United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 110th CONGRESS, FIRST SESSION

Vol. 153 WASHINGTON, WEDNESDAY, SEPTEMBER 19, 2007 *No. 139*

House of Representatives

The House met at 10 a.m.

The Reverend Richard Estrada, Executive Director, Jovenes, Inc., Los Angeles, California, offered the following prayer:

Let us begin this morning by acknowledging the presence of God the Almighty. Lord, we praise You for having given us this good Earth and having called us to take care of her resources. Lord, you have blessed us with opportunities and freedom for people of all backgrounds.

Lord, inspire our Nation's leaders to seek justice, defend liberty, and unite diverse cultures and languages. Lord, bless our Nation's Representatives here today. Fill them with Your wisdom to make laws that will provide for all.

Lord, You made us in Your own wonderful image. Look with compassion on families. Remove the arrogance and hatred that infects our hearts. Break down walls that separate us. Unite us in bonds of love. Work through our struggles to accomplish Your purpose. In time, all people will serve You in harmony.

Lord, God Almighty, we humbly ask You to bless us 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 her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mrs. MILLER of Michigan. Madam Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mrs. MILLER of Michigan. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

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

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from California (Ms. SOLIS) come forward and lead the House in the Pledge of Allegiance.

Ms. SOLIS 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 with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1124. An act to extend the District of Columbia College Access Act of 1999.

The message also announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S.558. An act to provide parity between health insurance coverage of mental health benefits and benefits for medical and surgical services.

WELCOMING THE REVEREND RICHARD ESTRADA

The SPEAKER. Without objection, the gentlewoman from California (Ms. SOLIS) is recognized for 1 minute.

There was no objection.

Ms. SOLIS. Thank you, Madam Speaker, and good morning to all.

It's a privilege and honor today to welcome a dear friend of mine, Father Richard Estrada, who traveled from Los Angeles to be here to provide the House with its opening prayer. I am delighted to present Father Estrada to my colleagues, and I want to thank him for taking the time to be here.

As we celebrate Hispanic Heritage Month, it is fitting to have Father Estrada serve as guest chaplain. Father Estrada has dedicated his entire life to serving those less fortunate than us, particularly the homeless and at-risk youth.

He is the founder and executive director of Jovenes, Inc., a nonprofit organization which serves the homeless and at-risk immigrant youth and other disadvantaged individuals from the East Los Angeles area. He is the associate pastor at Our Lady Queen of Angels Catholic Church, La Placita, the oldest church probably in the country.

Father Estrada received a bachelor of arts degree from the University of San Francisco and studied theology and pastoral counseling at the Graduate School of Theology in Berkeley, California, the Mexican American Cultural Center in San Antonio, Texas, and the Fred C. Neiles School in Whittier, California.

In addition to his advocacy on behalf of the homeless and young people, Father Estrada is a champion for the humane treatment of all immigrants and their families. In fact, I recall him asking me to go with him across the border to place bottles of water for those immigrants that were dying in the fields and in the desert.

I ask my colleagues to welcome Father Richard to the House today. We have before us a great man of honor and compassion.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain up to 15 1-minute speeches on each side.

PRIVATIZATION OF IRAQI OIL—SPOILS OF WAR TO BUSH ALLY?

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

Mr. KUCINICH. The recent oil deal between the U.S.-based Hunt Oil Company and the Kurdistan Regional Government raises questions since Hunt Oil, a privately held oil company based in Texas and its founder, Ray Hunt, have close ties to Vice-President CHENEY and are large donors to President Bush. The deal also appears to undercut the goal of oil revenue sharing but is predictably consistent with the administration's attempt to privatize Iraqi oil assets. Both Hunt Oil Company and Kurdistan are strong allies with the Bush administration.

As I have said for 5 years, this war is about oil. The Bush administration desires private control of Iraqi oil, but we have no right to force Iraq to give up control of their oil. We have no right to set preconditions for Iraq which lead Iraq to giving up control of their oil. The Constitution of Iraq designates that the oil of Iraq is the property of all Iraqi people.

I am calling for a congressional investigation to determine the role the administration may have played in the Hunt-Kurdistan deal, the effect the deal could have on the oil revenue sharing plan and the attempt by the administration to privatize Iraqi oil.

