United States Marine Corps. He would answer his nation’s call by joining thousands of young men who went to Vietnam. There, John was awarded the Vietnam Campaign Medal, the Vietnam Service Award, and a Bronze Star. After Vietnam, John entered Quantico and began his distinguished career with the FBI.

While John had numerous work accomplishments, those who knew him best could say that he was most proud of his work in the Federal law enforcement, but his family was always supportive. Joining by his wife Beth and their two daughters, Amanda and Megan, the Bailey’s came to Nevada in 1978. On the morning of June 25, 1990, Special Agent Bailey found himself in the middle of an armed robbery in a bank. Instead of standing by in fear, John confronted the robbers and drew his weapon. The robbers quickly turned and Special Agent Bailey fired. The bullet missed one suspect, but Agent Bailey was able to capture them and end the robbery. While securing the suspects, something distracted him. In that split second, a robber recovered his weapon and shot John. He died at the scene.

His heroism that day to save the lives of his fellow citizens was not out of the ordinary for those who knew John. As a 21 year veteran of the FBI, John was highly decorated agent. He was known throughout the Nevada law enforcement community for his efforts to break up organized crime in Las Vegas. His work even touched my life.

John Bailey was a good man and a friend. When I was the commissioner of the Nevada Gaming Control Board, I worked with John to clean up the gaming industry. It wasn’t an easy task because organized crime had deep roots in Las Vegas. Each day, I faced threats against my life and against my family. There were even attempts to bribe me. Special Agent Bailey made the arrests on the gangsters who were after me. I will never forget him.

For all these reasons, I was pleased that this FBI is name their building in Las Vegas after Special Agent Bailey. It is a fitting tribute for a fallen officer. Later this fall, the FBI will be moving to a new building in Las Vegas. It is important to the FBI—and to me personally—that the new building at 1787 West Lake Mead Boulevard continue to carry the name of Special Agent John Bailey. Soon, I look forward to touring this new “John Lawrence Bailey Memorial Building.”

I am pleased to have this opportunity to honor John before the Senate. With the dedication of the new FBI building, I am hopeful that future generations of law enforcement officers will be able to take a moment to reflect on the life and accomplishments of this distinguished officer.

NORTHEASTERN NEVADA HISTORICAL SOCIETY

Mr. REID. Mr. President, I rise to recognize the 50th anniversary of the Northeastern Nevada Historical Society. This important event is a testament to the hard work of many individuals across Nevada, and it is worthy of recognition today.

Since its founding in 1956, the Historical Society has grown from a membership of 8 to include over 2,000 members this year. Throughout this half century, the Historical Society has dedicated itself to the preservation of Nevada’s heritage. Its collection of documents, artifacts, and art has become a valuable resource for genealogists, historians, Nevada residents, and visitors. Today, almost any member of the public has access to the extensive research materials of the Northeastern Nevada Historical Society. Legal documents, personal papers, newspapers, maps, oral histories, family histories, and municipal records combine with a library of more than 2,200 books and 33,000 photographs to enhance the collection.

In 1968, the Northeastern Nevada Historical Society founded a museum in Elko. The Northeastern Nevada Museum makes the Society’s collections and permanent displays as well as special exhibits. The museum has prospered through the years, adding exhibition space to accommodate an increasingly large collection and growing popularity among patrons. It is a source of pride for the entire Elko community.

The Historical Society’s collections represent many different faces of Nevada. Exhibits on geology and natural history display the history of Nevada. Another important exhibit is the treasure trove of artifacts from the Great Basin Indian tribes. History comes alive at the museum through representations of the Pony Express, mining camps, the California Trail, and the Basque and Chinese experience in the West. The museum’s collection extends into the 21st century to reflect the well-preserved wilderness and contemporary art that define Nevada today.

The Historical Society has also reached out to the residents of northeastern Nevada. They welcome school groups, sponsor speaker series and slide shows, and host local artists. At the same time, the Historical Society extended its reach beyond the local region by publishing a quarterly journal and attracting museum visitors from many different states and countries.

I can confidently say that the people of Nevada are grateful for the Historical Society’s dedicated effort to preserve the rich history of our State. I am proud to commend the Northeastern Nevada Historical Society and extend my congratulations on the Society’s 50th anniversary. I am confident that the next 50 years will be just as successful as the past 50 have been.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate
crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On November 9, 1996, Alan Fitzgerald Walker was murdered in his home in Fayetteville, AR. The tires on his car were slashed and anti-gay notes were written on the doors of the vehicle. Prosecutors say Adam Blackford and Yitzak Marta met Walker outside of a gay night club and murdered him. Marta testified at Blackford’s trial that the motivation for this crime was the victim’s sexual orientation.

I believe that the Government’s first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become law.

Today I would like to share the fascinating events that have unfolded since my floor speech on Monday.

This morning, CNN ran a segment criticizing my speech on global warming and attempted to refute the scientific evidence I presented to counter climate change fears.

First off, CNN reporter Miles O’Brien inaccurately claimed I was “too busy” to appear on his program this week to discuss my 50-minute floor speech on global warming. But they were told I simply was not available on Tuesday or Wednesday.

I did appear on another CNN program today—Thursday—which I hope everyone will watch. The segment airs tonight on CNN’s Headline News at 7 p.m. and repeats at 9 p.m. and midnight eastern.

Second, CNN’s O’Brien falsely claimed that I was all “alone on Capitol Hill” when it comes to questioning global warming.

Mr. O’Brien is obviously not aware that the U.S. Senate has overwhelmingly rejected Kyoto-style carbon caps when it voted down the McCain-Lieberman climate bill 60 to 28 last year—an even larger margin than its rejection in 2003.

Third, CNN’s O’Brien, claimed that my speech earlier contained errors regarding the Antarctic. O’Brien said my claim that the Antarctic was actually cooling and gaining ice was incorrect. But both the journals Science and Nature have published studies recently finding—on balance—Antarctica is both cooling and losing ice.

CNN’s O’Brien also criticized me for saying polar bears are thriving in the Arctic. But he ignored the fact that the person I was citing is intimately familiar with the health of polar bear populations. Let me repeat who I cited:

Dr. Mitchell Taylor from the Arctic Government of Nunavut, a territory of Canada, said recently: “Of the 13 populations of polar bears in Canada, 11 are stable or increasing in number. They are not going extinct and do not even appear to be affected at present.”

CNN’s O’Brien also ignores the fact that in the Arctic, temperatures were warmer in the 1930s than today.

O’Brien also claimed that the “Hockey Stick” temperature graph was supported by most climate scientists despite the fact that the National Academy of Sciences and many independent experts have made it clear that the Hockey Stick’s claim that the 1990s was the hottest decade of the last 100 years was unsupportable.

So it seems my speech struck a nerve with the mainstream media. Their only response was to cherry-pick the science in a failed attempt to refute me.

It seems that it is business as usual for many of them. Sadly, it looks like my challenge to the media to be objective and balanced has fallen on deaf ears.

Despite the traditional media’s failed attempt to dismiss the science I presented to counter global warming alarmism, the American people bypassed the tired old traditional media by watching CSPAN or clicking on the Drudge Report and reading the speech online.

From the flood of overwhelming positive feedback I received, I can tell you the American people responded enthusiastically to my message.

The central theme was not only one of thanks, but expressing frustration with the major media outlets because they knew in their guts that what they have been hearing in the news was false and misleading.

Here is a brief sampling:

Janet of Saugus, MA: “Thank you Senator INHOFE. Finally someone with the guts to stand up and call it what it is—a sham. I think you have taken over Toby Keith’s place as my favorite Oklahoman.”

Al of Clinton, CT: “It’s about time someone with a loud microphone spoke up on the global warming scam. You have courage—if only this message could get into the schools where kids are being brow-beaten with the fear message almost daily.”

Kevin of Jacksonville, FL, writes: “I am glad that you are willing to stand up against the onslaught of liberal media, Hollywood and the foolish elected officials on this topic. Please keep up the fight.”

Robert of Phoenix, AZ, writes: “As a scientist, I am extremely pleased to see that there is at least one Member of Congress who recognizes the global warming hysteria for what it is. I am extremely impressed by the Senator’s summary and wish he was running for President.”

Craig of Grand Rapids, MI, writes: “As a meteorologist, I strongly agree with everything you said.”

My speech ignited an Internet firestorm, was much more than just the American media.

I do have to give credit to one publication here in America, Congressional Quarterly, or CQ for short. On Tuesday, CQ’s Toni Johnson took the issues I raised seriously and followed up with phone calls to scientist-turned-global warming pop star James Hansen’s office. CQ wanted to ask Hansen about his partisan financial ties to the left-wing Heinz Foundation, whose money originated from the Heinz family ketchup fortune. But he was unavailable to respond to their questions, which is highly unusual for a man who finds his way into the media on an almost daily basis. Mr. Hansen is always available when he is peddling his increasingly dire predictions of climate doom.

The reaction to my speech keeps coming in: Just this morning, the Pittsburgh Tribune-Review wrote an editorial calling my speech “an unusual display of reason” on the Senate floor.

I have been engaged in this debate for several years and believe there is a growing backlash of Americans rejecting what they see as climate scare tactics. And as a result, global warming alarmists are becoming increasingly desperate.

Perhaps that explains why the very next day after I spoke on the floor, ABC News’s Bill Blakemore on “Good Morning America” prominently feaured James Hansen touting future scary climate scenarios that could, might, possibly happen.
The segment used all the well-worn tactics from the alarmist guidebook—warning of heat waves, wildfires, droughts, melting glaciers, mass extinctions unless mankind put itself on a starvation energy diet and taxed emissions.

But that is no surprise—Blakemore was already on the record that there was no scientific debate about man-made catastrophic global warming. You have to be a pretty poor investigator to believe that. Why would 60 prominent scientists this last spring have written Canadian Prime Minister Harper that "if, back in the mid-1990s, we knew what we know today about climate, Kyoto would almost certainly not exist, because we would have concluded it was not necessary."

I believe it is these kinds of stories which explain why the American public is growing increasingly skeptical of the hype. Despite the enormous 2006 media campaign to instill fear into the public, the people who believe that weather naturally changes is increasing.

A Los Angeles Times/Bloomberg poll in August found that most Americans do not attribute the cause of recent severe weather to global warming, and the portion of Americans who believe that climate change is due to natural variability has increased over 50 percent in the last 5 years. And that, my fellow Senators, is why the Hollywood elitists and the rest of the liberal climate alarmists are starting to panic.

I hope my other colleagues will join me on the floor and start speaking out to debunk hysteria surrounding global warming. This issue is too important to our generation and future generations to allow distortions and media propaganda to derail the economic health of our Nation.

WASTEWATER TREATMENT WORKS
Mr. INHOFE. Mr. President, I would like to discuss the urgent need for this legislation. The Nation’s wastewater treatment works—POTWs—provide a vital service to our Nation. They ensure that municipal and industrial waste is cleaned to a level safe enough to be released back into the Nation’s waterways.

After the tragic events of September 11, 2001, much more focus was placed on the Nation’s wastewater facilities. POTWs are not only wastewater treatment plants and protect local citizens than the very people who live in those towns whose jobs it is to protect them. My colleagues in the minority argue that my bill is insufficient because it does not impose on POTW’s unfunded federal mandates and because it does not assume that local officials are ignoring the security of their facilities. My colleagues argue that POTW’s are only largely owned and operated by the Nation’s cities and towns. In 1995 Congress passed the Unfunded Mandates Reform Act in which we pledged not to impose costly regulatory burdens on our partners in local government. Just as it is our obligation as U.S. Senators to serve the public good, preserve the public trust and protect the citizenry, so it is the obligation of locally elected, appointed and employed officials. Why do so many of my colleagues assume that we at the Federal level care more about the citizens of the Nation’s towns than the locally elected officials do? Why do so many of them assume that they know more about how to operate effective city treatment plants and protect local citizens than the people who live in those towns whose jobs it is to protect them?

S. 2781 would simply provide towns with resources to conduct vulnerability assessments and to secure their facilities. It provides funds to research the means to secure the collection systems that are made up of the miles of underground pipes. There are logistical and financial problems with trying to secure them as effectively as possible, particularly before imposing an unfunded Federal mandate on the Nation’s towns. My bill would support the already ongoing activities of many of the national wastewater association and the Environmental Protection Agency, EPA, to develop assessment tools and industry security standards as well as conduct security trainings. The National water associations make up the Security Coordinating Council and regularly meet with the Environmental Protection Agency, the Agency charged with overseeing security at POTWs. The SCC and EPA are developing a sector security plan to, among other things, establish measures of security improvements.

My colleagues will argue that this is not enough. Local governments cannot be trusted to proceed on their own with a little Federal guidance because they really have anything to secure their facilities. However, one need look no further than a March 2006 GAO report to see how much in fact they are doing. According to GAO, 74 percent of the largest 206 treatment works had completed or were in the process of completing a vulnerability assessment. Further, the majority of treatment works had made significant improvements to the physical security of their facility. They did so after careful review of their individual communities’ needs. Most importantly, they have done so out of concern for their citizens, not in response to a Federal mandate.

My colleagues will also turn this discussion not into one about security but one about chlorine. Chlorine is by far the most effective disinfectant available and it is the least expensive. During these times of aging systems, growing Federal regulations and limited resources, cost is an important consideration. Washington, DC’s treatment works, Blue Plains, spent $12.5 million to change technologies. San Jose, CA, spent $5 million to switch from gaseous chlorine to sodium hypochlorite. The cost of Washington, DC’s conversion is only $1,000,000 to switch. However, there is much more to their story than that cost figure. Wilmington already had in place a sodium hypochlorite system that was serving as back up to its gaseous chlorine system. Further, Wilmington will spend hundreds of thousands of dollars more each year in operations and maintenance costs.

There are other considerations that must be factored in as well, such as downstream effects on local alternatives. For example, the switch from chlorine to chloramines in Washington, DC’s drinking water system was found to cause lead to leach out of service pipes and into the faucets of homes and businesses. Thus, decisions about chlorine must be fully evaluated and must be site specific. Many POTWs are already undergoing these evaluations. After careful review of cost, technical feasibility and safety considerations, and without the presence of a Federal mandate on technology, 116 of the 206 largest POTWs do not use gaseous chlorine: According to the GAO report, another 20 plan to switch to a technology other than chlorine. To sum, nearly two-thirds of the Nation’s largest POTWs are not using or will soon stop using chlorine. Those who continue to use chlorine have taken steps to ensure the chlorine is secure. My bill would provide POTWs who decide for themselves to switch treatment technologies with grant money to make the switch. The legislation maintains trust in local officials who know best their water, the community and their security needs.
Let me be clear. This is an important security bill and I regret that for the second Congress in a row my colleagues on the other side of the aisle are obstructing it. Members of the minority have criticized the chemical security legislation, at the root of orienting these facilitate. This legislation has basically passed the House of Representatives twice. The minority party in the Senate is blocking this important security bill.

TRIBUTE TO CONGRESSMAN JOEL T. BROYHILL

Mr. WARNER. Mr. President, I rise today to pay tribute to an outstanding Virginian, and dear friend, the former 10th District Congressman, Joel T. Broyhill, who died this past weekend.

Congressman Broyhill was an outstanding public servant. He had a certain “joie de vivre” that one does not often find—his presence, his spirit would fill up a whole room. His sense of civic responsibility—both through his service in the U.S. Army and as the Representative to Congress from Virginia’s 10th District—was second to none. And his devotion to his three daughters, stepdaughter, grandchildren, and great-grandchildren was unmatched; they were the joys of his life.

A native of Hopewell, VA, Congressman Broyhill was born on November 14, 1919. He attended Fork Union Military Academy and George Washington University.

In 1942, he enlisted in the Army. He served as an officer in the European Theater in the 106th Infantry Division and was taken prisoner in the Battle of the Bulge. After 6 months in German prison camps, he escaped and rejoined the advancing American forces. On November 1, 1945, after 4 years of service, Congressman Broyhill was released from active duty as a captain.

In 1952, at the age of 33, Broyhill was elected as a Republican from Virginia’s newly created 10th District to the 83rd Congress, by 322 votes. Congressman Broyhill was reelected 10 times, serving 21 years in Congress, until December 1974.

Congressman Broyhill’s prime source of political success was his dedication to constituent service. At the time of Congressman Broyhill’s tenure in Congress, the 10th District contained more Federal than any other district in the United States. In 1972, Congressman Broyhill estimated that he had aided more than 100,000 district residents during his 20-plus years in office.

According to the 1974 Almanac of American Politics:

[there are few congressional offices in which the demand for services is so high, given the number of Federal employees in Broyhill’s district; and there are few indeed that he can serve constituents needs and complaints with more efficiency.]

The 10th District of Virginia was shaped and forever changed by Congressman Broyhill’s initiatives in Congress. He laid the foundation for major transportation projects, including the construction of Interstate 66, the Metrorail System, the Woodrow Wilson Bridge, and Washington Dulles International Airport.

The Almanac also describes Congressman Broyhill as one who “should be credited with voting his conscience.”

Even after he left Congress, Congressman Broyhill continued serving constituents by maintaining an office to assist those with problems relating to the federal government. In fact, my Senate office would receive a call about once a month from the “Broyhill Office” asking us to follow up on a constituent inquiry.

In 1978, I was honored and proud to have my longtime friend come out of retirement to serve as General Chair of the Select U.S. Senate Committee on Aging. It was great to see him back on the political stage in Virginia. Congressman Broyhill’s knowledge of the Commonwealth and of campaign strategy were invaluable to me as he introduced a bill he found interesting to the post he was to assume in the political scene. Congressman Broyhill helped me to convince my wife at the time, Elizabeth Taylor, that being a candidate’s spouse was the best role she could play. Many times he accompanied Elizabeth to campaign events when I was unable to attend. He was an exemplary ambassador for my 1978 campaign.

Congressman Broyhill’s “house by the side of the road” in Arlington was never without visitors during any election. As one of the first Republicans elected in Virginia, he was a trailblazer and he helped every Republican member of the Virginia congressional delegation—including its two current U.S. Senators—be elected under the Republican banner.

Congressman Broyhill was instrumental in building his father’s real estate business, M.T. Broyhill & Sons. The company was started in Hopewell, Virginia’s 10th District, to operate a railroad system. The company was later relocated to northern Virginia when Congressman Broyhill was growing up.

Congressman Broyhill and his wife Suzy were stalwarts of charitable giving and have given both their time and resources to many organizations across the Commonwealth, and notably, to the Wolf Trap Foundation for the Performing Arts.

It is with a great sense of humility that we offer our condolences to the life of our dear friend and dedicated public servant, Congressman Joel T. Broyhill. We offer our condolences to his three daughters, Nancy, Jeanne and Jane Anne, his stepdaughter, Kimi, and his nine grandchildren. His wife of 25 years, Suzy. He also has four grandchildren: Meredith, Maureen, Lindsay, and Kathleen, and three great-grandchildren: Molly, Jack, and Kara.

THAILAND

Mr. FEINGOLD. Mr. President, I remain deeply troubled by the military coup that occurred in Thailand on September 19. The forceful removal of Thai Prime Minister Thaksin Shinawatra was an assault on the democratic institutions of that country and is a dangerous development for a key ally in an increasingly important region, almost 2 weeks after the coup, it is apparent that the coup leaders had only a tentative plan for transitioning back to democratic rule and that their rhetoric about restoring democracy to Thailand may not be as sincere as some had hoped. As the military junta fumbles through its next steps, it is critical that the United States show strong leadership in helping this critical ally reestablish a civilian democratic government and that it do so immediately.

Mr. President, this coup is particularly troubling because it is a step backward from almost a decade of relatively positive democratic developments. During Thailand’s last coup in February 1991, the military overthrew Prime Minister Chatichai Choonhavan and a bloody power transfer followed, culminating in what Thais call “Black May.” Those events kicked off a national dialogue that resulted in the establishment of a new constitution in 1997 that restored a reformed civilian democratic institutions, ultimately ushering in democratic elections in 2001 and 2005. Thaksin’s party, Thai Rak Thai—“Thais love Thai”—won both of those elections in landslide victories.

This recent coup rolls back these developments. There is no doubt that Thailand was suffering from extreme political divisiveness during Thaksin’s tenure. When I met with him in Bangkok earlier this year, he was in the throes of a political battle against a growing opposition movement. He was also under fire for mishandling the insurgency in Thailand’s three southernmost provinces in which 1,700 people have been killed since 2004. It was evident that his ability to effectively manage the Thai Government had been diminished.

But this hardly provides justification for a military junta to overthrow a popularly elected government and to discard the nation’s constitution. This new military junta, led by General Sonthi Boonyaratglin, and awkwardly self-titled the “Council for Democratic Reform Under Constitutional Monarchy”, is deeply troubling.

This coup is a significant setback for Thailand’s democracy. While the coup occurred in a matter of hours, it may take years before a new civilian and democratic government restores full authority and legitimacy in Bangkok. Unfortunately, this new military council has banned political gatherings and has put some restrictions on the media. It has disseminated a wide range of other decrees and rules, many of which have troubling consequences for freedom of expression and the democratic process. Given these early signs, we have no reason to believe that this council will be any different in nature.
than previous military juntas. Additionally, this coup could have negative consequences for Thailand’s simmering human rights problems and the insur- gency in the south. The coup leaders have already stated that they will focus on quelling a separatist insurgency in Thailand. It is imperative that the world warn the Thais that such actions would have significant consequences if the military council relies on a strictly military approach to the unrest.

The coup is also bad for the region. Events in Thailand are sending the wrong signal to democrats throughout the region that are dealing with legacies of military coups. Secre- tary Rice has dismissed the notion that this could have a contagion effect throughout the region. While I hope this is true, we should not ignore the fact that a number of countries in Southeast Asia are still dealing with the legacies of military dictatorships. Indonesia is recovering from years of dictatorial military rule, and the Repub- lic of the Philippines is still working to strengthen its democratic institu- tions and repair its recent history of military intervention. The coup is also, significantly, going to have a direct impact on Thailand’s ability to serve as a broker between Burma and the rest of the world.

Finally, it will have an impact on U.S. interests in the region. Thailand is a critical strategic partner of the United States, and some may be tempt- ed to strain relations with the Thai military. Our close political and military relationship goes back dec- ades and is a vital component of U.S. national security policies in the region. But this friendship must take into con- sideration the dangerous behavior of those who led this coup. We must resist the temptation to give the leaders of this coup a free pass. Instead, we must take strong action.

We need to signal a real sense of ur- gency and legitimate pressure to democracies within Thai- land. It is imperative that the Thai military restore the authority of demo- cratic institutions in Thailand expedi- tiously. President Bush needs to weigh in decisively. The U.S. Government must signal that it will not accept this new interim authority as the status quo and that the Thais must take im- mediately actions to restore democracy to Thailand. There are four specific things that must occur.

First, the United States must press- sure the military council to schedule national elections immediately. Gen- eral Sonthi has promised elections by October 2007. This is insufficient. Elec- tions should be held at the earliest pos- sible date, understanding the logistical requirements involved in preparing to hold a national election. This is essen- tial and is the only way the military council can prove that it does intend to reintroduce democracy to Thailand.

Second, the Administration should im- mediately put into place sanctions that are required under U.S. law. This means cutting off military assistance now. As we learned in Indonesia, this in itself will send a powerful message to the Thai military that usurping de- mocracy does not pay. The administra- tion would do itself a favor by making the conditions for reinitiating mili- tary-to-military relations clear from the outset. A clean break and must be leveraged in the fu- ture to help restore democracy.

Third, the United States must work vigoroously with other key players in the region to create a united front of disapproval. The United States can’t be alone in its criticisms or in applying pressure on the Thai junta. Secretary Rice’s use of the phrase “U-Turn” doesn’t cut it. We need a strong message that recognizes the grave nature of these develop- ments. ASEAN members, in particular, have a strong role to play. Thailand’s neighbors and regional partners must speak out about this coup in strong ways and must use their economic, po- litical, and social leverage to help re- install democracy in Thailand.

Finally, and until national elections can be carried out, the military council must lift all restrictions on democratic par- ties, the press, and political leaders. This includes Thaksin supporters. Those who broke the law under the Thaksin Government should be held ac- countable in the courts of law, not a military junta. Political opposition parties must be allowed to convene, and press freedoms must be estab- lished.

Mr. President, I close by reiterating the concern I laid out at the beginning of this statement. The military’s end- run of the country’s democratic institu- tions will undermine Thailand’s im- portant role throughout the region and the world and will therefore harm our own country’s national security inter- ests in the region. Thailand is a crit- ical partner in the region and in the broader fight against terrorist net- works. We need a strong, democratic Thailand to serve as our partner. We can’t do this if this new military dicta- torship derails a democratic govern- ment. The United States and inter- national community must urge the Thais to take the necessary ac- tion to restore Thailand’s democracy.

NUCLEAR MEDICINE WEEK

Mr. WARNER. Mr. President, I rise again this year to remind my col- leagues that October 1 to 7 is Nuclear Medicine Week. Nuclear Medicine Week is the first week in October every year and is an annual celebration initi- ated by the Society of Nuclear Medi- cine. Each year, Nuclear Medicine Week is celebrated internationally at hospitals, clinics, imaging centers, educational institutions, corporations, and more.

I am particularly proud to note that the Society of Nuclear Medicine is headquartered in Reston, VA. The So- ciety of Nuclear Medicine is an inter- national scientific and professional or- ganization of more than 16,000 members dedicated to promoting the science, technology, and practical applications of nuclear medicine. I commend the so- ciety staff and its professional mem- bers for their outstanding work in the field of nuclear medicine and for their dedication in caring for people with cancer and other serious and life-threatening illnesses.

Some of the more frequently per- formed nuclear medicine procedures in- clude bone scans to examine orthopedic injuries, fractures, tumors or unex- plained bone pain; heart scans to iden- tify normal or abnormal blood flow to the heart muscle, to measure heart function or to determine the existence or extent of damage to the heart mus- cle after a heart attack; breast scans that are used in conjunction with mammograms to detect and locate can- cerous tissue in the breasts; liver and gallbladder scans to evaluate liver and gallbladder function; cancer imaging to detect tumors; treatment of thyroid diseases and certain types of cancer; brain imaging to investigate problems within the brain itself or in blood circu- lation to the brain; and renal imag- ing in children to examine kidney func- tion.

I thank all of those who serve in this very important medical field and join them in celebrating Nuclear Medicine Week during the first week of October.

TRIBUTE TO PARK B. SMITH

Mr. LEAHY. Mr. President, I would like to recognize the exceptional gener- osity and work of Park B. Smith and his wife, Linda Johnson Smith.

Park and I met through our mutual involvement in The Marine Corps—Law Enforcement Foundation, an organiza- tion that believes in and supports the potential of our youth. They provide scholarship bonds for children of ac- tive-duty Marines and Federal law en- forcement personnel who are not in the line of duty. Park has become a good friend and someone whom I admire.

Park, an alumnus of the College of the Holy Cross, and Linda have a strong belief in the value of education and have exemplified this dedication.

Through their generosity, the College of the Holy Cross has been able to con- tinue to grow and build its community. It is for this reason that I would like to ask unanimous consent to have an arti- cle about Park and Linda Smith from The Wall Street Journal printed in the RECORD.

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

(From the Wall Street Journal, Friday, Sept. 15, 2006]

GIVING BACK—DONOR TO TURN WINE INTO BREAD

(By Kelly Crow)

Park B. Smith has written his share of million-dollar checks to benefit his alma mater. Now, he has decided to donate by turning over part of his prized wine collec- tion to a major auctioneer.
On Nov. 18, Sotheby’s in New York will auction the equivalent of 14,000 bottles from Mr. Smith’s private collection—including 50 cases of coveted 1982 Mouton Rothschild—in a sale expected to take in up to $3 million. His proceeds will go to build new athletic facilities at the College of the Holy Cross in Worcester, Mass. He’s also planning a $260,000 renovation of his Newport, R.I., restaurant, Veritas, to benefit Holy Cross.

The Sotheby’s auction represents a rare mix of benefits for big auctioneers. In a more typical charity wine auction, nonprofit enlist local auctioneers to sell bottles donated by wineries or collectors. This season brought in $1.4 million in Chicago, Hart Davis Hart Wine Co. is holding a Sept. 28 auction at Tru restaurant ($1,500 a plate) to help children with spina bifida. In Harrisburg, Pa., 500 people will bid to benefit the Whitaker Center for Science and the Arts. In California, Napa Valley winemaker John Schwartz, of Amuse Bouche, says he gets 25 letters a week from charities requesting wine. Mr. Schwartz is organizing his own Oct. 27 wine auction, in Phnom Penh, Cambodia, to benefit a Cambodian orphanage.

Mr. Smith, known in the home-furnishings industry for his namesake line of draperies and bedding, says he hopes to capitalize on the marketing muscle of Sotheby’s to reach a new audience. He also moved the auction date up a year to take advantage of the strong wine and art market. Mr. Smith is betting a high-profile sale will bring high prices, with a big auctioneer, and is also subject to its seller’s commission rates (20 percent is standard, though Sotheby’s says it will charge less because it’s for a good cause). And he’ll have to pay higher capital-gains taxes, as much as 26 percent, because the wine will be sold rather than given outright.

Mr. Smith started drinking wine while serving in the Marines (an early favorite was 1989-cents bottles of Beaujolais) and has since gained a reputation for collecting top wines. One reason he isn’t donating cash: His 65,000-bottle Connecticut cellar is at capacity. “I’m raising money for Holy Cross but I’m also making more room,” he says.

Mr. Smith, a 1984 graduate and trustee of the Jesuit liberal-arts college, has given the school $20 million over the years. Now he wants his 50-year-old “field house” and home to weather Michael McFarland, college president, says he’s swayed by Mr. Smith’s generosity—and relieved he can accept auction proceeds rather than bottles. “We don’t even have a wine cellar—just a couple cases stuffed under a sink.”

VOTE EXPLANATION

Mr. LIEBERMAN. Mr. President, in early August, I was unable to be in Washington for the cloture vote on the so-called tricetcha bill, which so insidiously held hostage the necessary increase in the minimum wage and necessary extensions of tax credits important to American families and business to an excessive and unjustifiable reduction in the estate tax paid by the rich. I was in our country. I want to make clear that I would not have voted to allow this bill to proceed and that my inability to cast a vote in no way undercut the effort to stop this outrageous legislation. Since it was necessary for proponents of the legislation to impress on your colleagues the number of votes against cloture cast by those of us in opposition, the very act of not voting for the cloture motion was, in effect, a vote against the motion.

At the time of the vote, I issued a press statement expressing my disappointment over the Senate’s failure to enact a minimum wage hike and my dismay at the Republican proponents’ tactic of linking it to an inadequate 37 percent estate tax giveaway that would have increased an already out-of-control Federal budget deficit. In that statement, I rejected the Republicans’ proponent’s hollow claim to favor a minimum wage increase. In fact, they have actively opposed a minimum wage increase for years; in this tricetcha bill, they were using the wage hike only as a cynical ploy to attract votes for the estate tax rollback.

In my statement, I noted that the failure of the tricetcha bill, though a victory for fiscal sanity, was no cause for rejoicing. An inappropriately low national minimum wage has been a big part of the problem of working-family poverty. It is the problem for workers in Connecticut where the State minimum wage is higher, since a low national minimum wage creates pressure for companies to move Connecticut jobs to low wage States. The average family income in Connecticut is almost $10,000 lower than 10 years ago. We need to act this year to pass a minimum wage increase—without tying it to an excessive cut in the estate tax. It is also essential that we pass the tax “extenders” which will encourage work opportunities for low-income Americans, and give incentives to businesses pursuing important research and development. These and other important tax extenders were also taken hostage by the Republicans’ irresponsible estate tax scheme.

I have cosponsored a separate bill that would raise the minimum wage and extend these important tax incentives for middle-class families and business. I am pleased, I will continue to work with my colleagues to accomplish these goals without paying the high cost of excessive estate tax cuts to the wealthiest sliver of the population.

Mr. President, I also wish to express my support for the pension reform legislation which passed the Senate on August 2. Had I been present, I would have voted in favor of the conference report.

While we all recognize that the legislation that passed was not perfect, it marked the end of a long and difficult legislative process that necessarily involved a great deal of compromise on all sides. It represents a success in terms of bipartisan cooperation in the Senate, something we need to see much more of in the future so we can truly begin to address many of the serious and complex problems our nation faces.

Senate passage of the pension reform bill was the culmination of more than a year of work by lawmakers concerned about the crisis facing retirees at the PBGC—which is supposed to be the bulwark against pension collapse—as well as what had become a widespread epidemic of chronic underfunding of pension plans.

The legislation as passed by the House and Senate, and now signed by the President, would require companies to fund 100 percent of their plan liabilities, up from 90 percent under current law. Other improvements and protections that should be generally would have 7 years to make up the difference. Companies at risk of default would be subject to other restrictions and would have to make accelerated contributions.

The legislation provides specific relief for financially troubled airlines, giving up to 17 years to fully fund their plans. Some airlines were given more relief than others, so there may be an effort to pass a technical corrections bill to address this issue.

Also included in the legislation are provisions aimed at encouraging workers to make contributions to retirement savings plans, including allowing companies to automatically enroll employees in a 401(k) plan. This will accomplish a relatively simple but tremendously effective change to ensure that more Americans are saving for their retirement.

The legislation also contains many other positive improvements and protections to the necessarily complex system we have constructed to address the retirement security of tens of millions of our citizens. The bill would provide needed reforms to both single employer and multiemployer pension plans to defined benefit as well as defined contribution plans; and to hybrid “cash balance” plans. It also provides greater security to spouses with respect to their share of a spouse’s retirement plan after death or divorce.

Further, the bill includes tax incentives for charitable giving. Many of these incentives were in the CARE Act which I have sponsored in this as well as previous congresses.

Tribute to Judge Glen Morgan Williams

Mr. ALLEN. Mr. President, I rise today to speak about a wonderful gentleman and a respected judge who has served our country with distinction and also helped start my legal career, which has ultimately led to where I stand today: Judge Glen Morgan Williams.

A newly minted graduate fresh out of the University of Virginia Law School, I had the honor of serving as a clerk to Judge Williams, an experience that had a profound affect on me. I was privileged to see first hand how Judge Williams’ legal knowledge and fairness as a judge on the U.S. District Court for the Western District of Virginia—has served the people of Virginia and America. I also had the unique privilege of hearing his stories of life, his commonsense wisdom and special humor and talent for his craft.

Prior to serving as a Federal judge, Glen Williams served with distinction in the U.S. Navy during World War II.
Judge Williams served as a minesweeper in the Atlantic, Pacific and Mediterranean theaters and was decorated for his service with the Commander’s Citation. Judge Williams participated in the invasion of Southern France, and thereafter commanded the USS Sea Witch in the Pacific until 1946.

Upon returning from the war, Judge Williams entered private law practice where he quickly became one of the leading trial lawyers in Virginia and one of the Nation’s leading experts on Social Security law. He testified before Congress on Social Security reform.

Judge Williams began his tenure on the U.S. District Court for the Western District of Virginia, serving as a magistrate from 1963 to 1976. On September 8, 1976, Judge Williams was nominated by President Gerald R. Ford to serve as a judge on that distinguished court and ultimately won Senate confirmation on September 17, 1976.

During his time on the bench, Judge Williams has written more than 300 published opinions in every area of Federal law. Judge Williams’ opinions have been particularly influential in the coal mining industry weighing the rights of coal miners, operators and landowners and interpreting the constitutionality of the Surface Mining Control and Reclamation Act.

Judge Williams’ 30 years of service on the bench, Judge Williams has written more than 300 published opinions in every area of Federal law. Judge Williams’ opinions have been particularly influential in the coal mining industry weighing the rights of coal miners, operators and landowners and interpreting the constitutionality of the Surface Mining Control and Reclamation Act.

Judge Williams’ 30 years of service have been instrumental in shaping jurisprudence in the Western District of Virginia and has been an admired, outstanding and loved mentor for scores of Virginia lawyers who have had the privilege of learning from his experiences. Former law clerks also include a member of the Virginia Supreme Court and many of the best lawyers in Virginia and throughout the country.

I have the ability to speak today about this magnificent gentleman, lawyer and judge who has been so positively influential in my life and career. On behalf of all his clerks and staff throughout the years, I thank Judge Williams for his 30 years of exemplary service to our country on the Federal bench.

Moreover, I thank God for sending into our world and my life a character of a man with truly unmatched wit and wisdom, the truly honorable Glen M. Williams of Lee County, VA.

Mr. WARNER. Mr. President, it is my privilege today to speak in honor of a longtime servant to the Federal judiciary, the Honorable Glen Morgan Williams, U.S. District Judge for the Western District of Virginia. I have been privileged to serve in the Senate now for 28 years. During that time, I have participated in the Senate’s advice and consent process more than 2,000 times with respect to Federal judges. In fact, of all active Federal judges on the district court bench in Virginia, I have had the distinct privilege of voting for every single one.

There are two judges whose chambers exist in the annals of our service predicate mine: Judge H. Emory Widener, Jr., and Judge Glen Morgan Williams. Judge Widener was confirmed to the district court in 1969, and then to the U.S. Court of Appeals for the Fourth Circuit in 1972. Judge Williams received his first judicial appointment, that of Magistrate Judge for the U.S. District Court for the Western District of Virginia, in 1963. Following 12 years as a magistrate, Judge Williams was nominated to be a district court judge by President Gerald R. Ford in 1976, and he was confirmed for this position by the Senate on September 17, 1976.

Both judges are distinguished fixtures in the Virginia legal community, admired and respected by all who are fortunate to serve on the Senate’s Judiciary Committee. Because this year marks the thirtieth year that Judge Williams has served as a Federal district judge in the Western District, I join with my colleague from Virginia, Senator George Allen, in commending this exceptional jurist for his efforts.

As a young man, Glen Williams answered his Nation’s call to duty in World War II. Earning a commander’s citation, Mr. Williams served with distinction from 1942 to 1946. Remarkably, his experience included the Atlantic, Pacific and Mediterranean theaters and the Allies’ invasion of southern France.

Mr. Williams and I followed similar paths to our respective careers after our naval tours in World War II; like me, he also received his training in law from the University of Virginia. Starting out as a sole practitioner after law school, Mr. Williams began his career in civil public service as a Commonwealth’s Attorney, followed by a term in the Virginia State Senate. During his career in private practice, he established himself as a leading expert on Social Security law, and Mr. Williams’ testimony on this subject was sought by the Congress.

During his career on the bench, Judge Williams has produced more than 300 published opinions on a number of matters of great importance for the Commonwealth. Long before the internet became a reality, Judge Williams wrote opinions in the areas of health and retirement benefits in the United States Supreme Court’s decision to the Senate’s competitive marketplace of ideas and legislation. Keeping the Internet free of discriminatory taxes, recognizing electronic signatures as legally valid, protecting Oregon’s vote by mail, retraining service workers displaced by trade, and our ongoing effort to end secret holds are just a few examples of initiatives Carole and I have pushed to Congress to become law. And she pursued each of these efforts with passion and commitment until the legislation made it into the statute books.

Known by many as one of this Nation’s top ranked squash players, Carole brought to the Senate a competitive spirit and a burning desire for justice. Her skills and ability to get things done were unsurpassed. She was a master at designing strategies to take a concept, develop it into legislation, and guide it through Congress to become law. And she pursued each of these efforts with passion and commitment until the legislation made it into the statute books.

Carole also brought out the best in our legislative team, using an approach that was part den mother and part drill sergeant. She proudly described our legislative staff as the best on Capitol Hill and pushed them to meet that standard every day. But the same big, competitive heart that made Carole expect the best from herself and her staff also filled her with enormous compassion and a burning desire for justice.

Carole always viewed the entire Wyden staff, from the most senior to the newest intern, as part of one team—Team Wyden. And she successfully marshaled all our staff in efforts ranging from shutting down Admiral
Poindexter's Total Information Awareness Program, which basically would have involved holding every American upside down and shaking them to see if anything bad fell out, to crafting my fair flat tax bill to simplify and reform the Tax Code.

Carole's team-building efforts extended well beyond the office. She organized and served as captain for a Wyden Team that ran the 195-mile relay race from Mt. Hood to the Oregon coast. As Carole saw it, there is no better way to build camaraderie than to have a bunch of sweaty runners crammed into a van together for 20 hours.

For someone who is used to spending her spare time running marathons and winning national championship squash tournaments, I don’t see Carole’s retirement as a glidepath to the rocking chair. She has got too much energy and too much passion to sit on the sidelines for long. I know that she and her long-time fellow Senate veteran—Kate Cudlipp, will be making certain that her skills and energy are put to good use. And in whatever she chooses to do, I know she will continue to shine.

Again, I can’t thank Carole enough for all she has done for me, my staff, the State of Oregon, and the Nation. She will always be my dear friend and a member of our Team Wyden family. I wish her all the best for the next chapter of her life.

TRIBUTE TO CHARLIE BATTERY

Mr. THUNE. Mr. President, today I rise to thank Charlie Battery, 1st Battalion, 147th Field Artillery, and congratulate and welcome them home after a year spent proudly serving their country in Iraq. Charlie Battery, based in Yankton, SD, has certainly earned this homecoming and the gratitude of our country.

These brave soldiers have been away from their loved ones for over a year, and they have accomplished an enormous amount in that time. Charlie Battery served commendably in some of the most dangerous areas of Iraq. They performed transition team missions with Iraqi police and conducted joint patrols that included route security, reconnaissance, rescue and recovery, and personal security detachment missions all over Baghdad.

The soldiers of Charlie Battery were not immune to the violence that has plagued Iraq. On this day of celebration and reunion, let us remember those who were wounded and those who made the ultimate sacrifice protecting and serving our Nation, as well as the family members and friends they left behind. Those who gave their lives in Iraq include SSG Greg Wagner, SFC Richard Schild, SSG Daniel Cuka and Sgt. Allen Koko, Jr., etc. But let us also remember that these sacrifices were not in vain. Charlie Battery, 1st Battalion, 147th Field Artillery, trained more than 1,000 Iraqi police and created stability in the southern and eastern districts of Baghdad. Charlie Battery’s efforts enabled a district in the center of Baghdad to become the first to transition responsibility of security to Iraqi police. While the mission is not over, Charlie Battery has done the Iraqi and the American people a great service by their accomplishments, and they have made our country proud. I thank them, I applaud their courage, and I welcome them home.

COSPONSORS OF S. 3709

Mr. LUGAR. Mr. President, on July 24 the majority leader placed in the RECORD a list of the Senators who had sought to be cosponsors of S. 3709, the United States-India Peaceful Atomic Energy Cooperation Act.

Mr. President, I ask unanimous consent that an updated list of those who wish to be listed as cosponsors be printed in the RECORD.

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

LUGAR, BIDEN, HAGEL, CHAFEE, ALLEN, COLEMAN, VOINIOVICH, ALEXANDER, SUNUNU, MURkowski, MARTINEZ, DODD, KERRY, NELSON (FL), OBAMA, CORNYN, HUTCHISON, and DEWINE.

TRIBUTE TO JAMES T. CASSIDY, MD

Mr. BOND. Mr. President, today I wish to honor and recognize the immeasurable contributions T. James Cassidy has made to pediatric medicine in Missouri and across the United States.

Born in 1930 in Oil City, PA, Dr. Cassidy received his both undergraduate and medical education at the University of Michigan. He completed 2 years of active duty in the U.S. Navy and 7 years in the Naval Reserve. He returned to the University of Michigan to complete his residency in internal medicine and a rheumatology fellowship in the Rackham Arthritis Research Unit under the mentorship of Dr. Roseman and Dr. Johnson. He went on to the faculty in 1963 and worked his way up the ranks becoming professor of internal medicine and pediatrics in 1974. In 1984, he was recruited as professor and chair of pediatrics at Creighton University School of Medicine in Omaha, NE. Four years later he came to the University of Missouri-Columbia as a professor in the Department of Child Health and Internal Medicine and chief of pediatric rheumatology. He became emeritus professor in 1996 and continued to staff his arthritis clinics until this year. In 1991, Dr. Cassidy published with Ross Petty, M.D., the first “Textbook of Pediatric Rheumatology,” a textbook now in its fifth edition which remains the foremost authority in the field both nationally and internationally. He has received many awards, including ACR Merit and the ACR Distinguished Clinical Scholar Award from the American College of Rheumatology.

I am particularly proud of his work in Missouri. As a professor in the Department of Child Health and Internal Medicine at the University of Missouri-Columbia, Dr. Cassidy has inspired cutting-edge research and shared his limitless expertise in pediatric
rheumatology. Yet Dr. Cassidy has done more than just teach, write, and research. Through his efforts, the Missouri Department of Health established the Juvenile Arthritis Care Coordination Program in 1993 to help families obtain family-centered, community-based, coordinated care for children diagnosed with juvenile arthritis. His efforts did not stop there.

Realizing that there were children in Southern Missouri who were too poor or too sick to travel to Columbia to receive treatment, Dr. Cassidy and his wife Nan would get in their car every other week and drive to a small clinic in Springfield, MO, and see as many as 25 young children suffering from juvenile arthritis. It didn’t matter that they couldn’t pay. Dr. Cassidy insisted on finding a way to get the children the treatments they needed. As one doctor said, “Dr. Cassidy will go to any length to help a child.”

Dr. Cassidy’s support extended to his patients’ families as well. “He is an incredibly compassionate physician,” said one mother, “who ensures that each family understands how juvenile arthritis affects their child and what parents can do to help their child lead normal lives.” Dr. Cassidy was instrumental in building a community of support across Missouri and the United States for families living with juvenile arthritis. In 1980, it was through the encouragement and support that a mother of one of his patients and two other mothers from other States formed the American Juvenile Arthritis Organization, AJAO, which eventually became a council of the Arthritis Foundation.

Dr. Cassidy was instrumental in organizing the first juvenile arthritis educational conference for parents, children, and health professionals held in 1983 which became an annual national conference. He felt education for families was critical to their care and helped coordinate many Missouri regional conferences in St. Joseph, Kansas City, St. Louis, and Columbia.

Perhaps the best measure of Dr. Cassidy’s legacy as a doctor comes from the praise and admiration of his patients. Twelve years ago, Dr. Cassidy began treating two young sisters who suffered debilitating pain from juvenile arthritis. Throughout the years he persisted with them. Ed’s love and compassion for supporting them and giving them the opportunity to live life as they never thought they could.

Dr. Cassidy has led an extraordinary life in which he has practiced, researched, and guided aspiring doctors for almost 50 years. He has improved the understanding and awareness of pediatric rheumatology and changed the lives of thousands of children. On behalf of the children and families in Missouri and across the country, is my pleasure and honor to commemorate the distinguished career of Dr. Cassidy, a true pioneer in the field of pediatric rheumatology.

**HONORING CHARITIES FOR THE BLIND**

- Mrs. BOXER. Mr. President, today I ask my colleagues to join me in recognizing Charities for the Blind, a non-profit organization in southern California. This organization continues to make a positive impact on the lives of individuals who are blind or visually impaired.

Charities for the Blind is an organization that provides computer adaptive technology and training to blind and visually impaired individuals. The men and women who volunteer their time and resources to provide services do so because they believe in the importance of an important service to the people of Southern California and our Nation.

**TRIBUTE TO EDGAR WAYBURN**

- Mrs. BOXER. Mr. President, it is with great pleasure that today I ask my colleagues to join me in saluting the incomparable Dr. Edgar Wayburn on his 100th birthday. To Californians and others across the United States, Ed Wayburn is a living legacy and an environmental hero.

Ed Wayburn was born on September 17, 1906, in Macon, GA. He attended Harvard Medical School and moved to San Francisco in 1933 to start his medical practice. He found northern California’s natural beauty intoxicating and refers to the Sierra Nevada and Yosemite National Park as his “first wilderness love.”

Within 6 years of moving to California, Ed joined the Sierra Club. And over the next 50 years, his love and passion for nature and conservation grew. He served five terms as the Sierra Club’s elected president.

Ed shared this love of nature with his wife Peggy Wayburn. Together they traveled throughout Alaska and fought to protect natural areas in California and the West for over 50 years.

More than 100 million acres of natural beauty throughout California and Alaska have been protected today thanks to Ed’s hard work, including northern California’s Golden Gate National Recreation Area and Point Reyes National Seashore and Alaska’s Denali and Glacier Bay National Parks.

Dr. Wayburn is credited with saving more wilderness than any other person and day.

I always say that one of my proudest honors is the Edgar Wayburn Award presented to me by the Sierra Club. It is a frequent reminder of the work Ed and I have done together. It is also a reminder of the important work which still remains to protect and preserve our natural surroundings.

Without Ed’s efforts over the past decades, I would not want to imagine what the American landscape would look like today. Ed’s leadership and perseverance have ensured the preservation of precious open space and wild areas for generations to come. His work will continue to be an inspiration.
to countless environmental advocates and others working to effect change. His work is certainly an inspiration to me.

I extend my most heartfelt wishes to Ed Wayburn for a very happy 100th birthday. Thank you, Ed, for all you have done for the protection of our natural environment.

TRIBUTE TO NATIONAL WEATHER SERVICE

- Mr. BAUCUS. Mr. President, I wish to commend the National Weather Service and the Billings, MT office. This year Billings, MT, hosted the 13th national signature event commemorating the Bicentennial of the Lewis and Clark Corps of Discovery Exploration. The event at Pompeys Pillar was one of the most successful signature events in the country, and I was proud to participate in the opening ceremonies.

A great deal of preparation and partnership went into the planning surrounding those 4 days in July and the thousands of visitors expected to attend. Federal agencies stepped up to the table. Federal partnerships were key to this success. Specific concern centered on area wildfires already burning that had been started by lightning strikes from afternoon and evening storms. The National Weather Service took on major responsibility for the weather-related public safety issues.

On Saturday, July 22 and Sunday, July 23, late afternoon storms accompanied by upwards of 60-mile winds necessitated rapid evacuations of the public visitors, volunteers, and employees at Pompeys Pillar. Efforts were made to keep the public events at Pompeys Pillar. The event at Pompeys Pillar was one of the most successful signature events in the country, and I was proud to participate in the opening ceremonies.

The panelists discussed methods for dealing with veterans’ children and spouses while offering practical tips for church members to follow. Around 100 church leaders attended the event.

On March 20, 2006, Sergeant Leigh Ann Hester of the 617th Military Police Company, a National Guard unit out of Richmond, KY, was escorting a convoy of 26 supply vehicles when they were suddenly ambushed. According to military records, about 30 insurgents attacked the convoy as it was traveling south of Baghdad, launching their assault from trenches alongside the road using rifles, machine guns, and rocket-propelled grenades. Desperately five to one and coming under heavy enemy fire, Sergeant Hester led her team through the ‘kill zone’ and into a flanking position, where she assaulted a trench line with grenades and M203 grenade launchers.

Her quick thinking saved the lives of numerous convoy members. When the conflict ended, 27 insurgents were dead, 6 were wounded, and 1 was captured.

Sgt. Leigh Ann Hester is the first woman to receive the USO ‘Service Member of the Year’ Award and the first woman in over 60 years to receive the Silver Star—the Army’s third highest award for valor in combat.

Sgt. Hester was only 23 years old at the time of this encounter. She was born in 1982 in Bowling Green, KY, later moved to Nashville, TN, and she joined the National Guard in April of 2001. As she continues the legacy of military service in her family—her uncle, Carl Sollinger, served honorably in Vietnam, and her grandfather, Oran Sollinger, was awarded a Bronze Star for his valor in World War II—Sgt. Hester intends to continue to serve our country by beginning a career in law enforcement.

On behalf of the people of Kentucky and the Senate, I thank Sgt. Leigh Ann Hester for her commitment to her country and her fellow soldiers. It is my honor to recognize her today for her bravery and her accomplishments. My thoughts and prayers are always with her and all the men and women who protect this Nation.

RECOGNIZING SOUTH CAROLINA ORGANIZATIONS

- Mr. GRAHAM. Mr. President, today I wish to call attention to the good work of the Columbia, SC, Urban League and the Department of Veterans Affairs, VA. On September 11, 2006, the Columbia Urban League and the VA cohosted a training seminar for church leaders in South Carolina to help address the growing population of troubled military veterans returning from combat zones. This Veterans Ministry Workshop was led by a panel of 10 physicians from the Dorn VA Medical Center in Columbia. They addressed the various psychological challenges that face veterans returning from conflict. The panelists discussed methods for dealing with veterans’ children and spouses while offering practical tips for church members to follow. Around 100 church leaders attended the event.

I salute the VA, the Columbia Urban League, and in particular its president, Mr. James T. McLawhorn, for their initiative in organizing the Veterans Ministry Workshop. It was Mr. McLawhorn, a member of the VA Advisory Committee on Minority Affairs, who originally proposed the idea in response to studies reporting in the Journal of the American Medical Association, JAMA. Without his leadership and the cooperation of VA officials on the ground in South Carolina, the Veterans Ministry Workshop may have never happened. I am confident that the workshop will have a tremendous impact on the veteran community in South Carolina, and I hope that the Columbia Urban League and VA will build on its success.

WHITE LAKE SCHOOL DISTRICT

- Mr. JOHNSON. Mr. President, it is with great pleasure that today I publicly honor and congratulate White Lake School District on achieving blue ribbon status under the No Child Left Behind Act. The prestigious blue ribbon designation is based on strong test scores and a myriad of other successes.

The White Lake School District is among only 250 entities to be recognized nationwide so far this year. For public schools like White Lake to qualify for blue ribbon status, they must meet State testing levels or have a student body comprised of a high percentage of economically disadvantaged students, yet demonstrate improvement. Achieving this goal is a wonderful accomplishment, and White Lake schools ought to be applauded.

This is not the first time White Lake schools have been honored. In both the 2003-2004 and 2004-2005 school years, the district was named a Distinguished District, due to high scores on the DakotaSTEP achievement test. The U.S. Department of Education has also named White Lake as a Title I Distinguished School. In order to apply to be a blue ribbon school, the White Lake School District submitted a 27-page application outlining their strategies and techniques for learning success.

Mr. President, I am proud to have this opportunity to honor White Lake School District. It is a privilege for me to share with my colleagues the exemplary leadership and tireless commitment to education that White Lake School District provides to its students. I strongly commend the hard work and dedication that the faculty, administrators, and staff devote to White Lake schools, and I am very pleased that their hard work and the students’ substantial efforts are being publicly honored and celebrated. On behalf of all South Dakotans, I would like to congratulate this extraordinary school system and wish them continued success.

TRIBUTE TO BETTY J. MARTIN

- Mr. LEVIN. Mr. President, I would like to take this opportunity to honor
the life of Betty J. Martin. Mrs. Martin passed away on August 30, 2006, at the age of 68. Throughout her life, Betty was a dedicated public servant who dedicated her life to serving less fortunate individuals in the Saginaw community. Her efforts over the years have brought significant impact to so many, and we should all be grateful for her work.

Betty made a meaningful impact in the city of Saginaw. Her life’s work stands as a testament to her many successes as she became the director of the Good Neighbor Mission in Saginaw, a food pantry that serves the local needy. In 1991, Betty founded the Restoration Community Outreach Center. This center has enabled thousands struggling with substance abuse, mental illness, or physical disabilities to get the necessary assistance to begin to repair their lives.

Over the years, Betty has received numerous awards for her efforts, including the 1996 U.S. Department of Housing and Urban Development Certificate of Recognition for Dedicated Service to the Homeless, the 2002 Salvation Army Appreciation Award and the 2005 Saginaw City Council Certificate of Recognition. She has created a legacy that will reverberate in the city of Saginaw for many years to come, and her commitment to serving the needy should serve as an example for us all.

Betty is survived by her husband of 42 years, Judge Martin, one son, Bernad Smith Abernathy, one step-daughter, Joyce Ann Martin, and nine grandchildren. I know my colleagues in the Senate join me in offering my condolences to her family, colleagues, and friends. I hope they take comfort in the amount of good she has done over the years.

RETIREMENT OF JOHN STENCEL

Mr. SALAZAR. Mr. President, today I honor John Stencel, who will soon retire as president of the Rocky Mountain Farmers Union. John has been a tireless advocate for rural America, and he can retire with the comfort that he has profoundly influenced an entire generation of farmers and ranchers in Colorado and across the Nation.

For almost 50 years John has worked with the Rocky Mountain Farmers Union, a group which time he has served as a steady and pragmatic compass. He early on saw the benefits of cooperation so that small farmers could add significant value to their products. He has embraced the potential of biobased fuels as an innovative pathway to power production and transportation fuel needs. He has recognized that responsible stewardship of the land should be a top priority for farmers and ranchers, as clean water, energy conservation, and biodiversity all enhance our soil.

John is a tireless advocate for the future sustainability of the rural way of life. His leadership has shaped the next generation of rural citizens, serving as the president of Colorado 4-H Foundation, vice president of the Colorado Future Farmers of America, and as a board member of the Colorado State University Board of Agriculture. His leadership in these organizations ensures the traits that have characterized him, that of perseverance, dedication, and moral fiber, will manifest themselves in future generations of agricultural leadership.

However, my deep respect for John Stencel stems from his involvement with these organizations; it is based on the common values that underlie those efforts and have driven his policies and agendas. My respect is based on his commitment to sustain and strengthen family farm and ranch agriculture, and to preserve the rural way of life we know and love. These values are embodied by John Stencel.

John has been an influential and indispensable guide, and though he is retiring, the YMCA grew along with the Rocky Mountain Farmers Union. I take comfort in the longevity of our friendship and his steadfast leadership for rural America, and I wish him nothing but the best.

TRIBUTE IN HONOR OF JIMMY WILLIAMSON

Mr. SHELBY. Mr. President, today I honor Mr. Jimmy Williamson, who will become the first Alabamian to serve as chairman of the board for the American Institute of Certified Public Accountants.

This is a tremendous honor, both for Jimmy and for Alabama. The American Institute of Certified Public Accountants serves as the national professional association for more than 350,000 certified public accountants. Jimmy’s education, experience, and passion for finance make him the best choice to take the helm of this organization.

Jimmy, a past president of the Alabama Society of CPAs, is a senior partner and stockholder in the MDA Professional Group accounting firm where he specializes in profit sharing plans, fringe benefits, nonqualified deferred compensation plans, estate and personal financial planning, business acquisitions, and investment review and analysis. I am also proud to say that Jimmy and I share an interest in fraud prevention and detection, one of the most important financial issues we face today. His professional work and leadership on committees, that are too plentiful to name, make him uniquely qualified and prepared for this position. I am proud to recognize his professional achievements and congratulate him on this important post.

TRIBUTE TO 50TH ANNIVERSARY OF HOLT INTERNATIONAL

Mr. SMITH. Mr. President, in the mid 1950s, Harry and Bertha Holt of Eugene, OR, saw a film about children in Korean orphanages who were in desperate need of help. Touching by what
they saw, the Holts sent money and clothes to the orphanages, but they still felt the need to do more.

As they thought and prayed about what to do, it dawned on the Holts that what the children needed more than money and clothes were families. So Harry and Bertha decided to adopt children from that family. They decided to adopt eight Korean children. No matter what roadblocks were placed in the way of that decision—including the need to get Congress to pass a special law—the Holts persevered. Soon they were the parents of eight new sons and daughters.

The adoption was revolutionary. Previously, adoption was regarded as something to be kept secret. The Holts, however, proudly adopted children who were obviously not their birth children. In doing so, they showed that a family’s love is greater than barriers of race and nationality.

But the Holts story did not end with the adoption of their children. As word spread about what they had done, others sought their advice and asked how they could adopt. Just 5 months after bringing his new family home, Harry headed back to Korea to match other children with new families. In 1956, the Holts adopted their first married couple and 40,000 children with adoptive families in the United States. It is simply impossible to calculate how much happiness and joy they have provided for their families.

As a U.S. Senator from Oregon, which contains one of the home offices of the headquarters of Holt International, and as the father of three adopted children, I am privileged to rise today to extend my congratulations—and I know the congratulations of the entire Senate—toward the occasion of their 50th anniversary. I stand ready to help them in any way possible as they continue their inspiring mission in the years ahead.

Mr. President, I will conclude with the eloquent words of Bertha Holt, who said, “All children are beautiful when they are loved.” May all children be as loved as those adopted by the Holts.

TRIBUTE TO BOYD “BUTCH” KITTERMAN

- Mr. THUNE. Mr. President, today I wish to honor Boyd “Butch” Kitterman of Wall, SD. Butch is being honored for his many years of volunteer service with the Wall Volunteer Fire Department.

Butch has been with the Wall Volunteer Fire Department for 50 years. He has served as fire chief, truck captain, and is currently treasurer for the department.

South Dakota’s communities depend on volunteers like Butch to keep our citizens and homes safe during times of trouble. His initiative, expertise, and dedication to serving the city of Wall for 50 years is truly commendable.

Today I rise with Butch Kitterman’s friends and family in celebrating his 50 years of selfless dedication and service to the city of Wall.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and treaties which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)
the Arapaho and Roosevelt National Forests in Colorado, and for other purposes.

H.R. 2134. An act to establish the Commission to Study the Potential Creation of a National American Latino Heritage Site, to develop a plan of action for the establishment and maintenance of a National Museum of American Latino Heritage in Washington, D.C., and for other purposes.

H.R. 2322. An act to designate the Federal building located at 320 North Main Street in McAllen, Texas, as the "Kika de la Garza Federal Building".

H.R. 3606. An act to modify a land grant patent issued by the Secretary of the Interior.

H.R. 3626. An act to authorize the Secretary of the Interior to study the feasibility of enlarging the Arthur V. Watkins Dam Weber County, Utah, to provide additional water for the Weber Basin Project to fulfill the purposes for which that project was authorized.

H.R. 4756. An act to authorize the Secretary of the Interior to conduct a study to determine the feasibility of implementing a water supply and conservation project to improve water reliability, increase the capacity of water storage, and improve water management efficiency in the Republican River Basin between Harlan County Lake in Nebraska and Milford Lake in Kansas.

H.R. 4766. An act to amend the Native American Programs Act of 1974 to provide for the revitalization of Native American language programs, the establishment of Native American immersion programs, and for other purposes.

H.R. 4789. An act to require the Secretary of the Interior to convene a public land located wholly or partially within the boundaries of the Wels Hydroelectric Project of the Bureau of Reclamation, to improve the economic development opportunities of the Wels Hydroelectric Project, and for other purposes.

H.R. 4876. An act to ratify a conveyance of a portion of the Jicarilla Apache Reservation to Rio Arriba County, State of New Mexico, pursuant to the settlement of litigation between the Jicarilla Apache Nation and Rio Arriba County, State of New Mexico, to authorize issuance of a patent for said lands, and to change the exterior boundary of the Jicarilla Apache Reservation accordingly, and for other purposes.


H.R. 5016. An act to provide for the exchange of certain Bureau of Land Management land in Pima County, Arizona, and for other purposes.

H.R. 5026. An act to designate the Investigations Building of the Food and Drug Administration located at 666 Fernandez Junco Avenue in San Juan, Puerto Rico, as the "Andres Toro Building".

H.R. 5160. An act to establish the Long Island Sound Heritage Initiative.

H.R. 5340. An act to promote Department of the Interior efforts to provide a scientific basis for the management of sediment and nutrients in the upper Mississippi River Basin, and for other purposes.

H.R. 5435. An act to increase the disability earning limitation under the Railroad Retirement Act and to index the amount of allowable earnings consistent with increases in the substantial gainful activity dollar amount under the Social Security Act.

H.R. 5503. An act to amend the National Housing Act to increase the mortgage amount limits applicable to FHA mortgage insurance for multifamily housing located in high-cost areas.

H.R. 5516. An act to allow for the renegotiation of the payment schedule of contracts between the Secretary of the Interior and the Redwood Valley County Water District, and for other purposes.

H.R. 5546. An act to designate the United States courthouse to be constructed in Greenville, South Carolina, as the "Carroll A. Campbell, Jr. United States Courthouse".

H.R. 5566. An act to designate the Federal building and United States courthouse located at 221 and 221 West Ferguson Street in Tyler, Texas, as the "William M. Steger Federal Building and United States Courthouse".

H.R. 5587. An act to streamline the regulation of nonadmitted insurance and reinsur- ance, and for other purposes.

H.R. 5960. An act to adjust the boundaries of the Ouachita National Forest in the States of Oklahoma and Arkansas.

H.R. 5962. An act to direct the Secretary of the Interior to conduct a special resource study to determine the feasibility and suitability of establishing a memorial to the Space Shuttle Columbia in the State of Texas and for its inclusion as a unit of the National Park System.

H.R. 5982. An act to compromise and settle all claims in favor of the United States, to restore, improve, and develop the valuable on-reservation land and natural resources of the Pueblo, and for other purposes.

H.R. 5946. An act to amend the Magnuson-Stevens Fishery Conservation and Management Act to authorize activities to promote improving living conditions for high seas fisheries, or fisheries governed by international fishery management agreements, and for other purposes.

H.R. 6011. An act to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to improve California's Sacramento-San Joaquin Delta and water supply.

H.R. 6051. An act to designate the Federal building and United States courthouse located at 2 South Main Street in Akron, Ohio, as the "John F. Seiberling Federal Building and United States Courthouse".

H.R. 6062. An act to enhance community development investments by financial institutions, and for other purposes.

H.R. 6072. An act to amend the Federal Deposit Insurance Act to provide further regulatory relief for depository institutions and terminate or modify the applicability of the act to such institutions, and for other purposes.

H.R. 6079. An act to require the President's Working Group on Financial Markets to conduct a study of industry.

H.R. 6106. An act to extend the waiver authority for the Secretary of Education under title IV, section 105, of Public Law 105-108.

H.R. 6115. An act to extend the authority of the Secretary of Housing and Urban Development to restructure mortgages and rental assistance for certain assisted multifamily housing.

H.R. 6119. An act to temporarily extend the programs under the Higher Education Act of 1965, and for other purposes.

H.R. 6138. An act to hold the current re- gime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

S. 36. An act to establish the Rio Grande Natural Area in the State of Colorado, and for other purposes.

S. 215. An act to direct the Secretary of the Interior to convey certain Federal land to Rio Arriba County, New Mexico.

The message further announced that the House has passed the bill (S. 362) to establish a program within the National Oceanic and Atmospheric Administration and the United States Coast Guard to help identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety, in coordination with non-Federal entities, and for other purposes, with an amendment.

The message also announced that the House has passed the bill (S. 2340) to amend the Great Lakes Fish and Wildlife Restoration Act of 1990 to provide for implementation of recommendations of the United States Fish and Wildlife Service contained in the Great Lakes Fishery Resources Restoration Study, with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the bill (S. 2356) to provide regulatory relief and improve productivity for insured deposit institutions, and for other purposes, with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, without amendment:

S. 2464. An act to revise a provision relating to repayment obligations under the Fort McDowell Yavapai Nation under the Fort McDowell Indian Community Water Rights Settlement Act of 1990, and for other purposes.

S. 2146. An act to extend relocation expenses test program for Federal employees.

The message further announced that the House has amended the Senate to the bill (H.R. 5574) to amend the Public Health Service Act to reauthorize support for graduate medical education programs in children's hospitals.

At 7:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that it has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6197. An act to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 2007 through 2011, and for other purposes.

The message also announced that the House has passed the following bills, without amendment:

S. 2146. An act to extend relocation expenses test program for Federal employees.

The message further announced that the House has amended the Senate to the bill (H.R. 5574) to amend the Public Health Service Act to reauthorize support for graduate medical education programs in children's hospitals.

At 7:01 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5545. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Los Angeles County Water Supply Augmentation Demonstration Project, and for other purposes.

H.R. 4846. An act to authorize grants for contributions toward the establishment of the Woodrow Wilson Presidential Library.
H.R. 5108. An act to designate the facility of the United States Postal Service located at 1213 East Houston Street in Cleveland, Texas, as the “Lance Corporal Robert A. Martinez Post Office Building”.


The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:


H. Con. Res. 473. Concurrent resolution supporting the goals and ideals of Gynecologic Cancer Awareness Month.

At 8:13 p.m., a message from the House of Representatives, delivered by Ms. Milian, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4954) to improve maritime and cargo security through enhanced layered defenses, and for other purposes; it disagrees to the conference asked by the Senate on the disagreeing votes of the of the two Houses thereon, and appoints from the Committee on Homeland Security, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. KING of New York, Mr. YOUNG of Alaska, Mr. DANIELS of California, Mr. LINDER of Minnesota, Mr. SIMMONS of Texas, Mr. REICHERT of Washington, Mr. LORTETUS of California, Mr. MARKEY of Louisiana, Ms. HARMAN of California, and Mr. FASCELLI.

From the Committee on Energy and Commerce for consideration of titles VI and X and section 1104 of the Senate amendment, and modifications committed to conference: Mr. BARRON of Texas, Mr. UPTON, and Mr. DINGLE.

From the Committee on Science, for consideration of sections 201 and 401 of the House bill, and sections 111, 121, 302, 303, 305, 513, 607, 706, 801, 802, and 1107 of the Senate amendment, and modifications committed to conference: Mr. BOEHLENT, Mr. SODREL, and Mr. MELANCON.

From the Committee on Transportation and Infrastructure, for consideration of sections 101–104, 107–109, and 204 of the House bill, and sections 101, 104, 106–108, 111, 202, 232, 234, 235, 503, 507–512, 514, 517–519, title VI, sections 703, 902, 905, 906, 1103, 1104, 1107–1110, 1114, and 1115 of the Senate amendment, and modifications committed to conference: Mr. LoBIONDO, Mr. SHUSTER, and Mr. OBERSTAR.

From the Committee on Ways and Means, for consideration of sections 102, 121, 201, 203 and 301 of the House bill, and sections 201, 203, 304, 401–404, 407, and 1105 of the Senate amendment, and modifications committed to conference: Mr. THOMAS, Mr. SHAW, and Mr. RANGEL, as managers of the conference on the part of the House.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 5132. An act to direct the Secretary of the Interior to conduct a special resource study to determine the sustainability and feasibility of development of the Chukchi Sea in the Arctic National Wildlife Refuge; to the Committee on Natural Resources.

S. 3982. A bill to amend the Public Health Service Act to provide assured compensation for first responders injured by experimental vaccines and drugs.

S. 3983. A bill to amend the Public Health Service Act to provide assured compensation for first responders injured by experimental vaccines and drugs.

S. 3992. A bill to amend the Exchange Rates and International Economic Policy Coordination Act of 1998 to clarify the definition of opposition to globalism with respect to currency, and for other purposes.

S. 3993. A bill to amend title 18, United States Code, to provide penalties for aiming laser pointers at airplanes, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on Tuesday, September 26, 2006, she had presented to the President of the United States the following enrolled bills:

S. 176. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska.

S. 244. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming.

S. 958. An act to improve ratings quality for the protection of investors and in the public interest by fostering accountability, transparency, and competition in the credit rating agency industry.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were received:

The following communications were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works, without amendment:

H.R. 1463. A bill to designate a portion of the Federal building located at 2100 Avenue of the Americas, in New York, New York, as the "Justin W. Williams United States Attorney's Building".
INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. THOMAS (for himself and Mr. SPECTER):
S. 3961. A bill to amend title XVIII of the Social Security Act to provide for improved access to cost-effective, quality physical medicine and rehabilitation services under part B of the Medicare program, and for other purposes; to the Committee on Finance.

By Mr. LOTT:
S. 3962. A bill to provide for the issuance of a commemorative postage stamp in honor of Senator Blanche Kelso Bruce; to the Committee on Homeland Security and Governmental Affairs.

By Mrs. BOXER:
S. 3963. A bill to address the serious health care access barriers, and consequently higher incidences of disease, for low-income, uninsured populations; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. BOXER:
S. 3964. A bill to provide assistance to State and nongovernmental entities to initiate public awareness and outreach campaigns to reduce teenage pregnancies; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON:
S. 3965. A bill to require the International Trade Commission to report on the specific impact of each free trade agreement in force with respect to the United States on a sector-by-sector basis, and for other purposes; to the Committee on Finance.

By Mr. AKAKA (for himself and Mr. LAUTENBERG):
S. 3966. A bill to affirm the authority of the Comptroller General to audit and evaluate the programs, activities, and financial transactions of the intelligence community, and for other purposes; to the Select Committee on Intelligence.

By Mr. OBAMA (for himself and Mrs. CLINTON):
S. 3967. A bill to amend the Toxic Substances Control Act to assess and reduce the levels of lead found in child-occupied facilities in the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. ALLEN:
S. 3968. A bill to amend the Energy Policy Act of 2005 to direct the President to establish an energy security working group; to the Committee on Energy and Natural Resources.

By Mr. SANTORUM (for himself, Mr. FRIST, Mr. CORNYN, Mr. NELSON of Florida, Mr. CRAPO, Mr. LOTT, Mr. DEWINE, and Mr. COLEMAN):
S. 3969. A bill to establish a new port in the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran; to the Committee on Foreign Relations.

By Mr. GRASSLEY (for himself, Mr. ISAKSON, Mr. CHAMBLISS, Mr. BURS, and Mr. MURkowski):
S. 3970. A bill to direct the President to establish and lead an energy security working group; to the Committee on Energy and Natural Resources.

By Mr. ALLEN:
S. 3971. A bill to amend the Energy Policy Act of 2005 to direct the President to establish an energy security working group; to the Committee on Energy and Natural Resources.

By Mr. SANTORUM (for himself, Mr. FRIST, Mr. CORNYN, Mr. NELSON of Florida, Mr. CRAPO, Mr. LOTT, Mr. DEWINE, and Mr. COLEMAN):
S. 3972. A bill to require the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop a policy for managing the risk of food allergy and anaphylaxis in schools, to establish school-based food allergy management programs, and to provide for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KOHL (for himself and Mr. LEAHY):
S. 3981. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish requirements for certain petitions submitted to the Food and Drug Administration, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY:
S. 3982. A bill to amend the Public Health Service Act to provide assured compensation for first responders injured by experimental vaccines and drugs; read the first time.

By Mr. KENNEDY:
S. 3983. A bill to amend the Public Health Service Act to provide assured compensation for first responders injured by experimental vaccines and drugs; and to indemnify manufacturers and health care professional for the administration of medical products needed for biodefense; read the first time.

By Mr. KENNEDY (for himself, Mr. LEAHY, Ms. MIKULSKI, and Mr. KERRY):
S. 3984. A bill to improve programs for the identification and treatment of post-deployment mental health conditions, including post-traumatic stress disorder, in veterans and members of the Armed Forces, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. LANDREI:
S. 3985. A bill to promote the recovery of oil and gas revenues on the Outer Continental Shelf, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ALLARD:
S. 3986. A bill to designate as wilderness certain land within the Rocky Mountain National Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ISAKSON:
S. 3987. A bill to amend the Longshore and Harbor Workers' Compensation Act to improve the compensation system, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BIDEN:
S. 3988. A bill to amend title 10, United States Code, to improve benefits and services for members of the Armed Forces, veterans, and other service members affected by the Global War on Terrorism, and other veterans, to require reports on the effects of the Global War on Terrorism, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. COLEMAN (for himself and Mr. DAYTON):
S. 3990. A bill to direct the facility of the United States Postal Service located at 216 Oak Street in Farmington, Minnesota, as the 'Hamilton H. Judson Post Office'; to the Committee on Homeland Security and Governmental Affairs.

By Mr. CONRAD (for himself, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. DORGAN, Mr. SALAZAR, Mr. COLEMAN, Mr. BAUCUS, Mr. JOHNSON, Mr. BURNS, Mr. HARKIN, Ms. CANTWELL, Mrs. CLINTON, Mr. SCHUMER, Mr. BOURJaily, Mr. THUNE, Mr. DURBIN, Mr. OBAMA, and Mr. REID):
S. 3991. A bill to provide emergency agricultural disaster assistance, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BUNNING:
S. 3992. A bill to amend the Exchange Rates and International Economic Policy Coordination Act of 1998 to clarify the definition of manipulation with respect to currency, and for other purposes; read the first time.

By Mr. MARTINEZ:
S. 3993. A bill to amend title 18, United States Code, to provide penalties for aiming laser pointers at airplanes, and for other purposes; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SCHUMER:
S. Res. 589. A resolution commending New York State Senator John J. Marchi on his 50 years in the New York State Senate and on becoming the longest-serving state legislator in the United States; to the Committee on the Judiciary.
By Mr. VITTER:

S. Res. 590. A resolution designating the second Sunday in December 2006, as “National Children’s Memorial Day” in conjunction with The Compassionate Friends Worldwide Candle Lighting; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 494

At the request of Mr. Warner, the name of the Senator from Illinois (Mr. Obama) was added as a cosponsor of S. 494, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

At the request of Mr. Mcconnell, the name of the Senator from North Carolina (Mrs. Dole) was added as a cosponsor of S. 908, a bill to allow Congress to delegate, and regulatory agencies to determine appropriate laws, rules, and regulations to address the problems of weight gain, obesity, and health conditions associated with weight gain or obesity.

S. 1082

At the request of Mrs. Hutchison, the name of the Senator from Arizona (Mr. McCain) was added as a cosponsor of S. 1082, a bill to restore Second Amendment rights in the District of Columbia.

S. 1172

At the request of Mr. Specter, the name of the Senator from New Mexico (Mr. Bingaman) was added as a cosponsor of S. 1172, a bill to provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers.

S. 1173

At the request of Mr. DeMint, the name of the Senator from Oklahoma (Mr. Inhofe) was added as a cosponsor of S. 1173, a bill to amend the National Labor Relations Act to ensure the right of employees to a secret-ballot election conducted by the National Labor Relations Board.

S. 1687

At the request of Ms. Mikulski, the name of the Senator from Indiana (Mr. Lugar) and the Senator from Massachusetts (Mr. Kerry) were added as cosponsors of S. 1687, a bill to amend the Public Health Service Act to provide waivers relating to grants for preventive health measures with respect to breast and cervical cancers.

At the request of Mr. Menendez, his name was added as a cosponsor of S. 1687, supra.

S. 1911

At the request of Mr. Pryor, his name was added as a cosponsor of S. 1911, a bill to provide for the protection of the flag of the United States, and for other purposes.

S. 1915

At the request of Mr. Ensign, the name of the Senator from Florida (Mr. Martinez) was added as a cosponsor of S. 1915, a bill to amend the Horse Protection Act to prohibit the shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, donating, or donation of other equines to be slaughtered for human consumption, and for other purposes.

S. 2020

At the request of Mr. Hatch, the name of the Senator from Massachusetts (Mr. Kerry) was added as a cosponsor of S. 2020, a bill to amend the Social Security Act to enhance the Social Security Act of the Nation by ensuring adequate public-private infrastructure and to resolve to prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation, and for other purposes.

S. 2123

At the request of Mr. Allard, the name of the Senator from Michigan (Ms. Stabenow) was added as a cosponsor of S. 2123, a bill to modernize the manufactured housing loan insurance program under title I of the National Housing Act.

S. 2395

At the request of Mr. Grassley, the name of the Senator from Hawaii (Mr. Inouye) was added as a cosponsor of S. 2395, a bill to amend title 39, United States Code, to require that air carriers accept as mail shipments certain live animals.

S. 2506

At the request of Mr. Menendez, his name was added as a cosponsor of S. 2506, a bill to require Federal agencies to support health impact assessments and take other actions to improve health and the environmental quality of communities, and for other purposes.

S. 2624

At the request of Mr. DeMint, the name of the Senator from Oklahoma (Mr. Coburn) was added as a cosponsor of S. 2624, a bill to reduce the burdens of the implementation of section 404 of the Sarbanes-Oxley Act of 2002.

S. 3128

At the request of Mr. Burr, the name of the Senator from Nevada (Mr. Reid) was added as a cosponsor of S. 3128, a bill to amend the Social Security Act to extend the floor on the Medicare work geographic adjustment under the fee schedule for physicians’ services.

S. 3516

At the request of Mr. Bingaman, the name of the Senator from Illinois (Mr. Durbin) was added as a cosponsor of S. 3516, a bill to amend title XVIII of the Social Security Act to permit the Tax Court to review claims for equitable innocent spouse relief and to suspend the running on the period of limitations while such claims are pending.

S. 3677

At the request of Mr. Bingaman, the name of the Senator from California (Mrs. Boxer) was added as a cosponsor of S. 3677, a bill to amend title XVIII of the Social Security Act to eliminate the in the home restriction for Medicare coverage of mobility devices for individuals with expected long-term needs.

S. 3678

At the request of Mr. Burr, the name of the Senator from Indiana (Mr. Bayh) was added as a cosponsor of S. 3678, a bill to amend the Public Health Service Act with respect to public health security and all-hazards preparedness and response, and for other purposes.

S. 3681

At the request of Mr. Domenici, the name of the Senator from Kentucky (Mr. Bunning) was added as a cosponsor of S. 3681, a bill to amend the Comprehensive Environmental Response Compensation and Liability Act of 1980 to provide that hazardous substances, pollutants, or contaminant.

S. 3689

At the request of Mr. Brownback, the names of the Senator from Kentucky (Mr. Bunning) and the Senator from North Carolina (Mr. Burr) were added as cosponsors of S. 3689, a bill to amend the Revised Statutes of the United States to prevent the use of the legal tender system to support Federal money from State and local governments, and the Federal Government, and inhibits such governments’ constitutional actions under the first, tenth, and fourteenth amendments.

S. 3705

At the request of Mr. Menendez, his name was added as a cosponsor of S. 3705, a bill to amend title XIX of the Social Security Act to improve requirements under the Medicaid program for items and services furnished in or through an educational program or setting to children, including children with developmental, physical, or mental health needs, and for other purposes.
At the request of Mr. LOTT, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 3707, a bill to improve consumer access to passenger vehicle loss data held by insurers.

At the request of Mr. CARPER, his name was added as a cosponsor of S. 3737, a bill to amend the National Trails System Act to designate the Washington-Rochambeau Route National Historic Trail.

At the request of Mr. DURBIN, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 3744, a bill to establish the Abraham Lincoln Study Abroad Program.

At the request of Mrs. HUTCHISON, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 3791, a bill to require the provision of information to parents and adults concerning bacterial meningitis and the availability of a vaccination with respect to such disease.

At the request of Mr. ROCKEFELLER, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 3795, a bill to amend title XVIII of the Social Security Act to provide for a two-year moratorium on certain Medicare physician payment reductions for imaging services.

At the request of Mr. SMITH, the name of the Senator from Georgia (Mr. CHAMBILISS) was added as a cosponsor of S. 3795, supra.

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 3802, a bill to amend the Consolidated Omnibus Budget Reconciliation Act of 1985 to expand the county organized health insurance organizations authorized to enroll Medicare beneficiaries.

At the request of Mr. BINGAMAN, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 3819, a bill to amend title XIX of the Social Security Act to provide for redistribution and extended availability of unexpended medicaid DSH allotments, and for other purposes.

At the request of Mrs. CLINTON, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 3847, a bill to designate the facility of the United States Postal Service located at 110 Cooper Street in Babylon, New York, as the “Jacob Samuel Fletcher Post Office Building”.

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 3853, a bill to designate the facility of the United States Postal Service located at 39-25 61st Street in Woodside, New York, as the “Thomas J. Manton Post Office Building”.

At the request of Mr. TALENT, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 3862, a bill to amend the Animal Health Protection Act to prohibit the Secretary of Agriculture from implementing or carrying out a National Animal Identification System or similar requirement, to prohibit the use of Federal funds to carry out such a requirement, to require the Secretary to protect information obtained as part of any voluntary animal identification system.

At the request of Mr. LUGAR, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 3884, a bill to impose sanctions against individuals responsible for genocide, war crimes, and crimes against humanity, to support measures for the protection of civilians and humanitarian operations, and to support peace efforts in the Darfur region of Sudan, and for other purposes.

Amendment No. 5029
At the request of Mrs. HUTCHISON, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 3918, a bill to establish a grant program for individuals still suffering health effects as a result of the September 11, 2001, attacks in New York City and at the Pentagon.

At the request of Mr. MENENDEZ, his name was added as a cosponsor of S. 3918, a bill to establish a grant program for individuals still suffering health effects as a result of the September 11, 2001, attacks in New York City and at the Pentagon.

At the request of Mr. SPECTER, his name and the name of the Senator from Ohio (Mr. DeWINE) were added as cosponsors of S. 3931, a bill to establish procedures for the review of electronic surveillance programs.

At the request of Mr. FRIST, the names of the Senator from Delaware (Mr. CARPER) and the Senator from Florida (Mr. MARTINEZ) were added as cosponsors of S. 3936, a bill to invest in innovation and education to improve the competitiveness of the United States in the global economy.

At the request of Mrs. BOXER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 3943, a bill to amend the Help America Vote Act of 2002 to reimburse jurisdictions for amounts paid or incurred in connection with using contingency paper ballots in the November 7, 2006, Federal general election.
effective healthcare has changed dramatically. While States have typically kept up with these developments by creating regulatory mechanisms to ensure that these health professionals are properly educated and trained, the Medicare program has kept pace. In fact, a recent CMS rule actually turned back the clock on these innovative ways of delivering care and this is having a negative affect on not only the availability of services, but what Medicare pays for these services. We are all well aware of the struggles the Medicare program has had trying to control spending for therapy services. In fact, we have had to impose a cap on beneficiary spending because it has gotten so out of control. Unfortunately, in the midst of our efforts to control aggregate spending on therapy services, the Centers for Medicare and Medicaid Services, CMS, has adopted policies that will lead to higher per beneficiary expenditures and make it even more difficult for seniors to get the care they need.

Since late in 2005, CMS has been enforcing a policy, sometimes referred to as the “therapy incident-to” rule, that provides physical medicine and rehabilitation services to Medicare beneficiaries in their homes. This rule prevents doctors from employing anyone other than a physical therapist to provide physical medicine and rehabilitation services in their offices. Frankly, this policy ignores the fact that there are many State licensed or certified health professionals who are qualified to offer identical services at a lower cost to Medicare.

Many of us are familiar with the devastating affects breast cancer has on millions of women and men each year. One of the consequences of breast cancer treatment is a condition called lymphedema. This is a debilitating and disfiguring swelling of the extremities that occurs from damage to the lymph nodes located in the arm pit. The only effective treatment for this condition is a specialized type of massage that gets previously available in their home towns. As Republican Co-Chair of the Senate Rural Health Caucus, I have consistently supported policies and initiatives that help rural Medicare beneficiaries get and maintain access to services within their communities in a more effective and efficient way.

Finally, it is important to note that access to state licensed, certified professionals within the Medicare program—will not prevent CMS from imposing additional fees that are so defined. The CMS rule implemented last year will result in higher Medicare expenditures than if the old policy remained in place. In fact, a recent Medicare Payment Advisory Commission, MedPAC, report based on 2002 data showed that the most cost-effective place for Medicare beneficiaries to obtain physical therapy was in the physician’s office. After reviewing the legislation, I hope the Congress will consider placing me in this important effort to restore physician judgment; patient choice; and common sense to the Medicare program.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

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

SEC. 1. SHORT TITLE. This Act may be cited as the “Access to Physical Medicine and Rehabilitation Services Improvement Act of 2006”.

SEC. 2. ACCESS TO PHYSICAL MEDICINE AND REHABILITATION SERVICES PROVIDED INCIDENT TO A PHYSICIAN.

(a) COVERAGE OF SERVICES.—Section 1861 of the Social Security Act (42 U.S.C. 1395y(a)(20)) is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (Z), by striking “and” and inserting “and”;

(B) in subparagraph (AA), by adding “and” at the end; and

(C) by adding at the end the following new subparagraph:

“(BB) certified athletic trainer services (as defined in subsection (c)(1) and lymphedema therapist services (as defined in subsection (c)(3));”;

(2) by adding at the end the following new subsection:

“‘Athletic Trainer Services and Lymphedema Therapist Services

‘(c)(1) The term ‘athletic trainer services’ means services performed by a certified athletic trainer (as defined in paragraph (2)) under the supervision of a physician (as defined in section 1861(r)), which the athletic trainer is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician (as so defined) or as an incident to a physician’s professional service, to an individual—

“(A) who is under the care of a physician (as so defined); and

“(B) with respect to whom a plan prescribing the type, amount, and duration of services that are to be furnished to such individual has been established by a physician (as so defined).”;

(b) PAYMENT.—

(1) IN GENERAL.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended by adding at the end the following new clause:

“(V) athletic trainer services and lymphedema therapist services;”.

(2) AMOUNT.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended by adding—

(A) by striking “and (V)” and inserting “(V)”;

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SECTION 3. COVERAGE OF CERTIFIED ATHLETIC TRAINER SERVICES AND CERTIFIED LYMPHEDEMA THERAPIST SERVICES UNDER PART B OF THE MEDICARE PROGRAM.

“SEC. 3. COVERAGE OF CERTIFIED ATHLETIC TRAINER SERVICES AND CERTIFIED LYMPHEDEMA THERAPIST SERVICES UNDER PART B OF THE MEDICARE PROGRAM.

(a) COVERAGE OF SERVICES.—Section 1861 of the Social Security Act (42 U.S.C. 1395y(a)(20)) is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (Z), by striking “and” and inserting “and”;

(B) in subparagraph (AA), by adding “and” at the end; and

(C) by adding at the end the following new subparagraph:

“(BB) certified athletic trainer services (as defined in subsection (c)(1) and lymphedema therapist services (as defined in subsection (c)(3));”;

(2) by adding at the end the following new subsection:

“‘Athletic Trainer Services and Lymphedema Therapist Services

‘(c)(1) The term ‘athletic trainer services’ means services performed by a certified athletic trainer (as defined in paragraph (2)) under the supervision of a physician (as so defined) or as an incident to a physician’s professional service, to an individual—

“(A) who is under the care of a physician (as so defined); and

“(B) with respect to whom a plan prescribing the type, amount, and duration of services that are to be furnished to such individual has been established by a physician (as so defined).”;

Such term does not include any services for which a facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

“(4) The term ‘certified lymphedema therapist services’ means services performed by a certified lymphedema therapist (as defined in paragraph (4)) under the supervision of a physician (as defined in paragraph (1) or (3) or by another State in which such services are performed, as would otherwise be covered if furnished by a physician (as so defined) or as an incident to a physicians professional service, to an individual—

“(A) who is under the care of a physician (as so defined); and

“(B) with respect to whom a plan prescribing the type, amount, and duration of services that are to be furnished to such individual has been established by a physician (as so defined).”;

Such term does not include any services for which a facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

“(4) The term ‘certified lymphedema therapist services’ means services performed by a certified lymphedema therapist (as defined in paragraph (4)) under the supervision of a physician (as defined in paragraph (1) or (3) or by another State in which such services are performed, as would otherwise be covered if furnished by a physician (as so defined) or as an incident to a physicians professional service, to an individual—

“(A) who is under the care of a physician (as so defined); and

“(B) with respect to whom a plan prescribing the type, amount, and duration of services that are to be furnished to such individual has been established by a physician (as so defined).”;

Such term does not include any services for which a facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

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“(A) who is under the care of a physician (as so defined); and

“(B) with respect to whom a plan prescribing the type, amount, and duration of services that are to be furnished to such individual has been established by a physician (as so defined).”;

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“(B) with respect to whom a plan prescribing the type, amount, and duration of services that are to be furnished to such individual has been established by a physician (as so defined).”;

Such term does not include any services for which a facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

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“(A) who is under the care of a physician (as so defined); and

“(B) with respect to whom a plan prescribing the type, amount, and duration of services that are to be furnished to such individual has been established by a physician (as so defined).”;

Such term does not include any services for which a facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

“(4) The term ‘certified lymphedema therapist services’ means services performed by a certified lymphedema therapist (as defined in paragraph (4)) under the supervision of a physician (as defined in paragraph (1) or (3) or by another State in which such services are performed, as would otherwise be covered if furnished by a physician (as so defined) or as an incident to a physicians professional service, to an individual—

“(A) who is under the care of a physician (as so defined); and

“(B) with respect to whom a plan prescribing the type, amount, and duration of services that are to be furnished to such individual has been established by a physician (as so defined).”;

Such term does not include any services for which a facility or other provider charges or is paid any amounts with respect to the furnishing of such services.
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(B) by inserting before the semicolon at the end the following: ‘‘, and (W) with respect to athletic trainer services and lymphedema therapist services under section 1861(e)(2)(B), the amounts paid shall be 80 percent of the lesser of the actual charge for the service or the fee schedule amount under section 1584 for the same service performed by a physician personally.

(c) INCLUSION OF SERVICES IN THE THERAPY CAP.—Services provided by a certified athletic trainer or a certified lymphedema therapist (as those terms are defined in section 1861(ccc)(1) of the Social Security Act, as added by subsection (a)) shall be subject to the limitation if the service had been provided by a physician personally.

(d) INCLUSION OF ATHLETIC TRAINERS AND LYMPHEDEMA THERAPIST AS PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395l(b)(18)(C)) is amended by adding at the end the following new clauses:

‘‘(vii) A certified athletic trainer (as defined in section 1861(ccc)(1)).

‘‘(viii) A certified lymphedema therapist (as defined in section 1861(ccc)(2)).’’

(e) COVERAGE OF CERTAIN PHYSICAL MEDICINE AND REHABILITATION SERVICES PROVIDED IN RURAL HEALTH SERVICES AND FEDERALLY QUALIFIED HEALTH CENTERS.—Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395(aa)(1)(B)) is amended by striking ‘‘, or by a certified athletic trainer (as defined in subsection (hh)(1)),’’ and inserting ‘‘, or by a clinical social worker (as defined in subsection (hh)(1)), by a certified athletic trainer (as defined in subsection (hh)(1)), or by a certified lymphedema therapist (as defined in subsection (hh)(1)).’’

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished on or after January 1, 2007.

By Mr. LOTT:

S. 3964. A bill to provide for the issuance of a commemorative postage stamp in honor of Senator Blanche Kelso Bruce; to the Committee on Homeland Security and Governmental Affairs.

Mr. LOTT. Mr. President, the first African American to serve a full term in the United States Senate represented my great State of Mississippi.

Blanche Kelso Bruce was elected to the Senate in 1874 by the Mississippi State Legislature where he served from 1875 until 1881.

On February 14, 1879, he broke a second barrier by becoming the first African American to preside over a Senate session. He was a leader in the nationwide fight for African American rights, fighting for desegregation of the Army and protection of voting rights.

Blanche Kelso Bruce was born into slavery near Farmville, VA, on March 1, 1834, and was enslaved in Virginia and Missouri. He was 20 years old when the Civil War broke out. He tried to enlist in the Union Army but was rejected because of his race.

He then turned his attention to teaching and while in Missouri organized that State’s first U.S. Colored Troops for African Americans.

In 1869 he moved to Mississippi to become a planter on a cotton plantation, and the Magnolia State is where he became active in Republican politics. He rose in Mississippi politics from membership on the Mississippi Levee Board, as the sheriff and tax collector for Bolivar County surrounding Cleveland, Mississippi, and as the Sergeant-at-Arms of the State Senate, or the presiding officer of the Senate.

It was Blanche Kelso Bruce’s perseverance, selfless public service and commitment to Mississippi that led to the Mississippi State Legislature’s election of him to serve in the U.S. Senate.

In the Senate, he served on the Pension, Manufacturers, Education and Labor committees. He chaired the Committee on River Improvements and the Select Committee to Investigate the Freedman’s Savings and Trust Company.

Senator Bruce left the Senate in 1881 and was appointed Registrar of the Treasury by President James Garfield, a position he also held in 1897. He subsequently received appointments from Presidents Benjamin Harrison and William McKinley.

Senator Bruce joined the board of Howard University in Washington, D.C. where he received an honorary degree.

He died in Washington on March 17, 1898, at the age of 57.

Four years ago, on September 17, 2002, in my position as Senate Majority Leader, I joined with Senator Chris Dodd in honoring this revered adopted son of Mississippi by unveiling the portrait of Blanche Kelso Bruce in the U.S. Capitol.

Today I rise to further honor this great statesman and pioneer by introducing legislation to issue the Senator Blanche Kelso Bruce commemorative postage stamp. Mississippi takes great pride in our leaders who often quietly, with little fanfare, blaze paths for the rest of the Nation to follow. Senator Blanche Kelso Bruce is one such great pioneer, and I call on my colleagues to join me in honoring him.

By Mrs. BOXER:

S. 3965. A bill to address the serious health care access barriers, and consequently higher incidences of disease, for low-income, uninsured populations; to the Committee on Health, Education, Labor, and Pensions.

Mrs. BOXER. Mr. President, today I rise to introduce the Latina Health Access Act. This important legislation addresses the serious health care access barriers, and consequently higher incidences of disease and poorer health outcomes, for the Latina population in the United States.

The United States has witnessed a tremendous growth in the Latino population across the Nation. There are now 35 million Latinos residing in the United States. In my home state of California, 29 percent of the female population is Latinas—this is approximately 5 million women. The number of Latinas is expected to continue to grow, and it is estimated that by 2050, one out of every four women in the U.S. will be a Latina. Despite their growing numbers, Latinas continue to disproportionately face serious health concerns, including sexually transmitted diseases, diabetes, and cancer, which are otherwise preventable, treatable, with adequate health access.

Latinas are particularly at risk for being uninsured. It is estimated that 37 percent of Latinas are uninsured, almost double the rate of the national average. This lack of adequate health care results in health problems that could otherwise be prevented. For example, 1 in 12 Latinas will develop breast cancer nationwide. White women have the highest rates of breast cancer; however, Latinas have among the lowest rates of breast cancer screening, diagnosis and treatment. As a result, Latinas are more likely to die from breast cancer than white women.

Also, the prevalence of diabetes is at least two to four times higher among Latinas than among white women. More than 25 percent of Latinas aged 65 to 74 have Type II diabetes. All of these health problems would be more effectively treated or prevented with adequate health care coverage.

To address these health concerns, the Latina Health Access Act provides a two-fold approach to dealing with this problem. First, the bill would provide greater health access to Latinas. Second, the bill would provide educational outreach programs targeted at Latinas in regards to health care access.

The bill would create a program at the Department of Health and Human Services (HHS) that provides funding for high-performing hospitals and community health centers targeted at serving the growing Latina population of the United States. The bill would mandate that HHS provide grants to various nonprofits, state or local governments that serve Latino communities, and lastly to women of color who seek to create diversity in the health care community. The bill would direct HHS to provide $18 million for grants to fund research institutions so that they may conduct research on the health status of Latinas.

The Latina Health Access Act also focuses on educational outreach to the Latina population. The bill would fund health education programs targeted specifically to Latinas through community-centered informational forums, public service announcements and media campaigns.

Adequate health access is the key to diagnosing and treating diseases before they become deadly and rampant. We need to strengthen our efforts to bring greater health access to the Latina population. I urge my colleagues to join me in supporting this effort.

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

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:
Section 3. Health Access for Uninsured and Low-Income Individuals

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end thereof the following:

**TITLE XXIX—HEALTH ACCESS FOR UNINSURED AND LOW-INCOME INDIVIDUALS**

**SEC. 2901. HEALTH CARE ACCESS FOR PREVENTABLE HEALTH PROBLEMS.**

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term ‘eligible entity’ means—

(1) a high-performing hospital or community health center that serves medically underserved areas with large numbers of uninsured and low-income individuals, such as Latina populations;

(2) a State or local government; or

(3) a private nonprofit entity.

(b) IN GENERAL.—The Secretary shall award grants to eligible entities to enable the eligible entities to provide programs and activities that provide health care services to uninsured and low-income individuals in medically underserved areas.

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

Section 3. Health Access for Uninsured and Low-Income Individuals

(a) AUTHORIZED ACTIVITIES.—An eligible entity receiving a grant under this section shall use grant funds to carry out programs and activities that provide access to care for a full spectrum of preventable and treatable health care needs, and to prepare and inform the public in a culturally appropriate manner, including—

(1) family planning services and information;

(2) prenatal and postnatal care; and

(3) assistance and services with respect to asthma, cancer, HIV disease and AIDS, sexually transmitted diseases, mental health, diabetes, and heart disease.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $18,000,000 for fiscal year 2007 and each succeeding fiscal year.

**SEC. 2902. FOCUS ON UNINSURED AND LOW-INCOME POPULATIONS.**

(a) PRIORITIZING HEALTH GRANTS TO INCREASE FUNDING EQUITY.—In order to create a more diverse movement, cultivate new leaders, and address health issues within medically underserved areas, the Secretary shall, in awarding grants and other assistance under this Act, reserve a portion of the grants and assistance for entities that—

(1) represent medically underserved areas or populations with a large number of uninsured and low-income individuals; and

(2) otherwise meet all requirements for the grant or assistance.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated—

(1) grants authorized.—From amounts appropriated under paragraph (3) for a fiscal year, the Secretary shall make grants to research institutions in order to enable the institutions—

(A) to conduct research on the health status of populations for which there is an absence of health data, such as the Latina population; or

(B) to work with organizations that focus on populations for which there is an absence of health data, such as the Latina population, on developing participatory community-based research methods.

(2) APPLICATION.—A research institution desiring a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated—

(1) grants for health outcomes.—In order to improve health outcomes for uninsured and low-income individuals, the Secretary shall, through a joint effort with health advocates, and community-based organizations in medically underserved areas, provide outreach, research, and delivery of comprehensive health services to uninsured and low-income individuals in a culturally competent manner;

(2) TARGETED HEALTH EDUCATION PROGRAMS.—The Secretary shall carry out a health education program targeted specifically to populations of uninsured and low-income individuals, including the Latina populations, through conferences, information forums, public service announcement, and media campaigns.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $18,000,000 for fiscal year 2007 and each succeeding fiscal year.
youth. I urge my colleagues to join me in supporting this effort.

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

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

S. 3966

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "HOPE Youth Pregnancy Prevention Act".

SEC. 2. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

"SEC. 399Q. YOUTH PREGNANCY PREVENTION.

"(a) AT-RISK TEEN PREGNANCY PREVENTION GRANTS.—

"(1) IN GENERAL.—The Secretary shall award grants to eligible entities to enable such entities to establish multimedia public awareness campaigns to combat teenage pregnancy.

"(2) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1), an entity shall—

"(A) be a State government or a private nonprofit entity; and

"(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(b) MULTIMEDIA PUBLIC AWARENESS AND OUTREACH GRANTS.—

"(1) IN GENERAL.—The Secretary shall award grants to eligible entities to enable such entities to establish multimedia public awareness campaigns to combat teenage pregnancy.

"(2) ELIGIBILITY.—To be eligible to receive a grant under this subsection, the Secretary shall give priority to applicants that express an intention to carry out activities that target ethnic minorities and other at-risk youth.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated—

"(1) to carry out subsection (a), $30,000,000 for each of fiscal years 2007 through 2011; and

"(2) to carry out subsection (b), $20,000,000 for each of fiscal years 2007 through 2011."

By Mrs. CLINTON:

S. 3967. A bill to require the International Trade Commission to report on the specific impact of each free trade agreement in force with respect to the United States on a sector-by-sector basis, and for other purposes; to the Committee on Finance.

Mrs. CLINTON. Mr. President, I am pleased today to introduce a bill that will help inform the Congress and the American people about our Nation's trade agreements.

The trade policy debate here in Washington is heated and polarized. Supporters of "free trade" often view trade agreements uncritically and argue that while others are suspicious of any agreement that makes it easier to trade with other countries, I believe that trade policy decisions should be based on an understanding of the concrete results of these agreements and the impact that they have on our economy and the American people, rather than on preconceived notions.

My bill, the Trade Agreement Accountability Act, will inject factual analysis into this debate. The bill requires the International Trade Commission to report on the effects of every trade agreement we sign. These reports will examine the good and the bad of every trade agreement after two years, after five years and then every five years after it goes into effect. They will study the effect of each trade agreement on a sector-by-sector basis, and conduct an assessment and quantitative analysis of how each agreement is fostering economic growth, improving living standards and helping to create jobs.

In short, this bill will help educate policymakers and the American people about this important debate. I hope that by evaluating the results of past agreements, we will be able to better understand the consequences of future ones.

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

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

S. 3967

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Trade Agreement Accountability Act".

SEC. 2. ITC REPORT.

(a) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, 5 years after the enactment of this Act, and every 5 years thereafter, the International Trade Commission shall submit a report to Congress on each free trade agreement entered into by the United States. The report shall, with respect to each free trade agreement, contain an analysis and assessment of the agreement and actual results of the agreement on the United States economy.

(b) CONTENTS OF REPORT.—Each report required by subsection (a) shall contain the following:

"(1) With respect to the United States and each country that is a party to a free trade agreement, an assessment and quantitative analysis of how each agreement—

(A) is fostering economic growth;

(B) is improving living standards;

(C) is helping create jobs;

(D) is reducing or eliminating barriers to trade and investment.

(2) An assessment and quantitative analysis of how each agreement is meeting the specific objectives and goals set out in connection with the implementation of that agreement, the impact of the agreement on the United States economy as a whole, and on specific industry sectors, including the impact the agreement is having on—

(A) the gross domestic product;

(B) exports and imports;

(C) aggregate employment, and competitive positions of industries; and

(D) United States consumers; and

(E) the overall competitiveness of the United States.

(3) An assessment and quantitative analysis of how each agreement is meeting the goals and objectives for the agreement on a sector-by-sector basis, including—

(A) trade in goods;

(B) customs matters, rules or origin, and enforcement cooperation;

(C) sanitary and phytosanitary measures;

(D) intellectual property rights;

(E) trade in services;

(F) electronic commerce;

(G) government procurement;

(H) transparency, anti-corruption; and regulatory reform; and

(I) any other issues with respect to which the International Trade Commission submitted a report under section 2104(f) of the Bipartisan Trade Promotion Authority Act of 2002.

(4) A summary of how each country that is a party to an agreement has changed its labor and environmental laws since entry into force of the agreement.

(5) An analysis of whether the agreement is making progress in achieving the applicable purposes, policies, priorities, and objectives of the Bipartisan Trade Promotion Authority Act of 2002.

By Mr. AKAKA (for himself and Mr. LAUTENBERG):

S. 3968. A bill to affirm the authority of the Comptroller General to audit and evaluate the programs, activities, and financial transactions of the intelligence community, and for other purposes; to the Select Committee on Intelligence.

Mr. AKAKA. Mr. President, I rise to introduce "The Intelligence Community Audit Act of 2006," with Senator LAUTENBERG which would reaffirm the Comptroller General of the United States and head of the Government Accountability Office's, GAO, authority to audit the financial transactions and evaluate the programs and activities of the intelligence community (IC). Representative BRENIE THOMPSON, ranking member of the House Homeland Security Committee, is introducing similar legislation.

The bill Senator LAUTENBERG and I offer today is in keeping with legislation introduced in 1987 by Senator John Glenn, the former chairman of the Governmental Affairs Committee, to ensure more effective oversight of the Central Intelligence Agency (CIA) in the wake of the Iran-Contra scandal.
The need for greater oversight and availability of information to appropriate congressional committees is not new. What is new is that Congress does not have the luxury of failure in this era of terrorism. Failure brings terrible consequences for our nation's security.

Since 9/11, effective oversight is needed more now than ever for two very basic reasons: First, intelligence reform has spawned new agencies with new intelligence functions demanding even more inter-agency cooperation. The Congress needs to ensure that these agencies have the assets, resources, and capability to do their job in protecting our national security. However, now the Congress cannot do its job properly, in part, because its key investigative arm, the Government Accountability Office, is not given adequate access to the intelligence community, led by the Director of National Intelligence (DNI).

Moreover, intelligence oversight is no longer the sole purview of the Senate and House intelligence committees. Other committees have jurisdiction over such departments as Homeland Security, State, Defense, Justice, Energy, and even Treasury and Commerce. Each of these war on terrorism agencies have intelligence collection and sharing responsibilities. Nor is the information necessary for these committees to exercise their oversight responsibilities restricted to the two intelligence committees or their organizing resolutions. It must make clear. Unfortunately, the intelligence community stonewalls the GAO when committees of jurisdiction request that GAO investigate problems despite the clear responsibility of Congress to ensure that these agencies are operating effectively to protect America.

This is not always the case. Some agencies recognize the valuable contribution that GAO makes in improving the quality of intelligence. Lieutenant General Lew Allen, Jr., then Director of the National Security Agency (NSA), observed in testimony before the Senate Select Committee on Study Government Operations With Respect To Intelligence Activities, on October 29, 1975: “Another feature of congressional review is that since 1955 resident auditors of the General Accounting Office have been assigned to the Agency to perform on-site audits. Additionally, Central Intelligence Agency personnel were granted access to CIA and NSA documents for access in 1973, and GAO, in addition to this audit, is initiating a classified review of our automatic data processing functions.” Not surprisingly, this outpost of the GAO still exists at the NSA.

Second, and equally important, is the inability of Congress to ensure that unfeathered intelligence collection does not trample civil liberties. New technologies and new personal information data threaten our individual right to a secure private life, free from unlawful government invasion. The Congress must ensure that private information being collected by the intelligence community is not misused and is secure.

Over 30 years ago, Senator Charles Percy urged Congress to “act now to gain control over the Government’s dangerously proliferating police, investigative, and intelligence activities.” He noted that “we find ourselves threatened by the specter of a ‘watch-dog’ Government, breeding a nation of snoopers.”

The privacy concerns expressed by our forefathers have become, vastly more complicated. As I have noted, the institutional landscape has become littered with new intelligence agencies with ever-increasing demands and responsibilities on law enforcement at every level of government since the establishment of the Department of Homeland Security and the passage of the Intelligence Reform and Terrorism Prevention Act of 2004. They have the legitimate mission to protect the country against potential threats. Congress must ensure that their mission remains legitimate.

The intelligence community today consists of 19 different agencies or components: the Office of the Director of National Intelligence; Central Intelligence Agency; National Intelligence Council; Defense Intelligence Agency; National Security Agency; Departments of the Army, Navy, Marine Corps, and Air Force; Department of State; Department of Treasury; Department of Energy; Department of Justice; Federal Bureau of Investigation; National Reconnaissance Office; National Geospatial-Intelligence Agency; Coast Guard; Department of Homeland Security, and the Drug Enforcement Administration.

I ask unanimous consent that a memorandum prepared by the Congressional Research Service, entitled “Congressional Intelligence Oversight,” be included in the RECORD. As both House Rule 48 and Senate Resolution 400 establishing the intelligence oversight committees state, “Nothing in this [charter] shall be construed as amending, limiting, or otherwise changing the authority of any standing committee of the [House/Senate] to obtain full and prompt access to the product of the intelligence activities of any department or agency of the Government relevant to a matter otherwise within the jurisdiction of such committee.”

Despite this clear and unambiguous statement, the ability of non-intelligence committees to obtain information, no matter how vital to improving the security of our Nation, has been restricted by the various elements of the intelligence community.

Two recent incidents have made this situation disturbingly clear. At a hearing entitled “Access Delayed: Fixing the Security Clearance Process, Part II,” the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia on which I serve as Ranking Member, on November 9, 2005, GAO was asked about steps it would take to ensure that the Office of Personnel Management (OPM), the Office of Management and Budget, and the intelligence community met the goals and objectives outlined in the OPM security clearance strategic plan. Fixing the security clearance process on GAO’s high-risk list, is essential to our national security. But as GAO observed in a written response to a question raised by Senator VoINOVICH, “while we have the authority to do such work, we lack the cooperation that we need to do our job in that area.” The intelligence community is blocking GAO’s work in this essential area.

A similar case arose in response to a GAO investigation for the Senate Homeland Security Committee and the House Government Reform Committee on how agencies are sharing terrorism-related and sensitive but unclassified information. The report, entitled “Information Sharing, the Federal Government Needs to Establish Policies and Processes for Sharing Terrorism-Related and Sensitive but Unclassified Information” (GAO-06-385), was released in March 2006.

At a time when Congress is criticized by some members of the 9–11 Commission for failing to implement its recommendations, we should remember that improving terrorism information sharing among agencies was one of the critical recommendations of the 9–11 Commission. The Terrorism Reform and Terrorism Prevention Act of 2004 mandated the sharing of terrorism information through the creation of an Information Sharing Environment. Yet, when asked by GAO for comments on the GAO report, the Office of the Director of National Intelligence refused, stating that “the review of intelligence activities is beyond GAO’s purview.”

However, as a Congressional Research Service memorandum entitled “Congressional Oversight Needs to Establish Policies for Sensitive but Unclassified Information,” concludes, “it appears that pseudo-classification markings have, in some instances, had the effect of deterring information sharing for homeland security.” I ask unanimous consent that the memo be printed in the RECORD following my remarks.

Unfortunately I have more examples, that predate the post 9–11 reforms. Indeed, in July 2001, in testimony entitled “The Intelligence Community Related and Sensitive but Unclassified Information,” before the Senate Select Committee on Intelligence, the CIA noted that unclassified terrorism sharing had been “clearly established” by the memorandum prepared by the Congressional Research Service. Unfortunately, subsequent to the 9–11 reforms the CIA—through its unclassified terrorism sharing matrix—has continued to bar GAO access to critical information. As a result, GAO’s ability to conduct evaluations of the CIA for over 40 years has been significantly limited.
If the GAO had been able to conduct basic auditing functions of the CIA, perhaps some of the problems that were so clearly exposed following the terrorist attacks in September 2001 would have been resolved. And yet, it is extraordinary that five years after 9-11 the threat remains.

Once more I refer to Senator Glenn’s bill S. 1458, the “General Accounting Office-Central Intelligence Agency Audit Act of 1987.” On its introduction he stated that “in the long run, I believe carefully controlled GAO audits of CIA will lower the probability of future abuses of power, boost the credibility of CIA management, increase the essential public support the Agency’s mission deserves, assist the Congress in conducting meaningful oversight, and in no way compromise the CIA mission.” Unfortunately, S. 1458 did not become law, and nearly 20 years later, the CIA’s apparent management challenges led to the creation of the Director of National Intelligence with the Intelligence Reform Act of 2004. If Senator Glenn’s proposal made in 1987 had been accepted, perhaps, again, some of the problems that became apparent with our intelligence agencies following the 9-11 attacks would never have occurred.

I want to be clear that my legislation does not detract from the authority of the intelligence committees. In fact, the language makes explicit that the Comptroller General may conduct an audit or evaluation of intelligence activities only upon the request of the intelligence committees or at the request of the congressional majority or minority leaders. The measure also prescribes for the security of the information collected by the Comptroller General.