EARMARKING THE SWAMP

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

Mr. FLAKE. Mr. Speaker, after we Republicans lost the majority in last year's elections, the new majority promised that they would ''drain the swamp.'' The new majority seemed to recognize that the political cost of earmarks far outweighed the benefits, and modest reforms were instituted to make the process more transparent.

However, it soon became clear that the earmark reform rhetoric was not matched by reality. The old majority seems just as mired in the mud as the old.

Still, it was with some excitement that I recently discovered in the House-passed Interior appropriations bill a $750,000 earmark for the Great Swamp National Wildlife Preserve in New Jersey. Predictably, this earmark was not to drain the swamp, but to preserve it.

This begs the question: If we can't stop passing earmarks to preserve swamps, how will we ever drain the earmark swamp?

Mr. Speaker, our constituents and this institution deserve far better. Let's follow up on our promises for earmark reform with actual reform.

THE NEED TO INSURE MORE OF AMERICA'S CHILDREN

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

Mr. BUTTERFIELD. Mr. Speaker, the news about health care in our Nation continues to get more discouraging, especially when it comes to health insurance for children. New Census data shows that the number of children without health insurance in the United States has grown over the last year by 700,000, to nearly 8.7 million children. This means that now one in nine American kids do not have health insurance.

To try and reverse these unacceptable trends, the Democratic Congress voted last month to reauthorize the Children's Health Insurance Program. Our legislation will provide an additional 5 million low-income children with the health insurance they need to live healthier lives. These kids are already eligible but not enrolled.

Mr. Speaker, President Bush has threatened to veto this legislation, despite bipartisan support it received in Congress and from our Governors. In the face of these discouraging new Census numbers, it is time for the President to end his veto threat and pledge his support for this legislation that will provide 11 million children with the health care coverage they need and deserve.

OH NO! ANOTHER TAX INCREASE

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

Mr. POE. Mr. Speaker, as air travel increases, revenue to airports, of course, increases as well. Much of that money is from hidden taxes passengers pay. But now this increased revenue isn't enough for some. They want to tax flyers even more to fly.

Right now, if a citizen buys a typical round trip ticket, the fare is about $230. But additional taxes raise the fare another $45. So the passenger is now really paying $275.

Airports now want to collect more Federal taxes from each passenger by increasing the passenger facility charge, another word for tax, to $7 per passenger per segment. What that means is a family of four that flies from Odessa, Texas, to Washington, D.C., with a stopover in Dallas, is going to pay another $112 in more taxes.

Airports already get plenty of money. They sell bonds; they get millions in Federal, City and State taxes; they charge airlines for gates and the right to land; they get taxes off rental cars; and they lease airport space to businesses.

Airports should make do with the abundance of revenue they already get from the taxpayers. Don't raise taxes any more on passengers.

And that's just the way it is.

□ 1015

HUNT OIL

(Mr. WELCH of Vermont asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELCH of Vermont. Mr. Speaker, while President Bush is asking Congress and the American people to give his failed policy in Iraq more time, even some of the President's closest allies don't believe the strategy will work.

Last week, it was reported that Hunt Oil Company of Dallas, Texas had signed an oil exploration and production deal with the Kurdish Regional Government. That Hunt Oil Company is owned by Ray Hunt, major campaign supporter of President Bush and a member of the President's Foreign Intelligence Advisory Board. His decision to bypass the Iraqi Government in Baghdad and negotiate directly with the Kurds shows his lack of confidence that Iraq will develop a functioning government in the near future, and it undermined important efforts for the Iraqi oil sharing law, which collapsed last week.

While President Bush is asking our Nation to sacrifice more of our brightest young soldiers and to spend hundreds of billions more in taxpayer dollars in pursuit of his Iraq strategy, one of the President's closest allies and advisers is betting that his strategies will continue to fail and, in fact, is looking to profit from it.

VETERANS APPROPRIATIONS BILL

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

Mr. WALBERG. Mr. Speaker, as I travel throughout my south-central Michigan district, I have learned over the past few months in town hall meetings, small group meetings, or coffees, that virtually all Americans believe we owe a great debt of gratitude to those who have worn the uniform in service to our country.

Unfortunately, Democrat leadership in both Chambers appears willing to make the veterans appropriations bill, which funds our Nation's veterans health care, become part of political gamesmanship in Washington.

It appears Democrats may withhold sending this bipartisan veterans funding bill to the President in an effort to ensure greater spending levels for their pet projects. There is a chance Democrats will hold off on final passage of this legislation so they can include it in a massive budget-busting spending bill at the end of the year.