However, my bill reaffirms the authority of the Comptroller General to conduct audits and evaluations—other than those relating to sources and methods—regarding the management and administration of elements of the intelligence community in areas such as strategic planning, financial management, information technology, human capital, knowledge management, information sharing, and change management for other relevant committees of the Congress.

Attached is a detailed description of the legislation. I urge my colleagues to join me in supporting this legislation.

In the wake of congressional investigations into Intelligence Community activities in the mid-1970s, the U.S. Senate in 1976 created a select committee on intelligence to conduct more effective oversight on a continuing basis. The U.S. House of Representatives established its own intelligence oversight committee the following year.

Until the two intelligence committees were created, other congressional standing committees—principally the Senate and House Armed Services and Appropriations committees—shared responsibility for overseeing the intelligence community. Although the joint committee established over the Central Intelligence Agency (CIA) to the two new select intelligence committees, these congressional standing committees would continue to oversee the intelligence activities of the other departments and agencies they oversaw. According to one observer, the standing committees asserted their jurisdictional prerogatives for two reasons—to protect “furth,” but also to provide “a hedge against the possibility that the newly launched experiment in oversight might go badly.”

INTELLIGENCE COMMITTEES’ STATUTORY OBLIGATIONS

Under current statute, the President is required to ensure that the congressional intelligence committees are kept “fully and currently informed” of U.S. intelligence activities, including any “significant anticipated intelligence activity, and the President and the intelligence committees are to establish any procedures as may be necessary to carry out these provisions.

The statute states that the intelligence committees in turn are responsible for alerting the respective chambers or congressional standing committees of any intelligence activities that require further attention. The intelligence committees are to carry out this responsibility in accordance with procedures established by the House of Representatives and the Senate, in consultation with the Director of National Intelligence, in order to protect against unauthorized disclosure of classified information, and all information relating to sources and methods.

The statute stipulates that: “each of the congressional intelligence committees shall promptly call to the attention of the respective House, or to any appropriate committee or committees of its respective House, any intelligence activities that require the attention of such House or such committee or committees.”

This provision was included in statute after being specifically requested in a letter from then Senate Foreign Relations Chairman Frank Church and Ranking Minority Member Richard Lugar. On June 28, 1990, Senator Church wrote to then-intelligence committee Chairman Birch Bayh and Vice Chairman Barry Goldwater.

INTELLIGENCE COMMITTEE OBLIGATIONS UNDER RESOLUTION

In an apparent effort to address various concerns relating to committee jurisdiction, the House of Representatives and the Senate, in the resolutions establishing each of the intelligence committees, included language preserving oversight roles for those standing committees that might go badly.”

Specifically, each intelligence committee’s resolution states that this [Charter] shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review any intelligence activity to the extent such activity directly affects a matter otherwise within the jurisdiction of such committee.” Both resolutions also stipulate that nothing in this [Charter] shall be construed as amending, limiting, or otherwise changing the authority of any standing committee of the [House/Senate] to make regular and prompt access to the product of the intelligence activities of any department or agency of the Government relevant to a matter otherwise within the jurisdiction of such committee.

Finally, both charters direct that each intelligence committee alert the appropriate standing committees, or the respective chambers, of any matter requiring attention. The charters state: “The select committee, for the purposes of accountability to the [House/Senate] shall make regular and periodic reports to the [House/Senate] on the conduct of the intelligence activities of the various departments and agencies of the United States. Such committee shall promptly call to the attention of the [House/Senate] in writing of any other appropriate committee or committees of the [House/Senate] any matters requiring the attention of the [House/Senate] or such other appropriate committee or committees.

CROSS-OVER MEMBERSHIP

Both resolutions also direct that the membership of each intelligence committee include members who serve on the four standing committees that historically have been involved in intelligence oversight. The respective resolutions designate the following committees as falling in this category: Appropriations, Armed Services, Judiciary, and the Senate Foreign Relations Committee and the House International Relations Committee.

Although each resolution directs that such cross-over members be designated, neither specifies whether cross-over members are to play any additional role beyond serving on the intelligence committees. For example, neither resolution outlines whether cross-over members are to be considered members of the standing committees they represent. Rather, each resolution directs only that the “intelligence committee” shall promptly call such matters to the attention of standing committees and the respective chambers if the committees determine that they require further attention by those entities.

SUMMARY CONCLUSIONS

Although the President is statutorily obligated to keep the congressional intelligence committees fully and currently informed of intelligence activities that fall under the jurisdiction of a committee other than the intelligence committees.

Finally, the resolutions establishing the intelligence committees make clear that the intelligence committees share intelligence oversight responsibilities with other standing committees, to the extent that certain intelligence activities that fall under the jurisdiction of a committee other than the intelligence committees.

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played a role in intelligence oversight prior to the establishment of the intelligence committees in the 1970s. The resolutions, however, do not specify what role, if any, these “crosswalk committees” play in keeping standing committees on which they serve informed of certain intelligence activities. Rather, each resolution states that the respective Senate committee shall make that determination.

CONGRESSIONAL RESEARCH SERVICE, JULY 18, 2006.

MEMORANDUM

Subject: Overview of “Classified” and “Sensitive but Unclassified” Information

From: Harold C. Relyea, Specialist in American National Government, Government and Finance Division

Prescribed in various ways, federal policies may require the protection of, or a privileged status for, particular kinds of information. This memorandum provides a brief introduction to, and overview of, two categories of such information...
and mandatory declassification reviews are subject to review by the Interagency Security Classification Appeals Panel. General reductions on access to classified information and the procedure for granting access are prescribed in E.O. 11652, issued in January 1972, in response to the Freedom of Information Act. Enacted in March 1972 when a subcommittee of what is now the Senate Committee on Governmental Affairs, the Freedom of Information Act (FOIA) Enacted in 1966, FOIA had become operative in July 1967. In the early months of 1972, the Nixon Administration was developing new security classification procedures for information which would be prescribed in E.O. 11652, issued in early March. Preparatory to this hearing, the panel had surveyed the departments and agencies in April 1971, asking, among other questions, whether the Administration was doing anything to identify records which are not classified, or to provide for procedures for protecting (or not protecting) it, and regarding how and by whom it is generated and used.

SENSITIVE BUT UNCLASSIFIED INFORMATION

The widespread existence and use of information other than classified national security information other than classified national security information, designated as such with some marking, is increasingly defined by the eye of the beholder. In its most recent form legal definition or set of procedures applicable to all Federal government agencies do not now exist. Indeed, the report indicated that, for different contexts with little precision as to its scope or meaning, and, to add a bit of chaos to an already confusing situation, is “often referred to as” Sensitive Homeland Security Information.

Assessments of the variety, management, and impact of information control markings, other than those prescribed for classified national security information, have been conducted by CRS, GAO, and the National Security Archive, a private sector agency located at the George Washington University. In March 2006, GAO indicated that, in a recent survey, 26 federal agencies reported using 36 different markings to protect sensitive information other than classified national security material. That same month, the National Security Archive offered that, of 37 agencies surveyed, 24 used 28 control markings based on internal policies, procedures, or practices, and eight used 10 markings based on laws, regulations, or international agreements. These numbers are important in terms of the variety of such markings. GAO explained this dimension of the management problem.

There are at least 13 agencies that use the designation For Official Use Only (FOUO), but there are at least five different definitions of FOUO. Agencies or agency components use the term Law Enforcement Sensitive (LES), including the U.S. Marshals Service, the Department of Homeland Security, the Department of Commerce, and the Office of Personnel Management (OPM). These agencies gave different definitions and meanings for LES. DHS does not formally define the designation, the Department of Commerce defines it to include information pertaining to the protection of homeland security. Nothing resulted. The importance of information sharing was reinforced two years later in the report of the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction. Congress again responded by mandating the creation of an Information Sharing Environment (ISE) when legislating the Intelligence Reform and Terrorism Prevention Act of 2004.

In response to improved provisions, the President issued a December 16, 2005, memorandum recognizing the need for standardized procedures for SBU information and directing department and agency officials to take certain actions relative to that objective. In May 2006, the newly appointed manager of the ISE agreed with a March GAO statement that the sensitive but unclassified information, designated as such with some marking, was not being shared due to concerns related to its ability to adequately protect it. In brief, it appears that pseudo-classification markings have, in some instances, had the effect of deterring information sharing for homeland security purposes.

Congressional overseers have probed executive and management use of information and management
control markings other than those prescribed for the classification of national security information, and the extent to which they result in “pseudo-classification” or a form of government secrecy. Relevant congressional committees, and to promulgate regulations banning the use of these markings and otherwise establish standards for information control designations established for the executive order governing the classification of national security information. A section in the Department of Homeland Security appropriations legislation (H.R. 5441), as approved by the House, would require the Secretary of Homeland Security to revise DHS MD (Management Directive) 11056 to include (1) provision that information that is three years old and not incorporated in a current, active transportation security directive or security plan shall be determined automatically to be releasable, and (2) specific examples of the individual categories of SSI cited in order to minimize and standardize judgment in the application of SSI marking. In this section, the Secretary makes a written determination that identifies a compelling reason why the information must remain Sensitive Security Information (SSI); (2) common and extensive examples of the individual categories of SSI cited in order to minimize and standardize judgment in the application of SSI marking; and (3) provision that, in all judicial proceedings where the judge overseeing the proceedings has adjudicated that a party needs to have access to SSI, the party shall be deemed a qualified person for purposes of access to the SSI at issue in the case unless TSA or DHS demonstrates a compelling reason why the specific individual presents a TSA or DHS demonstrates a compelling reason why the specific individual presents a risk to national security. A May 23, 2006, statement of administration policy on the bill strongly opposed the section, saying it “would jeopardize an important program that protects Sensitive Security Information (SSI) from public release by deeming it automatically releasable in three years, potentially conflict with requirements of the Privacy Act and Freedom of Information Acts, and negate statutory provisions providing original jurisdiction for lawsuits challenging the designation of SSI against adjudication in the U.S. Courts of Appeals.” The statement further indicated that the section would create a “burdensome review process” for the Secretary of Homeland Security and “would result in unnecessary regulatory requirements being applied to SSI programs administered by the Departments of Homeland Security and Transportation.”

It is not anticipated that this memorandum will be updated for reissuance.

TESTIMONY BEFORE THE SUBCOMMITTEE ON GOVERNMENT EFFICIENCY, FINANCIAL MANAGEMENT AND INTERGOVERNMENTAL RELATIONS, AND THE SUBCOMMITTEE ON NATIONAL SECURITY,儀ANCE AFFAIRS, AND UNITED STATES COURTS, COMMITTEE ON GOVERNMENTAL REFORM, HOUSE OF REPRESENTATIVES

United States General Accounting Office

CENTRAL INTELLIGENCE AGENCY

OBSERVATIONS ON GAO A CCESS TO INFORMATION ON CIA PROGRAMS AND ACTIVITIES

Statement of Henry L. Hinton, Jr., Managing Director Defense Capabilities and Management Messengers, Chairman and Members of the Subcommittee

We are pleased to be here to discuss the subject of access by the General Accounting Office (GAO) to information from the Central Intelligence Agency (CIA). Specifically, our statement will provide some background on CIA and its oversight mechanisms, our history and status of GAO access to CIA information. As requested, our remarks will focus on our history with the CIA and other intelligence agencies. Our comments are based upon our review of historical files, our legal analysis, and our experiences dealing with the CIA over the years.

SUMMARY

Overview of the CIA generally comes from two select committees of Congress and the CIA’s Inspector General. We have broad authority to review CIA programs and the roles and capabilities of the United States Intelligence Community over the years. The issue has arisen since then from our history of oversight of the CIA and the issues we have faced in the consideration of SSI. We have made a conscious decision not to further pursue the issue. Today, our dealings with the CIA are mostly limited to requesting information that relates either to governmentwide reviews or analyses of threats to U.S. national security which the CIA might have some information. The CIA either provides us with the requested information, provides the information on which the CIA might have some information, and provides either to governmentwide reviews or analyses of threats to U.S. national security which the CIA might have some information.

BACKGROUND

As you know, the General Accounting Office is the investigative arm of the Congress and is headed by the Comptroller General of the United States—currently David M. Walker. We support the Congress in meeting its constitutional responsibilities and help improve the performance and accountability of the federal government for the American people. We examine the use of public funds, evaluate federal programs and activities, and provide analyses, options, recommendations, and other assistance to help the Congress make effective oversight, policy, and funding decisions. Almost 90 percent of our staff days are in direct support of Congressional requests, generally on the behalf of committee chairmen or ranking members.

The U.S. Intelligence Community consists of those agencies and organizations that work in concert to carry out our nation’s intelligence activities. The CIA is an Intelligence Community agency established under the National Security Act of 1947 to coordinate the intelligence activities of several U.S. departments and agencies in the intelligence community. Among other functions, the CIA collects, produces, and disseminates foreign intelligence and counterintelligence; conducts counterintelligence activities abroad, collects, produces, and disseminates intelligence on foreign aspects of narcotics production and trafficking; conducts special activities approved by the President, including the research, development, and procurement of technical systems and devices.

Currently, two congressional select committees and the CIA’s Inspector General oversee the CIA’s activities. The Senate Select Committee on Intelligence (the Intelligence Committee) received authority to review CIA programs and the roles and capabilities of the United States Intelligence Community over the years. The Intelligence Committee was established on May 19, 1976, to oversee the activities of the Intelligence Community. Its counterpart in the House of Representatives is the Permanent Select Committee on Intelligence, established on July 14, 1977. The CIA’s Inspector General is nominated by the President and confirmed by the Senate. The Inspector General is an independent oversight committee that prepares reports on intelligence activities that may be unlawful or otherwise inappropriate. First, under the Freedom of Information Act they are required to provide us information about their activities such as CIA. One such commission was the Commission on the Roles and Capabilities of the United States Intelligence Community, which issued a report in 1996.

GAO’S AUTHORITY TO REVIEW CIA PROGRAMS

Generally, we have broad authority to evaluate agency programs and investigate matters related to government management, operations, and use of public money. To carry out our audit responsibilities, we have a statutory right of access to agency records. Federal agencies are required to provide us information about their duties, powers, activities, organization, and financial transactions. This requirement applies to all federal agencies, regardless of their classification under the Freedom of Information Act because they are predecisional memoranda or law enforcement records and the President or Director of the Office of Management and Budget determines whether the disclosure of the record could be expected to impair substantially the operations of the government.

The National Security Act of 1947 charges the CIA Director with protecting intelligence sources and methods from unauthorized disclosure. In terms of our statutory access authority, however, the law creates only one specific exemption: the so-called “unvouched” accounts. The exemption pertains to expenditures of a confidential, extraordinary, or emergency nature that are incurred for the protection of intelligence sources and methods. Accounts that are accounted for solely on the certification of the Director. These transactions are subject to review by the intelligence committees. According to the Director, the President must require the President to keep the intelligence committees fully and currently informed of the intelligence activities of the United States. The Director has maintained that the Congress intended the intelligence committees to be the exclusive means of oversight of the CIA, effective in protecting government rights.

While we understand the role of the intelligence committees and the need to protect intelligence sources and methods, we also believe that our authority is sufficient to cover the management and administrative functions that the CIA shares with all federal agencies.

We summarized the statutes relevant to our relationship with the CIA in an appendix attached to this testimony.
GAO’S ACCESS TO THE CIA HAS BEEN LIMITED

We have not done audit work at the CIA for almost 40 years. Currently, our access to the CIA is limited to requests for information that are not subject to governmentwide program and policy reviews or programs for which the CIA might have relevant information. In general, we have the most success obtaining access to CIA information when we request threat assessments, and the CIA does not perceive our audits as oversight of its activities.

GAO ACCESS TO CIA HAS VARIED THROUGH THE YEARS

After the enactment of the National Security Act of 1947, we began conducting financial transaction audits of vouched expenditures of the CIA. This effort continued into the early 1960s, we were able to broaden its work at the CIA to include an examination of the efficiency, economy, and effectiveness of CIA programs. Although the CIA Director agreed to our proposal to expand the scope of our work, he placed a number of conditions on our access to information. Nonetheless, in October 1969, we agreed to conduct program review work with CIA-imposed restrictions on access.

Our attempt to conduct comprehensive program and performance audits continued into 1971, when the Comptroller General concluded that the CIA was not providing us with sufficient access to the information necessary to conduct comprehensive reviews of the CIA’s programs and announced plans to discontinue audit work there. After much discussion and several exchanges of correspondence between GAO, the CIA, and the cognizant congressional committees, the Chairman of the House Armed Services Committee wrote to the Comptroller General in July 1972 agreeing that, absent sufficient evidence of GAO access to CIA information, GAO should withdraw from further audit activities at the CIA. Thus, in 1972, we withdrew from all audits of the CIA.

The issue of our access has arisen periodically in the intervening years as our work has required some level of access to CIA programs and activities. In July 1975, Comptroller General Elmer Staats testified on our relationship with the intelligence community and cited several cases where CIA had not provided the requested information. In July 1987, Senator John Glenn introduced a bill (S. 1436) in the 100th Congress to clarify our audit authority to audit CIA programs. In 1994, the CIA stated that it sought to further limit our audit work of intelligence programs, including those at the Department of Defense. We responded by writing the Chairman of the Senate Committee, citing our concerns and seeking assistance. As a result, we and the CIA began negotiations on a written agreement to clarify our audit relationship. Unfortunately, we were unable to reach any agreement with CIA on this matter. Since then, GAO has limited its pursuit of greater access because of limits imposed by the request from Congress, particularly from the intelligence committees. Given a lack of Congressional recognition of and our limited resources, we have made a conscious decision to deal with the CIA on a case-by-case basis.

CURRENT ACCESS FALLS INTO THREE CATEGORIES

Currently, the CIA responds to our requests for information in three ways: it provides the information, it provides the information or a part of it with some restriction, or it does not provide the information. Examples of each of these three situations, based on the experiences of our audit staff in selected reviews in recent years, are listed below.

Sometimes the CIA straightforwardly fulfills our requests for briefings or reports related to threat assessments. This is especially true when we ask for threat briefings or the CIA’s assessments or opinions on an issue not involving CIA operations.

For our review of the Department of State’s Anthrax Vaccination Program for the Senate Foreign Relations and House International Relations Committees, we requested a meeting with the CIA to discuss a recent threat assessment of chemical and biological threats to U.S. interests overseas. The CIA agreed with our request, provided a meeting within 2 weeks, and followed up with a written statement.

While we were reviewing U.S. assistance to Haiti, the CIA Director agreed to our request to discuss the Haitian justice system. The CIA agreed with our request and met with our audit team within 3 weeks of our request.

For our review of chemical and biological terrorism threats for the House Armed Services Committee, and subcommittees of the House Government Reform Committee and the House Veterans Affairs Committee, we requested meeting with analysts on their threat assessments on chemical and biological weapons. The CIA cooperated and gave us access to documents and analyses.

On several occasions, we requested counterdrug programs for the House Government Reform Committee and the Senate Foreign Relations Committee. We requested access to documents on the threat assessments of the CIA on matters of international activities. The CIA has provided us with detailed briefings on drug cultivation, production, and trafficking activities in advance of our fieldwork.

During our reviews of the Balkan security issues and the Dayton Peace Accords for the House Armed Services Committee and the Senate Foreign Relations Committee, we asked the CIA for threat assessments relevant to our review objectives. The CIA provided us with appropriate briefings and agreed to provide one of our staff members with access to regular intelligence reports. In some instances, the CIA provides information with certain access restrictions or discusses an issue with us without providing detailed data or documentation.

During our evaluation of equal employment opportunity, the CIA provided us with some basic information, but refused to produce documents that we requested. The CIA did not provide us with the information needed to determine whether the CIA was making key contributions to this statement and did not participate in the review because the information we were seeking was classified.

For our review of classified computer systems in the federal government for a subcommittee of the House Government Reform Committee, we requested basic information on the number and nature of such systems. The CIA did not provide us with the information, claiming that it was unable to participate in the review because the type of information we were seeking was classified.

For our review of the policies and procedures used by the Executive Office of the President for staff personnel, the CIA provided us with some limited information, claiming that it was unable to participate in the review because the type of information we were seeking was classified.

For our review of the State Department’s refusals to provide access for the CIA’s refusals are not related to the classification level of the material. Many of our requests for information have been denied because of limits imposed by the security clearances needed to review intelligence information. But the CIA considers our requests as having some implication of oversight, which declines our access.

For our evaluation of national intelligence estimates regarding missile threats for the House Armed Services Committee and the Senate Government Reform Committee, the CIA refused to meet with us to discuss the general process and criteria for producing such estimates or the specific estimates we were reviewing. In addition, when we requested information from the Defense and the State Departments, and Energy, the CIA declined our request.

For our review of the political and economic conditions in a country, we requested access to classified reports. The CIA declined our request, advising us that the type of information was subject to the purview of congressional entities charged with overseeing the intelligence community.

CONCLUSION

Our access to CIA information and programs has been limited by both legal and practical factors. Throughout the years our access has varied and we have not done detailed audit work at CIA since the early 1960s. Today, our access is generally limited to some forms of information unless the CIA refuses to provide access. When the CIA does not provide us with the information needed for our reviews, we are generally not required to conduct additional review of the CIA.

Our review of the CIA’s refusals is not related to the classification level of the material. Many of our requests for information have been denied because of limits imposed by the security clearances needed to review intelligence information. But the CIA considers our requests as having some implication of oversight, which declines our access.

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In other cases, the CIA simply denies us access to the information we requested. The CIA’s refusals are not related to the classification level of the material. Many of our requests for information have been denied because of limits imposed by the security clearances needed to review intelligence information. But the CIA considers our requests as having some implication of oversight, which declines our access.

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CIA refusals are not related to the classification level of the material. Many of our requests for information have been denied because of limits imposed by the security clearances needed to review intelligence information. But the CIA considers our requests as having some implication of oversight, which declines our access.
The CIA has broad authority to protect the intelligence community with the name of each element of the intelligence community relating to intelligence sources and methods but must keep the information obtained in the course of such an audit or evaluation to the original requestor, the Director of National Intelligence, and the head of the relevant element of the intelligence community. Thus, the methods the GAO uses to communicate the results of its audits or evaluations vary, this provision restricts the dissemination of GAO’s findings under Section 3523a(c), whether through testimony, oral briefings, or written reports, to only the original requestor and the head of the relevant element of the intelligence community.

Section 3523ac(c)(3)(A) provides that the Comptroller General possesses, under his existing statutory authority, the authority to enforce its requests for records by filing a civil action in federal district court. Under the provisions in 31 U.S.C. 716(d)(1), GAO is precluded from bringing a civil action to compel the production of a record if:

1. The record relates to activities the President designates as foreign intelligence or counterintelligence (see Executive Order No. 12333, defining these terms);
2. The record is specifically exempted from disclosure to GAO by statute; or
3. The President or the Director of the Office of Homeland Security and Governmental Affairs of the Homeland Security and Governmental Affairs of the Senate, or at the Comptroller General’s initiative, pursuant to the existing statutory authority referenced in new Section 3523ac(b)(1). New Section 3523ac(b)(2) further provides that these audits and evaluations under the Comptroller General’s authority may include, but are not limited to, matters relating to the management and administration of elements of the intelligence community, including financial management, information technology, human capital, knowledge management, information sharing, and change management.

Similarly, under new Section 3523ac(c)(2)(B), the Comptroller General may only provide the information obtained in the course of such an audit or evaluation to the original requestor, the Director of National Intelligence, and the head of the relevant element of the intelligence community. Furthermore, under new Section 3523ac(c)(3)(B), the Comptroller General may enforce the access rights provided under this subsection pursuant to Section 716 of title 31. However, before the Comptroller General files a report pursuant to 31 U.S.C. 716(b)(1), the Comptroller General must consult with the original requestor concerning the Comptroller General’s intentions.

The new Section 3523ac(c)(4) reiterates the Comptroller General’s obligations to protect the confidentiality of the information obtained in the course of such audit or evaluation, all workpapers and records obtained for the audit or evaluation. Under new Section 3523ac(d), the Comptroller General is directed, after consulting with the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives, to establish procedures to protect from unauthorized disclosure all classified and other sensitive information furnished to the Comptroller General under Section 3523a(c). Under new Section 3523a(c)(4)(D), prior to initiating an audit or evaluation under Section 3523ac(c), the Comptroller General shall provide to the Director of National Intelligence and the head of the relevant element of the intelligence community with the name of each element of the intelligence community subject to audit or evaluation, all workpapers and records obtained for the audit or evaluation.
The new Section 3523a(d) provides that elements of the intelligence community shall cooperate fully with the Comptroller General and provide timely responses to Comptroller General requests for documentation and information.

The new Section 3523a(e) makes clear that nothing in this or any other provision of law shall be interpreted as restricting or impairing the Comptroller General’s authority to audit and evaluate, or obtain access to the records of, elements of the intelligence community absent statutory language restricting or limiting such audits, evaluations, or access to records.

S. 3968

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Intelligence Community Audit Act of 2006”.

SEC. 2. COMPTROLLER GENERAL AUDITS AND EVALUATIONS OF ACTIVITIES OF ELEMENTS OF THE INTELLIGENCE COMMUNITY.

(a) RAAFFEIRMATION OF AUTHORITY; ACQUISITION OF INTELLIGENCE COMMUNITY ACTIVITIES.

Chapter 35 of title 31, United States Code, is amended by inserting after section 3523 the following:

"3523a. Audits of intelligence community; audit requesters.

"(a) In this section, the term ‘element of the intelligence community’ means an element of the intelligence community specified in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

"(b) Congress finds that—

"(1) the authority of the Comptroller General to conduct audits and evaluations of financial transactions, programs, and activities of elements of the intelligence community specified in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) or the National Intelligence Act of 1947 (50 U.S.C. 403), the Comptroller General and all records and property of any element of the intelligence community relating to intelligence sources and methods, or covert actions in the custody, control, or possession of an element of the intelligence community, shall cooperate fully with the Comptroller General in accordance with section 716, the Comptroller General shall consult with the original requestor before filing a report under subsection (b)(1) of that section.

"(3) Notwithstanding any other provision of law, the Comptroller General may in the conduct of an audit or evaluation under paragraph (1) as is required of the head of the element of the intelligence community from which it is obtained. Officials and employees of the Government Accountability Office are subject to the same statutory penalties for unauthorized disclosure or use as officers or employees of the intelligence community.

"(4)(A) The Comptroller General shall maintain the same level of confidentiality for an audit or evaluation conducted under paragraph (1) as is required by law, the Comptroller General may in the conduct of an audit or evaluation under paragraph (1) shall remain in facilities provided by that element of the intelligence community. Elements of the intelligence community shall give the Comptroller General suitable and secure office space and full access to the records, information and personnel upon request of the Select Committee on Intelligence of the Senate and the Committee on Intelligence of the House of Representatives, or the majority or minority leader of the Senate or the House of Representatives.

"(B) The Comptroller General and all records and property of any element of the intelligence community relating to intelligence sources and methods or covert actions in the custody, control, or possession of an element of the intelligence community, available to conduct an audit under paragraph (1) as is required of the head of the element of the intelligence community from which it is obtained. Officials and employees of the Government Accountability Office are subject to the same statutory penalties for unauthorized disclosure or use as officers or employees of the intelligence community.

"(2)(A) Whenever the Comptroller General conducts an audit or evaluation under paragraph (1), the Comptroller General shall provide the Select Committee on Intelligence of the House of Representatives, or the Committee on Intelligence of the Senate, with the information furnished to, or obtained from, or obtained in connection with, or obtained in the conduct of an audit or evaluation under paragraph (1) as is required of the head of the element of the intelligence community from which it is obtained.

"(B) Before initiating an audit or evaluation under paragraph (1), the Comptroller General may, with the written approval of the head of the element of the intelligence community, may in the conduct of an audit or evaluation under paragraph (1) as is required of the head of the element of the intelligence community from which it is obtained.

"(2)(B) The Comptroller General shall consult with the original requestor before filing a report under subsection (b)(1) of that section.

"(3)(A) Notwithstanding any other provision of law, the Comptroller General may in the conduct of an audit or evaluation under paragraph (1) as is required of the head of the element of the intelligence community from which it is obtained.

"(4)(A) The Comptroller General may in the conduct of an audit or evaluation under paragraph (1) as is required of the head of the element of the intelligence community from which it is obtained.

"(5) Nothing in this section or any other provision of law shall be construed as restricting or limiting the authority of the Comptroller General to conduct an audit or evaluation of elements of the intelligence community absent specific statutory language restricting or limiting such audits, evaluations, or access to records.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 35 of title 31, United States Code, is amended by inserting after the item relating to section 3523 the following:

"3523a. Audits of intelligence community; audit requesters."

By Mr. OBAMA (for himself and Mrs. CLINTON):

S. 3969. A bill to amend the Toxic Substances Control Act to assess and reduce the levels of lead found in child-occupied facilities in the United States, and for other purposes; to the Committee on Environment and Public Works.

Mr. OBAMA. Mr. President, I rise today to introduce the Lead Poisoning Reduction Act of 2006. I am pleased that Senator CLINTON is joining me in this effort.

Lead is a poison we have known about for a long time. Studies have long linked lead exposure to learning disabilities, behavioral problems, and, at very high levels, seizures, coma, and even death. Lead is particularly damaging to children because their developing brains are more susceptible to harm.

A study released last week found that children with even very low levels of lead exposure have four times the risk of attention-deficit hyperactivity disorder (ADHD) than normal and that childhood lead exposure leads to 290,000 cases of ADHD.

The major source of lead exposure among U.S. children is lead-based paint. In 1978, the Consumer Product Safety Commission recognized this hazard and banned lead paints. But today, 30 years later, about 24 million older homes, and millions of other buildings, have deteriorating lead paint and elevated levels of lead-containing dust.

We know how children are typically exposed. We know what the health effects from exposure are. And we know how to fix the source of the exposure. The one thing we don’t know how to do is reverse the brain damage once it has occurred. So, otherwise healthy children wind up facing a lifetime of disadvantage because we have failed to eradicate this insidious problem.

Every day, millions of American parents drop their children off at child care facilities on their way to work. Nearly 12 million children under age 5 spend 40 hours a week in child care. And every day, many of those children in older buildings may be exposed to lead poisoning.

While many child care facilities have taken steps to ensure sources of potential lead exposure are eliminated, too many operate in older buildings that need repair or remodeling to ensure these sources are contained. These facilities may be in wealthy communities, but more often than not, they are in poor communities where parents have few choices for child care. I’m sure many of these facilities would fix the problem if they only had the resources.

The Lead Poisoning Reduction Act protects our children in two ways.

First, the bill establishes a five-year, $12.6 million grant program to help communities reduce lead exposure in facilities such as day care centers, Head Start centers, and kindergarten classrooms where young children spend a great deal of time. Communities
could use the funds for testing, abatement, and communicating the risks of lead to children and parents. Second, the bill requires the Environmental Protection Agency to establish regulations to eliminate sources of lead in child care facilities. New York State has led the way in this regard. Starting with new facilities in 18 months and all facilities in five years, it’s a straightforward fix to a straightforward problem. I hope my colleagues join me in helping to create lead-safe environments in all child care facilities.

Mrs. CLINTON. Mr. President, I join my colleague, Senator OBAMA, in support of the Lead Poisoning Reduction Act of 2006. This legislation would close an important gap in primary prevention strategies by providing critical resources to make all nonhome-based childcare facilities and Head Start Programs lead-safe within 5 years.

Lead is highly toxic and continues to be a silent, and entirely preventable threat to the health and well-being of our children. Lead poisoning continues to pose an unacceptable environmental health risk to infants, children, and pregnant women in the United States, particularly in majority and low-income communities. A CDC survey conducted between 1999 and 2002, estimated that 310,000 American children under 6 were at risk for exposure to harmful lead levels in United States. Childhood lead poisoning has been linked to impaired growth and function of vital organs and problems with intellectual and behavioral development. A study from the New England Journal of Medicine also found that children suffered up to a 7.4-percent decrease in IQ at lead levels that CDC considers safe. At very high levels, lead poisoning can cause seizures, coma, and even death.

It is critical that we remove lead hazards where our children live, learn, and play. We especially need to eliminate these risks and hazards that continue to persist in childcare facilities and schools. Nearly 12 million children under age 5 spend 40 hours a week in childcare. Lead paint in older buildings is a primary source of exposure, but significant lead exposure can also come from tap water. The Department of Housing and Urban Development estimates that about 14,200 childcare facilities have considerable lead-based hazards in their buildings. A recent report by the U.S. Government Accountability Office, GAO, identified significant, systemic problems with the way in which the Environmental Protection Agency, EPA, monitors and regulates the levels of lead in our Nation’s drinking water, including a complete lack of reliable data on which to make assessments and decisions. The GAO study found that few schools and childcare facilities nationwide have tested their water for lead, and no focal point exists at either the federal or State level to collect and analyze test results. Few States have comprehensive programs to detect and remediate lead in drinking water at schools and childcare facilities. Only five States have required general lead testing for schools, and of those, only four require childcare facilities to test for lead when obtaining or renewing their licenses. Almost half the States have no lead efforts of any kind. State and local officials need more information on the pervasiveness of lead contamination to know how best to address the issue.

Each year in New York State an additional 10,000 children under the age of 6 years are newly identified as having elevated blood lead levels, and over 200,000 children in New York have had documented lead poisoning between 1992 to 2004. Exposure to lead results in increased expenses each year for New York in the form of special educational and other educational expenses, medical care for lead-poisoned children, and expenditures for delinquent youth and others needing special supervision. It is estimated that these increased expenses, lost earnings, exceeded $4 billion annually. New York City and Rochester have been at the forefront of grassroots efforts to combat lead poisoning, and this bill would provide important resources and incentives to implement their model programs nationwide.

By Mr. GRASSLEY (for himself, Mr. ISAkSON, Mr. CHAMBLISS, Mr. BURR, and Ms. MUKOWSKI): S. 3972. A bill to amend title XXI of the Social Security Act to reduce funding shortfalls for the State Children’s Health Insurance Program (SCHIP) for fiscal year 2007; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I am pleased to introduce the “Fiscal Accountability, Integrity and Responsibility in SCHIP” or FAIR–SCHIP Act. I am pleased to be joined in this effort by Senator JOHNNY ISAkSON, R-GA, Senator MARCO RUBIO, R-FL, Senator RICHARD BURR, R-NC and Senator LISA MUKOWSKI, R-AK. This legislation is a targeted one year approach to addressing a looming problem in the State Children’s Health Insurance Program (SCHIP).

According to estimates prepared by the Congressional Research Service, as many as 17 States will run out of SCHIP funds in 2007. Several States will run shortfalls in the hundreds of millions of dollars. New York, for example, will result in States having to limit the coverage available to low-income children. These shortfalls are deep and they will get deeper.

One of my principal objectives in the 110th Congress will be to look at reauthorizing the SCHIP program. There are a number of compelling issues associated with the SCHIP program that will require thoughtful review and discussion by Members of Congress. Reauthorization will not be easy. Legislation on this issue as complex and sensitive as children’s health care is never easy. However, if the Congress does not act to address some of these policies as well as the SCHIP formula, one thing is certain: The current State entitlement is not sufficient, in the long term, to cover the costs of maintaining the current level of coverage provided by the States. I am aware of legislation introduced in the Senate and the House that would simply appropriate additional funds to cover the SCHIP shortfalls. This is not a viable option.

If the Congress perpetuates a scenario where the SCHIP funding formula is not improved, and other programmatic changes are not enacted, yet State SCHIP shortfalls covered year after year, there will be no practical difference between SCHIP, which is a capped allotment, and Medicaid, which is an open ended entitlement.

I do not believe there is majority support for turning the SCHIP program into an entitlement program. I am concerned what going down a path that essentially does treat SCHIP as a de facto entitlement program means for the long standing viability of SCHIP. Therefore, the approach envisioned in FAIR–SCHIP takes a balanced, moderate approach to addressing this issue. FAIR–SCHIP recognizes that additional resources could be needed if States are to be able to continue to provide the current level of coverage for children.

FAIR–SCHIP also recognizes that funding under the SCHIP programs can be more equitably distributed. FAIR–SCHIP takes a moderate, balanced approach by appropriating approximately half of the estimated Fiscal Year 07 shortfall.

FAIR–SCHIP also includes a modest redistribution scenario that would occur in the second half of the fiscal year and only affect the 05 allotments of States which have a 200 percent surplus of SCHIP funds, relative to their projected 07 spending.

FAIR–SCHIP is a fiscally sound, responsible approach to the issue of SCHIP shortfalls that will position the Congress to achieve important programmatic improvements in the 110th Congress, when the SCHIP program will need to be reauthorized.

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

I hope my colleagues will support the approach envisioned by FAIR–SCHIP. Be more equitable distribution, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3972

Be it enacted by the Senate and House of Representa-"


"(b) SPECIAL RULES TO ADDRESS FISCAL YEAR 2007 SHORTFALLS.—

"(1) INITIAL PAYMENT ON SHORTFALL FOR FISCAL YEAR 2007.—The provisions of subsection (b) with respect to fiscal year 2007 shall apply to fiscal year 2006, except that, for purposes of this paragraph—


"(B) there shall be substituted for the dollar amount referred to in subparagraph (d)(1), and shall be treated as the amount appropriated under such subsection, $450,000,000;

"(C) paragraphs (3)(B) and (4) of subsection (d) shall apply in lieu of paragraph (4) of such subsection;

"(D) if the dollar amount specified in subparagraph (B) is not at least equal to the total of the shortfalls described in subsection (d)(2) as applied under this paragraph, the amounts under subsection (d)(3) as applied under this paragraph shall be ratably reduced.

"(2) FUNDING REMAINDER OF SHORTFALL FOR FISCAL YEAR 2007 THROUGH REDISTRIBUTION OF CERTAIN UNEXPENDED FISCAL YEAR 2006 ALLOTMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (C), the Secretary shall provide for a redistribution under paragraph (f) from amounts made available for redistribution under paragraph (3), to each shortfall State described in subsection (B) that is one of the 50 States or District of Columbia, such amount as the Secretary determines will eliminate the estimated shortfall described in such subparagraph for the State.

"(B) SHORTFALL STATE DESCRIBED.—For purposes of this paragraph, a shortfall State described in this subparagraph is a State for which the Secretary determines, as of March 31, 2007, the total of all available allotments under this title as of such date, is at least equal to 200 percent of the dollar amount specified in subsection (d)(1) for fiscal year 2007.

"(2) RETROSPECTIVE ADJUSTMENT.—The Secretary may adjust the determinations made under paragraph (f) as necessary on the basis of the amounts reported by States not later than November 30, 2007, on CMS Form 64 or CMS Form 21, as the case may be, and as approved by the Secretary, but no case may exceed the percentage specified in paragraph (3)(C)(ii) exceed 75 percent.

"(3) DEDUCTION OF UNEXPENDED ADDITIONAL ALLOTMENTS.—

"(A) IN GENERAL.—Notwithstanding subsections (e) and (f), amounts allotted or redistributed to a State pursuant to this subsection for fiscal year 2007 shall only remain available for expenditure by the State through September 30, 2007, and any amounts of such allotments or redistributions that remain unexpended as of such date, shall not be subject to redistribution under subsection (f).

"(B) REVERSION UPON TERMINATION OF RETROSPECTIVE ADJUSTMENT PERIOD.—Any amounts allotted or redistributed that remain unexpended as of September 30, 2007, shall revert to the Treasury on December 31, 2007.

"(C) EXCLUSIONARY RULES FOR QUALIFYING STATES TO USE CERTAIN FUNDS FOR MEDICAID EXPENDITURES.—Section 2106(c)(1)(A) of such Act (42 U.S.C. 1397ce(g)(1)(A)) is amended by striking ‘‘or 2005’’ and inserting ‘‘2005, 2006, or 2007’’.

By Mr. BINGAMAN:

S. 3975. A bill to amend the Public Health Service Act to provide grants to promote positive health behaviors in women and children; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, the legislation I am introducing today, entitled the “Community Health Workers Act of 2006,” would improve access to health and health education services to women in medically underserved areas, including the U.S. border region along New Mexico.

Lack of access to adequate health care and health education is a significant problem on the southern New Mexico border. While the access problem is in part due to a lack of insurance, it is also attributable to non-geographical barriers to care. These barriers include a shortage of physicians and other health professionals, and hospitals; inadequate transportation; a shortage of bilingual health information and health providers; and culturally insensitive systems of care.

This legislation would help to address the issue of access by providing $15 million per year for a three year period in grants to State, local, and tribal organizations, including community health centers and public health departments, for the purpose of hiring community health workers to provide health education, outreach, and referrals to women and families who otherwise would have little or no contact with health care services.

Recognizing factors such as poverty and language and cultural differences that often serve as barriers to health care access in medically underserved populations, community health workers are in a unique position to improve access to health care for groups that have traditionally lacked access to adequate services. They often serve as “community specialists” and are members of the communities in which they work. As such they can effectively serve hard-to-reach populations.

A shining example of how community health workers serve their communities, a group of so-called “promotoras” in Dona Ana County were quickly mobilized during a recent flood emergency in rural New Mexico. These community health workers assisted in the disaster recovery efforts by partnering with FEMA to find, inform and register flood victims for Federal disaster assistance. Their personal networks and knowledge of the local culture, language, needs, assets, and barriers greatly enhanced FEMA’s community outreach efforts. The promotoras of Dona Ana County demonstrated the important role community health workers could play in communities across the nation, including increasing the effectiveness of new initiatives in homeland security and emergency preparedness, and in implementing risk communication strategies.

The positive benefits of the community health worker model also have been documented in research studies. Research has shown that community health workers have been effective in increasing the utilization of health preventive services such as cancer screenings and medical follow up for elevated blood pressure and improving enrollment in publicly funded health insurance programs. In the case of uninsured children, Dr. Glenn Flores, “Community-Based Case Management in Insuring Uninsured Latino Children,” published in the December
The 2005 issue of Pediatrics found that uninsured children who received community-based case management were eight times more likely to obtain health insurance coverage than other children involved in the study because case workers were employed to address typical barriers to health insurance including insufficient knowledge about application processes and eligibility criteria, language barriers, and family mobility issues, among others. This study confirms that community health workers could be highly effective in increasing the numbers of uninsured children, especially those who are at greatest risk for being uninsured. Preliminary investigation of a community health workers project in New Mexico similarly suggests that community health workers could be useful in improving enrollment in Medicaid and the Children's Health Insurance Program, SCHIP.

According to a 2005 Institute of Medicine, IOM, report entitled, “Unequal Treatment: Confronting Racial and Ethnic Health Care Disparities in America,” community health workers offer promise as a community-based resource to increase racial and ethnic minorities’ access to health care and to serve as a bridge between healthcare providers and the communities they serve.

The community health worker model is valued in the New Mexico border region as well as other parts of the country that encounter challenges of meeting the health care needs of medically underserved populations. These programs often have difficulty securing adequate financial resources to maintain and expand upon their services. As a result, many of these programs are significantly limited in their ability to meet the ongoing and emerging health demands of their communities.

The IOM report also noted that “programs to support the use of community health workers . . . especially among medically underserved and racial and ethnic minority populations, should be expanded, evaluated, and replicated.”

I am introducing this legislation to increase resources for a model that has shown significant promise for increasing access to quality health care and health education for families in medically underserved communities. I ask unanimous consent that the text of the bill and Dr. Flores’ study on community-based case management be printed in the Record.

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

SEC. 1. SHORT TITLE.

This Act may be cited as the “Community Health Workers Act of 2006.”

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) as any condition that requires regular medical attention or medication, are the leading cause of death and disability for women in the United States across racial and ethnic groups.

(2) According to the National Vital Statistics Report of 2001, the 5 leading causes of death among Hispanic, American Indian, and African-American women are heart disease, cancer, diabetes, cerebrovascular disease, and unintentional injuries.

(3) Unhealthy behaviors alone lead to more than 50 percent of premature deaths in the United States.

(4) Poor diet, physical inactivity, tobacco use, and alcohol and drug abuse are the risk health behaviors that most often lead to disease, premature death, and disability, and are particularly prevalent among many groups of minority women.

(5) Over 60 percent of Hispanic and African-American women are classified as overweight and obese. Over 60 percent of American Indian women are classified as obese.

(6) American Indian women have the highest mortality rates related to alcohol and drug use of all women in the United States.

(7) High poverty rates coupled with barriers to health preventive services and medical care control and chronic diseases in health factors, including premature death, life expectancy, risk factors associated with major diseases, and the extent and severity of disease.

(8) There is increasing evidence that early life experiences are associated with adult chronic disease and that prevention and intervention early in life could have a significant impact on the health and well-being of individuals and communities.

(9) Community health workers, who are primarily women, can be a critical component in conducting health promotion and disease prevention efforts in medically underserved communities.

(10) Recognizing the difficult barriers confronting medically underserved communities (poverty, geographic isolation, language and cultural differences, lack of transportation, low literacy, and lack of access to services), community health workers are in a unique position to reduce preventable morbidity and mortality, improve the quality of life, and increase the utilization of available preventive health services for community members.

(11) Research has shown that community health workers have been effective in significantly increasing health insurance coverage, screening and medical follow-up visits among residents isolated by social, economic, and/or educational factors.

(12) States on the United States-Mexico border have high percentages of impoverished and ethnic minority populations. Border States accommodate 60 percent of the total Hispanic population and 23 percent of the total population below 200 percent poverty in the United States.

SEC. 3. GRANTS TO PROMOTE POSITIVE HEALTH BEHAVIORS IN WOMEN.

Part P of title XXVIII of the Public Health Service Act (42 U.S.C. 7401 et seq.), is amended by adding at the end the following:

"SECTION 3. GRANTS TO PROMOTE POSITIVE HEALTH BEHAVIORS IN WOMEN.

(a) GRANTS AUTHORIZED.—The Secretary, in collaboration with the Director of the Centers for Disease Control and Prevention and other Federal agencies determined appropriate by the Secretary, is authorized to award grants to States or local or tribal units, to promote positive health behaviors among women in their communities, especially racial and ethnic minority women in medically underserved communities. (b) Use of funds.—A grant awarded pursuant to subsection (a) may be used to support community health workers—

"(1) to educate, guide, and promote outreach in a community setting regarding health problems prevalent among women and especially among racial and ethnic minority women;

"(2) to educate, guide, and provide experiential learning opportunities that target behavioral risk factors including—

"(A) poor nutrition behaviors; (B) physical inactivity; (C) being overweight or obese; (D) tobacco use; (E) alcohol and substance use; (F) injury and violence; (G) risky sexual behavior; and (H) mental health problems;

"(3) to educate and guide regarding effective strategies to promote positive health behaviors within the family;

"(4) to educate and provide outreach regarding enrollment in health insurance including the State Children's Health Insurance Program under title XXI of the Social Security Act, Medicare under title XVIII of such Act and Medicaid under title XIX of such Act;

"(5) to promote community wellness and awareness; and

"(6) to educate and refer target populations to appropriate health care agencies and community-based programs and organizations in order to increase access to quality health care services, including preventive health services.

(c) APPLICATION.—

(1) IN GENERAL.—Each State or local or tribal unit (including federally recognized tribes and Alaska native villages) that desires to receive a grant under subsection (a) shall submit an application to the Secretary, at such time, in such manner, and accompanied by such additional information as the Secretary may require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

"(A) describe the activities for which assistance under this section is sought; (B) contain an assurance that with respect to each community health worker program receiving funds under the grant awarded, such program provides training and supervision to community health workers to enable such workers to provide authorized program services; (C) contain an assurance that the applicant will evaluate the effectiveness of community health worker programs receiving funds under the grant;

"(D) contain an assurance that each community health worker program receiving funds under the grant will provide services in the cultural context most appropriate for the individuals served by the program; (E) contain a plan to document and disseminate project description and results to other States and organizations as identified by the Secretary; and

"(F) describe plans to enhance the capacity of individuals to utilize health services and health-related social services under Federal, State, and local programs by—

"(i) assisting individuals in establishing eligibility under the programs and in receiving the services or other benefits of the programs; and

"(ii) providing other services as the Secretary determines to be appropriate, that may include transportation and translation services.

"(d) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to those applicants—

"(1) who propose to target geographic areas with a high percentage of residents who are eligible for health insurance but are uninsured or underinsured;
"(B) with a high percentage of families for whom English is not their primary language; and
"(C) that encompasses the United States-Mexico border region.
"(2) with experience in providing health or health-related social services to individuals who are underserved with respect to such services,
"(3) with documented community activity and experience with community health workers;
"(e) COLLABORATION WITH ACADEMIC INSTITUTIONS.—The Secretary shall encourage community health worker programs receiving funding under this section to collaborate with academic institutions. Nothing in this section shall be construed to require such collaboration.
"(f) QUALITY ASSURANCE AND COST-EFFECTIVENESS.—The Secretary shall monitor community health worker programs identified in approved applications and shall determine whether programs are in compliance with the guidelines established under subsection (f).
"(g) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to community health worker programs identified in approved applications with respect to planning, developing, and operating programs under the grant.
"(i) REPORT TO CONGRESS.—
"(1) IN GENERAL.—Not later than 4 years after the date on which the Secretary first awards grants under subsection (a), the Secretary shall submit to Congress a report regarding the grant project.
"(2) CONTENT.—The report required under paragraph (1) shall include the following:
"(A) A description of the programs for which grant funds were used;
"(B) The number of individuals served;
"(C) An evaluation of—
"(i) the effectiveness of these programs;
"(ii) the cost of these programs; and
"(iii) the impact of the project on the health outcomes of the community residents;
"(D) Recommendations for sustaining the community health worker programs developed or assisted under this section.
"(E) Recommendations regarding training to enhance health care opportunities for community health workers.
"(j) DEFINITIONS.—In this section:
"(1) COMMUNITY HEALTH WORKER.—The term ‘community health worker’ means an individual who promotes health or nutrition within the community in which the individual resides;
"(A) by serving as a liaison between communities and health care agencies;
"(B) by providing guidance and social assistance to community residents;
"(C) by enhancing community residents’ ability to effectively communicate with health care providers;
"(D) by providing culturally and linguistically appropriate health or nutrition education;
"(E) by advocating for individual and community health needs and interests;
"(F) by providing referral and followup services.
"(2) COMMUNITY SETTING.—The term ‘community setting’ means a home or a community organization located in the neighborhood in which a participant resides.
"(3) MEDICALLY UNDERSERVED COMMUNITY.—The term ‘medically underserved community’ means a community identified by a State—
"(A) that has a substantial number of individuals who are members of a medically underserved population, as defined by section 330(b)(3); and
"(B) a significant portion of which is a health professional shortage area as designated under section 332.
"(4) SUPPORT.—The term ‘support’ means the preparation of intervention programs and materials needed to effectively deliver the services described in subsection (b), reimbursement for services, and other benefits.
"(7) TARGht—The term ‘target population’ means women of reproductive age, regardless of their current childbearing status.

A RANDOMIZED, CONTROLLED TRIAL OF THE EFFECTIVENESS OF COMMUNITY-BASED CASE MANAGEMENT IN INSURING UNINSURED LATINO CHILDREN

(Fiore, MD; Milagros Abreu, MD; Chrisine E. Chaisson, MPH; Alan Meyers, MD; MPH; Ph.D.; MBA; Harriet Fernandez, BA; Patricia Francisco, BA; Beatriz Diaz, BA; Ana Milena Diaz, BA; and Iris Santos-Guerrero, BA)

Abstract. Background. Lack of health insurance adversely affects children’s health. Eight million U.S. children are uninsured, with Latinos being the racial/ethnic group at greatest risk for being uninsured. A randomized, controlled trial comparing the effectiveness of various public insurance strategies for uninsured uninsured children has never been conducted. Objective. To evaluate whether case managers are more effective than traditional methods in insuring uninsured Latino children.

Design. Randomized, controlled trial conducted from May 2002 to August 2004. Setting and Participants. A total of 275 uninsured Latino children and their parents were recruited from urban community sites in Boston.

Intervention. Uninsured children were assigned randomly to an intervention group with trained case managers or a control group. Case managers included the Massachusetts Health Connector, the Massachusetts State Children’s Health Insurance Program (SCHIP) outreach and enrollment. Case managers provided information on program eligibility and how to apply. They also acted as a family liaison with Medicaid/SCHIP, and assisted in maintaining coverage.

Main Outcome Measures. Obtaining health insurance, coverage continuity, the time to obtain coverage, and parental satisfaction with the process of obtaining insurance for children. Subjects were contacted monthly for 1 year to monitor outcomes of uninsured children experience significantly more difficulty in obtaining insurance. SCHIP and Medicaid outreach and enrollment were more effective than traditional strategies. SCHIP and Medicaid outreach and enrollment were more effective than traditional strategies. SCHIP and Medicaid outreach and enrollment were more effective than traditional strategies.

Conclusions. Community-based case managers are more effective than traditional Medicaid/SCHIP outreach and enrollment in insuring uninsured Latino children. Case management may be a useful mechanism to reduce the number of uninsured children, especially among high-risk groups.
with traditional SCHIP and Medicaid outreach and enrollment with respect to their effectiveness in insuring uninsured Latino children.

**METHODS**

**Study Participants**

Enrollment occurred from May 14, 2002, to September 30, 2003. Study participants were uninsured Latino children and their parents from 2 communities in the greater Boston area confirming in prior research to have large proportions of both uninsured children and Latino children, ie, East Boston, where 37 percent of Latino children were found to be uninsured, and Jamaica Plain, where 27 percent of Latino children were found to be uninsured in prior studies and 26 percent of the population is Latino, and Jamaica Plain, where 27 percent of Latino children were found to be uninsured in prior studies and 26 percent of the population is Latino, and Jamaica Plain, where 27 percent of Latino children were found to be uninsured in prior studies and 26 percent of the population is Latino.

Eligibility criteria included the following: (1) the child was 0 to 18 years old, (2) the child had no health insurance coverage and had been uninsured for ≥ 3 months (unless the child was an infant who had never been insured), (3) the parent identified her or his uninsured child's ethnicity as Latino, (4) the parent's primary language was English or Spanish, and (5) the parent was willing to be contacted monthly by telephone or through a home visit by research personnel (if no functionally equivalent telephone was present in the household). The focus of the intervention was Latino children because they are the racial/ethnic group of US children at greatest risk for being uninsured. When > 1 child lived in a family, the youngest child was enrolled in the study as the “index” child (to ensure consistency), and data were collected only for that child.

Study participants were recruited primarily from the following community sites in East Boston and Jamaica Plain, which were the focus of prior studies in which there were many eligible potential participants willing to take part in research: supermarkets, bodegas, self-service laundries, beauty salons, and churches. The remaining participants were recruited through referral by other participants and in response to notices posted at consulates and schools. Community sites for recruitment were selected to obtain samples of parents consisting of both documented and undocumented families in proportions reflecting the population in each community, and eligible parents were interviewed to determine if their families were among the 40% of families in the community that preferred alternate telephone number of the household, the telephone number, the parent. Additional information collected included the age and sex of the parent and child, whether there was a functioning telephone in the household, the telephone number, the phone number of the alternate telephone number of the household, and the family’s address.

Randomization

Subjects were allocated to the case management intervention group or the control group with a computer-generated, stratified, randomization process. Stratified randomization ensures that comparable maneuvers in a randomized trial are distributed suitably among pertinent subgroups. Randomization was stratified by community site, with separate allocation schedules prepared for participants from East Boston and Jamaica Plain. The randomization schedule was prepared with the RANUNI function of SAS software, version 8.2. Sequentially numbered, opaque, sealed envelopes were produced for each community site, to ensure adequate allocation concealment. Potential participants who were informed that, depending on the randomization, some parents would get a case manager free of charge, who would help families obtain health insurance for their children, would not get a case manager and would just be contacted monthly. Bilingual Latina research assistants who did not participate in any aspect of randomization were responsible for opening the envelopes in the presence of enrolled participants, to inform them of their group assignment. Parents of uninsured children allocated to a control group immediately were assigned a bilingual, Latina, community-based, case manager (the research assistant who opened the randomization envelope with the parent became the case manager for children assigned to the intervention group).

**Study Intervention**

Case managers performed the following functions for intervention group children and their families: (1) providing information on the types of insurance programs available and the application processes; (2) providing information about_medical assistance for uninsured children; (3) preparing with early frequent contact with the Division of Medical Assistance (DMA) (the state agency responsible for administering the Children’s Medical Security Plan (CMS), which insures children in Massachusetts, including noncitizens); (5) acting as a family advocate by being the liaison between the family and DMA or DPH; and (6) rectifying with DMA and DPH situations in which a child was inappropriately denied eligibility for insurance or had coverage inappropriately discontinued.

All case managers received a 1-day intensive training session on major obstacles to insuring uninsured children reported by Latino parents in 6 focus groups, parents’ contact information screen questions (in English or Spanish, according to parental preference) to confirm eligibility, determine relevant baseline characteristics, and recruit participants. Data were collected on the ages of the child and parent, the self-identified Latino sub-group, the number of years the parent had lived in the United States, parental English proficiency, the highest level of parental education, the employment status of the parent, and living arrangements in the same household, the annual combined family income, and the citizenship status of the parent. Additional information collected included the age and sex of the parent and child, whether there was a functioning telephone in the household, the telephone number, the phone number of the alternate telephone number of the household, and the family’s address.

Outcome Measures

Using standardized telephone interview methods, a trained bilingual Latina research assistant who was blinded to participant group assignment obtained outcome data from the parents monthly for 11 months, beginning 1 month after the date of study enrollment. The research assistant also made home visits to families that lacked telephones in the household and to those that had telephones but did not respond to at least 2 telephone contacts. To ensure ongoing rigorous blinding, we asked parents not to reveal their group assignment at any time to the outcome research assistant (and the blinded research assistant reported that no parents revealed their child’s group assignment during the study).

The primary outcome measure was the child obtaining health insurance coverage, as determined in an interview with the parent and confirmed, when possible, through inspection of the coverage notification letter received by the family. Three secondary outcomes also were assessed. The number of days from study enrollment to obtaining coverage was determined.

**Results**

The intervention group received an average of 3.73 calls and 1.9 visits from his or her case manager during the 11 months of the intervention period, whereas the control group received an average of 0.36 calls and 0.1 visits from a research assistant who did not have knowledge of the child’s group assignment at any time to the outcome research assistant. Parents in the intervention group were more likely than parents in the control group to report the child having health insurance coverage in at least 1 period during the intervention period (54.6% vs 41.7%, P = 0.04).

Using multivariable logistic regression analysis, the intervention group was more likely than the control group to report the child having health insurance coverage (odds ratio, 1.54; 95% confidence interval, 1.06-2.22; P = 0.02). The difference in coverage rates between the groups was not significant after adjusting for baseline characteristics (odds ratio, 1.35; 95% confidence interval, 0.90-2.03; P = 0.13).

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some subjects were not affected by the policy change, a second variable also was constructed, consisting of a dummy indicator for participants affected by the policy change (1=no change, 9 = included in the adjusted models. On the basis of significant intergroup differences noted in bivariate analyses (for parental employment status and parental income changes) and factors previously reported to be associated with being uninsured, the final adjusted model included the following covariates: the child's age (categorized into 3-level ordinal variables: 0 < 6 yr, 6-11 yr, 12-17 yr), whether or not the child lived in a two-parent household, the parent's education level (categorized into 3-level ordinal variables: some college or less, 4-year college degree or more), race (categorized into 4-level ordinal variables: non-Hispanic white, non-Hispanic black, Hispanic, other), and sex (categorized into 2-level ordinal variables: male, female). Analyses also revealed that older children and adolescents were more likely than intervention group children to be in-urance establishment of most of the prior policy. There also was a slight but statistically significant difference between intervention and control group parents in the number of subjects assigned randomly to receive the intervention and subsequently recruited into the study (Table 1). Case management group families were restricted to subjects who were 1.5 times more likely than the control group to be able to obtain coverage (odds ratio: 7.78; 95% confidence interval: 3.20–11.64), after multivariate adjustment for potential confounders (the child’s age, family income, pa-ent citizenship status, and the period of policy change in state coverage of uninsured children) (Table 3). The adjusted incidence curve (Fig 2) shows that the marked difference between the groups in obtaining insurance coverage persisted at ~30 days and was sustained. Multivariate analyses also revealed that older children and adolescents and participants enrolled during the state freeze on CMSHP had lower adjusted odds of obtaining insurance coverage (Table 3).
Latino children than traditional Medicaid and SCHIP outreach and enrollment. In addition, compared with control group children, children in the case management group obtained insurance for uninsured Latino children, were more likely to be insured continuously during 1 year of follow-up, and had parents who were more much more satisfied with the process of obtaining insurance for their children.

Several characteristics of the case management intervention might account for its greater effectiveness in comparison with traditional Medicaid and SCHIP outreach and enrollment. First, case managers received training and focused their efforts on addressing barriers to enrolling uninsured Latino children that had been identified specifically by Latino families in prior research, including lack of knowledge about the application process, eligibility, language barriers, immigration issues, income cutoff values and verification, hassles, pending decisions, family mobility, misinformation from insurance representatives, and system problems. Second, case managers were active agents in the process of obtaining insurance coverage for children, assisting parents with application completion and acting as a family liaison and advocate whenever complications or setbacks occurred; traditional SCHIP and Medicaid outreach programs considered to be effective in insuring uninsured children from other racial/ethnic groups and socioeconomic strata and those with parents who are primarily U.S. citizens and employed.

The effectiveness of community-based case management suggests that it could play an important role in states with large proportions of uninsured Latino children. In Texas, for example, where 21 percent of children (equivalent to 1.4 million children) are uninsured and an estimated 56 percent of uninsured children are Latino, community-based case management potentially could insure more than 750,000 uninsured Latino children, assuming the 96 percent effectiveness of case management observed in this study. The study findings suggest that community-based case management has the potential to be highly effective in reducing the number of uninsured children even in states such as Texas where children from undocumented families are not eligible for insurance programs; community-based case management was found to be more effective than traditional Medicaid and SCHIP outreach and enrollment even after adjustment for parental citizenship, and more than one half of all uninsured U.S. children are eligible for Medicaid or SCHIP.

As demonstrated in our study, however, in states with relatively small proportions of uninsured children, such as Massachusetts, case management might prove to be an important means of insuring the hardest-to-reach populations of uninsured children who have continued to be uninsured despite 7 years of SCHIP and Medicaid expansion, such as Latinos, poor children, and those with noncitizen parents. Our study findings may be of particular relevance for states such as Florida, which, like Massachusetts, has a SCHIP program (the Florida KidCare program) that covers both citizen and qualified noncitizen children. Certain limitations of this study should be noted. The case management intervention was studied only among Latino children; therefore, the results may not pertain to other racial/ethnic groups. The Latino subgroups represented in the study sample were typical of an urban area in the Northeast, and the findings may not be generalizable to populations with greater proportions of Mexican Americans, in other regions of the country, or in rural or suburban areas. Because the study aim was to determine the effectiveness of the case management intervention, a cost analysis was not performed, and the cost-effectiveness of the intervention could not be determined. However, we did evaluate the feasibility of conducting a cost-effectiveness analysis by collecting pilot data on 10 consecutive families enrolled in the study. Pilot data collected included the number of missed school days, the number of emergency department and clinic visits, hospitalization episodes, and the costs of implementing the program, including personnel salaries and time spent implementing the intervention. These pilot data suggest that a formal cost-effectiveness analysis of the intervention is feasible for this population and could be performed in future studies. Future cost-effectiveness analyses of this intervention should consider comprehensive evaluation of direct, indirect, and opportunity costs associated with implementing the case management intervention in other communities and populations.

It can be speculated that insuring children through community-based case managers might have the potential to contribute to the revitalization of impoverished Latino communities. Case management not only could effectively reduce the number of uninsured children in a community but also might serve as a means of enhancing a community's local employment and revitalizing the local economy. Under this scenario, SCHIP and Medicaid programs could partner with state employment agencies to hire the community case managers. As an intervention that is comprehensive, community-based, and focused on the family, community-based case management might have the potential to contribute to the revitalization of impoverished Latino communities. Case management was found to be more effective than traditional Medicaid and SCHIP outreach and enrollment even after adjustment for parental citizenship, and more than one half of all uninsured U.S. children are eligible for Medicaid or SCHIP.

Certain limitations of this study should be noted. The case management intervention was studied only among Latino children; therefore, the results may not pertain to other racial/ethnic groups. The Latino subgroups represented in the study sample were typical of an urban area in the Northeast, and the findings may not be generalizable to populations with greater proportions of Mexican Americans, in other regions of the country, or in rural or suburban areas. Because the study aim was to determine the effectiveness of the case management intervention, a cost analysis was not performed, and the cost-effectiveness of the intervention could not be determined. However, we did evaluate the feasibility of conducting a cost-effectiveness analysis by collecting pilot data on 10 consecutive families enrolled in the study. Pilot data collected included the number of missed school days, the number of emergency department and clinic visits, hospitalization episodes, and the costs of implementing the program, including personnel salaries and time spent implementing the intervention. These pilot data suggest that a formal cost-effectiveness analysis of the intervention is feasible for this population and could be performed in future studies. Future cost-effectiveness analyses of this intervention should consider comprehensive evaluation of direct, indirect, and opportunity costs associated with implementing the case management intervention in other communities and populations.

CONCLUSIONS

This randomized, controlled trial indicates that community-based case managers are significantly more effective than traditional SCHIP/Medicaid outreach and enrollment in insuring uninsured Latino children. Community case management seems to be a useful mechanism for reducing the number of uninsured children, especially among children most at risk for being uninsured.

TABLE 1.—BASELINE CHARACTERISTICS OF STUDY PARTICIPANTS

<table>
<thead>
<tr>
<th>Characteristic</th>
<th>Case management</th>
<th>Control</th>
<th>p</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child’s age, y, mean ± SD</td>
<td>8.9 ± 0.9</td>
<td>8.9 ± 0.9</td>
<td>.96</td>
</tr>
<tr>
<td>Parent’s age, y, mean ± SD</td>
<td>36.7 ± 8.1</td>
<td>36.7 ± 8.1</td>
<td>.98</td>
</tr>
<tr>
<td>Annual combined family income, median (range)</td>
<td>$13,200 ($0–72,000)</td>
<td>$12,945 ($0–48,000)</td>
<td>.44</td>
</tr>
<tr>
<td>Annual combined family income, no. (%)</td>
<td>92 (69)</td>
<td>96 (73)</td>
<td>.37</td>
</tr>
<tr>
<td>Number of uninsured children, no. (%)</td>
<td>5 (4)</td>
<td>2 (2)</td>
<td>.64</td>
</tr>
<tr>
<td>Number of children in family, no. (%)</td>
<td>36 (27)</td>
<td>30 (25)</td>
<td>.13</td>
</tr>
<tr>
<td>Parent’s ethnicity, no. (%)</td>
<td>24 (18)</td>
<td>21 (15)</td>
<td>.13</td>
</tr>
<tr>
<td>Dominican</td>
<td>58 (42)</td>
<td>54 (38)</td>
<td>.13</td>
</tr>
<tr>
<td>Salvadoran</td>
<td>29 (21)</td>
<td>22 (15)</td>
<td>.13</td>
</tr>
<tr>
<td>Guatemalan</td>
<td>13 (9)</td>
<td>11 (8)</td>
<td>.13</td>
</tr>
<tr>
<td>Undocumented</td>
<td>119 (86)</td>
<td>119 (86)</td>
<td>.13</td>
</tr>
<tr>
<td>US citizen</td>
<td>14 (10)</td>
<td>15 (11)</td>
<td>.13</td>
</tr>
<tr>
<td>Legal resident</td>
<td>49 (35)</td>
<td>47 (34)</td>
<td>.13</td>
</tr>
<tr>
<td>Parent limited in English proficiency, no. (%)</td>
<td>127 (91)</td>
<td>127 (91)</td>
<td>.13</td>
</tr>
</tbody>
</table>
that strive to treat their workers fairly are conscientious corporate citizens currently providing jobs across America many of the companies that are cur-

often for all the wrong reasons: fraud, companies make headlines today it is the committee on Finance.

and for other purposes; to the Com-

come tax credit for Patriot employers, and for other purposes; to the Commi-

But the tax code on the side of those de-

Mean parental satisfaction score for process of obtaining child's insurance (5-point Likert scale), mean ± SD 2.4

TABLE 1.—BASELINE CHARACTERISTICS OF STUDY PARTICIPANTS—Continued

TABLE 2.—STUDY OUTCOMES ACCORDING TO GROUP ASSIGNMENT

TABLE 3.—MULTIPLE LOGISTIC-REGRESSION ANALYSIS OF FACTORS ASSOCIATED WITH CHILDREN OBTAINING INSURANCE COVERAGE

By Mr. DURBIN (for himself and Mr. OBAMA):

2. 3977. A bill to provide a Federal income tax credit for Patriot employers, and for other purposes; to the Committee on Finance.

Mr. DURBIN. Mr. President, when companies make headlines today it is often for all the wrong reasons: fraud, tax avoidance, profiteering, etc. Yet many of the companies that are currently providing jobs across America are conscientious corporate citizens that strive to treat their workers fairly even as they seek to create good products that consumers want and to maximize profits for their shareholders. I believe that we should reward such companies for providing good jobs to American workers, and create incentives that encourage more companies to do likewise. The Patriot Employers bill does just that.

This legislation, which I am introducing today along with Senator Obama, would provide a tax credit to reward the companies that treat American workers best. Companies that provide American jobs, pay decent wages, provide good benefits, and support their employees when they are called to active duty should enjoy more favorable tax treatment than companies that are unwilling to make the same commitment to American workers. The Patriot Employers tax credit would put the tax code on the side of those deserving companies by acknowledging their commitments.

The Patriot Employers legislation would provide a tax credit equal to 1 percent of taxable income to employers that meet the following criteria: First, invest in American jobs, by maintaining or increase the number of full-time workers in America relative to the number of full-time workers outside of America and also by maintaining their corporate headquarters in America if the company has ever been headquartered in America.

Second, pay decent wages, by paying each worker an hourly wage that would ensure that a full-time worker would earn enough to keep a family of three out of poverty, at least $8.00 per hour.

Third, prepare workers for retirement, either by providing either a defined benefit plan or by providing a defined contribution plan that fully matches at least 5 percent of worker contributions for every employee.

Fourth, provide health insurance, by paying at least 60 percent of each worker’s health care premiums.

Fifth, support our troops, by paying the difference between the regular salary and the military salary of all National Guard and Reserve employees who are called for active duty, and also by continuing their health insurance coverage.

In recognition of the different business circumstances that small employers face, companies with fewer than 50 employees could achieve Patriot Employer status by fulfilling a smaller number of these criteria.

There is more to the story of corporate American than the widely-publicized wrong-doing. Patriot Employers should be publicly recognized for doing right by their workers even while they do well for their customers and shareholders. I urge my colleagues to join Senator Obama and me in supporting this effort. Our best companies, and our American workers, deserve nothing less.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the text of the bill was ordered to be printed in the Record, as follows:
**SECTION 1. REDUCED TAXES FOR PATRIOT EMPLOYERS.**

(a) **In General.**—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

**SEC. 45N. REDUCTION IN TAXATION OF PATRIOT EMPLOYERS.**

(a) **In General.**—In the case of any taxable year, there shall be allowed as a deduction, in addition to any deduction otherwise allowed by law, the reduction determined under subsection (b) with respect to such taxable year.

(b) **LOWED REDUCTION.**—The deduction determined under subsection (a) with respect to any taxable year shall not exceed the amount which will provide an accrued retirement benefit under the plan for the plan year which is not less than 5 percent of the employee's compensation.

(c) **Schedule Determination.**—For purposes of this section, the reduction determined under subsection (a) shall be determined by—

(1) the following formula:

\[
\text{Reduction} = \frac{\text{Employee match}}{2,080} \times \frac{\text{Federal poverty level for a family of 3}}{\text{Employee's average hourly rate}}
\]

and

\[
\text{Reduction} = \frac{\text{Employee match}}{2,080} \times \frac{\text{Federal poverty level for a family of 3}}{\text{Employee's average hourly rate}}
\]


The Patriot Employers Act cuts corporate taxes for those firms that invest in America and American employees, the Patriot Employers Act rewards companies that, among other things, reduce employer health care premiums, provide health coverage and support our troops by paying a full differential salary for deployed National Guard employees.

Too often we hear troubling news reports of American companies outsourcing jobs and exploiting corporate tax loopholes—by setting up incorporated offices, for example, in the Cayman Islands to avoid paying their fair share of taxes. Such companies fail to see that they are disconnected to the markets in which they operate, and by dodging their financial responsibilities, they are harming the very economy that they, too, will need to rely on in the future.

Recognizing these challenges, this bill says that we are going to align our corporate tax policy with the corporate practices we want to encourage.

The Patriot Employers Act cuts taxes for American companies that, in the words of Senator S. 3978, pay at least 60 percent of employees' healthcare premiums; maintain or increase their U.S. workforce relative to their workforce located abroad; pay an hourly rate several dollars above the federal minimum wage; provide either a defined benefit retirement plan or a defined contribution plan with an employer match; and provide full differential salary and benefits for National Guard employees called into active duty.

It is important that our American firms remain competitive and innovative, in part by investing in the long-term health of those workers and communities in which they operate and impact. Increasing corporate shareholder value and acting in the interests of the public good are not mutually exclusive goals, and this legislation recognizes that point. All of us have a stake in improving returns to all corporate stakeholders, including investors, managers, employees, consumers, and our communities.

To this end, I am proud to be an original cosponsor of this bill and I hope that it will renew attempts by lawmakers—both in this other-wise—to engage productively with the business community to address their long-term market concerns while promoting the well-being of American workers. Government does not create jobs; entrepreneurs and businesses do. The future of the American economy requires that American businesses continue to grow and improve their productivity and competitiveness. It requires that American companies have the best workforce and infrastructure to compete and win in every market they enter.

Ensuring American competitiveness will demand new thinking from leaders in business, labor, education, and government: it will demand new responses and roles, new coalitions and collaborations, among these stakeholders. Long-term American competitiveness will demand bipartisan commitment to strengthening our economic infrastructure and improving opportunities for all Americans.

The Patriot Employers Act is an important step in this process. Let’s align business incentives with the investments we need in the future of the American workforce. Let’s begin the conversation about how to ensure American competitiveness for the 21st century and beyond.

I urge quick support for this important legislation.

By Mrs. CLINTON.

S. 3978. A bill to provide consumer protections for lost or stolen check cards and debit cards similar to those provided with respect to credit cards, and for other purposes, to the Committee on Banking, Housing, and Urban Affairs.

Mrs. CLINTON. Mr. President, today I am introducing the Debit and Check Card Consumer Protection Act of 2006, S. 3978, a bill that is an important piece of legislation in the battle against consumer fraud. Despite consumers’ best efforts, debit and check card fraud is a serious problem making consumer liability an important issue. Unfortunately, current consumer protection laws do not adequately protect debit and check card holders from fraud.

Over the last decade, debit and check card use has experienced double digit growth and now over 80 percent of American consumer households possess a debit card. Theft and other fraud has outpaced that of credit cards and recent reports indicate that between 2001 and 2003 consumers made 42.5 billion
transactions with debit cards, 2.3 billion more transactions than with credit cards.

While debit and check card growth benefits the American economy, consumers continually face greater challenges to prevent and protect themselves and their checks from fraud. Recent statistics show that in 2005, ATM/debit card fraud in the United States generated losses of $2.75 billion. During the same period, ATM fraud alone affected 3 million U.S. consumers.

Despite these findings, debit and check card consumer liability protections under the law remain substandard as compared to credit cards. Under current law, debit and check card holders are liable for fraudulent transactions dependent upon when they report the fraud. In some cases, the consumer can be held accountable for $500 worth of fraudulent transactions. Conversely, credit card holders who face similar consumer challenges are held to a minimum payment of $50 and are allowed to refuse or “chargeback” a payment when goods or services fail to arrive or they are dissatisfied with a transaction. Debit and check card holders are not provided with similar “chargeback” protections. Fortunately, some debit and check card issuers provide customers with stronger liability protections; however, it is essential that consumers are assured liability protections under the law, not just through a company’s policy.

The Debit and Check Card Consumer Protection Act of 2006 remedies these inconsistencies between credit card liability protections and debit and check card liability protections by simply affording the same level of protection to debit and check card users given to credit card users. This legislation is an important step in ensuring consumer protections in an economy increasingly driven by electronic commercial transactions, and I am proud that Consumer Union, one of the largest non-partisan advocate organizations for consumer rights, has endorsed it.

The time has come to strengthen debit and check card liability protections for the American consumer, and I urge my colleagues to support this simple and commonsense remedy to a growing problem. I ask unanimous consent that the bill be printed in the RECORD.

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

S. 3980

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

SEC. 1. SHORT TITLE.

This Act may be cited as the “Debit and Check Card Consumer Protection Act of 2006”.

SEC. 2. FINDINGS.

Congress finds that—

(1) debit and check card use has experienced double digit growth for longer than a decade, and more than 80 percent of American consumer households now possess a debit or check card;

(2) between 2001 and 2005 consumers made 42.5 billion transactions with debit cards, eclipsing credit card transactions by 2.3 billion; and

(3) as of 2003, debit cards accounted for 2/3 of all card purchases.

(4) in addition to the rise in debit and check card use, debit and check card fraud increasingly challenges American consumers;

(5) in 2005, debit card and ATM fraud accounted for losses of $2.75 billion; and

(6) despite that growth, statutory debit and check card liability protections are insufficient, as compared to credit cards;

(7) the debit and check card industry has, in some instances, instituted liability protections that often exceed the requirements set forth under the provisions of law; and

(8) the law should be changed to ensure a continued level of liability protection.

SEC. 3. CAP ON DEBIT CARD LIABILITY.

Section 909(a) of the Electronic Funds Transfer Act (15 U.S.C. 1693g(a)) is amended—

(1) by striking “Notwithstanding the foregoing” and all that follows through “whichever is less”; and

(2) by striking “meana” and inserting “means”.

SEC. 4. DEBIT CARD ERROR RESOLUTION.

Section 908(t) of the Electronic Funds Transfer Act (15 U.S.C. 1693(t)) is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) by inserting after paragraph (5) the following:

“(6) a charge for goods or services not accepted by the consumer or the designee thereof, or not delivered to the consumer or the designee thereof, if—

(A) the consumer has made a good faith attempt to obtain satisfactory resolution of the claim or defense arising out of any transaction in which the accepted card is used as a method of payment, if

(B) the consumer has made a good faith attempt to obtain satisfactory resolution of a disagreement or problem relative to the transaction from the person honoring the accepted card;

(C) the transaction was initiated by the consumer in the same State as the mailing address previously provided by the consumer, or within 100 miles from such address, except that the limitations set forth in subparagraphs (A) and (B) with respect to the right of a consumer to assert claims and defenses against the issuer of the card shall not be applicable to any transaction in which the person honoring the accepted card—

(i) is the same person as the card issuer;

(ii) is controlled by the card issuer;

(iii) is under direct or indirect common control with the card issuer;

(iv) is a franchised dealer in the products or services of the card issuer; or

(v) has obtained the order for such transaction through a mail solicitation made by or participated in by the card issuer in which the cardholder is solicited to enter into such transaction by using the accepted card issued by the card issuer.

“(2) LIMITATION.—The amount of claims or defenses asserted by the cardholder under this subsection may not exceed the amount paid by the cardholder with respect to the subject transaction at the time at which the cardholder first notifies the card issuer or the person honoring the accepted card of such claim or defense.”.

SEC. 5. CONSUMER RIGHTS.

Section 906 of the Electronic Funds Transfer Act (15 U.S.C. 1693f) is amended by adding at the end the following:

“(g) RIGHTS OF CONSUMERS WITH RESPECT TO ACCEPTED CARDS.—

(1) IN GENERAL.—Subject to the limitation contained in paragraph (2), the issuer of an accepted card to a consumer shall be subject to all claims and defenses arising out of any transaction in which the accepted card is used as a method of payment, if

(A) the consumer has made a good faith attempt to obtain satisfactory resolution of a disagreement or problem relative to the transaction from the person honoring the accepted card;

(B) the amount of the initial transaction exceeds $50; and

(C) the transaction was initiated by the consumer in the same State as the mailing address previously provided by the consumer, or within 100 miles from such address, except that the limitations set forth in subparagraphs (A) and (B) with respect to the right of a consumer to assert claims and defenses against the issuer of the card shall not be applicable to any transaction in which the person honoring the accepted card—

(i) is the same person as the card issuer;

(ii) is controlled by the card issuer;

(iii) is under direct or indirect common control with the card issuer;

(iv) is a franchised dealer in the products or services of the card issuer; or

(v) has obtained the order for such transaction through a mail solicitation made by or participated in by the card issuer in which the cardholder is solicited to enter into such transaction by using the accepted card issued by the card issuer.

“(2) LIMITATION.—The amount of claims or defenses asserted by the cardholder under this subsection may not exceed the amount paid by the cardholder with respect to the subject transaction at the time at which the cardholder first notifies the card issuer or the person honoring the accepted card of such claim or defense.”.

SEC. 6. REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall issue final regulations to carry out the amendments made by this Act, which regulations shall be consistent with the extent practicable, with regulations issued to carry out similar provisions under the Truth in Lending Act.

By Mr. DODD (for himself, Mr. FRIST, Mr. HARKIN, Mrs. CLINTON, Mr. REED, and Mr. DURBIN)

S. 3980. A bill to direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop a policy for managing the risk of food allergy and anaphylaxis in schools, to establish school-based food allergy management grants, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, food allergies are an increasing food safety and public health concern in this country, especially among young children. I know firsthand just how frightening food allergies can be in a young person’s life. My own family has been personally touched by this troubling condition and we continue to struggle with it each and every day. Sadly, there is no cure for food allergies.

In the past 5 years, the number of Americans with food allergies has nearly doubled from 6 million to almost 12 million. While food allergies were at one time considered relatively infrequent, today they rank 3rd among common chronic diseases in children under 18 years old. Peanuts are the most common allergen foods that can produce life-threatening allergic reactions in susceptible children. Peanut allergies have doubled among school-age children from 1997 to 2002.

Clearly, food allergies are of great concern for school-age children Nation-wide, and yet, there are no Federal guidelines concerning the management of life-threatening food allergies in our Nation’s schools.

I have heard from parents, teachers and school administrators that students with severe food allergies often face inconsistent food allergy management approaches when they change schools—whether they get promoted or move to a different city. Too often, families are not aware of the food allergy policy at their children’s school, or the policy is vastly different from the one they knew at their previous school, and they are left wondering whether their child will be safe.

Last year, Connecticut became the first State to enact school-based guidelines concerning food allergies and the
prevention of life-threatening incidents in schools. I am very proud of these efforts, and I know that the parents of children who suffer from food allergies in Connecticut have confidence that their children are safe throughout the school day. Other States, such as Massachusetts, have enacted similar guidelines. Tennessee school districts are poised to implement their statewide guidelines in July. But too many States across the country have food allergy management guidelines that are inconsistent from one school district to the next.

In my view, this lack of consistency underscores the need for enactment of uniform, Federal policies that school districts can choose to adopt and implement.

For this reason, my colleague, Senator Frist, and I introduced the Food Allergy and Anaphylaxis Management Act of 2006 today to address the growing need for uniform and consistent school-based food allergy management policy. I thank Senator Frist for his hard work and commitment to this important legislation.

The legislation does two things. First, it directs the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop and make available voluntary food allergy management guidelines for preventing exposure to food allergens and assuring a prompt response when a student suffers a potentially fatal anaphylactic reaction.

Second, the bill provides for incentive grants to school districts to assist them with adoption and implementation of the Federal Government's allergy management guidelines in all K-12 public schools.

I wish to acknowledge and offer my sincere appreciation to the members of the Food Allergy and Anaphylaxis Network for their commitment to this legislation and for raising public awareness, providing advocacy, and advancing research on behalf of all individuals who suffer from food allergies.

I hope that my colleagues in the Senate and in the House will consider and pass this important legislation before the end of the year so that the Department of Health and Human Services can begin work on developing national guidelines as soon as possible. Schoolchildren across the country deserve nothing less than a safe and healthy learning environment.

Mr. Frist. Mr. President, 6 years ago, my great-nephew had some peanut butter. He was 13 months old. For most 13-month-old children, this wouldn't be an issue. But for McClain Portis, it was.

You see, unbeknownst to him or his parents at the time, McClain is allergic to peanuts. When he ate that peanut butter, he had an anaphylactic reaction.

Within 30 seconds, his lips and eyes swelled shut, his face turned bright red, and he developed what is called a full body hive.

But McClain’s parents were quick thinkers. They called 911, and he was soon better after a dose of epinephrine. That’s what calms the anaphylactic reaction, if administered in time.

But 6 hours later, the epinephrine wore off. McClain had a biphasic reaction and had to return to the pediatrician to receive steroids. His older sister, just 4 years old at the time, asked their mother, “Is my brother going to die?”

McClain is 7 years old now—in first grade. He’s an active boy, with many friends. And he enjoys school. But school hasn’t been easy—for McClain or his parents.

It’s that way for a lot of children with food allergies, especially when they find themselves switching schools. I recently met another young man from Nashville—Andrew Wright. He’s 14 now, and he attends the same high school from which I graduated.

He’s endured food allergies nearly his entire life—but somehow the high-spirited teen keeps a positive outlook on life.

For a long time, every year he and his parents had to start from scratch. They had to teach the schools how to recognize and treat an allergic reaction. And they had to teach them about his allergens—sheep’s milk, tree nuts, peanuts, and possibly shellfish. That’s stressful work—for Andrew, for his parents, and even for the schools.

Andrew isn’t alone in their struggles. Across the country, 3 million children suffer from food allergies.


Foods that most people enjoy. But these 8 foods account for 90 percent of all food allergic reactions.

And for 3 million American children, these foods frequently aren’t safe. Their immune system makes a mistake. It treats something in a certain food as if it’s dangerous.

The food itself isn’t harmful, but the body’s reaction is.

Within a few hours—or sometimes, only minutes—of consuming a food allergen, a host of symptoms can burst forth, affecting the eyes, nose, throat, respiratory system, skin, and digestive system. The reaction could be mild—or it could be more severe, like it was for my great-nephew McClain.

Food-allergic reactions are the leading cause of anaphylaxis. If left untreated for too long, anaphylaxis can prove fatal. But it’s treatable—with adrenaline, or epinephrine.

In fact, studies have demonstrated an association between a delay in the administration of epinephrine—or non-administration—and anaphylaxis fatalities.

So it makes sense that we’d want schools to keep epinephrine on hand—in case a child experiences a food-allergic reaction leading to anaphylaxis. And it makes sense that we’d want school personnel to know how to recognize and treat food-allergic reactions.

But currently, there are no Federal guidelines concerning the management of life-threatening food allergies in the school setting.

In fact, in a recent survey, three-fourths of elementary school nurses reported not developing their own training guidelines for responding to food allergies.

This means that when children change schools—they’re promoted, they move, they are reclassified—for whatever reason—they and their parents face different food allergy management approaches. And there’s no across-the-board consistency.

That’s why Senator Dodd and I have introduced the Food Allergy and Anaphylaxis Management Act of 2006. We believe the Federal Government should establish uniform, voluntary food allergy management guidelines—and schools should be strongly encouraged to adopt and implement such guidelines.

The bill directs the Secretary of Health and Human Services—in consultation with the Secretary of Education—to develop voluntary food allergy management guidelines and incentive grants to local education agencies. These grants assist with the adoption and implementation of food allergy management guidelines in public schools.

There are 3 million American children who suffer from food allergies. We can’t cure them of their allergies. But we can help prevent allergic reactions, and we can help ensure timely treatment of them when they occur.

I urge my colleagues to support this bipartisan measure, so we can help keep America’s children healthy.

By Mr. KOHL (for himself and Mr. LEAHY):

S. 3981. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish requirements for certain petitions submitted to the Food and Drug Administration, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KOHL. Mr. President, I rise today to introduce the Citizen Petition Fairness and Accuracy Act of 2006. This legislation will help speed the introduction of cost-saving generic drugs by providing greater fairness and accuracy in the Food and Drug Administration citizen petition process.

Consumers continue to suffer all across our country from the high—and rising costs—of prescription drugs. A recent independent study found that prescription drug spending has more than quadrupled since 1990, and now accounts for 11 percent of all health care
spending. At the same time, the pharmaceutical industry is one of the most profitable industries in the world, returning more than 15 percent on their investments.

One key method to bring prescription drug prices down is to promote the introduction of generic alternatives to expensive brand name drugs. Consumers realize substantial savings once generic drugs enter the market. Generic drugs cost on average of 63 percent less than their brand-name equivalents. One study estimates that every 1 percent increase in the use of generic drugs could save $1 billion in health care costs.

This is why I have been so active in the last year in pursuing legislation designed to combat practices which impede the introduction of generic drugs—including S. 3582, the Preserve Access to Generics Act, which would forbid payments from brand name drug manufacturers to generic manufacturers to keep generic drugs off the market, and S. 2300, the Lower Priced Drugs Act, legislation I co-sponsored to combat other conduct which impedes the marketing of generic drugs. The legislation I introduce today targets yet another practice by brand name drug companies to impede or block the marketing of generic drugs—abuse of the FDA citizen petition process.

FDA rules permit any person to file so-called “citizen petitions” to raise concerns about the safety or efficacy of a generic drug that a manufacturer is seeking FDA approval to bring to market. While this citizen petition process was put in place for a laudable purpose, unfortunately in recent years it has been abused by frivolous petitions submitted by brand name drug manufacturers (or individuals acting at their behest) whose only purpose is to delay the introduction of generic competition. The FDA has a policy of not granting a generic manufacturer’s drug application until after it has considered and evaluated any citizen petitions regarding that drug. The process of resolving a citizen petition (even if ultimately found to be groundless) can delay the approval by months or years. Indeed, brand name drug manufacturers often wait to file citizen petitions until just before the FDA is about to grant the approval to market the new generic drug, solely for the purpose of delaying the introduction of the generic competitor for the maximum amount of time possible. This gaming of the system should not be tolerated.

In recent years, FDA officials have expressed serious concerns about the abuse of the citizen petition process. Last year, FDA Chief Counsel Sheldon Bradshaw noted that “[t]he citizen petition process is in some cases being abused. Sometimes, stakeholders try to use this mechanism to unnecessarily delay the approval of competing drugs and manufacturers.” He added that he found it “particularly troublesome” that he had “seen several examples of citizen petitions that appear designed not to raise timely concerns with respect to the legality or scientific soundness of approving a drug application, but rather to delay approval by compelling the agency to take the time to consider the arguments raised in the petition, regardless of their merits, and regardless of whether the petitioner could have made those very arguments months and months before.”

And a simple look at the statistics gives credence to these concerns. Of the 21 citizen petitions for which the FDA has reached a decision since 2003, 20 or 95 percent of them have been found to be without merit. Of these, ten were identified as “eleventh hour petitions”, defined as those filed less than 6 months prior to the estimated entry date of the generic drug. None of these ten “eleventh hour petitions” were found to have merit, but each caused unnecessary delays in the marketing of the generic drug by months or over a year, causing consumers to spend millions and millions more for their prescription drugs than they would have spent without these abusive filings.

Despite the expense these frivolous citizen petitions cause consumers and the FDA, under current law the government has absolutely no ability to sanction or penalize those who abuse the citizen petition process, or who file petitions that are not in the public interest. This legislation will serve as a strong deterrent to attempts by brand name drug manufacturers or any other party that seeks to abuse the citizen petition process to thwart competition. It will thereby remove one significant obstacle exploiting by brand name drug companies to prevent or delay the introduction of generic drugs. I urge my colleagues to support this legislation.

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

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

S. 3981

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Citizen Petition Fairness and Accuracy Act of 2006”.

SEC. 2. CITIZEN PETITIONS AND PETITIONS FOR STAY OF AGENCY ACTION.

Section 505(j)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)) is amended by adding at the end the following:

“(g)(1) Notwithstanding any other provision of law, any petition submitted under section 10.30 or section 10.35 of title 21, Code of Federal Regulations (or any successor regulation), shall include a statement that to the petitioner’s best knowledge and belief, the petition—

“(i) includes all information and views on which the petitioner relies, including all representative data and information known to the petitioner that is favorable or unfavorable to the petition;

“(ii) is well grounded in fact and is warranted by law;

“(iii) is not submitted for an improper purpose, such as to harass or cause unnecessary delay (including unnecessary delay of competitive action); and

“(iv) does not contain a materially false, misleading, or fraudulent statement.

“(ii) The Secretary shall investigate, on receipt of a complaint, a request under clause (vi), or on its own initiative, any petition submitted under section 10.30 or section 10.35 (or any successor regulation), that—

“(i) does not comply with the requirements of clause (i);

“(ii) may have been submitted for an improper purpose as described in clause (i); or

“(iii) may contain a materially false, misleading, or fraudulent statement as described in clause (i).

“(ii) If the Secretary finds that the petitioner has knowingly and willingly submitted the petition for an improper purpose as described in clause (i), or that contains a materially false, misleading, or fraudulent statement as described in clause (i), the Secretary may—

“(i) impose a civil penalty of not more than $100,000, plus all attorneys fees and costs of reviewing the petition and any related proceedings;
"(II) suspend the authority of the petitioner to submit a petition under section 10.30 or section 10.35 (or any successor regulation), for a period of not more than 10 years;

"(III) revoke permanently the authority of the petitioner to submit a petition under such section 10.30 or section 10.35 (or any successor regulation); or

"(IV) dismiss the petition at issue in its entirety;

"(v) if the Secretary takes an enforcement action described in subclause (I), (II), (III), or (IV) of clause (iii) with respect to a petition, the Secretary shall refer that petition to the Federal Trade Commission for further action as the Federal Trade Commission finds appropriate.

"(v) In determining whether to take an enforcement action described in subclause (I), (II), (III), or (IV) of clause (iii) with respect to a petition, and in determining the amount of any civil penalty or the length of any suspension imposed under that clause, the Secretary shall consider the specific circumstances of the situation, such as the gravity and seriousness of the violation involved, and the resources expended in reviewing the petition at issue, the effect on marketing of competing drugs of the pendancy of the improperly submitted petition, including the timing of the submission of the petition appears to have been calculated to cause delay in the marketing of any drug awaiting approval, and whether the petitioner has a history of submitting petitions in violation of this subparagraph.

"(vi) Any person aggrieved by a petition filed under such section 10.30 or section 10.35 (or any successor regulation), including a person filing an application under subsection (b)(2) or (j) of this section to which such petition relates, may request that the Secretary initiate an investigation described under clause (i) for an enforcement action described under clause (iii).

"(vii) The Secretary shall take final action on a petition submitted under such section 10.30 or section 10.35 (or any successor regulation) within 6 months of receipt of such petition. The Secretary shall not extend such 6-month review period, even with consent of the petitioner, for any reason, including based upon the submission of comments relating to a petition or supplemental information supplied by the petitioner. If the Secretary has not taken final action on a petition by the date that is 6 months after the date of receipt of the petition, the petitioner shall be deemed to have been denied on such date.

"(viii) The Secretary may promulgate regulations to carry out this subparagraph, including whether petitions filed under such section 10.30 or section 10.35 (or any successor regulation) merit enforcement action by the Secretary under this subparagraph."

By Mr. HARKIN (for himself, Mr. LEAHY, Ms. MIKULSKI, and Mr. KERRY):

S. 3968. A bill to improve programs for the identification and treatment of post-deployment mental health conditions, including post-traumatic stress disorder, in veterans and members of the Armed Forces, and for other purposes; to the Committee on Veterans' Affairs.

Mr. HARKIN. Mr. President, more than 41 million Americans suffer from a moderate to serious mental disorder. Unfortunately, because of the lingering stigma attached to mental illness, and lack of coverage under health insurance, these disorders often go untreated. I am particularly concerned that we are neglecting the mental health of our returning war veterans.

Earlier this year, I introduced a bill directing the Department of Veterans Affairs to create a program to address the shocking rate of suicide among veterans returning from combat in Iraq and Afghanistan. That bill, the Joshua Omvig Suicide Prevention Act of 2006, was named in honor of a young hero from Grundy Center who killed himself soon after returning from a tour of duty in Iraq.

But we also need a broader strategy for addressing the mental health needs of service members exposed to the stress and trauma of war.

And that is why I introduced legislation today requiring the Department of Veterans Affairs to develop a comprehensive plan to improve the diagnosis and treatment of Post Traumatic Stress Disorder, PTSD, in our veterans.

My bill would require the VA to create a curriculum and required protocols for training screeners and clinicians to better screen and treat PTSD. It also would require the VA to commit additional staff and resources to this challenge.

During my years in the Navy, I learned one of the most important lessons of my entire life: Never leave a buddy behind. That’s true on the battlefield—and it’s also true after our service members return home.

Often, the physical wounds of combat are repaired, but the mental damage— the psychological combat—can haunt a person for a lifetime.

One study shows that about 17 percent of active-duty service members who served in Iraq screened positive for anxiety, depression, or PTSD. This number is comparable to rates of PTSD experienced by Vietnam War veterans.

But, in the decades since, scientists have learned that quick intervention is critical to ensuring that an acute stress reaction does not become a chronic mental illness. This is exactly the aim of my bill: to improve early detection and intervention . . . to save lives . . . and to prevent long-term mental illness. The Federal Government has a moral contract with those who have fought for our country and sacrificed so much. This bill is about making good on that contract.

By Mr. OBAMA:

S. 3968. A bill to amend title 10 and United States Code, to improve benefits and services for members of the Armed Forces, veterans of the Global War on Terrorism, and other veterans, to require reports on the effects of the Global War on Terrorism, and for other purposes; to the Committee on Veterans' Affairs.

Mr. OBAMA. Mr. President, I rise today to introduce a legislation that is significant both in the problems it seeks to address and the man it seeks to honor.

Since the day he arrived in Congress more than two decades ago, LANE EVANS has been a voice for the men and women with whom he served. When Vietnam vets started falling ill from Agent Orange, he led the effort to get them compensation. LANE was one of the first in Congress to speak out about the health problems facing Persian Gulf war veterans. He’s worked to help veterans suffering from Post-Traumatic Stress Disorder, and he’s also helped make sure thousands of homeless veterans in our country have a place to sleep.

I am very proud today to introduce the Lane Evans Veterans Healthcare and Benefits Improvement Act of 2006. This bill honors a legislator who leaves behind an enduring legacy of service to our veterans. The legislation also is an important step towards caring for our men and women who are currently fighting for us.

Today, nearly 1.5 million American troops have been deployed overseas as part of the global war on terror. These brave men and women who protected us are beginning to return home. Six hundred thousand people who served in Iraq and Afghanistan are now veterans, and at least 184,000 have already received treatment at the VA. That number is increasing every day. Many of these fighting men and women are coming home with major injuries. As a country, we are only beginning to understand the true costs of the global war on terror.

For instance, last week, the Government Accountability Office reported that VA has faced $3 billion in budget shortfalls since 2005 because it under estimated the costs of caring for Iraq and Afghanistan veterans. The VA wasn’t getting the information it needed from the Pentagon and was relying on outdated data and incorrect forecasting models. We cannot let these kind of bureaucratic blunders get in the way of taking care of those who have risked their lives to defend ours.

To avoid these costly shortfalls in the future, we have to do a better job keeping track of veterans. That’s why the first thing the Legislation Act does is to establish a system to track global war on terror veterans. The VA established a similar data system following the Persian Gulf War. That effort has
been invaluable in budget planning as well as in monitoring emerging health trends and diseases linked to the gulf war. The Gulf Wars Veterans Information System also has been important to medical research and improved care for veterans. The sooner we begin keeping accurate and complete records for fighting women in Iraq, Afghanistan and beyond, the better and more efficiently we will be able to care for them.

The Lane Evans Act also tackles Post-Traumatic Stress Disorder. Mental health patients account for about a third of the new veterans seeking care at the VA. The VA’s National Center for PTSD reports that “the wars in Afghanistan and Iraq are the most sustained combat operations since the Vietnam War, and initial signs imply that these ongoing wars are likely to produce a new generation of veterans with chronic mental health problems.” This bill addresses PTSD in 2 ways.

First, it extends the window during which new veterans can automatically get care for mental health from 2 years to 5 years. Right now, any servicemember discharged from the military has up to 2 years to walk into the VA and get care, no questions asked. After that, they have to prove that they are disabled because of a service-connected injury, or they have to prove their income is below threshold levels. Unfortunately, it can take years for symptoms of PTSD to manifest themselves. The time it takes to prove service connection for mental health illness is valuable time lost during which veterans are not receiving critically needed treatment. The Lane Evans Act allows veterans to walk into a VA any time 5 years after discharge and get assessed for mental health care. This both extends the window and shortens the wait for vets to get care.

Second, the legislation makes face-to-face physical and mental health screening mandatory 30 to 90 days after a soldier is deployed in a war zone. This will ensure that our fighting force is ready for battle, and that we can identify and treat those at risk for PTSD. By making the exams mandatory, we can help eliminate the stigma associated with mental health screening and treatment.

Another problem veterans face is that the VA and DoD do not effectively share medical and military records. Older veterans have long waited for their benefits as the Department of Defense recovers aging and lost paper records. Under the Lane Evans Act, the Department of Defense would provide each separating service member at the time of discharge with a secure full electronic copy of all military and medical records to help them apply for healthcare and benefits. DoD possesses the technology to do this now. The information could be useful to VA to quickly and accurately document receipt of care or deployment to a war zone. The electronic data will also be helpful in future generations when family members of veterans seek information about military service, awards, and wartime deployment that goes well beyond the existing single-sheet DD-214 discharge certificate, which is all veterans currently receive.

Finally, the legislation improves the transition assistance that guardsmen and reservists is accelerated, reserve units get abbreviated and perfunctory transition assistance instead of full training. The VA should provide equal briefings and transition services for all service members regarding VA healthcare, disability compensation, and other benefits, regardless of their duty status.

Lane Evans dedicated his life to serving this country and dedicated his time in Congress to serving veterans. The legislation I am introducing today, honors both the man and his mission, and will continue his legacy to the next generation of American veterans.

By Mr. BIDEN:

S. 3989. A bill to establish a Homeland Security and Neighborhood Safety Trust Fund Act of 2006. And, I do so because it is my sincere belief, that in order to better prevent attacks here at home, we must dramatically reorder the priorities of the Federal Government.

This legislation, which I unsuccessfully attempted to attach to the port security legislation 2 weeks ago, will reorder our priorities by creating a homeland security trust fund that will set aside $33.3 billion to invest in our homeland security over the next 5 years. Through this trust fund we will allocate an additional $10 billion per year over the next 5 years to enhance the safety of our communities.

Everyone in this body knows that we are not yet safe enough. Independent experts, law enforcement personnel, and first responders have warned us that we have not done enough to prevent an attack and we are ill-equipped to respond to one. Hurricane Katrina, which happened just over a year ago, demonstrated this unfortunate truth and showed us the devastating consequences of our failure to act responsibly here in Washington. And, last December, the 9/11 Commission issued their report, and the administration’s and Congresses’ progress in implementing their recommendations. The result was a report card riddled with D’s and F’s.

And, to add to this, the FBI reported earlier this summer that violent crime was up for the first time in a decade. Given all of this, it is hard to argue that we are as safe as we should be.

To turn this around, we have to get serious about our security. If we establish the right priorities, we can do the job. We can fund local law enforcement, which the President has attempted to slash by over $2 billion for fiscal year 2007. We can give the FBI an additional $2 billion to implement reforms without abandon-
bipartisan port security legislation that passed the Senate 2 weeks ago.

Yet, another example of this problem is our shameful record on providing funding for rail security. For the last two Congresses, the Senate has passed bipartisan port security legislation sponsored by myself, Senator MCCAIN and others. This legislation authorizes $1.2 billion to secure the soft targets in our rail system, such as the tunnels and stations. Notwithstanding, we have only allocated $150 million per year for rail security, with less than $15 million allocated for intercity passenger rail security.

So, while it is critical that we have acknowledged the need for increased rail security funding by passing authorizations, unless we invest the money, it doesn’t really mean much. Unfortunately, this is an example that is repeated over and over.

We know that the murder rate is up and that there is an officer shortage in communities throughout the Nation. Yet, we provide $0 funding for the COPS hiring program and we’ve slashed funding for the Justice Assistance Grant.

We know that our first responders can’t talk because they don’t have enough interoperable equipment. Yet, we have not forced the networks to turn over critical spectrum, and we vote down funding to help local agencies purchase equipment every year.

We know that only 5 percent of cargo containers are screened, yet we do not invest in the personnel and equipment to upgrade our systems.

We know that our critical infrastruc-
ture is vulnerable. Yet, we allow indus-
try to decide what is best and provide scant resources to harden soft targets.

The 9/11 Commission’s report card issued last December stated bluntly that “it is time we stop talking about setting priorities and actually set some.”

This legislation will set some prior-
ties. First, we provide the funding nec-
essary to implement the recommenda-
tions of the 9/11 Commission. Next, we take the commonsense steps to make our Nation safer. We make sure that law enforcement and first responders have the personnel, equipment, training they need, and are sufficiently co-
derated to do the job by providing $1.15 billion per year for COPS grants; $160 million per year to hire DEA agents; $200 million to hire and equip 1,000 rail police. $900 million for the Justice Assistance Grants; $1 billion per year for interoperable communica-
tions; $1 billion for Fire Act and SAFER grants.

In addition, we could invest in new screening technologies to protect the American people by providing $100 mil-

lion per year for port security grants, and $300 million per year to harden our rail infrastructure. And the list goes on.

I will conclude where I started. This is all about setting the right priorities for America. Instead of giving a tax cut to millionaires when we don’t need it, we should take some of it and dedicate it towards the security of all Americans. Our Nation’s most fortu-

nate are just as patriotic as the middle class. They are just as willing to sac-

rifice, that money the government raises for security actually gets spent on security.

This legislation is about re-ordering our homeland security priorities. I re-

ealize that it will not be enacted this year, but I am confident that they will be willing to forgo 1 year of their tax cut for the greater good of securing the homeland. The bottom line is that with this legislation, we make clear what our national priorities should be, we set out how we will pay for them, and we ensure those who are asked to sac-

rifice, that money the government raises for security actually gets spent on security.

The Homeland Security Trust Fund Act of 2006 will ask them to sacrifice for the good of the Nation, and I’m con-

vinced that they will gladly help us out. And to those who say this won’t work, I would remind them that the 1994 Crime Bill established the Violent Crime Reduction Trust Fund, specifically designated for public safety, that put more than 150,000 cops on the street, funded prevention programs and more prison beds to lock up violent of-
fenders. It worked; violent crime went down every year for 8 years from the historic highs to the lowest levels in a generation.

Our Nation is at its best when we all pull together and sacrifice. Our Na-

tion’s most fortunate citizens are just as patriotic as those in the middle class, and I am confident that they will be willing to forgo 1 year of their tax cut for the greater good of securing the homeland. The bottom line is that with this legislation, we make clear what our national priorities should be, we set out how we will pay for them, and we ensure those who are asked to sac-

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rifice, that money the government raises for security actually gets spent on security.

By Mr. BUNNING:

S. 3992. A bill to amend the Exchange Rates and International Economic Policy Coordination Act of 1998 to clarify the definition of manipulation with respect to currency, and for other pur-
poses; read the first time.

Mr. BUNNING. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3992

Be it enacted by the Senate and House of Rep-

resentatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Fair Currency Practices Act of 2006".

SEC. 2. FINDINGS.

(a) Congress makes the following findings:

(1) Since the Exchange Rates and Inter-

national Economic Policy Coordination Act of 1988 (22 U.S.C. 5302(3)) was enacted the global economy has changed dramatically, but the current exchange rates, a sharp increase in the flow of funds inter-

ternationally, and an ever growing number of emerging market economies becoming sys-

tematically important to the flow of goods, services, and capital. In addition, practices such as the maintenance of mul-

tiple currency regimes have become rare.

(2) Exchange rates in major trading nations are occasionally manipulated or fund-

amentally misaligned due to directed or indi-

rect governmental intervention in the ex-

change market.

(3) A major focus of national economic pol-

icy should be a market-driven exchange rate for the United States dollar at a level con-

sistent with a sustainable balance in the United States current account.

(4) While some degree of surpluses and defi-

icits in payments balances may be expected, particularly in response to increasing eco-

nomic globalization, large and growing im-

balances raise concerns of possible disrup-

tion to financial markets. In part, such im-

balances are often a reflection of exchange rates that foster fundamental misalignment of currencies.

(5) Currencies in fundamental misalign-

ment can seriously undermine the ability of international markets to adjust appro-

riately to global capital and trade flows, threatening trade flows and causing eco-

nomic harm to the United States.

(6) The effects of a fundamentally mis-

aligned currency may be so harmful that it is essential to correct the fundamental mis-

alignment without recourse of any policy that contributed to the misalign-

ment.

(7) In the interests of facilitating the ex-

change of goods, services, and capital among countries, sustaining sound economic growth, and fostering financial and economic stability, Article IV of the International Monetary Fund’s Articles of Agreement obli-

gates each member of the International Mon-

etary Fund to avoid manipulating exchange rates in order to prevent effective balance of payments adjustments. The United States holds the United States obligation under Article IV of the International Monetary Fund’s Articles of Agreement.

TITLe 1—INTERNATIONAL MONETARY AND FINANCIAL POLICIES

SECTION 101. AMENDMENTS TO DEFINITIONS.

Section 3006 of the Exchange Rates and International Economic Policy Coordination Act of 1998 (22 U.S.C. 5302(3)) is amended by add-

ing at the end the following:

"(3) FUNDAMENTAL MISALIGNMENT.—The term 'fundamental misalignment' means a material sustained disparity between the ob-

served levels of an effective exchange rate for a currency and the corresponding levels of an effective exchange rate for that cur-

rency that would be consistent with fund-

mental macroeconomic conditions based on a generally accepted economic rationale.

(4) EFFECTIVE EXCHANGE RATE.—The term 'effective exchange rate' means a weighted average of bilateral exchange rates, ex-

pressed in either nominal or real terms.

(5) GENERALLY ACCEPTED ECONOMIC RA-

LION.—The term 'generally accepted eco-

nomic rationale' means an explanation drawn on widely recognized macroeconomic
theory for which there is a significant degree of empirical support.

SEC. 102. BILATERAL NEGOTIATIONS. 

(a) In General.—Section 300(b)(b) of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5305(b)) is amended to read as follows:

(b) Bilateral Negotiations.

(1) The Secretary of the Treasury shall analyze on an annual basis the exchange rate policies of foreign countries, in consultation with the International Monetary Fund, and consider whether countries—

(A) manipulate the rate of exchange between their currency and the United States dollar, or purposes of preventing effective balance of payments adjustments or gaining unfair competitive advantage in international trade; or

(B) have a currency that is in fundamental misalignment.

(2) AFFIRMATIVE DETERMINATION.—If the Secretary considers that such manipulation or fundamental misalignment is occurring with respect to countries that—

(A) have material global current account surpluses or deficits; or

(B) have significant bilateral trade surpluses with the United States, the Secretary of the Treasury shall take action to initiate negotiations with such foreign countries on an expedited basis, in the International Monetary Fund or bilaterally, for the purpose of ensuring that such countries regularly and promptly adjust the rate of exchange between their currencies and the United States dollar to permit effective balance of payments adjustments and to eliminate the unfair advantage.

(3) Economic Condition.—The Secretary shall not be required to initiate negotiations if the Secretary determines that such negotiations would have a serious detrimental impact on vital national economic and security interests. The Secretary shall inform the chairmen and the ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Financial Services of the House of Representatives of the Secretary’s determination.

SEC. 103. REPORTING REQUIREMENTS. 

Section 3005 of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5305) is amended to read as follows:

SEC. 3005. REPORTING REQUIREMENTS. 

(a) Reports Required.—

(1) In General.—The Secretary, after consulting with the Chairman of the Board of Governors of the Federal Reserve System, shall submit to Congress, on or before October 15 of each year, a written report on international economic policy and currency exchange rates.

(2) Interim Report.—The Secretary, after consulting with the Chairman of the Board, shall submit to Congress, on or before April 15 of each year, an interim report on interim developments with respect to international economic policy and currency exchange rates.

(b) CONTENTS OF REPORT.—Each report submitted under subsection (a) shall contain—

(1) an analysis of currency market developments and the relationship between the United States dollar and the currencies of major economies or United States trading partners;

(2) a review of the economic and financial policies of major economies and United States trading partners and an evaluation of the impact that such policies have on currency exchange rates;

(3) a description of any currency intervention by the United States or other major economies or United States trading partners, or other actions undertaken to adjust the actual exchange rate of the dollar;

(4) an evaluation of the factors that underlie the conditions in the currency markets, including—

(A) monetary and financial conditions; 

(B) foreign exchange reserve accumulation;

(C) macroeconomic trends; 

(D) trends in current and financial account balances; 

(E) the size and composition of, and changes in, international capital flows; 

(F) the impact of the external sector on economic changes; 

(G) the size and growth of international indebtedness; 

(H) trends in the net level of international investment; and 

(I) capital controls, trade, and exchange restrictions;

(i) a list of currencies of the major economies or areas that are manipulated or in fundamental misalignment and a description of any economic models or methodologies used to establish the list;

(ii) a description of any reason or circumstance identified by paragraph (5) is manipulated or in fundamental misalignment based on a generally accepted economic rationale;

(iii) a list of each currency identified under paragraph (5) for which the manipulation or fundamental misalignment causes, or contributes to, a material adverse impact on the economy of the United States, including a description of any reason or circumstance that explains why the manipulation or fundamental misalignment is not accounted for under paragraph (6);

(iv) the results of any prior consultations conducted or other steps taken; and

(v) a list of currencies identified under paragraph (5) for which the manipulation or fundamental misalignment causes, or contributes to, a material adverse impact on the economy of the United States, including a description of any reason or circumstance that explains why the manipulation or fundamental misalignment is not accounted for under paragraph (6);

(vi) a description of any reason or circumstance identified by paragraph (5) for which the manipulation or fundamental misalignment causes, or contributes to, a material adverse impact on the economy of the United States, including a description of any reason or circumstance that explains why the manipulation or fundamental misalignment is not accounted for under paragraph (6);

(vii) a list of each currency identified under paragraph (5) for which the manipulation or fundamental misalignment causes, or contributes to, a material adverse impact on the economy of the United States, including a description of any reason or circumstance that explains why the manipulation or fundamental misalignment is not accounted for under paragraph (6).