Let me be very clear. The funding of veterans should not be a political issue. Congress should swiftly pass this important legislation, and Republicans and Democrats should jointly celebrate when it becomes law.

BUSH REFUSES TO BUDGE FROM THE STATUS QUO IN IRAQ

(Mr. BRALEY of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRALEY of Iowa. Mr. Speaker, last week President Bush told the American people that the status quo would continue in Iraq for 10 months. Last year, the American people demanded a change of course in Iraq. They wanted us to begin the process of bringing our troops home. The President's response: a troop escalation plan that sent an additional 30,000 troops to Iraq.

At the time, he said that if the Iraqi Government did not meet certain economic and political benchmarks, they would lose the support of our Nation. After months of delay, September became the moment of truth; and despite the fact that the nonpartisan GAO report found that the Iraqi Government had failed to fully meet 15 of the 18 benchmarks, the President said the troop escalation plan is going to continue until next summer.

Mr. Speaker, it is now clear that the President's only plan for Iraq is to stay the course until he can hand off the war to his successor.

The time for stalling is over. Staying the course is no longer acceptable. It is time for Republicans to join us in charting a new course.

OUR DOMESTIC AUTO INDUSTRY

(Mrs. MILLER of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MILLER of Michigan. Mr. Speaker, there has been a great deal of talk over the years that the Big 3 domestic auto companies have been too generous in providing pay and benefits to their workers which has made them less competitive.

I think it is wrong that these companies that helped, literally helped, create the American middle class have been attacked in such a way, but detractors of our domestic auto industry fail to understand that blatant cheating by foreign competitors and foreign governments on such matters as currency manipulation and piracy of intellectual property distort the marketplace and give foreign companies a competitive advantage. Detractors now want to expand the attack on our domestic auto industry by imposing draconian fuel economy standards that will benefit foreign companies and cost American jobs.

Enough is enough. The American auto companies and the UAW are poised to revolutionize the way health care and other benefits are delivered to autoworkers, retirees, and their family members; and, at the same time, the companies and their incredible scientists are working on new technologies for the vehicles of the future that will significantly reduce our dependence on foreign oil. Now is not the time for increased government regulation that will simply kill American jobs.

DEMOCRATIC CONGRESS SENDS COLLEGE COST REDUCTION ACT TO THE PRESIDENT'S DESK

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

Mr. SIRES. Mr. Speaker, elections do make a difference. Last November, Democrats promised that if the American people entrusted us with the control of Congress, one of our top six priorities would be putting college in reach for more Americans.

This week, the Democratic Congress delivers on that promise, sending the College Cost Reduction and Access Act to the President's desk for his signature. The President says he will sign it, which is good news for millions of students and families who are trying to fulfill the American Dream.

The landmark legislation is the largest college aid expansion since the GI Bill in 1944. Under the legislation, the maximum Pell Grant scholarship will increase by more than $1,000 over the next 5 years. More than 5.5 million low- and moderate-income students will receive an immediate boost of almost $500 in their Pell Grant scholarships. The legislation also cuts interest rates in half on student loans, which will save the average student $4,400 over the life of the college loan.

Mr. Speaker, the Democratic Congress has delivered on another of our top priorities as we take America in a new direction.

UNNECESSARY DELAY IN PASSING VETERANS APPROPRIATIONS

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

Mr. PEARCE. Mr. Speaker, I rise today to call attention to the unnecessary delay in passing this year's veterans appropriations.

This year's veterans appropriations passed with an overwhelming majority in both Houses, 409–2 in this body and 92–1 in the Senate. This kind of bipartisanship makes it clear to all that Congress takes its obligation to our Nation's veterans very seriously.

I sincerely believe America's veterans want to see a final version of veterans funding quickly passed so they may receive the desperately needed funding. However, I feel this will not be the case. Last week, one Democratic aide, asked about this year's veterans appropriations, was quoted in Roll Call saying, ''These bills constitute the little bit of leverage we have.''

Mr. Speaker, the sacrifices that our young men and women are making in Iraq and Afghanistan are not leverage. The tragedies that occurred at Walter Reed are not leverage. Veterans health care is not political leverage. We must recognize that veterans funding is critical and should not be used for partisan politics.