SEC. 104. INTERNATIONAL FINANCIAL INSTITUTION GOVERNANCE ARRANGEMENTS. 

(a) Initial Review.—Notwithstanding any other provisions of law, before the United States approves a proposed change in the governance arrangement of any international financial institution, as defined in section 1701(c)(2) of the International Financial Institutions Act (22 U.S.C. 262c(c)(2)), the Secretary of the Treasury shall determine whether the international financial institution that would benefit from the proposed change, in the form of increased voting shares or representation, has a currency that is manipulated or in fundamental misalignment, and if so, whether the manipulation or fundamental misalignment causes, or contributes to, a material adverse impact on the economy of the United States. The determination shall be reported to Congress.

(b) Affirmative Determination.—If the Secretary determines that the United States should oppose any proposed change in the governance arrangement of any international financial institution, as defined in subsection (a), if the Secretary renders an affirmative determination pursuant to subsection (a).

(c) Further Action.—The United States shall continue to oppose any proposed change in the governance arrangement of an international financial institution, pursuant to paragraph (b), unless the Secretary renders an affirmative determination pursuant to subsection (a).

TITe II—SUBSIDIES AND PRODUCTSPECIFIC SAFEGUARD MECHANISM

SEC. 201. FINDINGS. 

Congress makes the following findings:

(1) The economy and national security of the United States are critically dependent upon a vibrant manufacturing and agricultural base.

(2) The good health of United States manufacturing and agriculture requires, among other things, unfettered access to open markets abroad and fair trade in goods and products in accord with the international legal principles and agreements of the World Trade Organization and the International Monetary Fund.

(3) The International Monetary Fund, the G-8, and other international organizations have repeatedly noted that exchange-rate misalignment can cause imbalances in the international trading system that could ultimately understate the stability of the system, but have taken no action to address such imbalances and their impact.

(4) Since 1994, the People’s Republic of China and other countries have aggressively intervened in currency markets and taken actions that have undermined the values of their currencies against the United States dollar and other currencies.

(5) This policy by the People’s Republic of China, for example, has resulted in substantial undervaluation of the renminbi, by up to 40 percent or more.

(6) Evidence of this undervaluation can be found in the large and growing trade surpluses of the People’s Republic of China; substantially expanding foreign direct investment in China; and the rapidly increasing capital outflow from China into foreign currency reserves that are held by the People’s Republic of China.
(7) Undervaluation by the People’s Republic of China and by other countries acts as both a subsidy for their exports and as a non-tariff barrier against imports into their territory, in violation of the United States manufacturing and agriculture.

(8)(A) As members of both the World Trade Organization and the International Monetary Fund, the People’s Republic of China and other countries have assumed a series of international legal obligations to eliminate all subsidies for exports and to facilitate international trade by fostering a monetary system that does not tend to produce erratic disruptions, that does not prevent effective balance-of-payments adjustment, and that does not promote competitive advantage:

(B) These obligations are most prominently set forth in Articles VI, XV, and XVI of the General Agreement on Tariffs and Trade (1947) and the Agreement on Subsidies and Countervailing Measures (as defined in section 1671(d)(12) of the Uruguay Round Agreements Act (19 U.S.C. 2411(d)(12))).

(9) Under the foregoing circumstances, it is consistent with the international legal obligations of the People’s Republic of China and similar obligations of countries and with the corresponding international legal rights of the United States to amend relevant United States trade laws to make explicit that exchange-rate misalignment is actionable as a countervailable subsidy.


(a) Amendments to Definition of Countervailable Subsidy.—

(1) Financial contribution.—Section 771(5)(D) of the Tariff Act of 1930 (19 U.S.C. 1677(5)(D)) is amended—

(A) by redesignating clauses (i) through (iv) as subclauses (I) through (IV), respectively;

(B) by striking “The term” and inserting “(i) The term”; and

(C) by adding at the end the following:

“(ii) Exchange-rate misalignment (as defined in paragraph (5C)) constitutes a financial contribution within the meaning of subclauses I and III of clause (1).”;

(2) Benefit conferred.—Section 771(3)(E) of the Tariff Act of 1930 (19 U.S.C. 1677(3)(E)) is amended—

(A) in clause (iii), by striking “,” and” and inserting a comma;

(B) in clause (iv), by striking the period at the end and inserting “,” and”; and

(C) by adding at the end the following new clause:

“(i) In the case of exchange-rate misalignment (as defined in paragraph (5C)), if the price of exported goods in United States dollars is less than the price of such goods without the exchange-rate misalignment.”.

(3) Specificity.—Section 771(5A)(B) of the Tariff Act of 1930 (19 U.S.C. 1677(5A)(B)) is amended by adding by adding at the end before the period following: “, such as exchange-rate misalignment (as defined in paragraph (5C)).”

(b) Definition of Exchange-Rate Misalignment.—Section 771 of the Tariff Act of 1930 (19 U.S.C. 1671) is amended by inserting after paragraph (5B) the following new paragraph:

“(5C) Exchange-rate misalignment.—

(A) In General.—For purposes of paragraphs (5) and (5A), the term ‘exchange-rate misalignment’ means a significant undervaluation of a foreign currency as a result of protracted large-scale intervention by a government authority in the foreign exchange market. Such undervaluation shall be found when the observed exchange rate is significantly below the exchange rate that could reasonably be expected for that foreign currency absent the intervention.

(B) Factoring.—In determining whether exchange-rate misalignment is occurring and a benefit thereby is conferred, the administering authority in each case—

(i) shall consider the effects of—

(1) bilateral balance-of-trade surplus or deficit with the United States;

(2) balance-of-trade surplus or deficit with other trading partners individually and in the aggregate; and

(iv) as subclauses (I) through (IV), respectively.

(c) Amendments to Section 421—

(1) Amendments to definition of exchange-rate misalignment.—Section 421(i)(1) of the Trade Act of 1974 (19 U.S.C. 2451(o)(1)) is amended by adding at the end the following new clause:

“(i) In determining whether exchange-rate misalignment is occurring, the Commission in each case—

(1) shall consider the People’s Republic of China;

(2) shall consider the United States manufacturing and agriculture;

(3) shall consider the United States direct investment in its territory;

(4) shall consider the United States currency-specific and aggregate amounts of foreign currency reserves; and

(V) mechanisms employed to maintain its currency at an undervalued exchange rate relative to another currency and, particularly, the nature, duration, and monetary expenditures of those mechanisms;

(2) shall consider the People’s Republic of China.

(d) Modifications of relief.—Section 421(m)(2) of the Trade Act of 1974 (19 U.S.C. 2451(m)(2)) is amended by adding at the end the following new clause:

“(2) In determining whether exchange-rate misalignment is occurring, the Commission in each case—

(1) shall consider the People’s Republic of China;

(2) shall consider the United States manufacturing and agriculture;

(3) shall consider the United States direct investment in its territory;

(4) shall consider the United States currency-specific and aggregate amounts of foreign currency reserves; and

(V) mechanisms employed to maintain its currency at an undervalued exchange rate relative to another currency and, particularly, the nature, duration, and monetary expenditures of those mechanisms; and

(3) shall measure the trade surpluses or deficits described in subclauses (I) and (II) of clause (i) with reference to the trade data reported by the United States and the other trading partners of the United States manufacturing and agriculture.

(e) Extension of action.—Section 421(o) of the Trade Act of 1974 (19 U.S.C. 2451(o)) is amended by adding at the end the following new clause:

“(o) In determining whether exchange-rate misalignment is occurring, the Commission shall consider such economic factors as are relevant; and

“(i) shall consider the People’s Republic of China;
Mr. SCHUMER submitted the following resolution; which was referred to the Committee on the Judiciary:

S. Res. 589

Whereas New York State Senator John J. Marchi has been recognized by the National Conference of State Legislatures as the longest serving state legislator in the United States;

Whereas Senator Marchi was born on May 29, 1921, in Staten Island and attended local primary and secondary schools in New York, then Manhattan College, from which he graduated with first honors in 1942, St. John’s University School of Law, from which he received a law degree, and Brooklyn Law School, from which he received an advanced degree in law;

Whereas, during World War II, State Senator Marchi served in the United States Coast Guard and saw combat in the Atlantic and Pacific theaters and in the China Sea, and subsequently served in the United States Naval Reserve until 1946;

Whereas, in 1966, State Senator Marchi was elected to the New York State Senate and has served the citizens of Senate District 24 for 50 years, making him the longest serving state legislator in the United States;

Whereas State Senator Marchi served as a delegate to the New York Constitutional Convention in 1967;

Whereas State Senator Marchi is a recognized leader of the New York State Senate and was named Assistant Majority Leader on Conference Operations in January 2005. Assistant Majority Whip in 2003, Chairman of the Senate Committee on Corporations, Authorities and Commissions in 1995, and Vice President Pro Tempore in 1989;

Whereas, prior to holding these offices, State Senator Marchi served as Chairman of the Finance Committee for 15 years;

Whereas, State Senator Marchi is a tireless leader and advocate for New York City, has served on the City of New York Committee in the New York State Senate, and was named Chairman of the Temporary State Commission on New York City School Government in 1989, a panel of civic, governmental, business, and educational leaders that conducted an examination of the control of the city schools and, in 1991, gave the State legislature a package of proposals intended to improve the administration of, and public participation in, the New York City school system;

Whereas State Senator Marchi is widely recognized as one of the city and State leaders who helped write the laws that saved New York City from financial collapse in the mid-1970s;

Whereas State Senator Marchi sponsored the bill, known as the Marchi Law, which helped keep the New York State financial reporting and bookkeeping practices so that the legislature and the public could see more clearly the State government’s actions;

Whereas, in 1997, State Senator Marchi successfully advanced—and saw passed and signed into law—a bill to require the closing by January 1, 2000, of all landfill sites in Staten Island’s worst environmental problem for more than half a century, which the legislature had not previously scheduled for closure;

Whereas State Senator Marchi has also been a leader in the development of legislation to strengthen public education from kindergarten through graduate school;

Whereas State Senator Marchi has been a member of the Executive Committee and Board of Governors of the Catholic University of America since 1965, is a former Chair of the Committee, and was designated the first permanent member of the Committee in 1968;

Whereas, in 1969 and 1973, State Senator Marchi was the candidate of the Republican Party for the Office of Mayor of the City of New York;

Whereas, in October 1972, State Senator Marchi was appointed by President Nixon to serve as the only legislator on the National Advisory Committee on Drug Abuse Prevention;

Whereas, following the September 11, 2001 attacks, the New York State Senate Majority Leader appointed State Senator Marchi to head the New York Senate Task Force on World Trade Center Recovery, which was to help oversee the reconstruction of Ground Zero;

Whereas, on June 2, 1968, State Senator Marchi received from the President and Prime Minister of Italy the gold medal of the Italian state in recognition of his service to the people of Italy and the U.S. Senate;

Whereas, prior to holding these offices, State Senator Marchi served as a delegate to the New York Constitutional Convention in 1967;

Whereas State Senator Marchi is a recognized leader of the New York State Senate and was named Assistant Majority Leader on Conference Operations in January 2005. Assistant Majority Whip in 2003, Chairman of the Senate Committee on Corporations, Authorities and Commissions in 1995, and Vice President Pro Tempore in 1989;

Whereas, prior to holding these offices, State Senator Marchi served as Chairman of the Finance Committee for 15 years;

Whereas, State Senator Marchi is a tireless leader and advocate for New York City, has served on the City of New York Committee in the New York State Senate, and was named Chairman of the Temporary State Commission on New York City School Government in 1989, a panel of civic, governmental, business, and educational leaders that conducted an examination of the control of the city schools and, in 1991, gave the State legislature a package of proposals intended to improve the administration of, and public participation in, the New York City school system;

Whereas State Senator Marchi is widely recognized as one of the city and State leaders who helped write the laws that saved New York City from financial collapse in the mid-1970s;

Whereas State Senator Marchi sponsored the bill, known as the Marchi Law, which helped keep the New York State financial reporting and bookkeeping practices so that the legislature and the public could see more clearly the State government’s actions;

Whereas, in 1997, State Senator Marchi successfully advanced—and saw passed and signed into law—a bill to require the closing by January 1, 2000, of all landfill sites in Staten Island’s worst environmental problem for more than half a century, which the legislature had not previously scheduled for closure;

Whereas State Senator Marchi has also been a leader in the development of legislation to strengthen public education from kindergarten through graduate school;

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Whereas, in 1997, State Senator Marchi successfully advanced—and saw passed and signed into law—a bill to require the closing by January 1, 2000, of all landfill sites in Staten Island’s worst environmental problem for more than half a century, which the legislature had not previously scheduled for closure;

Whereas State Senator Marchi has also been a leader in the development of legislation to strengthen public education from kindergarten through graduate school;

Whereas State Senator Marchi has been a member of the Executive Committee and Board of Governors of the Catholic University of America since 1965, is a former Chair of the Committee, and was designated the first permanent member of the Committee in 1968;

Whereas, in 1969 and 1973, State Senator Marchi was the candidate of the Republican Party for the Office of Mayor of the City of New York;

Whereas, in October 1972, State Senator Marchi was appointed by President Nixon to serve as the only legislator on the National Advisory Committee on Drug Abuse Prevention;

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Whereas, prior to holding these offices, State Senator Marchi served as Chairman of the Finance Committee for 15 years;

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Whereas, in 1969 and 1973, State Senator Marchi was the candidate of the Republican Party for the Office of Mayor of the City of New York;

Whereas, in October 1972, State Senator Marchi was appointed by President Nixon to serve as the only legislator on the National Advisory Committee on Drug Abuse Prevention;

Whereas, following the September 11, 2001 attacks, the New York State Senate Majority Leader appointed State Senator Marchi to head the New York Senate Task Force on World Trade Center Recovery, which was to help oversee the reconstruction of Ground Zero;
Whereas a supportive environment, empathy, and understanding are considered critical factors in the healing process of a family that is coping with and recovering from the loss of a child;

Whereas the mission of The Compassionate Friends is to assist families working towards the positive resolution of grief following the death of a child, and to provide information to help others be supportive; and

Whereas the work of local chapters of The Compassionate Friends provides a caring environment in which bereaved parents, grandparents, and siblings can work through their grief with the help of others: Now, therefore, be it

Resolved, That the Senate—

(1) designates the second Sunday in December 2006, as “National Children’s Memorial Day” in conjunction with The Compassionate Friends Worldwide Candle Lighting;

(2) supports the efforts of The Compassionate Friends to assist and comfort families grieving the loss of a child, and

(3) calls upon the people of the United States to observe National Children’s Memorial Day with appropriate ceremonies and activities in remembrance of the many infants, children, teenagers, and young adults of families in the United States who have died.

AMENDMENTS SUBMITTED AND PROPOSED

SA 5092. Mr. Frist submitted an amendment intended to be proposed by him to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table.

SA 5093. Mr. Frist submitted an amendment intended to be proposed to amendment SA 5092 submitted by Mr. Frist and intended to be proposed by him to the bill S. 403, supra; which was ordered to lie on the table.

SA 5094. Mr. Frist submitted an amendment intended to be proposed to amendment SA 5093 submitted by Mr. Frist and intended to be proposed by him to the bill S. 403, supra; which was ordered to lie on the table.

SA 5095. Mr. Rockefeller (for himself, Mrs. Clinton, Mr. Wyden, Ms. Mikulski, Mr. Feingold, Mr. Levin, and Mrs. Feinstein) proposed an amendment to the bill S. 3930, to authorize trial by military commission for violations of the law of war, and for other purposes.

SA 5096. Mrs. Feinstein submitted an amendment intended to be proposed by her to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table.

SA 5097. Mrs. Feinstein submitted an amendment intended to be proposed by her to the bill S. 403, supra; which was ordered to lie on the table.

SA 5098. Mrs. Feinstein submitted an amendment intended to be proposed by her to the bill S. 403, supra; which was ordered to lie on the table.

SA 5099. Mrs. Feinstein submitted an amendment intended to be proposed by her to the bill S. 403, supra; which was ordered to lie on the table.

SA 5100. Mrs. Boxer submitted an amendment intended to be proposed by her to the bill S. 403, supra; which was ordered to lie on the table.

SA 5101. Mrs. Boxer submitted an amendment intended to be proposed by her to the bill S. 403, supra; which was ordered to lie on the table.

SA 5102. Mrs. Boxer submitted an amendment intended to be proposed by her to the bill S. 403, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 5092. Mr. Frist submitted an amendment intended to be proposed by him to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table; as follows:

On page 12, line 2, strike ‘‘45 days’’ and insert ‘‘47 days’’.

SA 5093. Mr. Frist submitted an amendment intended to be proposed to amendment SA 5092 submitted by Mr. Frist and intended to be proposed by him to the bill S. 403, supra; which was ordered to lie on the table.

SA 5094. Mr. Frist submitted an amendment intended to be proposed to amendment SA 5093 submitted by Mr. Frist and intended to be proposed by him to the bill S. 403, supra; which was ordered to lie on the table.

SA 5095. Mr. Rockefeller (for himself, Mrs. Clinton, Mr. Wyden, Ms. Mikulski, Mr. Feingold, Mr. Levin, and Mrs. Feinstein) proposed an amendment to the bill S. 3930, to authorize trial by military commission for violations of the law of war, and for other purposes; which was ordered to lie on the table.

SA 5096. Mrs. Feinstein submitted an amendment intended to be proposed by her to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table; as follows:

Strike ‘‘47 days’’ and insert ‘‘46 days’’.

SA 5097. Mrs. Feinstein submitted an amendment intended to be proposed by her to the bill S. 403, supra; which was ordered to lie on the table.

SA 5098. Mrs. Feinstein submitted an amendment intended to be proposed by her to the bill S. 403, supra; which was ordered to lie on the table.

SEC. 11. OVERSIGHT OF CENTRAL INTELLIGENCE AGENCY PROGRAMS.

(a) DIRECTOR OF CENTRAL INTELLIGENCE AGENCY REPORTS ON DETENTION AND INTERROGATION PROGRAM.—

(1) QUARTERLY REPORTS REQUIRED.—Not later than three months after the date of the enactment of this Act, and every three months thereafter, the Director of the Central Intelligence Agency shall submit to the congressional intelligence committees a report on the detention and interrogation program of the Central Intelligence Agency during the preceding three months.

(2) ELEMENTS.—In addition to any other matter necessary to keep the congressional intelligence committees fully and currently informed about the detention and interrogation program of the Central Intelligence Agency, each report under paragraph (1) shall include (but not be limited to), for the period covered by such report, the following:

(A) A description of any detention facility operated or used by the Central Intelligence Agency;

(B) A description of the detainee population, including—

(i) the name of each detainee;

(ii) whether each detainee is being held; and

(iii) the suspected activities on the basis of which each detainee is being held; and

(C) A description of each interrogation technique authorized for use and guidelines on the use of each technique.

(D) A description of each legal opinion of the Department of Justice and the General Counsel of the Central Intelligence Agency that is applicable to the detention and interrogation program.

(E) The actual use of interrogation techniques.

(F) An analysis of the intelligence obtained as a result of the interrogation techniques utilized.

(G) Any violation of law or abuse under the detention and interrogation program by Central Intelligence Agency personnel, other United States Government personnel or contractors, or anyone else associated with the program.

(H) An assessment of the effectiveness of the detention and interrogation program.

(b) DIRECTOR OF CENTRAL INTELLIGENCE AGENCY REPORTS ON DISPOSITION OF DETAINES.—

(1) QUARTERLY REPORTS REQUIRED.—Not later than three months after the date of the enactment of this Act, and every three months thereafter, the Director of the Central Intelligence Agency shall submit to the congressional intelligence committees a report on the number of detainees transferred out of the detention and interrogation program of the Central Intelligence Agency during the preceding three months.

(2) ELEMENTS.—In addition to any other matter necessary to keep the congressional intelligence committees fully and currently informed about transfers out of the detention and interrogation program of the Central Intelligence Agency, each report under paragraph (1) shall include (but not be limited to), for the period covered by such report, the following:

(A) A description of any detention facility operated or used by the Central Intelligence Agency;

(B) A description of each detainee who was transferred out of the detention and interrogation program of the Central Intelligence Agency during the preceding three months;

(C) A description of each interrogation technique utilized.

(D) An assessment of the effectiveness of the detention and interrogation program.

(E) An analysis of the intelligence obtained as a result of the interrogation techniques utilized.

(F) Any violation of law or abuse under the detention and interrogation program by Central Intelligence Agency personnel, other United States Government personnel or contractors, or anyone else associated with the program.
(i) the name of the detainee and a description of the suspected terrorist activities of the detainee;  
(ii) the rendition process, including the location to which the detention, interrogation, and rendition programs from, through, and to which the detainee was rendered; and  
(iii) the knowledge, participation, and approval of foreign governments in the rendition process.  

(E) For each detainee who was rendered or otherwise transferred to the custody of another nation during or before the preceding three years, the report submitted to the congressional intelligence committees—  

(i) the knowledge of the United States Government, if any, concerning the subsequent treatment of the detainee and the actions made by the United States Government to obtain that information;  
(ii) the requests made by United States intelligence agencies to foreign governments for information to be obtained from the detainee;  
(iii) the information provided to United States intelligence agencies by foreign governments relating to the interrogation of the detainee;  
(iv) the current status of the detainee;  
(v) the status of any parliamentary, judicial, or other investigation about the rendition or other transfer; and  
(vi) any other information about potential risks to the interests resulting from the rendition or other transfer.  

(c) CIA INSPECTOR GENERAL AND GENERAL COUNSEL REPORT.—  

(1) ANNUAL REPORTS REQUIRED.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the Inspector General of the Central Intelligence Agency and the General Counsel of the Central Intelligence Agency shall each submit to the congressional intelligence committees a report on the detention, interrogation, and rendition programs of the Central Intelligence Agency during the preceding year.  

(2) ELEMENTS.—Each report under paragraph (1) shall include, for the period covered by such report, the following:  

(A) An assessment of the adherence of the Central Intelligence Agency to any applicable law in the conduct of the detention, interrogation, and rendition programs of the Central Intelligence Agency.  

(B) An assessment of violations of law or other abuse on the part of personnel of the Central Intelligence Agency, other United States Government personnel or contractors, or anyone else associated with the detention, interrogation, and rendition programs of the Central Intelligence Agency in the conduct of such programs.  

(C) An assessment of the effectiveness of the detention, interrogation, and rendition programs of the Central Intelligence Agency.  

(D) Any recommendations to ensure that the detention, interrogation, and rendition programs of the Central Intelligence Agency are conducted in a lawful and effective manner.  

(3) CONSTRUCTION OF REPORTING REQUIREMENT.—Nothing in this subsection shall be construed to modify the authority and reporting obligations of the Inspector General of the Central Intelligence Agency under section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a) or any other law.  

(d) CERTIFICATION OF COMPLIANCE.—Not later than three months after the date of the enactment of this Act, and promptly upon any subsequent approval of interrogation techniques by the Central Intelligence Agency, the Attorney General shall submit to the congressional intelligence committees—  

(1) an unclassified certification whether or not each approved interrogation technique complies with the Constitution of the United States and all applicable treaties, statutes, Executive orders, and regulations; and  

(2) an explanation of why each approved technique complies with the Constitution of the United States and all applicable treaties, statutes, Executive orders, and regulations.  

(e) FORM OF REPORTS.—Except as provided in subsection (d)(1), each report under this section shall be submitted in classified form.  

(f) AVAILABILITY OF REPORTS.—Each report under this section shall be fully accessible by each member of the congressional intelligence committees.  

(g) DEFINITIONS.—In this section:  

(1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The terms “congressional intelligence committees” means—  

(A) the Select Committee on Intelligence of the Senate; and  

(B) the Permanent Select Committee on Intelligence of the House of Representatives.  

(2) LAW.—The term “law” includes the Constitution of the United States and any applicable treaty, statute, Executive order, or regulation.  

SA 5096. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table; as follows:  

On page 2, lines 24 and 25, strike “save the life of the minor because her life” and insert “save the life or health of the minor because her life or health”.  

SA 5097. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table; as follows:  

On page 7, line 22, strike “; and, before” and insert “; and” and all that follows through page 8, line 2, and insert a semicolon.  

SA 5098. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table; as follows:  

On page 8, line 15, “; but an exception” and all that follows through line 21 and insert the following “; or”.  

SA 5099. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table; as follows:  

On page 6, strike line 11 and all that follows through page 11, line 15, and insert the following:  

SEC. 3. CLERICAL AMENDMENT.  

The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item relating to chapter 117 the following new item:  

“117A. Transportation of minors in circumvention of certain laws relating to abortion.............. 2381”.  

SEC. 4. SEVERABILITY AND EFFECTIVE DATE.  

This Act and the amendments made by this Act shall take effect 45 days after the date of enactment of this Act.  

SA 5101. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table; as follows:  

Strike sections 3, 4, and 5 of the amendment.  

SA 5102. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table; as follows:  

In the amendment, on page 8, line 3, strike beginning with “of” through line 21 and insert “or health of the minor:”.  

SA 5103. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table; as follows:  

In the amendment, on page 7, line 22, strike beginning with “; and, “ through page 8, line 2, and insert a semicolon.  

SA 5104. Mr. BYRD (for himself, Mr. OBAMA, Mrs. CLINTON, and Mr. LEVIN) proposed an amendment to the bill S. 3930, to authorize trial by military commission for violations of the law of war, and for other purposes; as follows:  

On page 5, line 19, add at the end the following: “The authority of the President to establish new military commissions under this section shall expire on December 31, 2011. However, the expiration of that authority shall not be construed to prohibit the United States Government from the finality of any proceedings of a military commission established under this section before that date.”.  

SA 5105. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of
the United States; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

"(D) LIMITATION ON REQUIREMENTS.—Notwithstanding subparagraph (A), nothing in this section shall require the Secretary to provide fencing and install additional physical barriers, roads, lighting, cameras, and sensors in a location along an international border of the United States, if the Secretary determines that the use or placement of such resources is not the most appropriate means to achieve and maintain operational control over the international border at such location.".

SA 5106. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

At the end of the amendment add the following: "operational control shall also include the implementation of those measures described in the Comprehensive Immigration Reform Act of 2006, as passed by the Senate on May 27, 2006, that the Secretary determines to be necessary and appropriate to achieve or maintain operational control over the international land and maritime borders of the United States."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on September 28, 2006, at 9:30 a.m., in open session to receive testimony on military voting and the Federal Voting Assistance Program.

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

COMMITTEE ON FINANCE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Thursday, September 28, 2006, at 2:30 p.m., in 215 Dirksen Senate Office Building, to receive testimony on "America's Public Debt: How Do We Keep It From Rising?"

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on September 28, 2006 at 2:30 p.m. to hold a closed hearing.

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

SUBCOMMITTEE ON AVIATION

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Subcommittee on Aviation be authorized to meet on Thursday, September 28, 2006 at 10 a.m. on "New Aircraft in the National Airspace System."

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet on Thursday, September 28, 2006 at 10 a.m. for a hearing entitled, "Securing the National Capital Region: An Examination of the NCR's Strategic Plan."

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

SUBCOMMITTEE ON SUPERFUND AND WASTE MANAGEMENT

Mr. MCCONNELL. Mr. President, I ask unanimous consent that on Thursday, September 28, at 9:30 a.m. the Subcommittee on Superfund and Waste Management be authorized to hold a legislative hearing to consider S. 3871, a bill directing the EPA to establish a hazardous waste electronic manifest system.

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

FOREIGN POLICY

Mr. FRIST. Mr. President, we have had a long and full day today. I have some remarks to make on a couple of bills, and then we will close down, with a brief statement on what I see unfolding over the next couple days.

Mr. President, the Senate has before it two very important bills dealing with critical foreign policy issues facing our Nation.

One of them is the Iran Freedom Support Act, H.R. 6198. This is a bipartisan bill which passed the House earlier today by voice vote. In other words, it was a noncontroversial bill in the House. It was cosponsored there by Congressman Tom LATOOS, the ranking Democrat on the Committee on International Relations, as well as by Congressman GARY ACKERMAN, the ranking Democrat on the Subcommittee on Middle East and Central Asia. The Iran Freedom Support Act is also strongly supported by the Bush administration. 

Enaction of this bill is time-sensitive because it will extend for another 5 years the provisions of the Iran and Libya Sanctions Act, or better known here on the floor as ILSA. ILSA has been an important element of the U.S. sanctions regime against Iran for the past 10 years, and ILSA will expire tomorrow unless Congress acts to extend it.

Iran is continuing to defy the will of the international community by persisting with its efforts to produce nuclear weapons in violation of international nonproliferation norms. I could not think of a worse time than now to allow ILSA to lapse; the signal this would send to Iran of U.S. irresolution and weakness would be terribly regrettable.

Just last week, Prime Minister Ahmadinejad publicly declared that Iran will not suspend its nuclear enrichment program, despite being called to do so by the United Nations Security Council. The U.N. is now poised to impose multilateral sanctions on Iran if it continues to defy Security Council mandates. But if we allow ILSA to lapse, the Congress will be relaxing U.S. sanctions at a time when the rest of the world is thinking about tightening sanctions.

This is not the kind of leadership that was elected to the Senate to provide, and I think every Senator will have to sit and stare in their head in the Senate tomorrow if it fails to act tomorrow to extend ILSA.

H.R. 6198 has been cleared on our side of the aisle. We are ready to pass it. We are ready to pass it tonight. I will not ask unanimous consent to pass it tonight, however, because I understand it has not been cleared on the Democratic side of the aisle. I hope that does not change, but whether it changes or not, I wish to serve notice to all Senators that tomorrow I will ask unanimous consent to pass H.R. 6198, and I hope there will be no Member of this body who steps forward at that time to reward Iran's intransigence by blocking passage of this bipartisan legislation.

The second very important bill affecting our foreign policy that is today pending before the Senate is the United States-India Peaceful Atomic Energy Cooperation Act, S. 3708. This bill was reported by the Committee on Foreign Relations on July 20 and has been pending before us since that time. It is strongly supported by Chairman LUGAR and the ranking Democrat of that committee, Senator BIDEN. Together they have developed a managers' amendment that they both support and that they would like the Senate to approve.

The House companion measure has already passed that body by a wide margin.

Enactment of this legislation is essential in order to begin a new era in relations between our Nation and India, the world's largest democracy. This legislation will enable us to continue our cooperation in the area of civil nuclear energy, something that is today contrary to U.S. law. We need to be able to do this to fulfill commitments President Bush made to Prime Minister Singh of India on July 18 of last year.

Like the Iran bill, the India legislation has been cleared on our side of the aisle. Republican Members of the Senate are ready to approve the managers' amendment to S. 3708 tonight, in its current form, with no further debate or amendment.

Regrettably, the same is not true on the other side of the aisle. Senate Democrats are not ready tonight to pass the managers' amendment to this legislation in its current form.

This is regrettable because if the Democrats would permit us to pass the
A bill (S. 3993) to amend title 18, United States Code, to provide penalties for aiming laser pointers at airplanes, and for other purposes.

Mr. FRIST. Mr. President, I now ask for a second reading and, in order to place the bills on the calendar under the provisions of rule XIV, I object to my own request, en bloc.

The PRESIDING OFFICER. Objection is heard. The bills will be placed on the calendar, en bloc.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENTS 109–13 AND 109–14

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following agreements transmitted to the Senate on September 28, 2006, by the President of the United States: Mutual legal assistance agreement with the European Union, Treaty Document 109–13.


I further ask that the agreements be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President’s messages be printed in the RECORD.

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

The messages of the President are as follows:

MUTUAL LEGAL ASSISTANCE AGREEMENT WITH THE EUROPEAN UNION (TREATY DOC. NO. 109–13)

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Agreement on Mutual Legal Assistance between the United States of America and the European Union (EU), signed on June 25, 2003, at Washington, together with 25 bilateral instruments that subsequently were signed between the United States and each European Union Member State in order to implement the Agreement with the EU, and an explanatory note that is an integral part of the Agreement. I also transmit, for the information of the Senate, the report of the Department of State with respect to the Agreement and bilateral instruments.

The Agreement contains several provisions that should pose no problems to Senate consideration of the Agreement and bilateral instruments.

The Agreement creates an improved mechanism for obtaining bank information from an EU Member State, elaborates legal frameworks for the use of new techniques such as joint investigative teams, and establishes a comprehensive and uniform framework for limitations on the use of personal and other data. The Agreement includes a non-derogation provision making clear that it is without prejudice to the ability of the United States or an EU Member State to refuse assistance where doing so would prejudice its sovereignty, security, public, or other essential interests.

I recommend that the Senate give early and favorable consideration to the Agreement and bilateral instruments.

GEORGE W. BUSH.


EXTRADITION AGREEMENT WITH THE EUROPEAN UNION (TREATY DOC. NO. 109–14)

To the Senate of the United States:

With a view to receiving the advice and consent of Senate to ratification, I transmit herewith the Agreement on Extradition between the United States of America and the European Union (EU), signed on June 25, 2003, at Washington, together with 23 bilateral instruments that subsequently were signed between the United States and European Union Member States in order to implement the Agreement with the EU, and an explanatory note that is an integral part of the Agreement. I also transmit, for the information of the Senate, the report of the Department of State with respect to the Agreement and bilateral instruments.

The bilateral instruments with three EU Member States, Estonia, Latvia, and Malta, take the form of comprehensive new extradition treaties, and therefore will be submitted individually.

A parallel agreement with the European Union on mutual legal assistance, together with bilateral instruments, will be transmitted to the Senate separately. These two agreements are the first law enforcement agreements concluded between the United States and the European Union. Together they seek to modernize and expand in important respects the law enforcement relationships between the United States and the 25 EU Member States, as well as formalize and strengthen the institutional framework for law enforcement relations between the United States and the European Union itself.

The U.S.-EU Extradition Agreement contains several provisions that should
improve the scope and operation of bilateral extradition treaties in force between the United States and each EU Member State. For example, it requires replacing outdated lists of extraditable offenses included in 10 older bilateral treaties with the modern "dual criminality" approach, thereby enabling covering of such newer offenses as money laundering. Another important provision ensures that a U.S. extradition request is not disapproved by an EU Member State that receives a competing request for the person from another Member State pursuant to the newly created European Arrest Warrant. Finally, the Extradition Agreement simplifies procedural requirements for preparing and transmitting extradition documents, easing and speeding the current process.

I recommend that the Senate give early and favorable consideration to the Agreement and bilateral instruments.

GEORGE W. BUSH.


ORDERS FOR FRIDAY, SEPTEMBER 29, 2006

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Friday, September 29. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate proceed to a period for the transaction of morning business, with the time equally divided between the two leaders or their designees until 10 a.m.; further, that at 10 a.m., the Senate proceed to a vote on the adoption of the conference report to accompany H.R. 5631, the Department of Defense appropriations bill.

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

PROGRAM

Mr. FRIST. Mr. President, today we had a very busy day. We passed the Military Commissions Act, the Terrorist Tribunal Act, and also invoked cloture on the border fence bill, another very important piece of legislation. This evening, we reached agreement to consider the Department of Defense appropriations bill conference report, and tomorrow morning at 10 o’clock the Senate will vote on that conference report, and then we will restate the postcloture debate on the border fence bill.

I remind my colleagues to be prepared for a busy day tomorrow, with votes throughout the day. Given the cloture vote this evening of 71 to 28, I hope we can expedite the border fence bill and finish it at an early hour tomorrow.

This is a very important bill that focuses on border security and border security first, recognizing we have a lot more to do in the future, but it does give us that opportunity to address the fact that we have millions of people coming across the U.S. border every year illegally, and we need to start the enforcement of that border and that border security by a physical structure, UAVs, with cameras and sensors, specifically 700 miles of fence along that border.

Following that, we will have the cloture vote on the message on the Child Custody Act, a very important bill that addresses the many initiatives here; that is, to secure America’s values and look at the issue of a young girl being taken for an abortion across State lines without parental permission. It is common sense. We passed it on the floor of the Senate not too long ago, and this is an amended version that came over from the House, and now is the time for us to pass it once again.

Beyond that, we have a number of other outstanding items that will need to be addressed before the recess. As we speak, issues surrounding our ports, again another part of that major thematic for this month of securing our homeland as we work on border security and funding the war on terror and giving our Government, our military, and our CIA the tools that we need to carry out this war on terror for our ports.

Our port security has to be addressed. It is being addressed in conference. Conferees were appointed by the House earlier tonight and that conference met tonight, so I am very hopeful that we will be able to address port security over the next 24, 36 hours.

In addition, we have nominations of the various judges that we need to consider before we leave. We have a treaty, U.S.–U.K. extradition that we need to address before we leave. There are other cleared items, including a large energy package. All of these are being held up tonight by the other side of the aisle, we hope that by the middle of next week we will be able to address these issues over the course of the next day or so. If we are unable to complete all of our work tomorrow, Senators can expect a Saturday session. It is clear, as I set out really 2 weeks ago, that we have a large agenda. We are moving along very, very well, making real progress, as shown by the six votes that we had over the course of the day. But we have a lot more to do, and we will stay until we finish that work either late tomorrow or into Saturday.

ADJOURNMENT UNTIL 9:30 A.M.

TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous notice.

There being no objection, the Senate, at 9:42 p.m., adjourned until Friday, September 29, 2006, at 9:30 a.m.
CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, AND CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

JOHN OLSON, OF CALIFORNIA
ANDREW W. OULTON, OF TEXAS
ANDREW A. PASSUS, OF PENNSYLVANIA
MARK A. PEKALA, OF THE DISTRICT OF COLUMBIA
MICHAEL P. PELLETIER, OF MAINE
MARJORIE R. PHILLIPS, OF VIRGINIA
GEOFFREY R. PLATT, OF CALIFORNIA
PAMELA G. QUASUGU, OF VIRGINIA
ERIC SETH RUSH, OF NEW YORK
DANIEL H. RUBINSTEIN, OF CALIFORNIA
ROBERT JOEL SILVERMAN, OF CALIFORNIA
ROBIN ANGELA SMITH, OF THE DISTRICT OF COLUMBIA
MICHAEL A. SPANGLER, OF MARYLAND
ANDREW WALTER STERNFELD, OF NEW JERSEY
KARL STOUTZ, OF VIRGINIA
MARK CHARLES STORELLA, OF NEW HAMPSHIRE
MARY THOMPSON-JONES, OF VIRGINIA
MICHAEL EMBACH THURSTON, OF WASHINGTON
WILLIAM WEINSTEIN, OF CALIFORNIA
ROBERT KARL WHITEHEAD, OF CALIFORNIA
RHEA RUTH WINCHESTER, OF VIRGINIA
STEVEN EDWARD ZATE, OF FLORIDA

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE DIRECTOR OF THE COAST GUARD RESERVE PURSUANT TO TITLE 14, U.S.C., SECTION 138 IN THE GRADE INDICATED:

TO BE REAR ADMIRAL
REAR ADM. (SELECT) CYNTHIA A. COOGAN, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED INDIVIDUAL IN THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

TO BE COLONEL
THOMAS C. HANKINS, 0000
PAYING TRIBUTE TO INSURE ME

HON. THOMAS G. TANCREDO
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. TANCREDO. Mr. Speaker, I would like to take this time to recognize the achievement of a financial and insurance company in my district. InsureMe of Englewood, Colorado was recognized as one of the “Best Small & Medium Companies to Work for in America” by the Society for Human Resource Management.

This award was given to InsureMe for their open communication between senior managers and company employees, generous salaries and benefits, and their dedication to high profits and low turnover. I would also like to add that the employees of InsureMe volunteer monthly to serve dinner to the homeless and some have even traveled to Ghana to build an orphanage. InsureMe’s commitment to their community and successful business is clear.

Mr. Speaker, it is my distinct pleasure to honor InsureMe of Englewood and their achievements here today, and wish them the best in the future.

HONORING DOCTOR PATRICK MAXWELL

HON. MARSHA BLACKBURN
OF TENNESSEE
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mrs. BLACKBURN. Mr. Speaker, I ask my colleagues to join me today to honor Dr. Patrick Maxwell for his service to others.

In 2005, Dr. Maxwell received the American Society of Plastic Surgeons’ Presidential Award for excellence in his field. While Dr. Maxwell is regarded as one of the premier surgeons in his field, he’s also known for his charity.

Patrick is co-founder of the Tennessee-Kentucky chapter of Operation Smile, past president of the Nashville Chapter of the American Cancer Society, Founding Member of the Aspen Center for Integrative Medicine, and he actively supports his alma mater, Vanderbilt University School of Medicine.

We appreciate Dr. Maxwell’s dedication to giving back to our community and I hope you’ll join me in thanking him today.

TRIBUTE TO PROFESSOR MESFIN WOLDE MARIAM

HON. DONALD M. PAYNE
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. PAYNE. Mr. Speaker, in August 2006, I visited Professor Mesfin Wolde Mariam in Kaliti prison in Ethiopia. Though it was saddening to see him in that kind of situation, I was nevertheless thrilled to have had the opportunity to pay my respect to a man I have known for over a decade. Professor Mesfin is one of the most dedicated and true champions of human rights. He chose to dedicate his life to studying famine and food security, writing about and promoting human rights and bringing to light issues often ignored and forgotten by many.

I first met Mesfin in the early 1990s, shortly after he founded the Ethiopian Human Rights Council, EHRCO, the most effective human rights organization in Ethiopia. I was with several Members of Congress on an official visit to Ethiopia. We decided to go to EHRCO’s office and hold our meeting with Professor Mesfin in order to show our support for EHRCO and to underscore the significance of their valuable work. It was a memorable meeting and the opportunity to learn of their monumental undertaking was very valuable.

Unfortunately, this is not the first time Mesfin is in prison. He has paid dearly over the decades for standing up for what he believes in and for exposing systematic abuses and sometimes neglect as the case may be over a period of several decades. What is amazing about this incredible human being is his sharpness and focus even in prison. This is a dedicated human being who chose to stay in his native Ethiopia to stand up for, and educate the helpless and the neglected, even though he had plenty of opportunity and offers by many.

I was thrilled to learn that the New York Academy of Sciences decided to recognize Professor Mesfin for “his leadership in advocating for the disadvantage and in promoting human rights, civil society, and a peaceful transition to democracy.” Professor Mesfin deserves this recognition and I thank the New York Academy of Science for its leadership and efforts.

INTRODUCTION OF THE CITY YOUTH VIOLENCE RECOVERY ACT OF 2006

HON. JOHN B. LARSON
OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. LARSON. Mr. Speaker, I rise today with the distinguished gentleman from Georgia, Mr. LEWIS, to introduce the City Youth Violence Recovery Act. I want to thank Congressman LEWIS for his work on this bill and for his lifelong work to unite every community into what he calls The Beloved Community.

As the media reports daily about the loss of life in the war in Iraq, we often ignore the war being fought at home in city streets across this country. After a decade-long decline of violent crime, it is again on the rise. In Hartford, for example, there have been 140 shooting victims since the beginning of 2006—this is an 18.6% increase over last year’s city reports. And again, just over the weekend, gun violence claimed another young life. It was the city’s 19th homicide this year. He was 19.

The challenges facing the city of Hartford are not unique. This violence, perpetrated both by and against young people, has devastated urban communities in cities both large and small. In a disturbing trend, our city children and teenagers are losing their lives, losing their friends, losing their family members, and losing their youth. They feel fear, helplessness, horror and the sense that life and safety are in danger. Tragically, many have grown numb to the violence around them.

Since community violence is caused by many things, there is no simple, single solution to eradicate it from our neighborhoods. We must address employment, housing, education, transportation, law enforcement, and other quality of life issues. Until we address these issues, we must do something to help the youth in our cities overcome the long-term emotional harm of witnessing this community violence.

In July, I was honored to have Mr. LEWIS come to Connecticut to talk with local leaders and children in the Hartford community. It was clear that the community’s young people require more than physical security to keep them safe from harm. They need a network of support to treat the emotional, mental and developmental harms associated with community violence. Today, I am proud to be joined by Congressman LEWIS and 27 of my distinguished colleagues to introduce the City Youth Violence Recovery Act of 2006. This bill is a step in the right direction in healing the youth of Hartford and the youth in cities devastated by violence throughout the United States. Specifically, this bill would create a Department of Health and Human Services grant program to provide urban communities with funding for counseling, mental health services, post-traumatic stress type services, and violence prevention and conflict mediation for city youth.

We can no longer remain indifferent to the needs of our urban youth. As Members of Congress, as Americans, and as fathers and mothers, we cannot allow any more young lives to be lost in this war at home. Our cities’ children deserve better; they deserve a future.
HONORING BRENTWOOD MIDDLE SCHOOL AND FRANKLIN ELEMENTARY SCHOOL

HON. MARSHA BLACKBURN
OF TENNESSEE
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mrs. BLACKBURN. Mr. Speaker, today I ask my colleagues to join me in honoring two schools in Tennessee’s 7th Congressional District that have been ranked among the Nation’s best.

Both Brentwood Middle School and Franklin Elementary School have earned recognition from the U.S. Department of Education as No Child Left Behind Blue Ribbon Schools. The schools qualified for this distinction by scoring in the top 10 percent in State assessments. While only six schools in Tennessee achieved this distinction, our community has been blessed with two.

Mr. Speaker, the students, parents, teachers, and administrators at Brentwood Middle and Franklin Elementary deserve our congratulations for their commitment to excellence. Our students are gaining skills that will make them lifelong learners, and that’s a real credit to the community.

I would especially like to thank Brentwood Middle Principal Kay Kendrick and Franklin Elementary Principal Mark Tornow for their hard work and dedication.

COMMEMORATING THE 15TH ANNIVERSARY OF THE REPUBLIC OF AZERBAIJAN’S INDEPENDENCE

HON. EDDIE BERNICE JOHNSON
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise to acknowledge Azerbaijan’s 15th anniversary of its re-independence on October 18. In the current global political climate, Azerbaijan is unique among democracies as the world’s first Muslim democratic republic.

Azerbaijan is one of the United States’ most important friends and supporters. We share important political, economic and security interests.

Azerbaijan was the first among nations to offer the United States unconditional support in the war against terrorism, providing air support for U.S. forces in Afghanistan. Azerbaijan cooperates with the United States within international and regional institutions including U.N., Organization for Security and Cooperation in Europe—OSCE, and NATO’s Partnership for Peace program. Azerbaijan also works together with the United States within the framework of the Organization for Democracy and Development—GUAM which is comprised of Azerbaijan, Georgia, Moldova, and Ukraine.

The group was created as a political, economic and strategic alliance aimed at overcoming common risks and threats and strengthening Azerbaijan’s independence and sovereignty of its member states.

The Republic of Azerbaijan is a standad nation among the South Caucasus countries, with a population of 8 million people and an ambitious economic policy. During the last decade Azerbaijan has been implementing structural reforms and adopting numerous laws and legislative changes, paving the way toward further integration within the global economy. The Nation has been moving toward a more diversified economy to achieve sustainable growth and to meet the social and development needs of its population. As reported by the International Monetary Fund, IMF, Azerbaijan’s macroeconomic performance “has been impressive with strong growth, low inflation, and a stable exchange rate.” Real GDP grew by an annual average of over 10 percent during the last 6 years and build up to 34.4 percent in the first 8 months of 2006, driven by investments in the energy sector, followed by growth in the construction and transportation sectors, and agriculture.

Since signing the “Contract of the Century” in 1994, Azerbaijan has developed its energy sources within the Caspian region to diversify western energy supplies. On July 13, 2006 the Baku-Tbilisi-Ceyhan main oil export pipeline was inaugurated.

Diversification of the economy and ensuring the development of non-oil sectors is a priority for the government. This policy includes implementation of projects and programs that create favorable conditions for development of private entrepreneurship, attracting investment in non-oil sector, creating new jobs, evaluation of potential industries and markets and development of infrastructure in the regions.

A democratic, prosperous, and peaceful Azerbaijan will be a strong partner and ally for the United States. I look forward to working with the Azerbaijani Government and people to develop this relationship.

Mr. Speaker, I join my colleagues in the House of Representatives today in commemorating Azerbaijan’s independence. I look forward to the bonds of friendship between the United States and Azerbaijan becoming even stronger in the future.

PAYING TRIBUTE TO GARY L. MAAS

HON. THOMAS G. TANCREDO
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. TANCREDO. Mr. Speaker, I rise today to recognize the achievements of retiring Littleton Police Chief Gary Maas. Chief Maas, a constituent of mine, was able to reorganize the Bartlett Police Department and new jobs, evaluation of potential industries and markets and development of infrastructure in the regions.

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PAYING TRIBUTE TO GARY L. MAAS

HON. DONALD M. PAYNE
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. PAYNE. Mr. Speaker, we all remember the heady days when the Communist bloc collapsed on its own weight and the peoples of Eastern Europe came out of the dark days of totalitarianism and into the light of freedom. The collapse was so abrupt and so spontaneous that few people had the luxury of taking stock of the heroic efforts made by so many people over a period of 70 years that proceeded the days of freedom; and there were heroes in every country of Eastern Europe throughout the dark days of communist terror.

From all countries of Eastern Europe none was so isolated and its people more oppressed than Albania. The Enver Hoxha regime was the last one to collapse, and just a few days after its demise, over one million Albanians crossed the borders of neighboring countries in search of food and freedom. This particular regime thrived in its splendid isolation and the knowledge that if no one was allowed to enter or leave the country, then no
one would tell the true story of a suffering people. But there were idealists who never for
got the Albanian people and found ways to ex-
pose the regimes' sins. I rise today to pay tribu-
tute to two such idealists who have been ign-
ored in our hastiness to absolve all former
communists if they would just declare them-
selves democrats, no questions asked. I must
refer to two such individuals with unbound ide-
alism, one whom lives among us, the other
made the ultimate sacrifice. They are the
Stavrou brothers, Gregory and Nikolaos.
Gregory, at age 23 assumed risky intel-
ligence missions into Albania for the Greek
service. In his last mission, aimed at restoring
a vital network that the British traitor Kim
Philybet betrayed he, too, was betrayed, cap-
tured, tortured, tried before a military tribunal
and executed on September 3, 1953. It ap-
pears he was Philybet's last victim in Albania. I
am told that Gregory's last words to the mili-
ty judges were, "I will do it again, if I have
another chance." His heroism gave hope to the
Albanian people that they were not forgot-
ten. For his bravery, Gregory was post-
humously decorated by Decree of the Greek
Government on September 19, 1991 with the
Medal of Exceptional Deeds for his courage
and unparalleled heroism.*

Dr. Nikolaos A. Stavrou, his brother and prominent professor in International Affairs at
Howard University continued his brother's
work by other means. His testimony before com-
mittees of the U.S. House of Representa-
tives and his appearance before the U.N.
Commission on Human Rights earned him the
wrath of the Hoxha regime. Dr. Stavrou was
among the few scholars in the West who regu-
larly exposed Albanian atrocities and Hoxha's
vast gulag. His articles appeared in the Wash-
ington Post, Outlook Section, the Manchester
Guardian, To Vema (Greece), Borba (Yugo-
slavia), The World and I, World Affairs, and
many other journals. For 12 years, he was the
analyst of Albanian Affairs for the Hoover Insti-
tution's Annual Review of World Communist
Movement. He anonyed the Tirana regime so
badly that it condemned him to death in
absentia.

For 15 years since the collapse of the Alba-
nian Communist regime, Dr. Stavrou sought
quietly the help of the Albanian Government to
locate, exhume and retrieve Gregory's re-
mains and give him a decent funeral. He ap-
proached this truly human tragedy quietly and
away from public panfare and nationalistic
overtones until now. Two Albanian Prime Min-
isters and a Speaker of the Albanian parlia-
mament promised him to conduct an inquiry
into his brother's death but ultimately nothing
came of it. As an American citizen, Dr.
Stavrou was never able to contact an honor for
his hero. The words of the Cold War who happened to be his brother. I
have also called upon our Department of State
to use its good offices with the Albanian Gov-
ernment and to solve a humanitarian issue but
never received a satisfactory answer. The
Albanians can do is honor this family for the
sacrifice they made for freedom. I am among
those who consistently supported the cause of
the Albanian peoples to gain their freedom
and develop their country. However, our sup-
port should not be taken for granted. I hope
the government of Prime Minister Berisha
would be more respectful of those who gave
their lives for freedom.

PAYING TRIBUTE TO KELSEY
MARTINEZ

HON. THOMAS G. TANCREDO
OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. TANCREDO. Mr. Speaker, I rise today
to pay tribute to one of my constituents, Ms.
Kelsey Martinez of Centennial, Colorado. Ms.
Martinez has been accepted to the People to
People World Leadership Forum here in our
Nation's Capital. This year marks the 50th an-
iversary of the People to People program
founded by President Eisenhower in 1956.
Ms. Martinez has displayed academic excel-
ence, community involvement and leadership
talent. All students chosen for this program
have been identified and nominated by edu-
cators.
Mr. Speaker, I would like to join in paying
tribute to Kelsey Martinez, and wish her the
best in all her future endeavors.

EXpressing THE SENSE OF CON-
gress that therE Should Be
EStAblished A LeTS' ALl
PAlAY DAY

HON. JOHN B. LARSON
OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. LARSON of Connecticut. Mr. Speaker, I
want to thank the distinguished gentleman
from Rhode Island, Mr. Langevin for his lead-
ership on this bill. As cosponsor, I also want
to express my strong support for children of all
abilities to have environments where they can
learn and play together.
As the father of three, I understand that play
is essential to healthy childhood development.
Play inspires thinking, imagination, problem-
solving and creates learning opportunities that
can't be found in the classroom. Playgrounds
are where children can play, learn and under-
stand the world around them. Unfortunately, in
many cases, the design of traditional play-
ground isolates children with disabilities from
playing, learning and sharing with their peers.
Today, we are introducing legislation that
recognizes that all children should have equal
access to equal opportunities to play together
on barrier-free, inclusive playgrounds. This bill
would express the sense of Congress that a
"Let's All Play Day" should be established for
all children, including the estimated 6 million
children in the United States with a disability
that make it hard or impossible to enjoy tradi-
tional playgrounds.
As we discuss the importance of play for all
children, I want to take a moment to recognize
the work of the National Center for Boundless
Playgrounds. The National Center for Bound-
less Playgrounds is a champion in bringing the
joy of play to all children with and without dis-
abilities. Formed in 1997 and located in the
town of Bloomfield in the First Congressional
District, Boundless Playgrounds in collabora-
tion with Hasbro, Inc. and GameTime has
helped communities in 21 states create more
than 100 extraordinary "boundless" barrier-
free playgrounds. I want to thank the Center
for their tireless work and dedication in the
state of Connecticut and across the country
on behalf of all children.
Mr. Speaker, as children with and without
disabilities learn together in classroom, we
should encourage their learning together out-
side on the playground. I encourage my col-
leagues and communities across the country
to join me and Congressman Langevin in
celebrating the joy of play for all children, with
all abilities, in every community.

HONORING SAM SMITHSON ON HIS
BIRTHDAY

HON. MARSHA BLACKBURN
OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mrs. BLACKBURN. Mr. Speaker, it is a
privilege to rise today to honor Mr. Sam
Smithson on his 94th birthday and to thank
him for his dedication and service to our coun-
try.
Born in Williamson County, Tennessee on
October 4, 1912, Mr. Smithson was inducted
into the Army as a Private First Class in De-
cember of 1942. He fought bravely in major battles across
Normandy, northern France, the Rhinelan,
and in the Ardennes as a member of B Com-
pany, 612th Tank Destroyer Battalion. On De-
cember 17, 1944, Pfc. Smithson was captured
by German forces and sent to a prisoner-of-
war camp, Stalag XII-C, deep within Ger-
many.
After living in captivity under brutal condi-
tions for nearly six months, the camp was lib-
erated by Allied Forces on April 28, 1945. Mr.
Smithson's heroism and determination in the
face of adversity earned him a promotion to
Corporal upon his discharge from the Army in
October 1945.
Mr. Smithson and his late wife Fronie were
married for 69 years and had one son, Sam
Smithson, Jr. On Saturday, September 30th,
Mr. Smithson's family and friends will gather
to celebrate his 94th birthday.
Sam's story is the American story. It's a tes-
tament to the determination and love of coun-
try that has kept us free for more than two
centuries now. It's because of men like Sam
that the American Dream lives. We thank God
for his service to America, and it's right that
we take time to reflect on his life and cele-
brate his 94th birthday.
Mr. Speaker, I ask my colleagues to join me
in sending our thanks to Mr. Smithson for his
service to our nation and our best wishes as he
celebrates his birthday.

reGARDING HIV/AIDS AND
AFRICAN AMERICANS

HON. EDDIE BERNICE JOHNSON
OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Ms. EDDIE BERNICE JOHNSON of Texas.
Mr. Speaker, I rise today on the crisis of HIV/
AIDS among African Americans.
There are currently more than 68,000 Texans living with the disease.

Americans should be reminded that HIV/AIDS does not discriminate when it comes to who can catch the disease. In fact, HIV is taking a devastating and disproportionate toll on people of color.

Among women living with HIV in Texas in 2005: 19 percent are White, 18 percent are Hispanic, and over 60 percent are African American.

The Congressional Black Caucus will continue to lead the HIV/AIDS fight in Congress and support programs that are making progress against this devastating disease.

We can and must all do more. Governments, corporations, foundations, religious groups and private citizens must unite to win the war on AIDS.

There is no other moral or practical choice.

PAYING TRIBUTE TO DETECTIVE MIKE THOMAS

HON. THOMAS G. TANCREDO
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. TANCREDO. Mr. Speaker, I rise today to pay tribute to a fallen policeman from Colorado, Mike Thomas.

This week thousands of Coloradans paid their respects to Detective Thomas, who was killed earlier this month while waiting at a stoplight. According to reports, officers came from as far away as Canada to pay their respects.

Mr. Thomas was a longtime dedicated public servant. He spent more than two decades serving the community as a policeman, and like his father Delbert, was an Air Force veteran. He will be sorely missed.

I was particularly moved by an account I read in The Denver Post about Mr. Thomas, as far as the Lebanon Post says. I love him. Good day.

Mr. TANCREDO.

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Mr. TANCREDO.
FY 2007 Labor-HHS Appropriations bill. A 5% increase over last year’s levels would give an additional $240 million to the National Cancer Institute alone. This funding would allow the Institute to further fund the basic research necessary to determine the root causes of cancer and improve care.

However, a 5% increase in NIH funding will only maintain pace with rising costs and inflation. It is essentially flat-funding for the NIH. Therefore, I challenge this House to support a 5% increase in NIH funding in addition to any increase to cover the cost of inflation, which Democrats have previously proposed.

Second, Congress should pass the Breast Cancer and Environmental Research Act and the Breast Cancer Patient Protection Act.

Next week will begin National Breast Cancer Awareness Month. While important advances have been made, we still do not know what causes this disease, or how to prevent it.

Breast cancer remains the second leading cause of cancer death among women. The American Cancer Society estimates that a woman in the United States has a 1 in 7 chance of developing invasive breast cancer during her lifetime—this risk was 1 in 11 in 1975.

Congress has failed to act on the Breast Cancer and Environmental Research Act, a bill with the overwhelming bipartisan support of 255 members. The Breast Cancer and Environmental Research Act will further our understanding of the impact that environmental factors have on breast cancer. For the 3 million women living with breast cancer and their families, we should pass this important legislation.

Congress should also pass the Breast Cancer Patient Protection Act.

My constituent Donna Carbone was lucky to have her surgery ordered after a hospital’s decision to send her home less than 24 hours after her mastectomy in 1998. We must ensure that Donna’s experience is no longer the exception to the rule, but instead becomes the standard quality of care.

The Breast Cancer Patient Protection Act, which has the bipartisan support of 180 members, would prohibit an insurer from limiting impatient care following a mastectomy to less than 48 hours.

On the eve of Breast Cancer Awareness Month, let’s recommit ourselves to finding the root causes of breast cancer and improving patient care. Let’s not offer just false hope, let’s fight a real war on cancer by investing in the tools necessary to eradicate this disease.

HIV/AIDS

HON. BOBBY L. RUSH
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. RUSH. Mr. Speaker, in 2004, my state of Illinois, had the 4th highest numbers of African Americans living with HIV/AIDS—nearly 8,000—of the more than 35,000 people living with HIV/AIDS. Despite the improvements in the health outcomes of AIDS patients in the general population, in communities of color, AIDS is the leading cause of death of African American women. Illinois has the nation’s 4th highest numbers of African American women ages 25–34, and the third leading cause of death among Hispanics between the ages of 35 and 44.

Mr. Speaker, last week, the House Energy and Commerce Committee, on which I serve, reported H.R. 6143, the Ryan White HIV/AIDS Treatment Act by a vote of 38 to 10. While the bill is flawed in several respects—particularly in the level of funding that it authorizes to provide comprehensive treatment and services to victims of HIV/AIDS—the first time, codify the Minority AIDS Initiative (MAI) as a separate title of the Ryan White CARE Act reauthorization.

This means that for the first time in its history, the Minority AIDS Initiative will become permanent law is enacted. The Minority AIDS Initiative is specifically designed to bridge the gap in HIV service delivery by providing culturally competent and linguistically appropriate HIV care and support services provided for under the MAI.

Since communities of color still account for a disproportionate number of HIV/AIDS cases, I am pleased that the Committee’s bill took the first step in directing resources to address the problem of HIV/AIDS in the African American community. It is my sincere hope that future Congresses will be able to more adequately address this epidemic.

HON. JOHN CAMPBELL
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. CAMPBELL of California. Mr. Speaker, born on April 24th, 1921 in Hawthorne, California, Theodore (“Ted”) Ralph Williams was delivered into a family divided by divorce and early hardships. Fortunately, the happiest years of his youth were spent with his mother, step-father and siblings on a 35-acre citrus nursery and farm which skirted the eastern border of the giant Irvine Ranch in Orange County, California. It was on the farm where Williams developed the strong work ethic and key survival skills which have served him so well over the course of his life.

Following the death of his beloved step-father in 1935 and his family’s ensuing financial challenges, Ted Williams left Tustin High School during his senior year and enlisted in the U.S. Marine Corps. On January 15, 1940, he was sworn in as a “Boat Marine” and immediately deployed to the Philippine Islands where he was stationed in the Manila area near Clark Field, Cavite and Mariveles, part of the 4th Marine Regiment and home port to the 16th Naval District. Less than a year later, on December 7th, 1942, the United States was attacked by the Japanese at Pearl Harbor. The very next day, the Japanese attacked the Philippines and the islands of Bataan, Corregidor and Mariveles.

On December 26, 1942, the Japanese attacked the Philippines and the islands of Bataan, Corregidor and Mariveles. During this period in his life, Williams returned to his writing and completed “Rogues of Bataan,” an autobiographical account of the Bataan Death March. Just one year later, Lillian died from liver cancer.

Inspired by his late wife’s kind and generous heart, Williams embarked on a series of charitable efforts including the funding of an orphanage in Mexico and the founding of TERI, Inc. (Training, Education and Research Institute) in Oceanside, CA, a private nonprofit agency providing residential care, education, job training, employment, and other programs and services for people with all sorts of developmental disabilities and special needs. Upon a return trip to the Philippines with other survivors of the Bataan Death March, Williams spearheaded the effort to build, equip and staff an elementary school on the Philippine Island of Corregidor. During this period in his life, Williams returned to his writing and completed “Rogues of Bataan,” which was first published in 1999 and has since been re-released with all proceeds benefiting TERI, Inc. In 2003, Williams embarked on the creation of the Caroling School Fund which has since built and furnished the Llamas Memorial Institute in Mariveles, Bataan, Philippines, an educational library which was officially dedicated on July 4, 2006. In recognition of his charitable works, community service and humanitarian efforts to the Filipino people, Ted Williams was placed on the prestigious “Perpetual Honor Roll” for the Order of the Knights of Rizal (as chartered by the Philippine government) on March 16, 2006. Now, at age 85 and in failing health, Ted Williams is worthy of his own special recognition by the United States of America. This native son of Southern California is a true American Hero, a passionate patriot and a caring and humble community servant.
Recognizing the American Red Cross Chisholm Trail Chapter on their 90 Years of Service

Hon. Kay Granger
Of Texas
In the House of Representatives
Wednesday, September 27, 2006

Ms. GRANGER. Mr. Speaker, I rise today to recognize the Chisholm Trail Chapter of the American Red Cross as they celebrate 90 years of service in Texas, including my district in the Fort Worth area.

Chartered in 1916 in response to World War I, the American Red Cross Chisholm Trail Chapter has been present during both local and national events in U.S. history. The passionate volunteers and staff that make up the Chisholm Trail Chapter provide care, comfort and lifesaving skills to residents in my District.

Headquartered in Fort Worth, the Chisholm Trail Chapter serves its neighbors by providing a variety of services throughout 23 counties, from Tarrant County line to San Angelo.

The Chapter’s variety of programs and services extend to all members of the Fort Worth community at home, in school, and in the workplace. Last year, over 111,000 people were helped by the WHEELS Transportation Services. This program assists older Americans and people with disabilities who need to help keeping their medical and vocational appointments by providing necessary means of transportation.

Constantly striving to ensure the health and safety of our constituents, the Chapter provides training in first aid, CPR, swimming, lifeguarding, and babysitting. Last year, the Chapter enrolled over 41,000 people in their Health and Safety Programs.

I am particularly impressed with their Armed Forces Emergency Services program. Twenty-four hours a day, 365 days a year, the Chisholm Trail Chapter helps military members and their families stay in touch by providing timely, accurate and verified information following the death or serious illness of a family member, the birth of a child or other critical family matter.

The Chisholm Trail Chapter has touched me personally as well. On March 28, 2000, an F-2 tornado formed and took aim at Tarrant County. Five lives were lost and homes and businesses were destroyed. The tornado began just west of downtown and made a direct hit on the Cash America building, where my office was located. From there, the storm intensified into an F-3 twister and leveled an Arlington neighborhood.

The Chisholm Trail Chapter responded in force to the tornadoes, meeting the physical and emotional needs of thousands of families. An American Red Cross Emergency Response Vehicle made its way to my office building several times each day for nearly two weeks, distributing meals and bottled water to the work crews attempting to salvage what was left from the debris.

In addition to meeting local community needs through essential programs and services, the Chisholm Trail Chapter has responded to the needs of our nation and the world by sending volunteers into a terrorist attack site following the events of September 11, 2001, and raising nearly $2 million locally to help south Asian tsunami victims in 2004.

Prior to landfall of Hurricane Katrina, the Chapter deployed local volunteers to Louisiana.

The Chisholm Trail Chapter met the call to serve those left devastated in the wake of Hurricanes Katrina and Rita by opening eight shelters, housing 1,200 evacuees and providing 576,137 meals. During the months of September and October 2005, the Chapter served over 7,000 families and offered 6,606 mental health contacts to those in need of emotional assistance. This coordinated response exemplifies the Chapter’s dedication to guaranteeing the health and safety of those who have experienced the effects of natural disasters.

Mr. Speaker and fellow Colleagues, please join me in recognizing the American Red Cross Chisholm Trail Chapter on its 90th birthday. With congratulations and gratitude for the excellent work they do to enrich our lives, I am pleased to acknowledge their service to our communities throughout the Fort Worth area and all corners of this great nation.

Tribute to Fire Chief Reynold “Renny” Santone, Jr.

Hon. Bill Shuster
Of Pennsylvania
In the House of Representatives
Wednesday, September 27, 2006

Mr. SHUSTER. Mr. Speaker, I rise today to honor Fire Chief Reynold “Renny” Santone, Jr. of the Altoona Fire Department, in Altoona, Pennsylvania, who has been named “Person of the Year” by the Blair Bedford Central Labor Council. The distinguished fire chief was nominated for the award by his fellow members of the fire department. Chief Santone, marking 41 years of protecting the Altoona Area, was recently presented with this distinguished award at the Labor Council’s annual awards dinner.

This award honors people like Santone “who work for a living and who are well respected and well loved” for their contributions to employees, co-workers and the community, said the Blair Bedford Central Labor Council’s President Robert Kurzt, while delivering remarks at the event. President Kurzt commended Fire Chief Santone, saying that he is “not a paper chief” who distances himself from his firefighters, but that “he’s out there in the trenches with them.”

Chief Santone joined ranks with the Altoona Fire Department in 1965, and looking back on the day he joined the force, said: “They hired me on April Fool’s Day. What I was really waiting for was the red International Association of Fire Fighters sticker—to me that means I was a real professional firefighter.”

Chief Santone has certainly proved his abilities as a firefighter in the Altoona Area. Fifteen years after joining the department, Firefighter Reynold Santone was named fire chief in 1984. Today, he leads the department’s 4 fire stations and a standing staff of 13 on call firefighters. Chief Santone remarked, “I’ve always known what I’ve wanted to do and where I wanted to be,” saying that he expects to retire from the same station on Washington Avenue that he joined in 1965.

Fire Chief Reynold “Renny” Santone, Jr.’s dedication to the protection of our local community, and its citizens, is admirable. We hope that others will follow in his footsteps and serve our community with the same pride and honor as Chief Santone has done for the past 41 years.

Tribute to Brother Paul Hannon

Hon. Vito Fossella
Of New York
In the House of Representatives
Wednesday, September 27, 2006

Mr. FOSSELLA. Mr. Speaker, on October 8, 2006, Brother Paul Hannon will celebrate 25 years of service as a Christian Brother and educator.

For the past 25 years Brother Hannon has worked as a teacher, athletic director, and hockey moderator. He has spent the past 10 years of his service at my alma mater, Monsignor Farrell High School in Staten Island, NY.

Over the last quarter century Brother Hannon has served as a Christian Brother
whose assignments have been varied and enriching. His most fulfilling calls to service have been spent working with many youth, particularly those near and dear to me at Monsignor Farrell. His enthusiasm is unwavering, and he has created programs such as in-house television studios which have given students exposure to the world they never before would have imagined.

Brother Hannon is an invaluable member of the communities I represent and I commend him for his outstanding leadership and commitment to the people of Staten Island and Brooklyn.

IN RECOGNITION OF ANN HAMILTON
HON. MICHAEL C. BURGESS
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. BURGESS. Mr. Speaker, I rise today to recognize Ann Hamilton from Gainesville in her quest to provide outdoor carriage rides to disabled and handicapped citizens.

Ms. Hamilton’s mission is to build carriages designed for disabled and handicapped individuals so that they too can experience the magnificence of the outdoors. These equestrian excursions allow disabled persons to make a connection with nature that they would normally have the opportunity to do.

I admire Ms. Hamilton’s passion and willingness to take the initiative to bring new opportunities to people with limited mobility. Her dedication to this project will ensure equal opportunities to citizens of the 26th District of Texas as well as the rest of the state.

IN RECOGNITION OF THE RETIREMENT OF MASSACHUSETTS BAY TRANSPORTATION AUTHORITY EMPLOYEE ROBERT O’GARA OF BRAINTREE, MASSACHUSETTS
HON. STEPHEN F. LYNCH
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. LYNCH. Mr. Speaker, I rise today in honor of a man who has dedicated the past 43 years to the Commonwealth of Massachusetts as an employee of the Massachusetts Bay Transportation Authority (MBTA).

Robert O’Gara, the son of Michael and Anna O’Gara, was born on October 28, 1941 in South Boston, Massachusetts. In 1962, after graduating from South Boston High School, Robert joined the MBTA as a Junior Clerk working out of the Everett Repair Shop. Robert developed a reputation for exceptional craftsmanship and a meticulous attention to detail. For the next decade, Robert restored trains at the Everett Repair Shop until he moved to Riverside Station as a Riverside repairman. Once he began working at the Riverside Station, Robert took his dedication and hard work to a higher level and would place vehicle history on the dash of every vehicle sent in for repair. These notes, dubbed “O’Gara Grams”, allowed repairmen to thoroughly inspect each train in order to ensure peak performance.

Along with being a committed employee, Robert is a devoted husband and father. Robert has the enormous pleasure and tremendous good fortune to be married to his wife Mary of 38 years. They are the proud parents of eight children and the grandparents of seven adoring grandchildren.

Mr. Speaker, it is my distinct honor to take the floor of the House today to join my colleagues in congratulating Robert O’Gara’s family, friends, and brothers and sisters of the Massachusetts Bay Transportation Authority to thank him for 43 years of remarkable service to the Commonwealth of Massachusetts. I urge my colleagues to join me in celebrating Robert’s distinguished career and wishing him a happy and full retirement.

HIV/AIDS
HON. AL GREEN
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. AL GREEN of Texas. Mr. Speaker, I wish to bring to my colleagues’ attention the devastating impact that HIV/AIDS continues to have on our country and, in particular, on African Americans.

African Americans make up only 12 percent of the United States population yet account for over 50 percent of all new HIV diagnoses. We must ask ourselves why this statistic is so high and continue to focus on ways to reduce it. AIDS diagnoses among African Americans are increasing while diagnoses among other groups are decreasing. By the end of 2003, 172,278 African Americans were living with AIDS and studies show that number is rising.

This crisis is having an especially crippling effect on African American women who account for over two-thirds of new HIV/AIDS cases among women. Additionally, AIDS is the number one cause of death for African American women ages 25–34.

These statistics clearly reflect a catastrophic problem facing African Americans today. It is imperative that we continue to support prevention efforts and encourage a willingness to speak out about this disease in our community. We must assume the challenge of combating this crisis. If we do not, our complacency will only contribute to the devastation caused by this disease.

TRIBUTE TO MAYOR JOHN LYONS OF PEMBROKE PARK, FL
HON. KENDRICK B. MEEK
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. MEEK of Florida. Mr. Speaker, I wish to pay tribute to the late Mayor John Lyons of Pembroke Park, FL.

Mayor Lyons was a World War II veteran and a Chicago native. For over 20 years he worked for the Chicago Fire Department, from which he retired as a lieutenant. He moved to South Florida and continued his career of community leadership. He served as chairman of Pembroke Park’s code-enforcement board for 4 years. In 1991, Mayor Lyons was elected to the Pembroke Park Town Commission and was a member there for the rest of his life. In 2003, his colleagues elected him mayor.

Mayor Lyons was the loving and devoted husband of Mrs. Eleanor Lyons. He is also survived by his granddaughter, Kimberly, and her husband John Hasenberg; great-grandchildren Elinor and Binyamin; brother Leo Lyons; and brother and sister-in-law Raymond and Nan Lyons.

Mr. Speaker, Mayor Lyons was an institution in Pembroke Park, FL. He was a kind and giving man who dedicated his life to community service, and he will be sorely missed.

Both Pembroke Park and Broward County have lost a great leader. I offer my sincere condolences to his family and all who were touched by his kindness and service.

TRIBUTE TO NORMAN AND IRMA BRAMAN’S 50TH WEDDING ANNIVERSARY
HON. MARIO DIAZ-BALART
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, I rise in recognition of Norman and Irma Braman’s 50th wedding anniversary, two individuals of Miami who have dedicated their lives to philanthropic ideals which send ripples throughout our great nation. Mr. and Mrs. Braman have been dedicated to promoting the State of Israel and remembering the Holocaust to ensure that such tragedies never occur again and to fighting the disease of breast cancer, of which too many women and families suffer.

In 1995, they established the Braman Family Foundation and in 2002 gave a gift of $5 million to the Miller School of Medicine at the University of Miami to establish the Braman Family Breast Cancer Institute. With this establishment, they raise awareness of the importance of early detection and encourage regular self-examinations.

The couple have been leaders in the establishment of the Miami Beach Holocaust Memorial, where Mr. Braman is an original founder and previous president of the Board of Trustees. He has served as president and campaign chair of the Greater Miami Jewish Federation. Mrs. Braman has provided tremendous leadership to the Greater Miami Jewish Federation and has participated in numerous missions to Israel.

It is a privilege and an honor for me to call the Bramans my friends, and on behalf of the residents of Miami, I thank them for their dedication to our community and our country.

PERSONAL EXPLANATION
HON. ED PASTOR
OF ARIZONA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. PASTOR. Mr. Speaker, on rollcall Nos. 483, 484, 485, and 486, I missed voting due
to my beeper malfunction. Had I been present, I would have voted “yea.”

ON H.R. 5857, AND H.R. 6051, NAMING POST OFFICES FOR REPRESENTATIVES MORRIS UDALL AND JOHN F. SEIBERLING

HON. MARK UDALL
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. UDALL of Colorado. Mr. Speaker, I want to express my thanks to Mr. Grijalva, and Mr. Tim Ryan, for introducing these bills; to their colleagues in the Arizona and Ohio delegations, respectively, for cosponsoring them; and to the leadership on both sides for scheduling them for consideration by the House.

H.R. 5857 would designate a Post Office In Tucson, AZ, as the "Morris K. ‘Mo’ Udall Post Office Building," while H.R. 6051 would designate a Federal building in Akron, OH, as the "John F. Seiberling Federal Building."

With every bill we debate and every vote I cast, I am conscious of the many years during which my father served here in the House of Representatives. He was truly a "man of the House," and I know that to him no honor could be greater than the bipartisan—non-partisan, really—support of our colleagues for a measure intended to recognize that service.

And I think it is very appropriate that at almost the same time the House will extend this legislation to other parts of the country.

In conclusion, Mr. Speaker, I want to express my strong support for the bill recognizing the service of Representative Seiberling, and my heartfelt thanks for the honor bestowed on my father and our family by the bill to name a post office in Tucson in his memory.

MORE BORDER PATROL AGENTS NOW ACT OF 2006

SPREECH OF
HON. DARRELL E. ISSA
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, September 26, 2006

Mr. ISSA. Mr. Speaker, I rise today in support of H.R. 6160, the More Border Patrol Agents Now Act of 2006.

This legislation takes an important step toward making our borders more secure and our country safer. More agents along our Nation’s borders will lead to better enforcement of our immigration laws. The President brought up. Currently, the Border Patrol is unable to hire extremely qualified individuals for federal civilian law enforcement retirement. This precludes retired members of our armed forces from employment by the Border Patrol if they are 40 years of age or older. Because of this arbitrary provision, the Border Patrol is unable to hire extremely qualified individuals, many of whom would need little further training to be effective Border Patrol agents. It is my hope that Congress will address the age limit issue so even more qualified agents can be hired.

In conclusion, Mr. Speaker, I want to express my strong support for the bill recognizing the service of Representative Seiberling, and my heartfelt thanks for the honor bestowed on my father and our family by the bill to name a post office in Tucson in his memory.

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It is my hope that Congress will address the age limit issue so even more qualified agents can be hired.

I want to thank Mr. Rogers for his leadership on this issue. I would also like to thank Chairman King and Davis and both the Homeland Security and Government Reform Committees for responding to the needs of the Border Patrol Agency so it can better secure our Nation’s borders.

IN HONOR OF TENANTS RIGHTS ADVOCATE MICHAEL MCKEE

HON. JERROLD NADLER
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. NADLER. Mr. Speaker, I rise today to pay tribute to an extraordinary advocate and organizer, Michael McKee, who has worked tirelessly on behalf of New York City tenants for over three decades. Unfortunately, I was unable to attend the reception honoring him, so I hope to honor him now.

A veteran housing activist, Mr. McKee has made fighting on behalf of tenants his life’s work. His combination of committed leadership and innovative organizing has grown the tenant movement into the important force it is today. Few activists have proven as forward-thinking and savvy as Mr. McKee.

When the state legislature began phasing out rent control and rent stabilization in 1971, Michael joined with housing activists statewide to begin a lobbying campaign on anti-tenant legislators. The groups called not only for the restoration of rent laws that would protect tenants in New York City, but also for reforms that would benefit tenants in parts of the state without rent regulation.

The tenant movement became firmly grounded in legislative action, and gave birth in 1974 to Tenants & Neighbors, an advocacy organization that has been at the forefront of tenants rights since its inception. Under the leadership of Mr. McKee, the leaders of Tenants & Neighbors focused on the weakening of the Habitability Law and the Tenant’s Rental Increase Exemption. They urged passage of the Emergency Tenant Protection Act, which restored rent control and rent stabilization. Later, they led the fight to elect tenants to public housing boards outside of New York City, and helped pass the Disability Rent Increase Exception. Mr. McKee soon joined other advocates to create the People’s Housing Network, a program to develop tenant leaders across the state.

As a tenant organizer for the Metropolitan Council on Housing and the Brooklyn Tenants Union, Mr. McKee taught thousands of New Yorkers how to fight for their rights in a meaningful and lasting way. When Tenants & Neighbors began a major overhaul in 1994, membership increased 16-fold in response to Mr. McKee’s direct mail and phonebanking programs. This new grassroots approach brought tenants together to pressure elected officials and create a fundraising base.

Mr. McKee is now building on the voter education efforts of Tenants & Neighbors by pouring his energies into political organizing. All too often, tenants lose when their needs are weighed against the financial interests of landlords and property owners. Mr. McKee has successfully encouraged tenants to take an active part in the political process, and has helped to make tenants rights organizations a powerful force in pushing government officials to address tenant issues.

Michael McKee has been not just a key strategist in many of the battles New York City tenants have faced over the past 30 years, but also a graceful public face. On behalf of tenants throughout the five boroughs, I commend his work on behalf of thousands of New Yorkers, and look forward to another 30 years of successful activism.
CHILD INTERSTATE ABORTION NOTIFICATION ACT

SPEECH OF
HON. CAROLYN B. MALONEY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, September 26, 2006

Mrs. MALONEY. Mr. Speaker, I rise in strong opposition to this bill.

True to form, in the pre-election rush, the majority is pushing through legislation that does nothing to protect the health and safety of our children but instead harms them. We already voted on this legislation in April. Why are we voting on the bill today? It’s simple, the Child Interstate Notification Act is a sweet treat for the anti-choice right, the exact group the Majority is courting these next 6 weeks.

This bill harms families by encouraging relatives to seek civil action against each other. It tells young women that if they cannot confide in their parents, they are simply out of luck and must face this difficult situation alone. And, it prevents minors from counting on the adults they trust: their counselors, their older siblings, their friends and their clergy.

Mr. Speaker, in a perfect world, children would openly communicate with their parents. In a perfect world, we would not be faced with unintended pregnancies. But these are tumultuous times, and the world is far from perfect. That does give us license to pass imperfect laws.

The bill before us provides no exception for the health of the mother, as required by the Supreme Court. And, it violates States rights by forcing the laws of one State onto another.

Mr. Speaker, this is a bad bill. I urge you to oppose this bill and put the safety and well-being of America’s young women before the political agenda of the anti-choice majority.

I urge a “no” vote.

PERSONAL EXPLANATION

HON. CHARLES B. RANGEL
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. RANGEL. Mr. Speaker, I would like to offer a personal explanation of the reason I missed roll call vote 431 on Thursday, September 7, 2006. This vote concerned amendment H. Amdt. 1204 to H.R. 503, the “American Horse Slaughter Prevention Act.” It would provide that the Secretary of Agriculture must provide that the Secretary of Agriculture must “...take effect.

It would provide that the Secretary of Agriculture must provide that the Secretary of Agriculture must "...take care for unwanted horses before the law will provide that the Secretary of Agriculture must provide that the Secretary of Agriculture must "...take care for unwanted horses before the law will provide that the Secretary of Agriculture must provide that the Secretary of Agriculture must "...take care for unwanted horses before the law will provide that the Secretary of Agriculture must provide that the Secretary of Agriculture must "...take care for unwanted horses before the law will provide that the Secretary of Agriculture must provide that the Secretary of Agriculture must "...take care for unwanted horses before the law will provide that the Secretary of Agriculture must provide that the Secretary of Agriculture must "...take care for unwanted horses before the law will provide that the Secretary of Agriculture must provide that the Secretary of Agriculture must "...take 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warm and compassionate personality which inspired those around him will be missed deeply and his life and his accomplishments will always be remembered.

TRIBUTE TO ALFONSO R. DE LEON

HON. SILVESTRE REYES
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. REYES. Mr. Speaker, I urge my colleagues to join me in thanking U.S. Citizenship and Immigration Services, USCIS, Harlingen District Director Alfonso R. De Leon for his over 40 years of Federal service and in congratulating him on his upcoming retirement.

Mr. De Leon began his career in 1970, when he joined the Immigration and Naturalization Service, INS, as a radio operator with the U.S. Border Patrol in Del Rio, Texas.

In 1975, he transferred to Laredo, Texas, where he served with INS Inspections as a Trainer, Case Processing Officer, Special Case Officer, Supervisor, Assistant Port Director, Acting Port Director and, finally, Port Director.

In September 1988, at the height of the influx of asylum-seekers brought on by political turmoil in Central America, Mr. De Leon was selected as the Assistant District Director for the Harlingen, Texas, District Office. In 1991, he was promoted to Deputy District Director.

Mr. De Leon also played a leadership role during the establishment of the Department of Homeland Security, DHS, and in 2003 was named Interim District Director of USCIS. The following year he was promoted to USCIS District Director, a position he holds today.

I have known Mr. De Leon since 1970. My friend and former colleague is truly an American success story, having worked his way up through the ranks of INS and DHS. He has always exemplified expertise, dedication, and professionalism in every position he has held throughout his career.

As a result, Mr. De Leon has earned widespread respect from his colleagues and employees as well as numerous other local, state, and federal law enforcement officials. He has also been a leader in implementing innovative programs to enhance national security, eliminate the immigration caseload backlog, and improve customer service in the Harlingen District.

Most importantly, Mr. De Leon is also a devoted family man. He and his wife, Mary Blanch, have three children and four grandchildren. I know that of his many accomplishments, Mr. De Leon is perhaps most proud of his fine family, and deservedly so.

Again, Mr. Speaker, I urge my colleagues to join me in expressing the House of Representatives' appreciation for Harlingen District Director Alfonso R. De Leon's service to our Nation and in wishing him all the best in his retirement.

COMMENDING MICHIGAN STATE UNIVERSITY DEAN GEORGE E. LEROI FOR HIS SERVICE TO THE STUDENTS OF MICHIGAN STATE UNIVERSITY AND HIS SIGNIFICANT CONTRIBUTION TO THE SUCCESS OF THE COLLEGE OF NATURAL SCIENCES

HON. JOHN J.H. “JOE” SCHWARZ
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. SCHWARZ of Michigan. Mr. Speaker, I rise today to take this opportunity to commend Michigan State University Dean George E. Leroi for his service to the students of Michigan State University, and his significant contribution to the success of the College of Natural Sciences. George Leroi’s long career includes service as an assistant professor of chemistry at Princeton University and as a professor of chemistry at Michigan State University. During his tenure at both of these fine institutions, Dr. Leroi guided, supported, taught, befriended, and counseled numerous students throughout both their academic and professional careers.

Dr. Leroi was awarded a Ford Foundation Fellowship, a SURF Research Fellowship with the U.S. National Bureau of Standards, and served as a Research Collaborator with the National Synchrotron Light Source at Brookhaven National Laboratory. In 1996, George Leroi was named as the Dean of the College of Natural Sciences at Michigan State University, and he continues to serve in that position today. Dr. Leroi’s significant experience in chemistry and his personal commitment to the success of the Michigan State University College of Natural Sciences brings great credit to himself, the State of Michigan, and the United States of America, and we recognize him upon the date of his retirement, October 6, 2006.

CELEBRATION OF THE UNVEILING OF THE MOHANDAS GANDHI STATUE IN THE CLEVELAND CULTURAL GARDENS

HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. KUCINICH. Mr. Speaker, I rise today to celebrate the installation of a statue of Mohandas Gandhi in the Cleveland Cultural Gardens. The statue stands as a beacon for the ideals Gandhi promoted: peace, amity, and cooperation of all people of all nations.

The unveiling event is being co-hosted by the Cleveland Cultural Gardens Association and the Federation of Communities of India Organization. The Cleveland Cultural Gardens started as a 256-acre tract of land donated to the City of Cleveland by John D. Rockefeller in 1896. With the theme of the Cleveland Cultural Gardens, the addition of a statue of Gandhi continues this shining example of peace and cooperation. The statue stands in the India Cultural Garden on a mixture of Indian and American soil. In accordance with the values taught by Gandhi, the earth, which belongs to us all, can only be stewarded through cooperation, understanding, and embracing diversity.

Mohanadas Gandhi, who pioneered the global civil rights struggle, has become a symbol for the movement for peace in international politics, brotherhood amongst diverse communities, and social progress through understanding. Gandhi, though a Hindu by practice, embraced diversity of all religions and expressions of spirituality and urged all human beings to stay in touch with a transcendental bond that connects us all. His life is a testament to strengthening international peace efforts through acknowledgement of each individual’s power to make a positive peaceful change in this world.

Born in 1869 in Gujarat, India, Gandhi studied law at University College London where he found himself at a cultural crossroads trying to embrace English customs while still preserving the traditions of his Indian ancestry. Gandhi would go on to lead the civil rights struggle in South Africa and finally the independence movement in his native India. Though he studied, lived, and worked in many countries, Gandhi became more of a global citizen, adopting the idea that all humans on the earth share a common thread of wanting peace, security, self-expression, and individuality in a diverse society. It is this sensitivity and acceptance of all that is echoed in the Cleveland Cultural Gardens with the installation of this new statue.

Mr. Speaker and colleagues, please join me in recognizing the contributions to peace and community of Mohandas Gandhi through this statue in the Cleveland Cultural Gardens.

PETS EVACUATION AND TRANSPORTATION STANDARDS ACT OF 2006

SPEECH OF
HON. JAMES P. MORAN
OF VIRGINIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 20, 2006

Mr. MORAN of Virginia. Mr. Speaker, I am pleased to be a supporter of H.R. 3858, the Pets Evacuation and Transportation Standards Act. I was disappointed to miss the original rolcall vote on this important bill. Had I been present I would have voted “yes” in support of allowing people to save their vulnerable pets in the event of an emergency.

I am proud to be a cosponsor of this legislation. It will require local communities to include in their emergency plan options to accommodate people with pets or service animals. One of the most heartbreakings elements of the Hurricane Katrina aftermath was seeing the number of pets that were abandoned throughout the gulf coast by the number of people who stayed to care for their pets rather than leave them behind. People should not be forced to choose between their own safety and leaving their beloved pets. There is also
Tribute to Graceland University SIFE Team

HON. LEONARD L. BOSWELL
OF IOWA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. BOSWELL. Mr. Speaker, as a proud Graceland University alumnus, I rise today to honor the Graceland University Students in Free Enterprise, or SIFE, Team, who recently took home the second place trophy in the SIFE World Cup Competition in Paris, France.

SIFE is a global non-profit organization, with activities in more than 40 countries. SIFE strives to teach market economics, success skills, entrepreneurship, financial literacy, and business ethics to students. SIFE teams use their knowledge to work to create economic opportunities for their communities.

The SIFE World Cup Competition brings together SIFE teams from all over the world, and I am proud that the Graceland team represented not only its university honorably, but represented our great Nation with distinction.

Mr. Speaker, the following students comprised the team that beat out 44 other national championship teams from around the world: Richa Acharya, Francis Ambrosia, Pojja Ananthanarayanan, Brittany Atwood, James Bailey, Andi Barber, Misha Barbour, Shara Barbour, Ben Berning, Karin Blythe, Tyler Bridge, Emily Brock, Kris Brown, Calee Bullard, Landon Burke, Ariana Bytyci, Curtis Calloway, Ashley Campbell, Sabina Curovac, Leatha Daily, Leonard Dalipi, Joe John De La Cerda, Stephen Donahoe, Cassie Eskridge, Allison Forth, Lindsay Garrett, Tyler Garrett, Nicholas Gay, Shaw Geldreich, Shannan Graybill, Heather Gunn, Alexis Haines, Brieanna Hattey, Clayton Hines, Allan Hughes, Travis Hunt, Doug Hunter, Mercedes Jenkins, Kasey Johnson, Cooper Jones, Tyler Jones, Olga Khrentsova, Erik King, Kendra King, Colin Kohler, Andy Lavender, Hava Maloku, Garet Manuel, Jacqui Everett, Flora Ferati, Abe Forth, Lauren McClain, Michaela McCoy, Amanda McLeod, Ethan Mechling, Baret Miller, Amy Morgan, Aaron Nugent, Toku Olushola, Terra Paalij, Maria Pietro, Ryan Richards, Charlie Rogers, Regan Russell, Guillermo Sanchez, Katherine Say, Michael Say, Reed Manuel, Sarah Marolf, Colin McClain, Jennifer Thumacher, Lauren Seaman, Jessica Serig, Andrea Stuck, Gellia Taddesse, Lora Tonecheva, Lora Topourova, Eric Van Kuiken, Leah Webb, Cara Wildermuth, Briana Williams, Shelby Williams, Stuart Williams, Sarah Wouters, James Young, and Zach Zonza.

As a proud alumnus, I join Graceland University, and all of Iowa, in congratulating them for their great achievement.

Recognition of Dr. Hilary Koprowski on the Occasion of his 90th Birthday

HON. CURT WELDON
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. WELDON of Pennsylvania. Mr. Speaker, today I wish to recognize the outstanding achievements of Dr. Hilary Koprowski—a man who has changed America, and the world, for the better.

Dr. Koprowski is one of the most distinguished and respected biomedical researchers in American history and is known for his work as a creative scientist. One of Dr. Koprowski’s most notable achievements is his discovery of the first oral polio vaccine. Today, the Western Hemisphere has been declared free of paralytic polio, and eradication of polio around the globe is within sight. The pioneering work of Hilary Koprowski has made this possible.

Today, Dr. Koprowski is the author or co-author of over 860 articles in scientific publications and is co-editor of several journals. Currently, he is President of the Biotechnology Foundation, Inc., Director of the Biotechnology Foundation Laboratories at Thomas Jefferson University, and Head of the Center for Neurovirology at Thomas Jefferson University in Philadelphia.

Born in Warsaw, Poland, Dr. Hilary Koprowski was faced with a choice between a career in music or science. He received a degree in piano from the Warsaw Conservatory as well as the Warsaw Conservatory Academy of Music in Rome. In 1939, Dr. Koprowski obtained his M.D. and adopted scientific research as his life’s work. Music remains a significant part of Dr. Koprowski’s life. His compositions are published and are currently being played by various orchestras. Dr. Koprowski often compared science to music when he said, “A well-done experiment gives the same sense of satisfaction that a composer feels after composing a sonata.”

Mr. Speaker, Dr. Hilary Koprowski is a hero. He has been a world leader in scientific research for over 56 years. His expertise and leadership in the field of science has helped save countless lives. I know the House will join me in paying tribute to this outstanding scientist on the occasion of his 90th birthday.

Tribute to Commissioner Israel L. Gaither

HON. SANFORD D. BISHOP, JR.
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. BISHOP of Georgia. Mr. Speaker, I rise today to honor a great African-American, Commissioner Israel L. Gaither, National Commander of the United States Salvation Army. Commissioner Gaither is the first African-American to hold the position in the Salvation Army’s 126-year history.

In his position, Commissioner Gaither heads a vast Army of 3,661 officers, 112,513 soldiers, 422,543 members, 60,642 employees and nearly 3.5 million volunteers, who serve more than 31 million people annually. He is the Salvation Army’s chief spokesperson in the U.S. and coordinates matters of national concern to its mission. He acts as the chairman of the national board of trustees and is responsible for presiding over tri-annual commissioners’ conferences, which bring together key executive leaders of the Salvation Army’s four territories in the United States.

The General of the Salvation Army describes Commissioner Gaither as a “model of spiritual leadership . . . [whose] experience in South Africa and London give him a worldview of the challenges facing the Army today, while retaining the key executive leadership of the mission of the Army rooted in biblical truth and values.”

Israel Gaither is a man who leads with total dependence on God and in partnership with
INTRODUCTION OF THE KA’U COAST PRESERVATION ACT

HON. ED CASE OF HAWAII IN THE HOUSE OF REPRESENTATIVES Wednesday, September 27, 2006

Mr. CASE. Mr. Speaker, I rise today to introduce the proposed Ka’u Coast Preservation Act, a bill directing the National Park Service to assess the feasibility of designating coastal lands on the Ka’u Coast of the island of Hawai‘i between Kapaa Point and Kahuku Point as a unit of the National Park System.

In March 2005, I wrote to the National Park Service to ask that it conduct a reconnaissance survey of the Ka’u coast to make a preliminary determination of the unique natural resources of the area to determine its suitability for inclusion as a unit within our National Park Service.

The draft reconnaissance report providing an overview of the natural and cultural resources of the study area is currently in the final stages of review, but the draft I have reviewed concludes that “Based upon the significance of the resources in the study area, and the current integrity and intact condition of these resources, a preliminary finding of national significance and suitability can be concluded.” The draft report goes on to recommend that Congress proceed with a full resource study of the area.

At present, the beautiful coastline of Ka’u is largely pristine: unspoiled, undeveloped, and uninhabited. It contains significant natural, geological, and archeological features. The northern part of the study area abuts Hawai‘i Volcanoes National Park and contains a number of notable geological features, including a huge ancient lava tube known as the Great Crack, which the NPS expressed interest in acquiring in the past.

The study area includes both black and green (olivine) sand beaches as well as a number of endangered and threatened species, most notably the endangered hawksbill turtle (half of the Hawaiian population of this rare sea turtle nests within the study area), the threatened green sea turtle, the endangered Hawaiian monk seal, the endangered Hawaiian hawk, native bees, the endangered and very rare Hawaiian damselfly (the largest population in the state), and a number of native endemic birds. Humpback whales and spinner dolphins frequent the area. The area also boasts some of the best remaining examples of native coastal vegetation in Hawai‘i. Although the NPS was unable to conduct a full survey of marine resources, it is expected that the varied and undeveloped habitats in the study area support high levels of biodiversity.

Archeological resources reflecting ancient Hawaiian settlement in the study area includes the Puhu‘ula cave, dwelling complexes, heiau (religious shrines), walls, fishing and canoe houses or sheds, burial sites, petroglyphs, water and salt collection sites, caves, and trails. The Ala Kahakai National Historic Trail runs through this area. The area is also remarkable for its magnificent views.

Ka’u is one of the last unspoiled areas left in Hawai‘i. It is, however, under tremendous development pressure, despite the fact that these coastal lands are subject to volcanic eruptions, seismic activity, tsunamis, and other hazards. More earthquakes occur in the Ka’u area than anywhere in the State and the hazard risk level in the study area ranges from the highest (category 1) to between 3 and 6 for the balance of the study area. The outstanding resources of Ka’u deserve protection; development along the coast poses risks to these resources and potentially to human life.

I urge my colleagues to join me in supporting this bill, and invite you to come to the island of Hawai‘i to visit this special area. I know that if you do so, you will be convinced as I am of the vital importance of protecting these lands.

SUPPORT FOR THE NATIONAL LEAGUE OF DEMOCRACY

HON. MARK E. SOUDER OF INDIANA IN THE HOUSE OF REPRESENTATIVES Wednesday, September 27, 2006

Mr. SOUDER. Mr. Speaker, I rise today in support of the National League of Democracy (NLD) and all of those who languish in crushing servitude. On 27 September 1988, the NLD was founded by the forces of Democracy in Burma. The NLD was founded at what seemed like a turning point in Burmese history. After decades of military rule and dictatorship, the leaders of Burma announced that free elections would be held in 1990.

Led by Aung San Suu Kyi, the NLD won those elections with 60 percent of the vote and 83 percent of the parliamentary seats. Alas, the military never allowed a new government to form. Sadly, Liberty was crushed and the promise of that time has never been realized.

Today, Aung San Suu Kyi is under house arrest. Many other NLD members and other defenders of democracy are in prison, in exile, or in hiding. The brutal military dictatorship that very nearly did the right thing so many years ago is still in power. They continue to brutalize the people of Burma in savage ways that we can hardly imagine.

International pressure is mounting, however. After turning a blind eye to Burma’s actions, the ASEAN neighbors are distancing themselves from Burma. Last week at the United Nations, the First Lady of the United States Laura Bush held a forum on Burma. She urged the military leadership of Burma to release Aung San Suu Kyi and the adoption of a U.N. resolution condemning Burma’s dictatorship.

never for the first time, Burma has been placed on the agenda of the United Nations Security Council. For those of us who have been active on Burmese issues for some time, this is truly a victory. On Friday, Ibrahim Gambir, U.N. Undersecretary General for Political Affairs, will report on the latest situation in Myanmar at the 15-member council. Getting a resolution through the Security Council will be no small task. Burma’s stalwart ally China is ever ready to block any criticism of its neighbor.

The United Nations is not known for its tough stances on any issue. Time after time we have seen the U.N. shy away from condemnation of even the most egregious evil. I urge the U.N. to be firm. The United Nations Security Council must use this unmatched opportunity to defend the least among us.

In closing, I congratulate the NLD on their 18-year commitment to democracy. I hope they never give up their struggle for freedom. I will never abandon my commitment to them or the people of Burma.
Our childcare professionals work tirelessly to care for our children and keep them safe. But they desperately need the appropriate resources to protect children from the hidden dangers of lead hazards. Like its companion bill, introduced in the other Chamber by Senator Obama, the Lead Poisoning Reduction Act will establish the Select Group on Lead Exposures which will be comprised of experts from the Secretary of Education, the Centers for Disease Control and Prevention, the National Institute of Environmental Health Science, the Administration for Children and Families, and the National Institute of Child Health and Human Development.

The Select Group will be charged with conducting a study of current State and local programs intended to prevent lead poisoning at childcare facilities. Within 1 year of enactment, the Select Group will establish lead safety standards and abatement procedures for such facilities. The bill provides for lead testing of child care centers, and directs the Select Group to establish and administer a grant program to defray abatement costs to help facilities comply with the new lead-safety standards. Finally, the Lead Poisoning Reduction Act will require that contractors hired for repair, renovation, or reconstruction of childcare facilities are provided with educational materials about lead hazards and the guidance necessary to avoid imposing additional risks of lead exposure. These initiatives will play an integral role in preventing future incidences of lead poisoning.

America's children deserve to be safe at their childcare facilities. I, therefore, urge my colleagues to join me in supporting the Lead Poisoning Reduction Act.

IN HONOR OF THE RETIREMENT OF JAMES JOSEPH RUSH OF BOSTON, MA

HON. STEPHEN F. LYNCH
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. LYNCH. Mr. Speaker, I rise today in honor of James Joseph Rush, in recognition of his outstanding contributions to the Commonwealth of Massachusetts Trial Court and to commend him for 43 years of dedicated service.

The son of John and Mary Rush, immigrant from County Mayo, Ireland, James was born on February 9, 1931 in Boston's Mission Hill neighborhood. As a youth, James was very active in the Sacred Heart Church in Roslindale, MA, and served as the first president of the Boston Archdiocesan Chi-Rho Association.

After graduating from Roslindale High School, James enlisted in the United States Navy and served his country honorably from 1951 to 1955. During his tenure James served onboard the USS John W. Weeks, DD–701.

Upon completion of his distinguished service to our country James attended Boston College and graduated from the Carroll School of Management with a bachelor of arts degree in 1960. After graduation, James began a career in the Massachusetts Trial Court as a probation officer overseeing juveniles. Following this position James was assigned assistant chief of probation until 2004 when he was named the chief of probation in the West Roxbury Division of the Boston Municipal Court.

Along with providing distinguished service to his country and State, James is also an active member of his community. A faithful parishioner at St. Theresa's in West Roxbury, James has served the parochial school as principal for many years. James is a past president of the St. Theresa's School Parent-Teacher Association, has served on the parent advisory board of Catholic Memorial and is a member of the Boston College Alumni Association. James is also a member of the John G. Williams Council of the Knights of Columbus in Roslindale, MA.

Mr. Speaker, throughout his career in the Massachusetts Trial Court and his volunteer work in the community, James has served as a mentor and role model for Massachusetts youth. Above all of these accomplishments the title James cherishes most is that of husband and father. James has the enormous pleasure and tremendous good fortune to be married to his wife of 36 years, Virginia, they are the proud parents of six wonderful children and the grandparents of four adoring grandsons.

Mr. Speaker, it is my distinct honor to take the floor of the House today to join with James Rush's family, friends and contemporaries to thank him for his remarkable service to the Commonwealth of Massachusetts. I urge my colleagues to join me in celebrating James' distinguished career and wish him a happy and full retirement.

URGING THE PRESIDENT TO APPOINT A PRESIDENTIAL SPECIAL ENVOY FOR SUDAN

SPEECH OF
HON. JAMES R. LANGEVIN
OF RHODE ISLAND
IN THE HOUSE OF REPRESENTATIVES
Monday, September 25, 2006

Mr. LANGEVIN. Mr. Speaker, I rise today in support of H.R. 3127, the Sudan Darfur Peace and Accountability Act of 2006, which passed Congress on September 25, and H. Res. 992, which calls for the appointment of a presidential special envoy for Sudan and passed the House on September 26. H.R. 3127 addresses the ongoing violence and humanitarian disaster in the Darfur region by directing the president to impose sanctions on the Government of Sudan as well as freeze the assets of anyone responsible for acts of genocide, war crimes, or crimes against humanity in Sudan.

H.R. 3127 also supports the United Nations and NATO to send a civilian protection force to assist the African Union Mission in Sudan. This is especially important since the Sudanese Government is currently refusing to allow U.N. troops into Sudan, which threatens a recent peace agreement and could lead to further violence. I am disappointed, however, that an earlier provision in H.R. 3127 that would have allowed States to make a decision to divest from Sudan was not included in the final version.

This conflict has resonated with people all over the world who want this travesty to end. It is a shame that we have not learned from our mistakes in the past regarding genocide, but it is not too late to change the situation in Sudan. We must not stand by as the situation deteriorates in Darfur. It is our duty to end this human suffering, and I will continue to work to stop this conflict and promote peace in Sudan.

AMENDING THE INTERNAL REVENUE CODE OF 1986 TO TREAT INCOME EARNED BY MUTUAL FUNDS HOLDING PRECIOUS METAL BULLION AS QUALIFYING INCOME

HON. PHIL ENGLISH
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. ENGLISH of Pennsylvania. Mr. Speaker, today I introduced legislation to update the Internal Revenue Code mutual fund rules to clarify that a mutual fund is permitted by the tax rules, as they are by the securities law, to invest in publicly traded securities representing interests in trusts holding precious metal bullion, such as gold.

Beginning in November 2004, the Securities and Exchange Commission has permitted the registration of securities representing equity interests in trusts holding precious metal bullion. These securities now trade on the New York Stock Exchange and the American Stock Exchange. They did not exist at the time the mutual fund tax rules were most recently amended by Congress.

These investments share the same essential characteristics as other securities that give rise to good income for mutual funds under the Internal Revenue Code. In particular, they are clearly “securities” for purposes of the Investment Company Act of 1940, and under the mutual fund tax rules, gain on sale of “securities” is clearly good income for the mutual fund.

However, because the bullion funds are treated as “grantor trusts” for income tax purposes, it is not clear whether the income from these securities would be considered qualifying income under the Internal Revenue Code Section 851(b) mutual fund rule that requires that 90 percent of the income of the mutual fund must be from securities and other specified passive investments. The Tax Code provisions applicable to grantor trusts generally treat the shareholder, “grantor,” as owning directly the underlying assets of that trust, rather than owning merely its equity interest in the trust, even when the shares in the trust are traded as securities on the major exchanges. As a result, a mutual fund’s income from such an investment, including a gain on sale, could be considered nonqualifying income. Excessive nonqualifying income would destroy the mutual fund’s qualification as a mutual fund and subject the fund income to a layer of tax at the fund on the same income that is also taxed to the shareholders.

The bill updates the Internal Revenue Code to correct that problem for securities holding precious metal bullion. It provides that the income derived from any interest in such a trust, including gain on the sale of such an interest, is considered qualifying income for purposes of the 90 percent rule. To qualify under this amendment, at least 95 percent of the holdings of the trust must be in the form of precious metal bullion.
As a result, individuals and pension plans that invest through mutual funds will have access to these types of investments in bullion when the mutual fund manager wants to make those investments. The amendment would be effective for tax years beginning after date of enactment.

CONGRATULATIONS TO WESTGATE ELEMENTARY SCHOOL

HON. MARK STEVEN KIRK
OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. KIRK. Mr. Speaker, I rise today to recognize Westgate Elementary School in Arlington Heights, Illinois, for being named a 2006 No Child Left Behind Blue Ribbon School.

Nearly 600 students, kindergarten through 5th grade, attend Westgate Elementary. The teachers and faculty at Westgate are focused on providing hands-on instruction that motivates and excites children about learning. As a result, these students consistently score above state and national averages on standardized tests in all subject areas.

Westgate Elementary is among 250 schools from across the nation chosen by the Secretary of Education to receive this acknowledgement. These schools have distinguished themselves by embodying the goals of reaching high standards and closing the achievement gap. Schools selected for this honor either have students from all subgroups that have demonstrated significant improvement or have students that achieve in the top 10 percent of their state on statewide tests.

This is a great honor for the 10th district, and I congratulate the principal, Dr. Kevin Dwyer, the students, and teachers at Westgate Elementary for this achievement.

HONORING MINNIE VAUTRIN

HON. MICHAEL M. HONDA
OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. HONDA. Mr. Speaker, I rise today to honor Minnie Vautrin, an American woman and missionary whose heroism changed the course of history during World War II.

Our country has seen countless acts of heroism in the face of war atrocities both in our country and abroad, Japan’s violent occupation of then-capital Nanking. China, historically known as Nanking, claimed the lives of hundreds of thousands of innocent Chinese men, women and children and left its mark on history as one of the most brutal massacres and crimes against humanity of the 20th Century. An estimated 300,000 Chinese civilians were killed, and an estimated 20,000 women were raped, with some estimates as high as 80,000.

Minnie Vautrin, a missionary who worked at a women’s college in Nanking, courageously stood against the Japanese imperial army. A native of Illinois, she was one of the few American missionaries in the region when the Japanese army invaded Nanking.

By using the American flag and proclamations issued by the American Embassy in China maintaining the college a sanctuary, Minnie helped repel incursions into the college, where thousands of women and children sought protection from the Japanese army. She often risked her own life to defend the lives of thousands of Chinese civilians.

Her devotion during this horrific event earned her the nickname “American Goddess of Mercy” among the people of Nanking, where she is fondly remembered. Her heroic actions and unparalleled efforts to save lives deserve to be recognized. Sadly, her story is relatively unknown.

That is why I, along with 14 of my colleagues, am introducing a resolution honoring her sacrifice, courage, humanity, and commitment to peace and justice during the violent Rape of Nanking. Minnie Vautrin’s story defines patriotism and heroism in the midst of war, and the introduction of this resolution honors her achievements today, the 120th anniversary of her birth.

Mr. Speaker, I commend my colleagues for joining me in honor of this phenomenal yet unknown heroine. To the thousands of innocent men, women and children whose lives were spared because of Minnie Vautrin’s bold courage, she will never be forgotten.

RESOLUTION OF INQUIRY REQUESTING THE RELEASE OF UNCLASSIFIED VERSIONS OF THE APRIL 2006 NIE AND OTHER IRAQ INTELLIGENCE REPORTS

HON. JOHN CONYERS, JR.
OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. CONYERS. Mr. Speaker, over the weekend, the media reported that American intelligence agencies completed a National Intelligence Estimate, NIE, finding that the Iraq war has increased the danger of terrorism against the United States. This is significant because the NIE represents the consensus judgment of the entire United States intelligence community and is approved by John D. Negroponte, the Director of National Intelligence. According to portions of the NIE declassified by the President, the intelligence agencies conclude that Islamic radicalism “has metastasized and spread across the globe.”

This conclusion raises considerable questions about President Bush’s public statements that the war in Iraq has made us safer. Even though President Bush declassified about four pages of the 30-page NIE, the American people are entitled to the full story, not just pieces the President may selectively reveal.

Media accounts further indicate that the Administration has an additional classified intelligence community report that gives a grim assessment of the situation in Iraq. Some have expressed concern that release of this second NIE is being slowed by the Administration to avoid discussion before the November elections. If the intelligence estimate is finished, it should make every effort to learn more about the atrocities and genocidal actions occurring around the globe today, strive to have the foresight and courage shown by the Sharps, and act with resolve to do everything we can to stop these horrors.

Our colleagues in the Senate passed a resolution on September 8 of this year honoring the courageous service of the Sharps. Representative JAMES MCGOVERN, my colleague from Massachusetts, where the Sharps once lived, and I are introducing similar legislation in the House remembering the Sharps and their heroism.

Mr. Speaker, the Reverend William Schultz made particularly outstanding remarks at this ceremony honoring the Sharps at the U.S. Holocaust Museum. I urge my colleagues to ponder his comments and learn more about this brave, selfless couple and their amazing deeds.

REV. WILLIAM SCHULTZ REMARKS AT CEREMONY TO HONOR WAITSTILL SHARP AND MARTHA SHARP, AMERICAN HEROES OF THE HOLOCAUST

HON. TOM LANTOS
OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. LANTOS. Mr. Speaker, a few weeks ago a very moving ceremony was held at the United States Holocaust Memorial Museum and a plaque was placed to honor the Reverend Waitstill Sharp and his wife, Martha, true heroes of the Holocaust who risked their lives to save Jews from the atrocities of the Nazi regime.

On June 13, 2006, the Yad Vashem Holocaust Remembrance Authority in Israel honored the Sharps posthumously as “Righteous Among the Nations” for risking their lives to save Jews during the Holocaust. They are only the second and third Americans to be so honored. Varian Fry, with whom the Sharps worked, was the first American.

The Sharps’ incredible story is a powerful reminder that all of us have the moral obligation to do all we can to end violence and genocide wherever ever and whenever such atrocities occur. They, along with those who helped to make their work possible, deserve our gratitude and admiration. Each of us should make every effort to learn more about the atrocities and genocidal actions occurring around the globe today, strive to have the foresight and courage shown by the Sharps, and act with resolve to do everything we can to stop these horrors.

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REV. WILLIAM SCHULTZ REMARKS AT CEREMONY TO HONOR WAITSTILL SHARP AND MARTHA SHARP, AMERICAN HEROES OF THE HOLOCAUST
Endless and singing. Whose lovely ambition
Was that their lips, still touched with fire,
Endless and singing. Whose lovely ambition
'Their cause. And, yes, the tailors who darned
That Waitstill and Martha knew that though they and their col-
And left the vivid air signed with their

What is precious is never to forget . . .