I urge my colleagues to rise above the partisan bickering and pass this. Our veterans are demanding: Do not betray us.

COLLEGE COST REDUCTION & ACCESS ACT: DEMOCRATS ACT ON MAKING COLLEGE MORE AFFORDABLE

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

Mr. HINOJOSA. Mr. Speaker, according to the U.S. Department of Education, an estimated 200,000 academically qualified students are not able to go to college every year because they can't afford the cost.

This is a dangerous trend for our Nation, but it is not surprising. Under the Bush administration, prices at public colleges have increased by 40 percent after inflation. And under Republican rule, Pell Grants remained stagnant for 4 years in a row.

When our Democratic majority was elected, we pledged to address this growing crisis, and this week are fulfilling that pledge by sending the College Cost Reduction and Access Act to the President's desk. This important legislation provides the single largest increase in college aid since the GI Bill, increases the maximum Pell Grant over the next 5 years, and cuts interest rates in half on need-based student loans.

Mr. Speaker, this legislation will help millions of students across our Nation afford a college education without saddling themselves with thousands of dollars in debt, and it is the latest example of what the Democratic Congress is doing.

SCHIP

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, I rise today as a strong supporter of the State Children's Health Insurance Program, SCHIP, and I support a responsible reauthorization of this very successful program.

Everybody knows it is going to expire on September 30, unless Congress passes reauthorizing legislation by this date. However, the Democrat leadership in the House and the Senate have been unsuccessful in completing the package.

I am proud today to stand as an original cosponsor of legislation that would reauthorize SCHIP for a period of 18 months. By reauthorizing the program for an additional 18 months, we are taking the politics out of SCHIP policy and protecting the children who

are in this program and who deserve the care. It is an extension of the program that we need; and, if it is not enacted, at least 12 States are going to find themselves without SCHIP funds.

There is a very simple solution to the SCHIP problem: Support the Barton-Deal SCHIP legislation.

NEW BUSH ADMINISTRATION RESTRICTIONS TO THE CHILDREN'S HEALTH INSURANCE PROGRAM

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

Mr. ARCURI. Mr. Speaker, last month the Bush administration dealt yet another blow to uninsured Americans, this time focused on millions of uninsured children in our Nation.

New guidelines set forth by the administration require that children must go without health insurance for at least 1 year before States will be allowed to provide them with coverage under the Children's Health Insurance Program. The administration also requires States to enroll at least 95 percent of the children below 200 percent of the Federal poverty level before they can provide health coverage to other low-income children, a standard that no State in the country can currently meet. The Bush administration is limiting the very flexibility that has made the CHIP program successful.

Mr. Speaker, it is unconscionable for the President to require low-income children to spend a year of their lives without health insurance, especially when we have a program in place that can provide them with the coverage they need today. It is time for the President to stop playing political games with the children's health care and to vow to work with us to strengthen, not weaken, the CHIP program.

CONGRATULATING MISS ANN MIRON

(Mrs. BACHMANN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BACHMANN. Mr. Speaker, too often we heard about the negatives of America's teenagers, but today I rise to congratulate the work of a wonderful young accomplished woman from my district, the Sixth District in Minnesota. Her name, Mr. Speaker, is Ann Miron of Hugo, Minnesota. She is a very accomplished young woman, representing the next generation of American dairy farmers, being an American dairy farmer herself at age 19.

She descends from a long line of Minnesota dairy farmers, living on a country dairy farm, and she was just recently crowned Princess Kay of the Milky Way. In Minnesota, this is a pretty big deal at the county fair. She was crowned Princess Kay, and Ann Miron will begin a year of speaking and promoting Minnesota area dairy farms.

I am privileged to represent the area with the largest number of dairy farms in the State of Minnesota, and even more privileged to have married a dairy farmer myself.

Ann, I join your great parents, Mayor Fran Miron of Hugo, Minnesota, Mary Ann Miron, and the people of Minnesota to wish you a wonderful year promoting dairy farming in the State of Minnesota.

REAL PROGRESS IS NOT BEING MADE IN IRAQ—IT IS TIME FOR A CHANGE OF COURSE

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

Mr. PALLONE. Mr. Speaker, President Bush says progress is being made in Iraq, but many of the examples he pointed to in the nationally televised speech last week were overestimated or overly optimistic. Let me just cite a couple examples.