So often when we hear the exhortation,

From attics, from dusty store rooms in Czecho-

And left the vivid air signed with their own

HONORING THE MEMORY OF ABE JOLEY

HON. MIKE ROSS
OF ARKANSAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. ROSS. Mr. Speaker, I rise today to honor the memory of Bobbie Gene "Bob" Lann, who passed away September 15, 2006, in Magnolia, Arkansas at the age of 79.

After serving in the United States Army, Bob Lann moved to Stamps, Arkansas, where he lived for twenty-two years. Bob served as captain of the Stamps Fire Department, served on the Stamps City Council and was charter president of the Stamps Jaycees. He was also
ordained as a Deacon of the First Baptist Church where he was also treasurer and Sunday school Superintendent.

Bob later moved to Magnolia, Arkansas, where he opened Furniture Land. He was active in the community by serving as president of the Magnolia Chamber of Commerce, as a member of the Rotary Club and Optimist Club and Deacon at Central Baptist Church.

Bob Lann was an avid bluegrass fan and loved playing the fiddle with his friends.

My deepest condolences go to his wife of fifty-nine years, Bobbie Ruth Coffman Lann; his daughter, Ameta Vines and her husband Johnny; his son Randy Lann and wife Cindy; his two grandchildren Julia Lann and Brad Lann; his step granddaughter, Toni Dickinson and his step great-granddaughter Emilee Dickerson. Bob Lann will be greatly missed in Columbia County and throughout the state of Arkansas.

PAYING TRIBUTE TO ROD A. DAVIS
HON. JON C. PORTER
OF NEVADA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor my good friend Rod A. Davis for his leadership as CEO of St. Rose Dominican Hospital.

Rod attended college at Idaho State University, majoring in business administration with an emphasis on information systems. Following college, he began installing IBM computer systems in hospitals, where he says he “started catching the spirit of hospitals really helping people... and thinking this would be an excellent career.”

Today, Rod oversees the operation and direction of three St. Rose Dominican Hospitals in Southern Nevada for Catholic Healthcare West, a not-for-profit, religious-based and non-tax-supported hospital system. St. Rose’s is a major health care provider in Southern Nevada, with a current payroll of more than 2,100 workers. As St. Rose’s CEO, Rod has stabilized operations and overseen the creation of the Barbara Greenspun WomensCare Center of Excellence, the launch of Henderson’s only open-heart surgical and pediatric intensive care center program, and the development of numerous outreach programs.

Mr. Speaker, I am proud to honor my good friend Rod A. Davis. Under his leadership, St. Rose Dominican Hospitals have expanded tremendously and have greatly enhanced the lives of countless citizens of southern Nevada. I applaud his success and with him the best with his future endeavors.

IN RECOGNITION OF DEANNA ABLESEER
HON. JANE HARMAN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Ms. HARMAN. Mr. Speaker, very few people in our society possess the power to change a child’s life the way a teacher can.

The values, ethics, work habits and ambition they instill in our youth serve as life lessons that translate into action for the rest of their lives.

That is why I rise today to honor one of my constituents, Deanna Ableseer of Torrance, California, who has been awarded the VSA Arts Playwright Discovery Teacher Award. This award is presented annually to educators who creatively bring disability awareness to the classroom through the art of playwriting. Deanna Ableseer teaches six drama courses at Dana Middle School in Hawthorne, California. A significant portion of her curriculum is dedicated to playwriting. She encourages her students to write about characters with physical or mental disabilities in hopes of expanding empathy, understanding, compassion and tolerance. Her intermediate playwriting course is dedicated exclusively to the VSA Arts Project.

It is testament to Ms. Ableseer’s effectiveness as a teacher that her students have won numerous awards for their accomplishments in acting, playwriting and technical theatre.

On behalf of my constituents and the students and families at Dana Middle School, I extend our congratulations to a wonderful educator and role model, Deanna Ableseer, and best wishes for this school year.

Break a leg!

IN RECOGNITION OF CRANIOFACIAL ACCEPTANCE MONTH
HON. MIKE ROSS
OF ARIZONA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. ROSS. Mr. Speaker, I am pleased to share my support and acknowledgement of September as Craniofacial Acceptance Month. Each year approximately 100,000 children are born in the United States with some form of facial disfigurement. In many cases, reconstructive surgeons can correct these problems easily—often while the children are still infants. In other cases, however, reconstruction is not so easy or even possible. The Children’s Craniofacial Association, CCA, is an organization that supports these children and their families. Through CCA’s continued dedication and efforts, I am pleased to support their mission and work to help to support their designation of September as Craniofacial Acceptance Month.

In 2001, my constituent, Wendelyn Osborne, brought the craniofacial disorders issue to my attention. At a young age Wendelyn was diagnosed with craniofrontal dysplasia, CMD. CMD is a rare disorder that affects only 200 people worldwide. Specifically, CMD involves an overgrowth of bone which never deteriorates. In Wendelyn’s case, this caused an abnormal appearance, bilateral facial paralysis and deafness. Other cases can include those characteristics as well as blindness and joint pain. Wendelyn has had to go through 17 reconstructive surgeries to counteract the medical difficulties that comprise her disorder.

Unfortunately, the majority of reconstructive surgeries, such as these that Wendelyn has undergone, are not covered by insurance companies. Rather, many of them are treated as strictly cosmetic. As a result, individuals are forced to fight their insurance companies just to receive the life-saving surgeries they need.

The fact that these surgeries have been grouped in the same “cosmetic” category as surgeries that simply make people look better or younger is a tragedy.

Wendelyn’s story inspired me to introduce legislation that would assist these thousands of individuals who are affected by a craniofacial disorder. My legislation, the Reconstructive Surgery Act, would ensure nationwide insurance coverage for medically necessary reconstructive surgeries.

It is my hope that further education and understanding of craniofacial disorders will allow our nation to move forward and update existing laws to better meet the medical needs of those needing reconstructive, not cosmetic, surgery. I urge my colleagues to join in this effort and help recognize these conditions through Craniofacial Acceptance Month so that all Americans can access the care they need.

PAYING TRIBUTE TO WALTER M. HIGGINS III
HON. JON C. PORTER
OF NEVADA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor my good friend Walter M. Higgins III for his leadership as CEO of Sierra Pacific Resources, the parent company to both Nevada Power Company and Sierra Pacific Power Company.

Walter’s first career was as a U.S. naval officer. After obtaining a nuclear science degree from the U.S. Academy, he served as a nuclear submarine officer. After ending his active military service, Walter remained a naval reservist, ultimately retiring as a captain after a total of 29 years of service.

The transition from military service to a civilian career was relatively easy for Walter, who obtained a position with Bechtel Corp., which was designing and constructing nuclear power plants. From there, he worked at the U.S. Atomic Energy Commission, Portland General Electric and Louisville Gas & Electric. He expected to remain in Louisville as the CEO for Louisville Gas & Electric throughout the remainder of his career, but was surprised when utility companies began recruiting him. He subsequently accepted a job with Sierra Pacific Power Co. in 1993. He then moved to Atlanta to head a natural gas company, only to return to Reno in 2000 as CEO of Sierra Pacific Resources.

Mr. Speaker, I am proud to honor my good friend Walter M. Higgins III. I applaud his professional success and efforts on behalf of the community; he has greatly enriched countless lives with his activism. I wish him the best in his future endeavors.

IN RECOGNITION OF RUDY F. DE LEON
HON. JANE HARMAN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Ms. HARMAN. Mr. Speaker, I rise today to pay tribute to Rudy F. de Leon, whom I have
known since he was a wet-behind-the-ears staff assistant on Capitol Hill. I have enjoyed watching Rudy serve our country in jobs ranging from staff assistant, senior staff, Undersecretary of Defense, Deputy Secretary of Defense, and senior corporate officer for one of America’s most important corporations.

Rudy’s involvement with the United States Government has spanned over a quarter century. At 54 years, I would submit that we have not seen the last of him. Allow me to just cover some of what he has done for his country.

After graduating in 1974 from Loyola University—now Loyola Marymount— in Los Angeles, Rudy came to Capitol Hill. I can still remember the day when that young, red-headed, fresh-faced, full-of-enthusiasm staffer started as a staff assistant on the Senate side, working for a California Senator, John Tunney, whom I also served. Who would have guessed that he would go on to the lofty positions he attained?

Rudy has accomplished a great deal, whether it was working on the Goldwater-Nichols legislation or legislation for the authorization for the use of force during the Persian Gulf war in 1991, or strategies for saving the C–17 Globemaster, or ways to help the families of POWs and MIAs.

Rudy approached his position at Boeing with the same enthusiasm I saw when he showed up on the Capitol grounds. On one cold winter night while holding a meeting with his department heads, Rudy summoned them to come outside in front of Boeing’s building. After a short while, and once everyone was sufficiently cold—they didn’t take coats because they did not think they would be there long—he told them the Space Station was about to pass overhead. Sure enough, the Space Station did pass overhead, just as he promised it would. That bonding experience made the team grow tighter.

Boeing, the Department of Defense, and Capitol Hill all had an opportunity to size up Rudy. All respect him and feel affection for him. I do not know what his next move will be, but hopefully his wife Anne, his daughters Elizabeth and Kerry, his father, Big Rudy, and hopefully his wife Anne, his daughters Elizabeth and Kerry, his father, Big Rudy, and his family and colleague Ms. EDDIE BERNICE JOHNSON in the House of Representatives will see more of him. Rudy and his family always have a home back in Torrance, CA, and on Capitol Hill, where it all started.

IN HONOR AND APPRECIATION OF HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

HON. MIKE ROSS
OF ARKANSAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. ROSS. Mr. Speaker, I rise today to honor America’s Historically Black Colleges and Universities. Historically Black Colleges and Universities were not officially recognized by the federal government until 1964, but these quality institutions have had a lasting impact on our nation for more than a century.

As the United States Representative for Arkansas’s Fourth Congressional District, I have the distinct honor to represent my state’s largest and only four-year public Historically Black College. The University of Arkansas at Pine Bluff. UAPB was founded in 1890 and now provides more than 3,600 students with a quality, affordable education.

The University of Arkansas at Pine Bluff is an anchor for the town of more than 55,000 people as it provides jobs, resources, opportunities and education to the entire region. Growing up in rural Arkansas, I had the unfortunate opportunity to see how segregation affected Southern towns. The division that was placed on people reached far and wide. Prior to 1964, it was almost impossible for an African American student to enroll in a public institution of higher education. Thankfully, these students had the opportunity to continue learning and pursuing their dreams because of Historically Black Colleges and Universities. When doors were shut to African American students, those students refused to take no for an answer and created institutions of higher education where education was the focus, not a distraction.

Historically Black Colleges and Universities are vital to the education of our nation’s youth. They enroll 14 percent of all African American students in higher education, yet the 102 recognized Historically Black Colleges and Universities only constitute three percent of America’s 4,084 institutions of higher education. Twenty-four percent of all baccalaureate degrees earned by African Americans nationwide are earned in our Historically Black Colleges and Universities.

I wish that those brave Americans who formerly found black colleges could be here today to see the lasting impact they had on the thousands of Americans who have benefited from an education at such an institution. Just think, without these colleges, we might have never known or heard from American icons such as Martin Luther King, Langston Hughes, Thurgood Marshall, Walter Payton or Oprah Winfrey. There is no doubt in my mind or my heart, that these great people were the product of an invaluable institution which motivated them to be leaders they became.

I am proud to have joined with my friend and colleague Ms. EDDIE BERNICE JOHNSON in passing legislation honoring our nation’s Historically Black Colleges and Universities and I will fight to ensure their continued excellence in education will live on.

I am so pleased to have the opportunity to properly recognize our nation’s Historically Black Colleges and Universities before the United States Congress for their outstanding contributions to the communities and lives they have educated and will continue to impact. Please join me in applauding the amazing work these institutions have done over the course of history.

PAYING TRIBUTE TO JUDY TUDOR

HON. JON C. PORTER
OF NEVADA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor Ms. Judy Tudor for her outstanding community service and inspire her to pursue a career as a social worker.

In addition to being a former ward of the state, she is served physically handicapped. Shortly after entering Child Haven, Judy suddenly lost all feeling from the chest down. She was diagnosed with a type of transverse myelitis, a neurological syndrome caused by inflammation of the spinal cord. Judy served the state of Nevada in a number of different capacities as a social worker; having served as a foster care case manager for the state and a supervisor for child protective services in Clark County. Most recently, Judy was promoted to assistant manager of the Clark County Department of Family Services, where she supervises the investigations of child abuse and neglect of 130 case workers.

Because of her personal hardships, Judy holds a genuine belief that the best measure to take is the one that is best for the child. She also believes that the system can always improve in order to put those in need first. Judy feels empathetic to the children in her cases, with each case helping her to feel as if she has achieved her ultimate goal of giving back to her community.

Mr. Speaker, I am proud to honor Ms. Judy Tudor. I commend her for her exceptional service to Clark County and the entire state of Nevada. Her dedication has enriched countless lives of children across the state. I applaud her efforts and wish her the best in her future endeavors.

TRIBUTE TO LA CLINICA DE LA RAZA

HON. FORTNEY PETE STARK
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. STARK. Mr. Speaker, I rise today with my esteemed colleague, BARBARA LEE, to pay tribute to La Clinica de La Raza on its 35th anniversary of providing exemplary health care to the East Bay communities of Alameda, Contra Costa and Solano counties in Northern California.

The mission of La Clinica de La Raza is to improve the quality of life of the diverse communities they serve by providing culturally appropriate, high quality, accessible health care for all.

Before La Clinica de La Raza was established, low-income residents in the East Bay of Northern California had few options available to them for affordable health care. As a result, many were forced to go to hospital emergency rooms for problems that could have been avoided with preventive care. In response to this need for primary care services, a group of concerned health practitioners, community activists and students came together in 1971 to establish a multiservice clinic, in Oakland, California, based on the expressed needs of the community.

La Clinica offers low cost quality health care services for multicultural and multicultural populations at 22 locations in three counties in Northern California. The majority of La
Clinica’s patients earn far below the federal poverty level and most lack private health insurance. La Clinica’s comprehensive services include pediatrics, chronic disease management, family medicine, health education, women’s health care, adolescent services, school-based clinics, mental health services, dental and vision care, and tattoo removal as well as pharmacy, laboratory and x-ray services. To most effectively serve the diverse community, La Clinica’s health practitioners come from the cultures and communities of the patients they serve. The practitioners speak a myriad of languages fluently including Spanish, English, Chinese, Hindi, Arabic and Amharic. More than 72 percent of La Clinica’s patients require services in their native languages.

Since its founding in 1971, La Clinica has served hundreds of thousands of individuals with a variety of health care services. Infants, children, expectant mothers, teens, seniors and families have benefited from these multi-service clinics.

The number of people needing La Clinica’s services continues to grow. The organization saw a 4 percent increase in patients from 1998–2004. In 2005 alone, La Clinica provided more than 175,000 patient visits. More than half of these visits were for children and adolescents. Since 1990, La Clinica grew from 8 to 22 health care sites. One of these sites is scheduled for expansion in 2007 and is expected to double in operational capacity.

Congresswoman Lee and I salute La Clinica de La Raza’s remarkable past, accomplishments and vision for the future.

COMMEMORATING THE 15TH ANNIVERSARY OF ARMENIAN INDEPENDENCE

HON. JOE BACA
OP CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. BACA. Mr. Speaker, I rise today to commemorate the 15th anniversary of the Republic of Armenia’s independence.

Following the collapse of the Soviet Union, Armenia re-established its freedom in the South Caucasus region in 1991. Since then, Armenia has committed itself to becoming a modern and thriving nation-state. Despite many external threats, Armenia has fought to overcome trade obstacles and grow its economy. The Armenian Government has also maintained a close ally to the United States and is even now providing personnel to the present war in Iraq.

The tragedies of the Armenian Genocide from 1915 to 1917 did not dampen the spirit of these persevering people. Armenia has thrived and its people carry on its rich culture and heritage all over the world. Today, 1.5 million Armenian-Americans reside in the United States, and of that, more than 500,000 Armenian-Americans make my home State of California their home.

We in the United States do not take our freedom for granted and are committed to spreading democracy across the globe. As we celebrate the independence of Armenia, let us remember that freedom is a universal right that should be afforded to anyone, anywhere.

RECOGNIZING AMERICA’S HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

HON. BETTY MCCOLLUM
OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Ms. MCCOLLUM of Minnesota. Mr. Speaker, today I rise to join with my colleagues in recognizing some of our Nation’s most distinguished institutions of higher learning: America’s Historically Black Colleges and Universities.

The critical role of HBCUs in preparing our Nation’s students for work and life is undeniable. Nearly 14 percent of our country’s African American college students are enrolled at HBCUs. These young men and women are preparing to be our future community and civic leaders, business owners, teachers, artists, scientists, and scholars.

This year’s HBCUs Week, which is themed “The Tradition Continues: New Successes and Challenges,” reminds us all of the important partnership between the Federal Government in ensuring access for all those who seek a higher education and the institutions that provide the opportunities for students to learn and prepare them for a competitive workforce.

HBCUs not only educate students, but they also conduct ground-breaking research and engage in community outreach—helping to ensure our Nation’s higher education system remains the best in the world. It is critical that Congress continues to support the unique role our HBCUs play in our Nation’s higher education system. I extend my sincere appreciation and regard for HBCUs and their faculty, staff, and students as we celebrate Historically Black Colleges and Universities Week.

JEWELERS OF AMERICA REACHES 100TH ANNIVERSARY

HON. CAROLYN B. MALONEY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mrs. MALONEY. Mr. Speaker, 2006 marks the 100th anniversary of Jewelers of America (JA), the oldest national association for retail jewelers. Founded in 1906 in Rochester, N.Y. and now headquartered in New York City, Jewelers of America is both a center of knowledge and skills benefits consumers and the entire jewelry industry. To that end, JA has established certifications that evaluate jewelry professionals’ knowledge and skills. JA also provides educational scholarships for its members.

As a leader in the jewelry industry, Jewelers of America has worked with non-governmental organizations, fellow industry trade organizations and political leaders to establish responsible business practices for the national jewelry industry. JA was centrally involved in the 2002 adoption of the International Kimberley Process Certification Scheme, the landmark initiative aimed at stopping the trade of conflict diamonds.

Realizing that trust is a key component to the jewelry industry’s growth, Jewelers of America created a standardized code of ethics in 1997 to reinforce consumer confidence in the professional jeweler. According to the code, JA members must maintain the highest possible ethical standards in their business dealings.

As Jewelers of America enters its second century, it remains committed to serving jewelers and the tradition of honest and fair business practices they uphold. Conscious that it represents retailers who help their customers celebrate love and commitment, Jewelers of America rededicates itself to these noble aims.

I ask my colleagues to join me in celebrating the 100th anniversary of Jewelers of America.

INTRODUCTION OF THE BAY AREA REGIONAL WATER RECYCLING PROGRAM PROJECTS AUTHORIZATION ACT

HON. GEORGE MILLER
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. GEORGE MILLER of California. Mr. Speaker, today I am introducing legislation that will help the San Francisco Bay Area to solve its water challenges. My bill, “The Bay Area Regional Water Recycling Program Projects Authorization Act of 2006,” will provide local agencies with the Federal partner that they need in order to implement an ambitious and forward-thinking regional water recycling program.

We put the tools for these Federal-local water recycling partnerships in place with the historic Reclamation Projects Authorization and Adjustment Act of 1992, which not only included my Central Valley Project Improvement Act but featured a provision now known simply as the “Title XVI” water recycling program.

Across the country—and especially throughout the West and California—people recognize the critical need for water recycling as a means of drought-proofing and increasing our reliable water supply. Accordingly, the Title XVI program has been embraced not only by policymakers, local agencies, and water managers but by many within the Bureau of Reclamation, from the staff level to regional directors.

Unfortunately, even though people on the ground understand the need for these recycling partnerships, the Bureau of Reclamation’s official position is to oppose nearly every project proposed under Title XVI. As recently as this week, the Administration testified against two water recycling projects in the House Water and Power subcommittee.

This opposition from the Administration has made it very difficult for local agencies to get
the Federal support and funding that they deserve. Instead of providing Federal cost sharing and technical support to local water recycling projects, the Bureau has effectively let proposals under the existing Title XVI program pile up.

This is a shame. These projects are the future of water supply, and it’s high time the Bureau joined that future. The best water recycling and reclamation projects are sustainable, scalable, reliable, and meet local needs with a local funding source. Unlike major dams and storage projects, water recycling projects do not hog billions of dollars, they don’t destroy rivers—in fact, they can ease the pressure on natural waterways—and they don’t trigger decades of litigation.

In addition, traditional storage projects based on major dams and reservoirs have to spend the last dollar, pour the last ounce of concrete, and line the last canal before a single drop of water comes through the tap. But water recycling is modular and incremental, meaning that as each piece of the system is put in place, you can serve more people and more areas; you don’t have to wait years to see results, and you can build on your successes by easily expanding the infrastructure to meet new needs.

I hope that under the new Reclamation commissioner and the new Secretary of the Interior, there will be renewed commitment to the Title XVI program and to these clean solutions to water conflicts. It is very clear to me and to most others who follow these issues that the Bureau has struggled to keep pace in the modern era of water policy. In future Congresses, I am hopeful that we will review the agency’s mission and its budget to determine that it is headed in the right direction.

There is increasing awareness in Congress regarding the importance of water recycling, and an increasing commitment to improving Title XVI, so that it works for everyone. For instance, I am very glad that my colleagues, Representative NAPOLITANO, Senator MUNKOWSKI, and Senator FEINSTEIN, have taken the lead in introducing legislation to reform the Title XVI program.

The new bipartisan, bicameral proposal, entitled “Reclaiming the Nation’s Water Act,” is a wise one. First, their bill makes it perfectly clear that the Bureau of Reclamation’s role includes creating new water supplies by reclamation and recycling. Second, as Senator FEINSTEIN summarized it in her introductory statement, the legislation “establishes firm deadlines, a clear process, and very specific criteria by which project reviews are to be conducted.” This will help ensure that deserving projects don’t get left on the shelf.

Third, I hope to work with my colleagues to implement it. And with the Bay Area Regional Water Recycling Program Projects Authorization Act of 2006 that I am introducing today, I am applying the principles of the “Reclaiming the Nation’s Water Act” to the San Francisco Bay Area projects.

The Bay Area Regional Water Recycling Program is a collaboration of public utilities that helps to meet our region’s and state’s growing water needs through a set of recycling and reclamation projects. As the program agencies wrote in a letter to me this summer: “Together this approach ensures that potential projects with the greatest regional and state-wide benefit receive the highest priority and support for implementation.”

The projects in this coalition have been repeatedly vetted, both internally at the local level and by the Bureau of Reclamation. The 2004 CALFED authorization directed the Department of the Interior to assess these projects’ feasibility under Title XVI. That report, released this year, stated that many of the Bay Area projects are very close to meeting the requirements,” but that none passed all the Federal tests. Unfortunately, like other deserving Title XVI proposals across the West, that could have been where these projects stalled.

We need to encourage communities that are trying to meet water demands with innovative technologies. The Bay Area Regional Water Recycling Program Projects Authorization Act of 2006, which is the result of a long process of deliberation and communication with those local agencies, authorizes the Bureau of Reclamation to participate in the six Bay Area Regional Water Recycling Program projects that are closest to completion. Each community with a project will be eligible to receive 20 percent of the project’s construction cost.

Constructing all six of these projects will bring online nearly 10,000 acre-feet per year of reliable dry-year water supply. To produce the same amount of water with a traditional dam and reservoir project, you would need a dedicated facility that stored 47,500 acre-feet of water.

Projects included in the Bay Area Regional Water Recycling Program Projects Authorization Act of 2006 are located in the City of Palo Alto; in the Cities of Pittsburg and Antioch through the Delta-Suisun Wetlands District (DDSD); in the North Coast County Water District; in Redwood City in partnership with the South Bayside System Authority; and in the City of Gilroy in partnership with the Santa Clara Valley Water District.

Although these worthy projects have supplied local funding, and secured matching State funding, they still need the Federal partner to step up. That’s why my legislation authorizes the Secretary of the Interior to operate in these six projects.

I know full well, in the Bay Area, my district, has worked diligently, along with Delta Diablo, to move through each step of the existing Title XVI process. This legislation gives them the assurance that the Federal partners will be there for them at the end to help implement their viable, feasible, and laudable project.

There is a clear Federal interest in these projects, as there is in the other successful regional recycling programs like those of Southern California. A good water recycling program stretches the last dollar of supplies and provides certainty to all of the water users in the area; conflict can be reduced even in a critically dry year. As we all know, a stable and reliable regional water supply makes good neighbors.

This very small Federal investment in the Bay Area Water Recycling Program will yield massive dividends to the Bay Area over time. Every gallon of recycled water that goes towards irrigating a golf course or highway median—or for commercial or industrial use—is a gallon of water that didn’t need to be pulled from the troubled Bay-Delta.

These projects will be a local and environmental win-win, and encouraging them is sound federal policy. I’m glad to be able to help them with this new bill.

I urge my colleagues to support this legislation, and I again would like to commend Representative NAPOLITANO and Senators FEINSTEIN and MUNKOWSKI for their leadership.

RECOGNIZING COLONEL STANLEY T. HOSKIN, RETIRED U.S. ARMY RESERVE, FOR BEING AWARDED THE DEFENSE SUPERIOR SERVICE MEDAL

HON. J. RANDY FORBES OF VIRGINIA IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. FORBES. Mr. Speaker, I rise today to introduce COL Stanley T. Hoskin’s Defense Superior Service Medal order and citation into the Record. COL Hoskin recently retired on August 31, 2006, after 33 years of honorable service in the U.S. Army Reserve. I commend Colonel Hoskin’s loyalty and dedication to his country and the American people. Mr. Speaker, please join me in honoring Colonel Hoskin.

DEPARTMENT OF DEFENSE, COMANDER, U.S. JOINT FORCES COMMAND, Norfolk, VA, July 18, 2006

USJFCOM PERMANENT ORDER 540-06

The following announcement is hereby made: Mr. Stanley T. Hoskin, retired U.S. Army Reserve, has been awarded the Defense Superior Service Medal (First Oak Leaf Cluster) for exceptionally meritorious achievement to: Colonel Stanley T. Hoskin, USAR, U.S. Joint Forces Command (JFCOM), 1 June 2004 to 31 August 2006.

E.L. Satterwhite, Awards Administrator.

CITATION TO ACCOMPANY THE AWARD OF THE DEFENSE SUPERIOR SERVICE MEDAL, FIRST OAK LEAF CLUSTER, TO STANLEY T. HOSKIN

Colonel Stanley T. Hoskin, United States Army Reserve, distinguished himself by exceptionally superior service while serving as the Chief, Strategic Engagement Division, and as the Assistant Deputy Chief of Staff for Integration, Office of the Staff, Headquarters, U.S. Joint Forces Command from June 2004 to August 2006. During this period, COL Hoskin was responsible for many enhancements including the Transformation Advisory Group, Command-wide Liaison Officer Exchange Program, and the first series of U.S. Joint Forces Command Chief of Staff to Combatant Command Chiefs of Staff video teleconferences. He was also responsible for the conceptualization and development of numerous process improvements including a program for maintaining situational awareness and accomplishment of all new staff and production work coming into the command. He followed that with development and implementation of business processes and methods to inform the Chief of Staff, Deputy Commander, and Commander in making real time decisions concerning Command Level Support Commanders, Services, Joint Chiefs of Staff, the Office of the Secretary of Defense, and Congress. These improvements resulted in savings of time and money, and the ability to accurately access all of the objectives about which customers were interested. Additionally, COL Hoskin instituted Command-wide tracking for Objective Leads and Product Leads with greatly improved processes and analysis.
TRIBUTE TO THE MORRIS LAND CONSERVANCY

HON. RODNEY P. FRELINGHUYSEN
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to honor the Morris Land Conservancy, located Morris County, New Jersey, a county I am proud to represent! On October 19, 2006, the Morris Land Conservancy will celebrate its 25th Anniversary with a reception to honor twenty-five years of land preservation in Morris County.

Incorporated on July 30, 1981, the Morris County Parks and Conservation Foundation was created to further the Conservancy’s mission to preserve land and the environment. During its history, the Conservancy has evolved from an all-volunteer organization to a state leader in open space preservation. Over 10,000 acres of open space land has been preserved in northern New Jersey; to conserve open space; to inspire and empower individuals and communities to preserve land and the environment.

The Conservancy on its twenty-fifth Anniversary.

HON. FRED UPTON
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. UPTON. Mr. Speaker, I rise today to recognize Dr. Chris Fisher and Dr. James Bashkin, cofounders of NanoVir, a Kalamazoo, Michigan bioscience company that received the 2006 Tibbetts Award for innovative work to develop potential treatment to fight the virus that causes cervical cancer known as Human Papillomavirus (HPV). The Tibbetts Award is a prestigious national award presented annually by the Small Business Administration to small firms, organizations, and individuals judged to exemplify the very best in small business innovation research. This year, NanoVir is among the select group of 55 firms from across the nation who will receive the award.

The Food and Drug Administration recently approved a vaccine that will prevent individuals from becoming infected with the virus. NanoVir’s product would complement the vaccine by fighting HPV infections and preventing cervical cancer for those who already have the virus.

The importance of this research cannot be overstated. Nearly 20 million Americans have incurable HPV, and cervical cancer is the second leading killer of women by cancer worldwide. NanoVir is at the cutting edge of DNA research, and I commend Dr. Fisher, Dr. Bashkin, and all the folks at NanoVir for their commitment and dedication to the betterment of millions of women’s lives around the world. They may soon develop one of our most potent weapons yet in the war against cancer, and I wish them every success.

CONGRATULATING DR. MARILYN GASTON AND DR. GAYLE PORTER

HON. CHRIS VAN HOLLEN
OF MARYLAND
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. VAN HOLLEN. Mr. Speaker, I rise today to congratulate Dr. Marilyn Gaston and Dr. Gayle Porter, co-recipients of the 2006 Purpose Prize. Drs. Gaston and Porter have been recognized for innovation and success in using their lifetime of experience for the greater good.

After full careers in different health fields, Drs. Gaston and Porter teamed up to address the alarming early death and disability rates among middle aged African American women. They wrote Prime Time: The African American Woman’s Complete Guide to Midlife Health and Wellness and then created an innovative health course and support group model, “Prime Time Sister Circles” has become a popular and proven health initiative in Maryland and other states, with 68 percent of the participants maintaining their health improvements for more than a year. This outstanding model should be replicated throughout our country.

I want to recognize the role of The Purpose Prize itself in changing our society’s view of aging. The positive impact of the five Purpose Prize winners on thousands of people in need reveals that America’s growing older population is one of our greatest untapped resources. In 2005–06 over 1,200 adults age 60 and over competed for the $100,000 cash prizes and related rewards of publicity and support for their entrepreneurial projects. Civic Ventures, the California-based non-profit organization that created the prize program, is dedicated to generating ideas and creating programs to help society achieve the greatest return on experience. I invite my colleagues to join me in furthering the role adults as significant contributors to our communities and nation.

Mr. Speaker, I extend my heartfelt congratulations to Dr. Marilyn Gaston and Dr. Gayle Porter on receiving the prestigious Purpose Prize in its first year and I wish them continued success. I also commend Civic Ventures, along with Purpose Prize funders, The Atlantic Philanthropies and The John Templeton Foundation, for their vision and generosity in creating this important stimulus for expanding citizen initiative for public good.

PATTERSON PARK COMMUNITY DEVELOPMENT CORPORATION 10TH ANNIVERSARY

HON. BENJAMIN L. CARDIN
OF MARYLAND
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. CARDIN. Mr. Speaker, I am pleased to bring to your attention the achievements of the Patterson Park Community Development Corporation (PPCDC), which is celebrating its 10th Anniversary.

The Patterson Park area was originally known as Hampstead Hill and played an important role in the defense of Baltimore during the War of 1812. The property was also home to the wealthy Patterson family whose beautiful daughter, Betsy, was the wife of Jerome Bonaparte. The surrounding rowhouse community offered housing for a diverse population, including immigrants from Eastern Europe. Following World War II, many families moved to the suburbs, leaving older residents behind. The community became ripe for absentee landlords and investors.

In 1996, the PPCDC was founded by residents to combat the neighborhood’s decline. PPCDC concentrated on an area of 3,000 rowhouses north of Patterson Park, and 2,500 houses on the park’s eastern periphery. Its goal was to recreate a stable, desirable, diverse community around Patterson Park.

PPCDC embarked on strategies to improve the neighborhood and Park image, strengthen the neighborhood’s social fabric and political strength, and dramatically increase investment through control of the neighborhood’s real estate. Since 1996, PPCDC has spent more than $60 million in the community, attracting tens of millions of dollars in other investment. PPCDC also maintains more than 100 affordable rental units that provide decent housing to immigrants, refugees, and other families with modest incomes.

PPCDC has accomplished all this while maintaining the ethnic, racial and economic diversity of the Patterson Park community. In the report of the Mayor’s Commission to move the neighborhood to the south to gather momentum and become an engine for revitalization in all of Southeast Baltimore.
Friends of Patterson Park was formed to re-
vitalize the Park, restore the boat lake and the
Pagoda, which serves as the centerpiece for
summer concerts, and build a new playground
for the growing number of children who live in
the community. In 2002, the Patterson Park
Charter School was formed by residents to en-
tice young families to stay in the neighbor-
hood.
I urge my colleagues in the U.S. House of
Representatives to join me in saluting the ac-
complishments of the PPCDC and its partners
and in commending them for their work in East
Baltimore. Their efforts to revitalize Pat-
terson Park have become a model for other communities around the Nation.

PROTECTING OUR NATION FROM TERRORISM

HON. DAVID E. PRICE
OF NORTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. PRICE of North Carolina. Mr. Speaker,
I rise today to confront a question of central
importance to our Nation: are we doing every-
thing we should to protect our Nation from ter-
rorism?
This is not a threat we can afford to under-
estimate. The terrorists’ means of organiza-
tion, communication, and attack challenge our
intelligence community, our armed forces, and
our domestic law enforcement agencies in fund-
damentally new ways.
We must take the fight to the terrorists, but
that does not mean we must sacrifice our moral leadership in the international commu-
unity. We must defend our homeland from at-
tacks, but we must also avoid self-inflicted damage to the values we stand for and the lib-
erties of our people. Our strategy cannot be merely aggressive; it must also be smart and
efficient, and it must be true to the values that make us American.
We must not only kill and capture specific ter-
rorists and organizations and dismantle their
organizations that might exist to-
morrow. Ultimately, we will win this war not by
denying the rights of detainees and not by law
enforcement excesses, but by protecting the
integrity of our free and democratic society,
and by repairing our diplomacy and showing
the world that there is a better way.
The Bush Administration has repeatedly im-
plied that Americans must be prepared to set
aside moral considerations, American values,
and America’s image in the world if such con-
cerns get in the way of the aggressive pursuit
of terrorists. In reality, such a strategic blind-
ess will hamper our ability to win the war on
terrorism. An anti-terrorism strategy informed
by moral considerations, American values, and
our effort to lead the world by example is con-
sistent with new anti-terrorism strategy that pur-

sues terrorists smartly, effectively, and aggres-
sively. What’s more, such a strategy augments
our efforts because it unites the American people—and the world—behind us.
Following the 9–11 attacks, President Bush
had two choices. The first option was to create
and implement a bipartisan anti-terrorism strategy. Such a strategy would have been fo-
cused on devoting sufficient troops and re-
sources to Afghanistan to bring down the
Taliban, find and incapacitate Osama bin Laden and his lieutenants, and enable that na-
tion’s successful reconstruction—not just in
the capital but in the outlying areas that we have never fully secured.
The President could have capitalized on the tremendous outpouring of public support in the
wake of the attacks but bridged between our
nation and the rest of the world, including the
millions of moderate Muslims who hold no sympat
th for the terrorists who are hijacking their
religion. He would have proactively
sought a resolution to the Israeli-Palestinian
conflict which has historically been the largest
source of inspiration for new generations of
terrorists. (The Iraq war can now lay claim to
that ignoble reputation.) And he would have
more significantly bolstered our defense and
intelligence assets to prevent future attacks and dismantle terrorist networks.
Instead, the President chose a second op-
tion that has simply failed to meet the stand-
ard of an intelligent anti-terrorism strategy. He
diverted resources from the hunt for bin Laden
to prepare for and initiate a war of choice in
Iraq—an admittance that has made the threat of terrorism worse, not better. The re-
cent National Intelligence Estimate makes this
quite clear.
In doing so, President Bush left Afghanistan
vulnerable to the resurgence of the Taliban we have seen over the last five months, re-
sulting in a deteriorating security environment
in that country five years after we supposedly
defeated them. He has undertaken policies
that have seriously undermined public support
for the U.S. in the Islamic world and beyond,
including policies that cultivated a culture with-
in the military and the intelligence community
that have tolerated and even encouraged the
abuse of detainees—many of whom were later determined to be innocent bystanders. He has
largely neglected the Israeli-Palestinian con-

flict, with disastrous results for Israel, Leb-

anon, and the entire Middle East region.
David Sanger, one of my constituents and
director of the Triangle Center on Terrorism,
got it right in a recent op-ed. He wrote: “Un-
fortunately, we have made no progress, and in
fact may have lost ground, in the ideological
conflict that is fuelling jihadist violence around the globe.”
So I ask today: are we doing everything we
should to protect our nation against another
terrorist attack? Is President Bush pursuing a
smart, effective strategy to win the war on ter-
rorism? The answer to these questions is clearly “no.”
This week in the House, we are debating
two prominent components of the President’s
strategy to fight terrorism: a bill to grant the
President reasonable exemptions in these sit-
uations, and if extensions are needed, he sim-
ply needs to request judicial approval.
Constitution after an attack is completely un-
necessary. Current law already allows the
President reasonable exemptions in these sit-

tuations, and if extensions are needed, he sim-
ply needs to request judicial approval.
The second key terrorism bill under debate in
the House this week would establish a sys-

tem for bringing detained terrorist suspects to
trial. Again, there is wide and bipartisan agree-
ment that this issue must be addressed. But
President Bush has once again failed to
choose the smart and morally acceptable way to
deal with this important issue.
Over the past 3 years, many of us have
watched in horror as new details about the
Bush administration’s treatment of detainees
have been revealed. Torture, arbitrary arrest and
detention, indefinite imprisonment—Ameri-
cans used to think of these as charges off the
pages of reports about other countries, not as
sanctioned American policies. While some of
us have spoken out against these practices
since they became public, recent actions by

General and the Bush administration have proved unreliable stewards of our liberties. It also
recognizes what our founding fathers knew quite well, that balancing power among
institutions with different functional roles is the essential to our form of government. The ex-
ecutive branch is in the business of putting policies into effect, and the judicial branch is in the business of interpreting the law and the Constitution, and protecting indi-
vidual rights. Neither can effectively do the job of the other.
The 1978 FISA law established procedures
governing how the Federal Government can constitutionally collect foreign intelligence, in-
cluding the ability to gather intelligence imme-
diately in urgent situations and to obtain a
warrant post-facto. Unfortunately, this adminis-
tration feels that protecting the constitutional rights of its citizens has become too cum-
bersome. Instead of abiding by current law, the administration has chosen to make up new
ones. And now that we have called the admin-
istration on this violation of the law, it is asking Congress to formally authorize its practices. In
essence, the administration is telling us that we have to choose between being safe and
being free. I, for one, am not willing to accept
this overly simple analysis or the proposed
wiretapping bill.
We do not yet know what provisions will be
included in the House bill, but the President’s
proposal would allow warrantless surveillance of
international calls and e-mails of American
citizens without any evidence that they are
conspiring with terrorist organizations. The
communications of Americans would only be protected if the National Security Administra-
tion “reasonably believes” all senders and re-
ipients are in the U.S. Essentially this provi-
sion would allow anybody communicating with
family or friends outside the U.S. to be mon-
itored at any given time without any real jus-
tification or oversight.
In addition, the President’s proposal would
pre-approve warrantless searches on all
Americans following a terrorist attack in the
United States for up to 45 days. I know the in-
vestigations that take place in the days and
weeks following a terrorist attack are critical in
apprehending all of those involved, and I
agree that we need to make sure the intel-

cence community has whatever resources it
needs. However, providing pre-approval to the
President to violate the 4th amendment of the
Constitution after an attack is completely un-
necessary. Current law already allows the
President reasonable exemptions in these sit-

tuations, and if extensions are needed, he sim-
ply needs to request judicial approval.

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cans used to think of these as charges off the
pages of reports about other countries, not as
sanctioned American policies. While some of
us have spoken out against these practices
since they became public, recent actions by
the Supreme Court and a handful of courageous Senators have forced the administration to revisit them. Yet, the legislation before the House—legislation supported by Republicans in the House, Senate, and White House—would do little to rein them in.

In the proposed legislation, the Administration could continue to arbitrarily arrest and detain foreign citizens. It could continue to imprison these detainees indefinitely, without standard judicial protections such as their right to challenge their detention in court and the right of the accused to know the charges against them. And, despite the leverage granted to the so-called compromise between the White House and Senate Republicans, the Administration would still be able to continue practices that violate the Geneva Conventions prohibition of torture.

Many have argued that we must prioritize winning the war on terrorism above considerations for the rights of detainees accused of having links to terrorism, as if the two were always mutually exclusive. It might be tempting to understand the issue in such simple terms, but we should resist that temptation.

It is certainly true that terrorism is such a grave threat to our nation that, in some circumstances, extraordinary actions may be necessary to protect American lives. The question we should be asking, however, is whether policies advance our fight against terrorism, both now and over the long term. In this case, the moral argument—that potentially innocent detainees do have rights that should be protected—is in line with the appropriate strategic argument.

In the short-term, the Administration’s approach fails because, as current and former military and intelligence officers have repeatedly stated, torture does not reliably produce actionable intelligence. In addition to the statements of these experts, we have hard evidence: the New York Times has reported that, according to our military, interrogators were able to obtain up to 50 percent more actionable intelligence from detainees at Abu Ghrab prison in Iraq after coercive practices like hooding, stripping, and sleep deprivation were banned.

In the long-term, the Bush administration’s approach is even more detrimental to our progress in the war on terrorism. First, it is already having disastrous repercussions on our effort to win the hearts and minds of those at risk of being tempted by terrorist recruiters. Let us be clear: while stopping active terrorists is a critical challenge, disrupting the development of new generations of terrorists is the single most important task in winning the war on terrorism. Every person that we can persuade to renounce violence and cast his or her lot with the forces of moderation is one fewer threat to our Nation, one fewer potential airplane hijacker or train bomber.

Winning hearts and minds is no exercise in sentimentality; it is perhaps the key strategy in protecting our Nation from another 9-11. The Administration’s approach negates such efforts, as it essentially endorses indefinite imprisonment, arbitrary detention, and treatment of detainees in violation of the Geneva Conventions.

The Administration’s approach further harms our progress in the war on terrorism by placing our own troops at risk. It sends a dangerous signal to other nations that the United States has endorsed these practices for foreign detainees, inviting these nations to visit our troops at risk. It is that risk that has led several top-ranking former military leaders to object to the Administration’s proposal.

There is no question that a system is needed for bringing terrorists to justice. But doing it the wrong way impairs our ability to stop terrorists in the future. And the Bush administration’s approach is, quite clearly, the wrong way. Victory in the war on terrorism demands, and the American people deserve, a smarter approach, consistent with the values that have made our country great.

Mr. Speaker, we can choose a smart, effective strategy for combating terrorism that makes our Nation safer, or we can opt for an irresponsible, shortsighted approach that undermines our progress. These bills represent the latter. I strongly urge my colleagues to oppose them.

COMMENDING THE MAGIC SCHOOL BUS ON ITS 20TH ANNIVERSARY

HON. VERNON J. EHLERS
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. EHLERS. Mr. Speaker, I congratulate and recognize The Magic School Bus on the occasion of its 20th anniversary.

As many of my colleagues know, The Magic School Bus is a unique series of books, television programs, and teaching materials for children that encourage a love of science and inspire positive attitudes toward math and science education.

What my colleagues may not know is that with 131 book titles and more than 58 million books in print, The Magic School Bus is one of the most successful children’s science series, and it continues to grow in popularity every day. This series has earned numerous prestigious national recognition awards.

I am proud to support The Magic School Bus and its partnership with the National Science Foundation in a television series and museum exhibit, and I commend The Magic School Bus for its tireless efforts.

Congratulations to The Magic School Bus on this occasion of its 20th anniversary. May these efforts continue to spark the curiosity of millions of children and help motivate children to further pursue their interests in math and science.

CHILD INTERSTATE ABORTION NOTIFICATION ACT

SPEECH OF
HON. JIM NUSSLE
OF IOWA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, September 26, 2006

Mr. NUSSLE. Mr. Speaker, I rise today in support of the Child Custody Protection Act (S. 403). This important legislation protects our children by imposing stiff penalties on adults who evade State parental consent laws to transport a minor across State lines for the sole purpose of having an abortion.

I believe we must protect our children from being exploited or coerced into having an abortion and reaffirm the rights of parents to be involved in the important decisions of their lives. We currently require parental consent forms for field trips, sports and other activities. It’s only common-sense that these important laws are not circumvented for the purpose of permitting an abortion.

With over 50 percent of States having parental consent laws on the books, I believe it is imperative the Child Custody Protection Act become law to protect those who may not be able to protect themselves from harm as well as to ensure that these important state laws are respected.

RECOGNIZING THE FORTIETH ANNIVERSARY OF TRINITY BAPTIST CHURCH

HON. CHARLES H. TAYLOR
OF NORTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. TAYLOR of North Carolina. Mr. Speaker, I rise today to recognize Trinity Baptist Church of Asheville, North Carolina. On October 1, 2006 Trinity Baptist will celebrate 40 years of service to the people of Western North Carolina, and I thank them for the leadership and tireless work they have contributed to the Asheville community.

With 60 members under the direction of Rev. Ralph Sexton, Sr. as the Pastor and Dr. James A. Stewart as the Honorary Pastor, a beacon for Trinity Baptist Church was founded upon the scripture from Psalm 127:1, “Except the Lord build the house, they labor in vain that build it.” For 13 years, Dr. Ralph Sexton, Jr. served as staff evangelist and youth pastor under his father. On the first Sunday of April 1988, upon his father’s resignation as senior pastor, Dr. Ralph Sexton, Jr. became the senior pastor of Trinity Baptist Church. As the church continued to grow, mission outreach was increased both at home and abroad.

To meet the needs of the growing congregation, several buildings have been erected. The Family Life Center was built in 1984 housing office space, a kitchen, fellowship room and gymnasium, to provide a space for fun, food and fellowship for the whole family. In 1992 a Baby Palace was added to meet the need of the growing families of the church.

A Bible Institute program was started in 1989 for those who wish to devote their lives to the ministry of learning to serve; this became a 4-year Bible College in 1993. Most recently the church built a 1,500-seat sanctuary which has been named the “Tabernacle of the Mountains” in honor of the life and ministry of Dr. Ralph Sexton, Sr., who served the congregation for 22 years.

In 1991, Trinity Baptist Church opened their doors to Russian immigrants many of whom came to this country because of religious persecution. Trinity Baptist Church accommodated the immigrants by providing services in their native languages, in addition to sponsoring many of the immigrants.

In 1994, the EEOC threatened religious freedom by prohibiting any expression of religious faith in the workplace. Trinity Baptist Church worked with me and other area churches to preclude these improper regulations. Pastor Sexton and members of Trinity
Mr. SMITH of New Jersey. Mr. Speaker, as Co-Chairman of the U.S. Helsinki Commission and Vice Chairman of the House International Relations Committee, today I introduce this resolution on human rights violations in Turkmenistan. Freedom House recently ranked Turkmenistan as one of the most repressive countries in the world. Along with co-sponsors Representative JOSEPH R. PITTS and Representative MIEKE McIntyre, we seek to put the Government of Turkmenistan on notice that these policies must change and that the Congress expects improvements in human rights observance and democratization.


Turkmenistan is a one-party state with all three branches of government controlled by President Niyazov, who was made “president-for-life” by the rubber-stamp People’s Council in 2003. No opposition is allowed and the state promotes a cult of personality around President Niyazov and self-proclaimed “Turkmenbash”—the father of all Turkmen. His likeness is on every public building and the currency. Authorities require that his self-styled spiritual guidebook, the Rukhnama, be taught in all schools and places of work.

There are consistent reports of security officials physically abusing, torturing and forcing confessions from individuals involved in political opposition or human rights advocacy. The regime also continues the dreadful Soviet practice of using psychiatric hospitals to jail dissidents.

In August, Radio Free Europe/Radio Liberty correspondent Ogulsapar Muradova and two Turkmenistan Helsinki Foundation members were sentenced to 6 and 7 years of imprisonment, respectively, for their involvement in a documentary about Turkmenistan. Sadly, Muradova died while in custody just three weeks later.

The resolution therefore urges President Niyazov to, among other things, conduct a thorough investigation into the death of Muradova, free all political-religious prisoners, provide ICRC access to all Turkmen prisons, and allow peaceful political opposition parties to operate freely. The resolution also lays out recommended steps for U.S. action, should the government not improve respect for democracy, freedom of movement, human rights and religious freedoms.

The abuses don’t end with repressive actions against dissidents and reporters. Niyazov is also reportedly diverting billions of dollars of state funds into his personal off-shore accounts, and adopt international best practices as laid forth by the International Monetary Fund regarding the disclosure and management of oil and gas revenues. In addition, the resolution urges the U.S. Government to encourage companies doing business in Turkmenistan to increase transparency, and to encourage the European Union and other countries not to enter into trade agreements with Turkmenistan until the government demonstrates a commitment to implementing basic norms of fiscal transparency. To further demonstrate the level of Congressional concern regarding the mis-appropriation of state resources, the resolution recommends the U.S. Government issue “a report on the personal assets and wealth of President Niyazov.”

Mr. Speaker, the purpose of this resolution is to bring to the attention of the Congress and the world the appalling human rights record of the Government of Turkmenistan. The resolution is timely, as the European Parliament will soon consider an enlargement and a trade relationship with Turkmenistan. I hope this resolution will be a catalyst for change and that President Niyazov will initiate serious and far-reaching reforms.

Mr. Speaker, Capuchino High School’s successes since the passage of the November 2000 bond issue, Measure D, in San Mateo County. I am so proud of the foresight my neighbors and friends had when they approved the bond that has created the extraordinary facilities, so it can match its high caliber students. It will be my privilege and honor to join the Capuchino High School community to commemorate the modernization and new construction provided by the bond issue, as well as the opening of the new Electronic Arts Technology Arts Center built with the support of a $200,000 grant from Electronic Arts.

Like other high schools within my district, Capuchino has leveraged the $137.5 million bond measure into a $234.5 million capital improvement dedicated for an innovative academic and extra-curricular program designed to enhance the teaching-learning environment for students today and tomorrow.

Mr. Speaker, Capuchino is a California Distinquished School and is recognized for its extra-dinary didactic methods. Academically strong, Capuchino offers the highly prestigious International Baccalaureate Program and is one of only 60 schools in the state and 400 across the country qualified to offer such a rigorous college-preparatory curriculum.

I am very proud that Electronic Arts, one of my district’s largest employers, was able to contribute to building this state of the art tech-nology arts center. Because of Capuchino High School’s excellence, it was selected as one of 250 schools nationwide to receive a Carnegie Grant and was selected to share in...
a $450,000 grant collaborating in Entertainment and Media with five community colleges and their associated high schools.

The school's dedication to the arts includes its Honor Band's selection to participate at the inauguration of President Kennedy, the only marching band from North America to perform at the Expo '88 ceremonies in Australia, and has performed at various west coast events including the Tournament of Roses.

Mr. Speaker, Capuchino High School has had a long history of achievements and I am absolutely delighted that our community is dedicated to the success of our children. Capuchino High School is one of the real gems in my district and with the help of Measure D and Electronic Arts, Capuchino will be able to keep up with the constantly changing environment that faces our children when they leave school. I would like to thank all those who are responsible for these much needed improvements and am looking forward to seeing them for myself firsthand.

TRIBUTE TO STEPHEN ADAMINI
HON. BART STUPAK
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. STUPAK. Mr. Speaker, I would like to pay tribute today to Stephen Adamini, a Representative in the Michigan House of Representatives from the 109th District. The 109th District is comprised of four Upper Peninsula counties: Alger, Luce, Marquette and Schoolcraft.

First elected to the House in 2000, Stephen Adamini will be concluding his service in that body at the end of this year. The people of the 109th Representative District have been well represented by Stephen and he will be missed.

Whether the issue was timber or roads, Stephen was always ready to jump into the political and legislative arena, and he was a tireless worker for the “Yoopers,” those residents of Michigan that live in the state’s Upper Peninsula. As Steve has recognized, while there are unique issues in communities across our state, each region also has unique needs and concerns of its own. Steve recognized the unique qualities of his district and he worked hard in our state capital to find creative solutions on both sides of the Mackinac Bridge.

Stephen was also known for his work in Lansing in the area of health care. He served as Minority Vice Chair of that Committee in addition to serving on the Judiciary and Transportation Committees. Among the bills, that he authored Steve’s legislative skills helped tackle thorny issues surrounding the privacy of medical records.

Even prior to going to Lansing, Stephen dedicated much of his life to public service and community involvement. Whether it was serving on the Executive Committee of the Gwinn Area Chamber of Commerce, chairing the Marquette County Airport Board, serving on the Marquette County Re-Apportionment Commission or his work on the Michigan Transportation Commission, Steve has always strived to improve and serve his community and the entire Upper Peninsula.

In the Michigan State House of Representatives, Stephen has represented Marquette, the largest city in the Upper Peninsula. His distinguished record in Lansing has endeared him to his constituents in Michigan. Stephen and I have always enjoyed a special relationship personally and professionally. I look forward to his continued involvement in the communities in Alger, Luce, Marquette and Schoolcraft and I applaud for his years of service to Michigan, to the Upper Peninsula and to the people of Michigan’s 109th legislative district.

It is leaders like Stephen Adamini who make our system of democracy great at all levels—State as well as Federal. On this occasion, I offer my best wishes to Stephen’s wife, Linda, his two children Corrine and Stephen Jr., and his grandchildren; Alexandra, Marki, and Ryan. All of them have a great deal to be proud of in Stephen’s life and career. Mr. Speaker, I ask that you and our colleagues join me in saluting Stephen Adamini for his record of public service both in Lansing and at home in Michigan’s Upper Peninsula.

HONORING THE SERVICE AND CONTRIBUTIONS OF G. LUZ A. JAMES, ESQUIRE, TO THE COMMUNITY OF THE U.S. VIRGIN ISLANDS
HON. DONNA M. CHRISTENSEN
OF THE VIRGIN ISLANDS
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mrs. CHRISTENSEN. Mr. Speaker, I rise to pay tribute to G. Luz A. James, Esquire, affectionately known as “Luz James”, a Native Son of St. Croix, U.S. Virgin Islands and an individual who distinguished himself by living a life of service to the people and community of the U.S. Virgin Islands and to our Nation.

Luz James served the Virgin Islands community as an educator in the field of Mathematics and Science and was so effective that many of his students found ease in understanding the difficult subjects and some later became teachers because of exposure to his style. Among his numerous honors and recognitions was the rank of Honorary Police officer by one of his last appointed governors, Walter A. Gordon. He worked in the Virgin Islands Public Works Department; was a Vocational Rehabilitation Counselor; the Assistant Executive Director of the Virgin Islands Urban Renewal Program, which started developing and renovating depressed areas of the islands at the beginning of the economic boom in the 1960’s and the Special Assistant to Governor Ralph M. Paiewonsky in the Office of Public Relations. He was also elected as the first President of the Junior Chamber of Commerce for St. Croix.

Luz was also elected as a Senator in the 12th Legislature of the Virgin Islands, continuing a political tradition that began with his father, who served in the Municipal Council. His brother, Randall, served four terms as a Senator; his oldest son, Luz II served two terms in the Legislature before being elected Lt. Governor for the first term of our present Governor’s Administration. One of his nieces ran for a seat in the Legislature and a nephew is presently seeking re-election for a second term.

Luz was also the first Scoutmaster and Founder of Boy Scout Troop 151, under the sponsorship of the Holy Cross Roman Catholic Church, the church in which he was baptized and had a long and involved relationship with throughout his life. He served the church in many positions and was the church’s Sacristan at the time of his death. His education began in the Catholic church, St. Mary’s, under the tutelage of the Sisters of the Immaculate Heart of Mary. The Sisters helped kindle his love of the church, and his deep spirituality. Luz was known for his generosity and kindness and he would visit some of the Sisters that had taught him during his childhood at the present Infirmary of the Holy Cross Church for more than a century.

Luz James also had a distinguished military career that began as a commissioned 2nd Lieutenant in the U.S. Army upon his graduation from Howard University in 1950 and served a tour of duty years later as an Artillery Officer at Fort Bliss, Texas. He was credited with the formation of the U.S. Army Reserve Units in the U.S. Virgin Islands and Governor Melvin H. Evans appointed him as the first Adjutant General of the Virgin Islands National Guard, which gained him the distinction of being the first African-American to serve as an Adjutant General in the in Army National Guard of the United States. At the time of his untimely passing, he and the National Guard were in the process of preparing a pinning ceremony for his promotion to the rank of Brigadier General, during a ceremony that was being planned for next month.

Luz James entered Law School in his mid forties, graduated, became a member of the Virgin Islands Bar Association and had one of the busiest practices on the island of St. Croix. He was also a member of the National and the American Bar Associations. This accomplishment, returning to get his Juris Doctorate degree, was one that inspired three other members of his family to enter the legal field and vividly impressed his youngest son, a medical doctor that an education and desire for self improvement can continue throughout a person’s lifetime. In addition to helping many members of his considerable extended family, Luz assisted many Virgin Islanders to pursue and complete their formal education for his promotion to the rank of Brigadier General, during a ceremony that was being planned for next month.

Luz James became a disc jockey during the 1950’s, which began his love affair with the broadcasting industry. He and one of his brothers, Randall, a medical doctor, had popular shows on one of the local stations. He later formed Family Broadcasting, Inc., when he acquired WSTX AM and FM, the fulfillment of a dream, which allowed him to revolve the show, “Cruician Confusion”, a program he originally aired during his first days on the air. On one of his greatest, he was willing to help any person in need, sometimes to his detriment and he would part with his last dollar, without any hesitation, if it would benefit someone else. He served on practically every civic group formed on St. Croix and has been recognized and cited for outstanding contributions to the community from such groups as the Hospital Auxiliary, Parent Teacher Association, the A.M.E. Church, the Zeta Phi Beta Sorority, Inc., the Crucian Forty Plus Baseball Club, the V.I. Midwives Association and the V.I. PAC, a New York based group comprised of Virgin Islanders.

Born on the island of St. Croix, Luz James was the youngest of four brothers that all
made significant contributions to the Virgin Islands and to the Nation. He was the last surviving of the brothers and his death on September 17, 2006, ended an illustrious chapter in Virgin Islands history of outstanding community involvement and achievement by one particular generation of a family.

On behalf of the 109th Congress of the United States of America, I salute G. Luz A. James, Esquire, for his dedicated service to his home and community of the Virgin Islands and to his country. I thank his wife Asta and children Barbara, Gerard Luz II, Emmeth and James, Esquire, for his dedicated service to the United States of America, I salute G. Luz A. James, Esquire, for his dedicated service to his home and community of the Virgin Islands and to his country.

CHILD INTERSTATE ABORTION NOTIFICATION ACT

SPREE OF

HON. CHRISTOPHER SHAYS
OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. SHAYS. Mr. Speaker, I rise in opposition to S. 403, the Child Custody Protection Act.

I support encouraging—not requiring—parental notification for minors seeking contraceptive services. This legislation proposes a variety of new mandates on women, families, and doctors.

For example, the bill forces doctors to learn and enforce 49 other states’ laws, under the threat of fines and prison sentences. In many cases, it forces young women to comply with two states’ parental-involvement mandates. It also requires a doctor to notify a young woman’s parents in person, in another state, before abortion services can be provided.

Finally, in some cases, even if a parent travels with his or her daughter to obtain abortion care, the doctor must still give “notice” to the parent and wait 24 hours before providing the care. In such cases, this requirement acts as a built-in mandatory delay—which makes it more difficult logistically, more expensive, and more burdensome all around for the family.

Second, in some cases, it offers young women no judicial bypass. Judicial bypass is necessary from this area, representing the area’s unique culture and values in Lansing with distinct pride. The Upper Peninsula faces different issues than issues faced by downstate residents. Rich has recognized those differences and exhibited hard work in our own state capital to find creative solutions on both sides of the Mackinac Bridge.

In the Michigan State House of Representative, Rich has been a stalwart advocate for his constituents. I look forward to his continued involvement in the communities in the Upper Peninsula western end of the Copper Country. I applaud him for his years of service to Michigan, to the Upper Peninsula and to the people of Michigan’s 110th legislative district.

While known for his political prowess, Rich was well known throughout the Upper Peninsula as the energetic, entertaining and talented director of Marty’s Goldenaires Senior Drum and Bugle Corps from Bessemer. Rich’s band has delighted crowds in Michigan and Wisconsin and always draws the loudest, most sincere appreciation of all the drum and bugle corps that are participating in a parade, concert or festival. Under Rich’s direction, Marty’s Goldenaires are simply “The Best!”

Finally, let me offer my best wishes to Rich’s wife, Ann Marie, his two children, Ryan and Emily. All of them have a great deal to be proud of in Rich’s life and career. Mr. Speaker, I ask that the U.S. House of Representatives join me in saluting Rich Brown for his dedicated service to the state of Michigan, the people of the Copper Country and Michigan’s 110th House District.

TRIBUTE TO PRIVATE CHARLES ‘BUDDY’ SIZEMORE

HON. MIKE PENCE
OF INDIANA

IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. PENCE. Mr. Speaker, it is not every day that a fallen soldier is laid to rest 56 years after he was killed in action. But such is the case of Private Charles “Buddy” Sizemore.

As a young graduate of Rushville High School in Rushville, Indiana in 1948, Buddy was drafted into the U.S. Army where he was assigned to Headquarters Company, 2nd Battalion, 8th Regiment, 1st Cavalry Division.

Mr. Speaker, it was on October 19, 1950 that a man of the 1st Cavalry Division rides with the 70th Tank Division, took the North Korean capital of Pyongyang at great cost. But the advance of the 8th Army resumed despite a shortage of supplies, including winter clothing. Some riflemen had as few as 16 rounds of ammunition.

On November 1, about seventy miles north of Pyongyang, two Chinese divisions attacked and almost completely destroyed the U.S. 8th Cavalry Regiment and the 1st Cavalry Division. Soon thereafter, six Soviet-supplied aircraft from Manchuria attacked on all fronts. On November 2, 1950, just six weeks after he had left his Rushville home for Korea, Private Buddy Sizemore and his entire battalion were lost.

Fifty-six years later, after much negotiating between the United States and North Korea, forensic teams from the United Nations and the Pentagon have identified his remains, and on October 14th, there will be a full military funeral at the First Baptist Church in Rushville, Indiana for Private Charles ‘Buddy’ Sizemore.

Mr. Speaker, the Bible tells us if you owe debts, pay debts; if honor, then honor; if respect, then respect. I rise humbly today to pay
a debt of honor and respect to Buddy Sizemore.

Buddy is a hero whose service and sacrifice will forever be emblazoned on the hearts of a grateful Nation. I offer my deepest condolences to all of those friends and family members who loved and admired this young man.

TRIBUTE TO THE LATE DON DENNEY OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY

HON. DENNIS MOORE
OF KANSAS
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. MOORE of Kansas. Mr. Speaker, I rise to pay tribute to Don Denney, the long-time media relations specialist for the Unified Government of Wyandotte County, and Kansas City, KS, who died unexpectedly of a heart attack while at work on September 15.

I wholeheartedly echo the sentiments that Kansas City, KS, Mayor/CEO Joe Reardon shared with the Kansas City Kansan upon learning of Don Denney’s death, “Don Denney was a wonderful and talented individual who gave 100 percent of himself to the community with his job at the Unified Government. We shall always remember Don Denney as a man who gave unselfishly as a public servant and with his job at the Unified Government. We gave 100 percent of himself to the community.

The Kansas City Kansan. He was named Mr. Speaker, I join with the Unified Government and represented it to the metropolitan area and the citizens of Kansas City, KS, in mourning the untimely death of a dedicated, honest public servant and I include with these condolences and the Bishop Ward football game on the evening of the day of his death.

A graduate of Kansas City’s Ward High School in 1970, Denney had owned a Dairy Queen restaurant and worked previously at the Kansas City Kansan, before beginning his tenure with the city of Kansas City in 1994. He remained with the Unified Government after the city and county consolidated governments in 1997. As former Kansas publisher William Epperheimer noted: “Of all his attributes, loyalty and hard work stood out. Don was a Kansas City Kansan advocate to the end and he worked his tail off for the paper and its readers, just as he was dedicated to the Unified Government and represented it to the metropolitan news media with so much honesty and dedication in his ‘second career.’”

Denney was also well known locally as the athletics announcer for Bishop Ward High School and Kansas City Kansas Community College athletic events, and was planning on announcing the Bishop Ward football game on the evening of the day of his death.

Mr. Speaker, I join with the Unified Government and the citizens of Kansas City, KS, in mourning the untimely death of a dedicated, honest public servant and I include with these condolences and the Bishop Ward football game on the evening of the day of his death.

Mr. Speaker, I rise today to urge the House to take up and pass H.R. 1245, Johanna’s Law: The Gynecologic Cancer Education and Awareness Act. This legislation has been cosponsored by 256 Members of the House of Representatives and 40 Senators.

H.R. 1245, through an educational and awareness campaign, will help women understand the symptoms of uterine and other gynecological cancers, the importance of having an annual exam, and the need for open communication with their doctors in an attempt to save women from preventable deaths.

The legislation will inform them of preventative measures and help them understand the symptoms which can lead to early detection and subsequently, save lives.

The 5-year survival rates for the most common gynecologic cancers are 90 percent when diagnosed early. Survival drops to 50 percent or less for cancers diagnosed later.

Gynecologic cancers such as ovarian and endometrial cancer do not yet have a reliable screening test that can be used for the general population. The Pap smear reliably detects only cervical cancer. That’s why knowing the symptoms of these cancers is key to early diagnosis.

Sadly, recent surveys confirm most women are unaware of the risk factors and do not recognize the early symptoms of gynecologic cancers. This lack of information and understanding is deadly.

September has been declared Ovarian Cancer Awareness Month by President Bush, and governors of all 50 States have also declared September Ovarian Cancer Awareness Month. However, over one-third of the women diagnosed this year with a gynecologic cancer will die from the gynecologic cancer primarily due to a lack of early education and prevention, as well as effective screening.

Data suggests that with even a modest improvement in outreach and education, we can save lives and precious healthcare resources, and improve the health of our Nation’s women. This legislation will accomplish that—through education of both women and their health care providers.

Mr. Speaker, there is clearly a need for Johanna’s Law and the time is now. The women of this country and their families deserve no less.

HONORING THE LIFE OF BARBARA C. McENROE

HON. JOHN B. LARSON
OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. LARSON of Connecticut. Mr. Speaker, I wish to submit for the RECORD the following tribute that appeared in NE Magazine on September 17, 2006. For most, words never quite convey the poignancy of the moment. For Colin McEnroe, his craft and the life of his mother merge in beautiful sentiment. I did not know Barbara McEnroe, but I know many families who empathize with her son’s article, “Banana Chair Sunset.” I sometimes believe that creative and vivid writing is genetic with the Irish, but McEnroe’s love of his mother and father unfolds in this article in a way that shares with the reader the unique perspective of a family gathered at the bedside of a loved one soon to be gone. I’m honored to submit this for the RECORD. Our hearts go out to him, his son Joseph, and his family.

[From NE Magazine, Sept. 17, 2006]

BANANA CHAIR SUNSET

(By Colin McEnroe)

She was a tiny person born into a big world.
She was the fourth daughter of the soulless Howard and Alma Cotton. I was told that my grandmother, knowing she would be expected to try again, was too angry to think of a name. So the Cottons owned a general store in Dana, Mass. Ruth, the oldest sister, finally looked at some kind of candy display that offered a list of names. (It was a sore point with her that she had never won.) She would choose the one that would be your sweetheart, I believe.) She picked the name Barbara for her baby sister.

At least, that’s one version. Ruth told it to me one night after making me promise never to tell my mother.

The next baby was a boy, Gaylord. I don’t think my mother ever completely forgave him for being the right answer.

She was not the right answer, but she decided to know the right answers. She was a whirlwind. She was high school valedictorian. She was never quite at home.

She wasn’t as tough or as solid as the rest of her family. She was pretty, chatty, restless, troubleshooting. Now and then, a teacher would notice her and realize she was a little bit lost. One woman made a point of taking her places, letting her catch glimpses of the world outside of Massachusetts.

One such place, of course, was Boston, which was a very thirsty town. Years before my mother was born, the city began to outgrow its water. Bostonians sent their eyes around and noticed the Swift River Valley. It might be possible to dam the whole thing up and make a reservoir. Yes, that’s the best place you ever lived. They would have to leave.

Four little towns were dis-incorporated and depopulated. The Lost Towns of the Quabbin—Dana was one of them. The Cottons left a few years early, because Howard had four daughters, and he believed that rough men would be arriving in great numbers for the huge construction projects. He didn’t want that kind of trouble.

And what about the people who were living right where the enormous body of water would be?

They would have to leave.

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And what about the people who were living right where the enormous body of water would be?

They would have to leave.

What’s the best place you ever lived?” she asked me again and again from hospital beds and wheelchairs, really asking herself.

She graduated from North Brookfield High School. She was valedictorian?—and eked out a couple of years at Boston University. She came to Hartford. She was a hobby-soxer, overheated and frivolous. She and her friends followed Sinatra and boyfriends and jobs. Hartford was fun.

She fell. She got sick.

On Monday evening, her hands and feet grew cold.

The light appeared. You know, the light? The soothing, comforting, all-loving light? She asked the nursing home staff to turn it off. It was bothering her. Things were not quite right. This room was not quite home.

Do you remember those three words? she asked.

And that was the beginning of the end. Barbara died.

And then she began to forget things. Her son took her to a neurologist, and the doctor said, “I’m going to say three words to you, and I want you to remember them. If you forget them, I’ll ask you about them in a little while. Barbara, chair.”

He asked her quite a few other things, and, in the most charming manner possible, she revealed how little she could remember. Laid out there in the doctor’s office, it was breath-taking, like the water pooling up and overflowing our whole town.

“Now,” said the doctor, “Do you remember any of those three words?”

“What three words?” she asked.

And the light turned off. Has this ever come up before? Don’t people always like the light? A few years later, in a room, in chairs, watching the sunset spread across the bricks of a courtyard outside the window. We talked so that she could hear our voices. And she fell asleep and was gone.

I am surprised to find my heart is broken.

My son’s heart is broken, too.

Barbara is my sister.

Maybe there’s a place you go where finally, finally, everything is just right.

**Veterans, Memorials, Boy Scouts, Public Seals, and Other Public Expressions of Religion Protection Act of 2006**

**Speech of Hon. Mark Udall of Colorado in the House of Representatives**

Tuesday, September 26, 2006

Mr. UDALL of Colorado. Mr. Speaker, I think this bill is unnecessary and unwise, and I cannot vote for it.

Current law says that federal judges have discretion to require a state or local government to pay the attorneys’ fees of individual citizens who win lawsuits challenging government actions that violate the Constitution.

This bill would take away part of that discretion, by barring judges from making such awards in cases involving the Constitution’s prohibition of the establishment of religion.

Nothing in today’s debate on the bill has convinced me that the plaintiffs who have abused their discretion that Congress should limit it, or that the current law is broken and requires repair.

And I am very concerned that the effect of this bill would be to weaken Americans’ constitutional rights, as the Baptist Joint Committee for Religious Liberty has warned in a recent letter that says “passage of H.R. 2679 would encourage elected officials to violate the Establishment Clause whenever they find it politically advantageous to do so.” By limiting the remedies for a successful plaintiff, this measure would remove the threat that exists to ensure compliance with the Establishment Clause.

I think the Joint Committee is right—and what they say about the Establishment Clause is just as true about the rest of the Bill of Rights.

For example of where this might lead, consider the 2003 lawsuit against the school district in Ann Arbor, Michigan.

In that case, the plaintiffs complained that a former student’s right to free speech was abridged when school officials denied the student an opportunity to give her opinion of homosexuality at a school forum on diversity.

The judge ruled they were right, and ordered the school district to pay damages, attorneys’ fees and costs to the Thomas More Law Center, an Ann Arbor-based law firm organized to argue on behalf of Christians in religious freedom cases.

I have no reason to think that was an aberration. We are glad that the law provides judges with the discretion to award attorneys’ fees when people successfully defend their constitutional rights. This bill would limit that discretion unnecessarily, and so I cannot support it.
would depart too far from America’s fundamental legal traditions to be immune from serious legal challenges.

So, beginning 3 years ago, I have cosponsored bills that would establish clear statutory authority for detaining enemy combatants and using special tribunals to try them. Unfortunately, neither the president nor the Republican leadership thought there was a need for Congress to act—the president preferred to insist on unilateral assertions of executive authority, and the leadership was content with an indolent abdication of Congressional authority and responsibility.

Then, earlier this year, the Supreme Court put an end to that approach.

In the case of Hamdan v. Rumsfeld, the Court ruled that the military commissions set up by the Administration to try enemy combatants lacked constitutional authority in part because their procedures violated basic tenets of military and international law, including that a defendant must be permitted to see and hear evidence against him. Although the Court did not rule that the president is prohibited from establishing military commissions, it did determine that the current system isn’t a “regularly constituted court” and doesn’t provide judicial guarantees.

We are voting on this bill—on any bill, in fact—only because that Hamdan decision forced the Administration to come to Congress, not because President Bush has been in any hurry to try the more than 400 detainees at Guantanamo under sound procedures based on specific legislation.

And we are being forced to vote today—not later, and only on this specific bill, with no opportunity to even consider any changes—because, above all, the Republicans have decided they need to claim a legislative victory when they go home to campaign, to help take voters’ minds off the Administration’s missteps and their own failure to pass legislation to address the voters’ concerns.

In other words, for the Bush Administration and the Republican leadership it’s business as usual—ignore a problem as long as possible, then come up with a last-minute proposal developed without any input from Democrats, allow only a “take it or leave it” vote, and then smear anyone who doesn’t support it as failing to support our country.

That’s been their approach to almost everything of importance, so while it’s disappointing it’s not surprising that the Administration and the Republican leadership have not approached this important topic more thoughtfully.

The goal, of course, should be to have legislation to help make America safer that can withstand the proper scrutiny of the courts while meeting the needs of the American people and not undermine our ability to have the support of our allies.

The bill originally proposed by the president fell short of meeting those standards. I opposed it because I thought it risked irreparably harming the war on terror by tying up the prosecution of terrorists with new untested legal norms that did not meet the requirement of the Hamdan decision; endangering our service members by attempting to rewrite and limit our compliance with Common Article Three of the Geneva Conventions; undermining the standards of U.S. law; and detaining from a body of law well understood by our troops.

I was not alone in rejecting the bill the president originally proposed. As we all know, several members of the other body, including Senate Armed Services Committee, and other members of that committee, including Senators McCAIN and GRAHAM, also had serious objections to that legislation and, joined by Senator LEVIN, the ranking Democrat on the Committee, struck the important balance between military necessity and basic due process.

When the House Armed Services Committee took up the president’s bill, I joined in voting for an alternative, offered by our colleague, Representative SKELTON, the Committee’s senior Democratic member, that was identical to that bipartisan Senate legislation.

That alternative would have established tough but fair rules, based on the Uniform Code of Military Justice and its associated regulations, for trying terrorists. This would have fully responded to what the Supreme Court identified as the shortcomings in the previous system. But the Republican leadership insisted on moving forward with the president’s bill rather than working in a bipartisan manner, and so that alternative was rejected.

As a result, I voted against sending the president’s bill to the House floor.

But the bill now before the House is neither the president’s bill nor the bipartisan bill approved by the Senate Armed Services Committee. Instead, it is a new measure, just introduced, that differs in many respects and reflects the result of further negotiations involving the White House, several Republican Senators, and the House Republican leadership.

And while this new bill includes some improvements over the president’s original bill, it still does not meet the test of deserving enactment, and I cannot support it.

Some of my concerns involve the bill’s specific provisions. But just as serious are my concerns about what the bill does not say.

For example, the bill includes provisions intended to bar detainees from challenging their detentions in federal courts by denying those courts jurisdiction to hear an application for a writ of habeas corpus “or any other action against the United States or its agents relating to any aspect of the detention, transfer, treatment, trial, or conditions of confinement” by or on behalf of an alien that the government—that is, the Executive Branch—has determined “to have been properly detained as an enemy combatant or is awaiting such determination.”

These provisions, which the bill says are to apply to cases now before the courts, evidently allow indefinite detention, or detention at least until the war on terrorism is “over.” And while the reference to “aliens” seems to mean that this is not to apply to American citizens—who are not immune from being considered “enemy combatants”—some legal experts say it is not completely clear that citizens would really have the ability to challenge their detention.

I could not support any legislation intended to give the President—any president, of any party—authority to throw an American citizen into prison without what the Supreme Court has described as “a meaningful opportunity to contest the factual basis for that detention before a neutral decisionmaker,” and I prefer to err on the side of caution before voting for a measure that is not more clear than the bill before us on this point.

Also, these sweeping jurisdiction-stripping provisions, as well as other parts of the bill, raise enough legal questions that military lawyers say there is a good chance the Supreme Court will rule it unconstitutional. I do not know if they are right about that, but their views deserve to be taken seriously—not only because we in Congress have sworn to uphold the Constitution but also because if our goal truly is to avoid unnecessary delays in bringing terrorists to justice, we need to take care to craft legislation that can and will operate soon, not only after prolonged legal challenges.

In addition, I am concerned that the bill gives the President the authority to “interpret the meaning and application” of U.S. obligations under the Geneva Conventions. Instead of clearly banning abuse and torture, the bill leaves in question whether or not we are authorizing the Executive Branch to carry out some of the very things the Geneva Conventions seek to ban.

I cannot forget or discount the words of Rear Adm. Bruce MacDonald, the Navy’s Judge Advocate General, who told the Armed Services Committee “I go back to the recollection that we raised earlier, that I would be very concerned about other nations looking in on the United States and making a determination that, if it’s good enough for the United States, it’s good enough for us, and perhaps doing a lot of damage and harm internationally if one of our servicemen or women were taken and held as a detainee.”

I share that concern, and could not in good conscience support legislation that could put our men and women in uniform at risk.

Mr. Speaker, establishing a system of military tribunals to bring to trial some of the worst terrorists in the world shouldn’t be a partisan matter. I think we can all agree that there is a need for a system that can deliver swift and certain justice to terrorists without risking exposing Americans to improper treatment by those who are our adversaries now or who may become adversaries in the future.

Unfortunately, I think there is too much risk that the bill before the House today will not accomplish that goal and has too many flaws to deserve enactment as it stands. So, I cannot support it.
HIGHLIGHTS

Senate passed S. 3930, Military Commissions Act.

Chamber Action

Routine Proceedings, pages S10349–S10495

Measures Introduced: Thirty-one bills and two resolutions were introduced, as follows: S. 3963–3993, and S. Res. 589–590. Page S10457–58

Measures Reported:

H.R. 1463, to designate a portion of the Federal building located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the “Justin W. Williams United States Attorney’s Building”. Pages S10456

Measures Passed:

Military Commissions Act: By 65 yeas to 34 nays (Vote No. 259), Senate passed S. 3930, to authorize trial by military commission for violations of the law of war, after taking action on the following amendments proposed thereto: Pages S10354–S10431

Rejected:

By 48 yeas to 51 nays (Vote No. 255), Specter Amendment No. 5087, to strike the provision regarding habeas review. Pages S10354–69

By 46 yeas to 53 nays (Vote No. 256), Rockefeller Amendment No. 5095, to provide for congressional oversight of certain Central Intelligence Agency programs. Pages S10369–78, S10396–97

By 47 yeas to 52 nays (Vote No. 257), Byrd Amendment No. 5104, to prohibit the establishment of new military commissions after December 31, 2011. Pages S10385–90, S10397–98

By 46 yeas to 53 nays (Vote No. 258), Kennedy Amendment No. 5088, to provide for the protection of United States persons in the implementation of treaty obligations. Pages S10378–85, S10390–96, S10398

Secure Fence Act: Senate continued consideration of H.R. 6061, to establish operational control over the international land and maritime borders of the United States, taking action on the following amendments proposed thereto: Page S10431–33

Pending:

Frist Amendment No. 5036, to establish military commissions. Page S10432

Frist Amendment No. 5037 (to Amendment No. 5036), to establish the effective date. Page S10432

Motion to commit the bill to the Committee on the Judiciary, with instructions to report back forthwith, with an amendment. Page S10432

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. Page S10432

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. Page S10432

Frist Amendment No. 5040 (to Amendment No. 5039), to amend the effective date. Page S10432

During consideration of this measure today, Senate also took the following action:

By 71 yeas to 28 nays (Vote No. 260), three-fifths of those Senators duly chosen and sworn, having voted in the affirmative, Senate agreed to the motion to close further debate on the bill. Pages S10431–32

Senate expects to continue consideration of the bill on Friday, September 29, 2006.


A unanimous-consent agreement was reached providing for further consideration of the conference report on Friday, September 29, 2006, with a vote on adoption thereon, to occur at 10 a.m. Page S10433
China Currency—Agreement: A unanimous-consent agreement was reached providing that the orders of July 1, 2005 and March 29, 2006, with respect to S. 295, to authorize appropriate action in the negotiations with the People’s Republic of China regarding China’s undervalued currency are not successful, be vitiated.

Page S10389

Removal of Injunction of Secrecy: The injunction of secrecy was removed from the following treaties:

Mutual Legal Assistance Agreement with the European Union (Treaty Doc. No. 109–13); and


The treaties were transmitted to the Senate today, considered as having been read for the first time, and referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed.

Page S10493

Nominations Received: Senate received the following nominations:

Michele A. Davis, of Virginia, to be an Assistant Secretary of the Treasury.

Eric D. Eberhard, of Washington, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring October 6, 2012.

Dana Gioia, of California, to be Chairperson of the National Endowment for the Arts for a term of four years.

1 Coast Guard nomination in the rank of admiral.

Routine lists in the Air Force, Foreign Service.

Pages S10494–95

Messages From the House: Pages S10454–56

Measures Placed on Calendar: Page S10456

Measures Read First Time: Page S10456

Enrolled Bills Presented: Page S10456

Executive Reports of Committees: Page S10456

Additional Cosponsors: Pages S10458–59

Statements on Introduced Bills/Resolutions:

Pages S10459–90

Additional Statements:

Pages S10450–54

Amendments Submitted:

Pages S10490–92

 Authorities for Committees to Meet: Page S10492

Record Votes: Six record votes were taken today. (Total—260) Pages S10369, S10397, S10397–98, S10398, S10420, S10432

Adjournment: Senate convened at 9:30 a.m., and adjourned at 9:42 p.m., until 9:30 a.m., on Friday, September 29, 2006. (For Senate’s program, see the remarks of the Majority Leader in today’s Record on page S10494.)

Committee Meetings

(Committees not listed did not meet)

FEDERAL VOTING ASSISTANCE PROGRAM

Committee on Armed Services: Committee concluded a hearing to examine issues relating to military voting, focusing on the Federal Voting Assistance Program, which allows absentee voting by members of the military and civilians living overseas, after receiving testimony from David S.C. Chu, Under Secretary of Defense for Personnel and Readiness; Paul DeGregorio, Chairman, U.S. Election Assistance Commission; Derek B. Stewart, Director, Defense Capabilities and Management, Government Accountability Office; and Deborah L. Markowitz, National Association of Secretaries of State, Washington, D.C.

NOMINATIONS

Committee on Armed Services: Committee ordered favorably reported the nominations of General Bantz J. Craddock, USA, for reappointment to the grade of general and to be Commander, U.S. European Command, Vice Admiral James G. Stavridis, USN, for appointment to the grade of admiral and to be Commander, U.S. Southern Command, Nelson M. Ford, of Virginia, to be Assistant Secretary of the Army for Financial Management and Comptroller, Ronald J. James, of Ohio, to be Assistant Secretary of the Army for Manpower and Reserve Affairs, Major General Todd I. Stewart, USAF, (Ret.), of Ohio, to be a Member of the National Security Education Board, John Edward Mansfield, of Virginia, Larry W. Brown, of Virginia, and Peter Stanley Winokur, of Maryland, each to be a Member of the Defense Nuclear Facilities Safety Board, and 7,735 routine military nominations in the Army, Navy, Air Force, and Marine Corps.

ECONOMY

Committee on the Budget: Committee concluded a hearing to examine the state of the economy and budget, after receiving testimony from Edward P. Lazear, Chairman, Council of Economic Advisors; and Kevin A. Hassett, American Enterprise Institute, Chris Edwards, Cato Institute, and Peter R. Orszag, Brookings Institution, all of Washington, D.C.

NATIONAL AIRSPACE SYSTEM

Committee on Commerce, Science, and Transportation: Subcommittee on Aviation concluded a hearing to examine new aircraft in the National Airspace System (NAS), focusing on developing safety standards and operating procedures to ensure their safe integration.
into the NAS, after receiving testimony from Michael A. Cirillo, Vice President, Systems Operations Services, Air Traffic Organization, and Nicholas A. Sabatini, Associate Administrator, Aviation Safety, both of the Federal Aviation Administration, Department of Transportation; Vern Raburn, Eclipse Aviation Corporation, Albuquerque, New Mexico; Edward E. Iacobucci, DayJet Corporation, Delray Beach, Florida; Jack J. Pelton, Cessna Aircraft Company, Wichita, Kansas, on behalf of General Aviation Manufacturers Association; and Matthew G. Andersson, CRA International, Chicago, Illinois.

HAZARDOUS WASTE
Committee on Environment and Public Works: Subcommittee on Superfund and Waste Management concluded a hearing to examine S. 3871, to amend the Solid Waste Disposal Act to direct the Administrator of the Environmental Protection Agency to establish a hazardous waste electronic manifest system, after receiving testimony from Susan P. Bodine, Assistant Administrator, Office of Solid Waste and Emergency Response, Environmental Protection Agency; Cheryl T. Coleman, South Carolina Department of Health and Environmental Control, Columbia; Frederick J. Florjancic, Jr., Safety-Kleen Systems, Inc., Plano, Texas; and Phillip J. Bond, Information Technology Association of America, Arlington, Virginia.

PUBLIC DEBT
Committee on Finance: Subcommittee on Long-term Growth and Debt Reduction concluded a hearing to examine America’s public debt, focusing on the national savings rate and federal budget deficits, after receiving testimony from former Representative Charles W. Stenholm, Peter R. Orszag, Brookings Institution, and Chris Edwards, Cato Institute, all of Washington, D.C.; and Robert L. Bixby, Concord Coalition, Arlington, Virginia.

SECURING THE NATIONAL CAPITAL REGION
Committee on Homeland Security and Governmental Affairs: Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia concluded hearings to examine the National Capital Region’s strategic security plan, focusing on the ability of the responsible Federal, state and local government agencies of the National Capital Region to respond to a terrorist attack or natural disaster, including coordination efforts within the region, after receiving testimony from Thomas Lockwood, Director, Office of National Capital Region Coordination, Department of Homeland Security; William O. Jenkins, Jr., Director, Homeland Security and Justice Issues, Government Accountability Office; Deputy Mayor Edward D. Reiskin, District of Columbia Public Safety and Justice; Robert P. Crouch, Jr., Assistant to the Virginia Governor, Richmond; Dennis R. Schrader, Maryland Governor’s Office of Homeland Security, Annapolis, Maryland; and Fairfax County Executive Anthony H. Griffin, Fairfax, Virginia.

EMERGENCY MEDICAL CARE
Committee on Health, Education, Labor, and Pensions: On Wednesday, September 27, Subcommittee on Bioterrorism and Public Health Preparedness concluded a hearing to examine measures to improve emergency medical care, focusing on the need for change to continue providing quality emergency medical care when and where it is expected, after receiving testimony from Frederick C. Blum, West Virginia University School of Medicine, Morgantown, on behalf of American College of Emergency Physicians; Margaret VanAmringe, Joint Commission on Accreditation of Healthcare Organizations, Washington, D.C.; Nancy Bonalumi, Children’s Hospital of Philadelphia, Philadelphia, Pennsylvania, on behalf of Emergency Nurses Association; Leon L. Haley, Jr., Grady Health System, Atlanta, Georgia; and Robert R. Bass, Maryland Institute of Emergency Medical Services Systems, Baltimore, on behalf of Institute of Medicine’s Committee on the Future of Emergency Care in the U.S. Health System.

INTELLIGENCE
Select Committee on Intelligence: Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee recessed subject to the call.
House of Representatives

Chamber Action

Public Bills and Resolutions Introduced: 28 public bills, H.R. 6225–6252; and 8 resolutions, H.J. Res. 98; H. Con. Res. 487–488; and H. Res. 1055–1059 were introduced. (See next issue.)

Additional Cosponsors: (See next issue.)

Reports Filed: Reports were filed today as follows:

H.R. 4857, to better inform consumers regarding costs associated with compliance for protecting endangered and threatened species under the Endangered Species Act of 1973 (H. Rept. 109–693);

H.R. 512, to require the prompt review by the Secretary of the Interior of the longstanding petitions for Federal recognition of certain Indian tribes (H. Rept. 109–694);

H.R. 6143, to amend title XXVI of the Public Health Service Act to revise and extend the program for providing life-saving care for those with HIV/AIDS (H. Rept. 109–695);

H. Res. 1052, providing for consideration of H.R. 5825, to update the Foreign Intelligence Surveillance Act of 1978 (H. Rept. 109–696);

H.R. 5851, to reauthorize the programs of the Department of Housing and Urban Development for housing assistance for Native Hawaiians (H. Rept. 109–697);

H.R. 1674, to authorize and strengthen the tsunami detection, forecast, warning, and mitigation program of the National Oceanic and Atmospheric Administration, to be carried out by the National Weather Service, with an amendment (H. Rept. 109–698);

Conference report on H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007 (H. Rept. 109–699);

H. Res. 1053, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (H. Rept. 109–700); and

H. Res. 1054, waiving points of order against the conference report to accompany H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007 and providing for consideration of S. 3930, to authorize trial by military commission for violations of the law of war and consideration of H.R. 4772, to simplify and expedite access to the Federal courts for injured parties whose rights and privileges under the United States Constitution have been deprived by final actions of Federal agencies or other government officials or entities acting under color of State law (H. Rept. 109–701).

Pages H7784–H7848, (continued next issue)

Discharge Petition: Representative Kennedy of Rhode Island moved to discharge the Committees on Education and the Workforce and Energy and Commerce from the consideration of H.R. 1402, to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits (Discharge Petition No. 18).

(See next issue.)

Rule for consideration of suspensions: The House agreed to H. Res. 1045, providing for consideration of motions to suspend the rules, by voice vote, after agreeing to order the previous question by a yea-and-nay vote of 223 yeas to 196 nays, Roll No. 495.

Pages H7680–85, H7693–94

Suspensions: The House agreed to suspend the rules and pass the following measures:

Holding the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran: H.R. 6198, amended, to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran; Pages H7695–H7706


Children's Hospital GME Support Reauthorization Act of 2006: H.R. 5574, to amend the Public Health Service Act to reauthorize support for graduate medical education programs in children's hospitals. The House concur in Senate amendment—clearing the measure for the President; Pages H7710–12

Ryan White HIV/AIDS Treatment Modernization Act of 2006: H.R. 6143, amended, to amend title XXVI of the Public Health Service Act to revise and extend the program for providing lifesaving care for those with HIV/AIDS, by a 2/3 yea-and-nay vote of 325 yeas to 98 nays, Roll No. 503; Pages H7712–35, 7848

Fort McDowell Indian Community Water Rights Settlement Revision Act of 2006: S. 2464, to revise a provision relating to a repayment obligation of the Fort McDowell Yavapai Nation under the Fort McDowell Indian Community Water Rights
Designating the facility of the United States Postal Service located at 1213 East Houston Street in Cleveland, Texas, as the “Lance Corporal Robert A. Martinez Post Office Building”: H.R. 5108, to designate the facility of the United States Postal Service located at 1213 East Houston Street in Cleveland, Texas, as the “Lance Corporal Robert A. Martinez Post Office Building”; Pages H7745–46

Amending the Older American Act of 1965 to authorize appropriations for fiscal years 2007 through 2011: H.R. 6197, to amend the Older American Act of 1965 to authorize appropriations for fiscal years 2007 through 2011; Pages H7746–70

Establishing a pilot program in certain United States district courts to encourage enhancement of expertise in patent cases among district judges: H.R. 5418, amended, to establish a pilot program in certain United States district courts to encourage enhancement of expertise in patent cases among district judges; (See next issue.)

Coast Guard Authorization Act of 2006: H.R. 5681, amended, to authorize appropriations for the Coast Guard for fiscal year 2007; (See next issue.)

Designating the facility of the United States Postal Service located at 101 East Gay Street in West Chester, Pennsylvania, as the “Robert J. Thompson Post Office Building”: H.R. 6075, to designate the facility of the United States Postal Service located at 101 East Gay Street in West Chester, Pennsylvania, as the “Robert J. Thompson Post Office Building”; (See next issue.)

Designating the facility of the United States Postal Service located at 307 West Wheat Street in Woodville, Texas, as the “Chuck Fortenberry Post Office Building”: H.R. 6078, to designate the facility of the United States Postal Service located at 307 West Wheat Street in Woodville, Texas, as the “Chuck Fortenberry Post Office Building”; (See next issue.)

Designating the facility of the United States Postal Service located at 200 Gateway Drive in Lincoln, California, as the “Beverly J. Wilson Post Office Building”: H.R. 4720, to designate the facility of the United States Postal Service located at 200 Gateway Drive in Lincoln, California, as the “Beverly J. Wilson Post Office Building”; (See next issue.)

Designating the facility of the United States Postal Service located at 216 Oak Street in Farmington, Minnesota, as the “Hamilton H. Judson Post Office”: H.R. 6151, to designate the facility of the United States Postal Service located at 216 Oak Street in Farmington, Minnesota, as the “Hamilton H. Judson Post Office”; (See next issue.)
Designating the facility of the United States Postal Service located at 101 Palafox Place in Pensacola, Florida, as the “Vincent J. Whibbs, Sr. Post Office Building”; 5736, to designate the facility of the United States Postal Service located at 101 Palafox Place in Pensacola, Florida, as the “Vincent J. Whibbs, Sr. Post Office Building”; (See next issue.)

Designating the facility of the United States Postal Service located at 950 Missouri Avenue in East St. Louis, Illinois, as the “Katherine Dunham Post Office Building”; H.R. 5929, to designate the facility of the United States Postal Service located at 950 Missouri Avenue in East St. Louis, Illinois, as the “Katherine Dunham Post Office Building”; (See next issue.)

Designating the facility of the United States Postal Service located at 167 East 124th Street in New York, New York, as the “Tito Puente Post Office Building”; H.R. 1472, to designate the facility of the United States Postal Service located at 167 East 124th Street in New York, New York, as the “Tito Puente Post Office Building”; (See next issue.)

Recognizing Financial Planning Week, recognizing the significant impact of sound financial planning on achieving life’s goals, and honoring families and the financial planning profession for their adherence and dedication to the financial planning process: H. Res. 973, amended, to recognize Financial Planning Week, recognizing the significant impact of sound financial planning on achieving life’s goals, and honoring families and the financial planning profession for their adherence and dedication to the financial planning process; (See next issue.)

Designating the facility of the United States Postal Service located at 10240 Roosevelt Road in Westchester, Illinois, as the “John J. Sinde Post Office Building”; H.R. 5989, to designate the facility of the United States Postal Service located at 10240 Roosevelt Road in Westchester, Illinois, as the “John J. Sinde Post Office Building”; (See next issue.)

Designating the facility of the United States Postal Service located at 415 South 5th Avenue in Maywood, Illinois, as the “Wallace W. Sykes Post Office Building”; H.R. 5990, to designate the facility of the United States Postal Service located at 415 South 5th Avenue in Maywood, Illinois, as the “Wallace W. Sykes Post Office Building”; (See next issue.)

Designating the facility of the United States Postal Service located at 2951 New York Highway 43 in Averill Park, New York, as the “Major George Quamo Post Office Building”; S. 3613, to designate the facility of the United States Postal Service located at 2951 New York Highway 43 in Averill Park, New York, as the “Major George Quamo Post Office Building”—clearing the measure for the President; and (See next issue.)

Designating the Post Office located at 5755 Post Road, East Greenwich, Rhode Island, as the “Richard L. Cevoli Post Office”; S. 3187, to designate the Post Office located at 5755 Post Road, East Greenwich, Rhode Island, as the “Richard L. Cevoli Post Office”—clearing the measure for the President. (See next issue.)

Security and Accountability for Every Port Act or the SAFE Port Act—Motion To Go to Conference: The House disagreed to the Senate amendment and agreed to a conference on H.R. 4954, to improve maritime and cargo security through enhanced layered defenses.

Pages H7770–84, (continued next issue)

Agreed to the Thompson of Mississippi motion to instruct conferees by a yea-and-nay vote of 281 yeas to 140 nays, Roll No. 500.

Pages H7771–75, (continued next issue)

Appointed as conferees: From the Committee on Homeland Security, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Messrs. King of New York, Young of Alaska, Daniel E. Lungren of California, Linder, Simmons, McCaul of Texas, Reichert, Thompson of Mississippi, Ms. Loretta Sanchez of California, Mr. Markey, Ms. Harman, and Mr. Pascrell;

(See next issue.)

From the Committee on Energy and Commerce, for consideration of Titles VI and X and sec. 1104 of the Senate amendment, and modifications committed to conference: Messrs. Barton of Texas, Upton, and Dingell;

(See next issue.)

From the Committee on Science, for consideration of secs. 201 and 401 of the House bill, and secs. 111, 121, 302, 303, 305, 513, 607, 608, 706, 801, 802, and 1107 of the Senate amendment, and modifications committed to conference: Messrs. Boehlert, Sodrel, and Melancon;

(See next issue.)

From the Committee on Transportation and Infrastructure, for consideration of secs. 101–104, 107–109, and 204 of the House bill, and secs. 101–104, 106–108, 111, 202, 232, 234, 235, 503, 507–512, 514, 517–519, Title VI, secs. 703, 902, 905, 906, 1103, 1104, 1107–1110, 1114, and 1115 of the Senate amendment, and modifications committed to conference: Messrs. LoBiondo, Shuster, and Oberstar; and

(See next issue.)

From the Committee on Ways and Means, for consideration of secs. 102, 121, 201, 203 and 301 of the House bill, and secs. 201, 203, 304, 401–404, 407, and 1105 of the Senate amendment,
and modifications committed to conference: Messrs. Thomas, Shaw, and Rangel. (See next issue.)


Rejected the Schiff motion to recommit the bill to the Committee on the Judiciary with instructions to report the same back to the House forthwith with an amendment, by a yea-and-nay vote of 202 yeas to 221 nays, Roll No. 501. (See next issue.)

Pursuant to the rule, in lieu of the amendments in the nature of a substitute as reported by the Committee on the Judiciary and the Permanent Select Committee on Intelligence, the amendment in the nature of a substitute printed in this report shall be considered as adopted. (See next issue.)

Agreed to H. Res. 1046, waiving a requirement of clause 6(a) of rule XIII with respect to the same day consideration of certain resolutions reported by the Rules Committee, by a recorded vote of 220 ayes to 199 noes, Roll No. 497, after agreeing to order the previous question by a yea-and-nay vote of 223 yeas to 197 nays, Roll No. 496.

Pages H7685–93, H7694–95

Agreed that the Clerk be authorized to make technical and conforming changes in the engrossment of the bill to reflect the actions of the House. (See next issue.)

H. Res. 1052, the rule providing for consideration of the bill was agreed to by a recorded vote of 220 ayes to 199 noes, Roll No. 499, after agreeing to order the previous question by a yea-and-nay vote of 225 yeas to 197 nays, Roll No. 498.

Pages H7775–84, (continued next issue)

Advisory Committee on Student Financial Assistance—Reappointment: The Chair announced the Speaker’s reappointment of Mr. Robert Shireman of Oakland, California, to the Advisory Committee on Student Financial Assistance for a three-year term effective October 1, 2006. (See next issue.)

Senate Messages: Messages received from the Senate today appear on pages H7677.

Senate Referrals: S. 2250 was referred to the Committee on Financial Services; and S. 2491 and S. 3930 were held at the desk. (See next issue.)

Quorum Calls—Votes: Seven yea-and-nay votes and two recorded votes developed during the proceedings today and appear on pages H7693, H7694, H7694–95, H7784, (continued next issue).

Adjournment: The House met at 10 a.m. and adjourned at 11:59 p.m.

Committee Meetings

EPA PESTICIDE PROGRAM REVIEW

Committee on Agriculture: Subcommittee on Conservation, Credit, Rural Development, and Research held a hearing to review the EPA pesticide program. Testimony was heard from James B. Gulliford, Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances, EPA; and public witnesses.

SECURITY GUARD UNIONIZATION AND NATIONAL SECURITY

Committee on Education and the Workforce: Sub-committee on Employer-Employee Relations held a hearing entitled “Examining Whether Combining Guards and Other Employees in Bargaining Units Would Weaken National Security.” Testimony was heard from public witnesses.

MEDICARE PHYSICIAN PAYMENTS

Committee on Energy and Commerce: Subcommittee on Health held a hearing entitled “Medicare Physician Payments: 2007 and Beyond.” Testimony was heard from public witnesses.

HEWLETT-PACKARD PRETEXTING SCANDAL

Committee on Energy and Commerce: Subcommittee on Oversight and Investigations held a hearing entitled “Hewlett-Packard’s Pretexting Scandal.” Testimony was heard from the following officials of the Hewlett-Packard Company: Mark Hurd, President, Chief Executive Officer, and Chairman of the Board; and Fred Adler, IT Security Investigations; Patricia Dunn, former Chairman of the Board, Hewlett-Packard Company; Larry W. Sonsini, Chairman, Wilson Sonsini Goodrich and Rosati.

In refusing to give testimony at this hearing, the following individuals: Ann Baskins; Kevin T. Hunsaker; Anthony Gentilucci, Ronald DeLia; Joe Depante, Cassandra Selvage; Darren Brost, Valerie Preston, Bryan Wagner and Charles Kelly, invoked Fifth Amendment privileges.

IMPROVING FINANCIAL LITERACY/PRIVATE SECTOR COORDINATION

Committee on Financial Services: Subcommittee on Financial Institutions and Consumer Credit held a hearing entitled “Improving Financial Literacy: Working Together To Develop Private Sector Coordination and Solutions.” Testimony was heard from public witnesses.

IRAQ RECONSTRUCTION CONTRACTING

Committee on Government Reform: Held a hearing entitled “Acquisition Under Duress: Reconstruction Contracting in Iraq.” Testimony was heard from
Katherine Schinas, Managing Director, Acquisition and Sourcing Management, GAO; Stuart W. Bowen, Jr., Inspector General, Special Inspector General for Iraq Reconstruction; the following officials of the Department of State: Ambassador David Satterfield, Senior Advisor to the Secretary for Iraq; and James Bever, Deputy Assistant Administrator for Iraq, Bureau for Asia and the Near East, U.S. Agency for International Development; the following officials of the Department of the Army: Tina Ballard, Deputy Assistant Secretary, Policy and Procurement; and Joseph Tyler, Chief, Programs Integration Division, Military Programs Directorate, Corps of Engineers; and public witnesses.

**TRANSIT SECURITY TRAINING**

Committee on Homeland Security: Subcommittee on Economic Security, Infrastructure Protection and Cybersecurity held a hearing entitled “Front-Line Defense: Security Training for Mass Transit and Rail Employees.” Testimony was heard from John Sammon, Assistant Administrator, Transportation Sector Network Management, Transportation Security Administration, Department of Homeland Security; the following officials of the Department of Transportation: Terry Rosapep, Deputy Associate Administrator, Office of Program Management, Federal Transit Administration; and William Fagan, Director of Security, Federal Railroad Administration; Chief Polly Hanson, Metro Transit Police Department, Washington Metro Area Transit Authority; and public witnesses.

**ELECTRONIC VOTING MACHINES**

Committee on House Administration: Held a hearing on Electronic Voting Machines: Verification, Security, and Paper Trails. Testimony was heard from public witnesses.

**U.S. FAITH-BASED ORGANIZATION PROGRAMS IN AFRICA**

Committee on International Relations: Subcommittee on Africa, Global Human Rights and International Operations held a hearing on The Role of Faith-Based Organizations in United States Programming in Africa. Testimony was heard from Terri Hasdorff, Director, Faith-Based and Community Initiatives Office, U.S. Agency for International Development, Department of State; and public witnesses.

**HEZBOLLAH’S GLOBAL REACH**

Committee on International Relations: Subcommittee on International Terrorism and Nonproliferation and the Subcommittee on Middle East and Central Asia held a joint hearing on Hezbollah’s Global Reach. Testimony was heard from Frank C. Urbancic, Jr., Principal Deputy Coordinator, Office of the Coordinator for Counterterrorism, Department of State; John Kavanagh, Section Chief, International Terrorism Operations Section II, Counterterrorism Division, FBI, Department of Justice; and public witnesses.

**INTERNATIONAL ASSISTANCE FOR HAITI**

Committee on International Relations: Subcommittee on Western Hemisphere held a hearing on Moving Forward in Haiti: How the U.S. and the International Community Can Help. Testimony was heard from the following officials of the Department of State: Patrick D. Duddy, Deputy Assistant Secretary, Bureau of Western Hemisphere Affairs; and Adolfo A. Franco, Assistant Administrator, Bureau for Latin America and the Caribbean, U.S. Agency for International Development; and a public witness.

**MISCELLANEOUS MEASURES**

Committee on Resources: Subcommittee on National Parks held a hearing on the following bills: H.R. 1344, Lower Farmington River and Salmon Brook Wild and Scenic River Study Act; H.R. 4529, Kalaupapa Memorial Act of 2005; H.R. 5195, Journey Through Hollowed Ground National Heritage Area Designation Act of 2006; H.R. 5466, Captain John Smith Chesapeake National Historic Designation Act; H.R. 5665, American Falls Reservoir District Number 2 Conveyance Act; and H.R. 5817, Bainbridge Island Japanese American Monument Act of 2006. Testimony was heard from Representatives Cashe, Wolf, Bartlett of Maryland; Jo Ann Davis of Virginia; and Simpson; Dan Wenk, Acting Associate Director, Park Planning, Facilities, and Land, National Park Service, Department of the Interior; and public witnesses.

**ELECTRONIC SURVEILLANCE MODERNIZATION ACT**

Committee on Rules: Granted a closed rule providing 90 minutes of debate in the House on H.R. 5825, Electronic Surveillance Modernization Act, with 60 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, and 30 minutes equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence. The rule waives all points of order against consideration of the bill. The rule provides that in lieu of the amendments in the nature of a substitute as reported by the Committee on the Judiciary and the Permanent Select Committee on Intelligence, the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying the resolution shall be considered as adopted. The rule provides one motion to recommit with or without instructions. Finally, the rule provides that, notwithstanding the operation of
the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker. Testimony was heard from Representatives Lungren of California, Flake, Franks of Arizona, Gohmert, Hoekstra, Wilson of New Mexico, Schiff and Ruppersberger.

HOMELAND SECURITY APPROPRIATIONS ACT, 2007—CONFERENCE REPORT

MILITARY COMMISSIONS ACT OF 2006
PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT OF 2006

Committee on Rules: Granted, by voice vote, a rule waiving all points of order against the conference report to accompany H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes, and against its consideration. The rule provides that the conference report shall be considered as read. Testimony was heard from Chairman Rogers of Kentucky and Representative Sabo.

The rule provides for consideration of S. 3930 to authorize trial by military commission for violations of the law of war, and for other purposes, under a closed rule. The rule provides 1 hour of debate in the House, with 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The rule waives all points of order against consideration of the bill. The rule provides one motion to recommit S. 3930.

The rule provides for consideration of H.R. 4772 to simplify and expedite access to the Federal courts for injured parties whose rights and privileges under the United States Constitution have been deprived by final actions of Federal agencies or other government officials or entities acting under color of State law, and for other purposes, under a closed rule. The rule provides 1 hour of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The rule waives all points of order against consideration of the bill. The rule provides one motion to recommit H.R. 4772 with or without instructions.

WAIVING A REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO THE SAME DAY CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED BY THE RULES COMMITTEE

Committee on Rules: Granted, by voice vote, a rule waiving clause 6(a) of rule XIII (requiring a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee) against certain resolutions reported from the Rules Committee. The rule applies the waiver to any special rule reported on the legislative day of September 29, 2006.

CREW EXPLORATION VEHICLE DEVELOPMENT

Committee on Science: Held a hearing on Implementing the Vision for Space Exploration: Development of the Crew Exploration Vehicle. Testimony was heard from Scott J. Horowitz, Associate Administrator, Exploration Systems Mission Directorate, NASA and Allen Li, Director, Acquisition and Sourcing Management, GAO.

OVERSIGHT—AMTRAK PLANS AND MANAGEMENT

Committee on Transportation and Infrastructure: Subcommittee on Railroads held an oversight hearing on New Hands on the Amtrak Throttle. Testimony was heard from Alexander Kummant, President and Chief Executive Officer, AMTRAK.

OVERSIGHT—FORCE AND VETERAN HEALTH EMERGING TRENDS

Committee on Veterans' Affairs: Subcommittee on Health held an oversight hearing on Post Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI): Emerging trends in force and veteran health. Testimony was heard from Gerald Cross, M.D., Acting Principal Deputy Under Secretary, Health, Department of Veterans Affairs; and the following officials of the Department of the Army: COL Elspeth Cameron Ritchie, M.D., USA, Psychiatry Consultant to the U.S. Army Surgeon General; and COL Charles W. Hoge, M.D., USA, Chief of Psychiatry and Behavioral Sciences, Division of Neurosciences, Walter Reed Army Institute of Research; and representatives of veterans organizations.

BRIEFING—GLOBAL UPDATES/HOTSPOTS

Permanent Select Committee on Intelligence: Met in executive session to receive a briefing on Global Updates/Hotspots. The Committee was briefed by departmental witnesses.
Joint Meetings
COMBATING CHILD SEXUAL EXPLOITATION


NEW PUBLIC LAWS
(For last listing of Public Laws, see DAILY DIGEST, p. D1052)


S. 1773, to resolve certain Native American claims in New Mexico. Signed on September 27, 2006. (Public Law 109–286).

S. 2784, to award a congressional gold medal to Tenzin Gyatso, the Fourteenth Dalai Lama, in recognition of his many enduring and outstanding contributions to peace, non-violence, human rights, and religious understanding. Signed on September 27, 2006. (Public Law 109–287).

COMMITTEE MEETINGS FOR FRIDAY, SEPTEMBER 29, 2006

(Committee meetings are open unless otherwise indicated)

Senate

Committee on the Judiciary: business meeting to consider the nominations of Terrence W. Boyle, of North Carolina, and William James Haynes II, of Virginia, each to be United States Circuit Judge for the Fourth Circuit, Peter D. Keisler, of Maryland, to be United States Circuit Judge for the District of Columbia Circuit, William Gery Myers III, of Idaho, to be United States Circuit Judge for the Ninth Circuit, Nora Barry Fischer, to be United States District Judge for the Western District of Pennsylvania, Gregory Kent Frizzell, to be United States District Judge for the Northern District of Oklahoma, Marcia Morales Howard, to be United States District Judge for the Middle District of Florida, Robert James Jonker, Paul Lewis Maloney, and Janet T. Neff, each to be a United States District Judge for the Western District of Michigan, Leslie Southwick, to be United States District Judge for the Southern District of Mississippi, Lisa Godbey Wood, to be United States District Judge for the Southern District of Georgia, S. 2831, to guarantee the free flow of information to the public through a free and active press while protecting the right of the public to effective law enforcement and the fair administration of justice, S. 155, to increase and enhance law enforcement resources committed to investigation and prosecution of violent gangs, to deter and punish violent gang crime, to protect law-abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to reform and facilitate prosecution of juvenile gang members who commit violent crimes, to expand and improve gang prevention programs, S. 1845, to amend title 28, United States Code, to provide for the appointment of additional Federal circuit judges, to divide the Ninth Judicial Circuit of the United States into 2 circuits, S. 3880, to provide the Department of Justice the necessary authority to apprehend, prosecute, and convict individuals committing animal enterprise terror, S. 2644, to harmonize rate setting standards for copyright licenses under sections 112 and 114 of title 17, United States Code, and S. 3818, to amend title 35, United States Code, to provide for patent reform, 9:30 a.m., SD–226.

House

Committee on Energy and Commerce, Subcommittee on Oversight and Investigations, hearing entitled "Internet Data Brokers and Pretexting: Who Has Access to Your Private Records?" 10 a.m., 2123 Rayburn.

Committee on International Relations, Subcommittee on Oversight and Investigations, hearing on Falun Gong: Organ Harvesting and China's Ongoing War on Human Rights, 10:30 a.m., 2172 Rayburn.

Committee on Science, hearing on GAO Report on NOAA's Weather Satellite Program, 10 a.m., 2318 Rayburn.
Program for Friday: After the transaction of any morning business (not to extend beyond 10 a.m.), Senate will continue consideration of the conference report to accompany H.R. 5631, Department of Defense Appropriations, with a vote on its adoption to occur immediately thereon. Also, Senate expects to continue consideration of H.R. 6061, Secure Fence Act, and will vote on the motion to invoke cloture on the motion to concur in the amendment of the House of Representatives to S. 403, Child Custody Protection Act. Additionally, Senate will consider any other cleared legislative and executive business.

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