First, President Bush said, ''Iraq's national leaders are getting some things done, such as sharing oil revenues with the provinces.'' But according to the Washington Post, the President's statement ignored the fact that U.S. officials have been frustrated that none of these actions have become law and that a possible compromise has collapsed.

The President also thanked ''the 36 nations who have troops on the ground in Iraq.'' But if he had checked with his own State Department, he would have realized that only 25 countries are still involved in the war, supplying only 11,600 troops. Now, that is less than 7 percent of the size of the U.S. forces still on the ground.

Mr. Speaker, this is nothing new. The President has been painting rosy scenarios for the situation in Iraq from the very beginning. Time and time again they have been proven wrong. The status quo simply can't continue. It is time to change course.

REENACT FISA

(Mr. DANIEL E. LUNGREN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, yesterday in the House Judiciary Committee we heard from Admiral McConnell, who is the Director of National Intelligence, over the need for us to reenact that bill which we passed just 1½ months ago which reformed FISA, which of course is the Foreign Intelligence Surveillance Act.

Mr. Speaker, probably in the 3 years that I have been here, in my second tour of duty as a Member of Congress, no more important bill did I vote on than voting the passage of a reform of FISA.

The admiral indicated that two-thirds of our foreign terrorist targets were blinded from our review as a result of a FISA court decision under the old FISA. That is why we needed to pass the reform. We put a 6-month leash on it, that is, it will go out of existence in 6 months.

There is no more important thing for this body to do than to pass a reform of FISA that makes permanent the changes that we adopted just 1½ months ago. Our Nation depends on it. Our children and our grandchildren's future depends on it. Let's make sure we act responsibly.

□ 1030

MY FIRST VISIT TO ISRAEL

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

Mr. MCHENRY. Mr. Speaker, traveling to the Holy Land in August, I saw firsthand the challenges facing our ally and friend, Israel. From Syria, the terrorist state in the north, to Lebanon and the chaos existing there further to the north, to the enemies that surround the state, I saw the challenges traveling down the Galilee to the Jordan, down to the Dead Sea and going to the capital, Jerusalem.

While it was my great privilege to walk on that sacred holy ground, I also realized the eye-opening national security issues that they face as a nation. Israel is our greatest ally in the war against Islamic extremists, and it is our function to support them in Israel. It is our imperative to support them. That's why our 10-year security agreement that we recently signed between the United States and Israel is so necessary for the ongoing security, not just of Israel, but of the United States. Israel's enemies are our enemies. We share a common cause, and it is necessary that we stand strong for Israel because it makes us that much stronger.

I encourage the American people to support our greatest ally in the Middle East, Israel.

PROVIDING FOR CONSIDERATION OF H.R. 2761, TERRORISM RISK INSURANCE REVISION AND EXTENSION ACT OF 2007

Mr. ARCURI. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 660 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 660

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2761) to extend the Terrorism Insurance Program of the Department of the Treasury, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. General debate shall be confined to the bill

and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services. After general debate the bill shall be considered for amendment under the five-minute rule. The amendment in the nature of a substitute recommended by the Committee on Financial Services now printed in the bill, modified by the amendment printed in part A of the report of the Committee on Rules accompanying this resolution, shall be considered as adopted in the House and in the Committee of the Whole. The bill, as amended, shall be considered as the original bill for the purpose of further amendment under the five-minute rule and shall be considered as read. All points of order against provisions in the bill, as amended, are waived. Notwithstanding clause 11 of rule XVIII, no further amendment to the bill, as amended, shall be in order except those printed in part B of the report of the Committee on Rules. Each further amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such further amendments are waived except those arising under clause 9 or 10 of rule XXI. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. During consideration in the House of H.R. 2761 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.

The SPEAKER pro tempore (Mr. PASTOR). The gentleman from New York is recognized for 1 hour.

Mr. ARCURI. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. SESSIONS). All time yielded during consideration of this rule is for debate only. I yield myself such time as I may consume. I also ask unanimous consent that all Members be given 5 legislative days in which to revise and extend their remarks on House Resolution 660.

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

There was no objection.

Mr. ARCURI. Mr. Speaker, House Resolution 660 provides for consideration of H.R. 2761, the Terrorism Risk Insurance Revision and Extension Act of 2007 under a structured rule. The rule provides 1 hour of general debate to be controlled by the Committee on Financial Services. The rule also makes in order the substitute reported by the Committee on Financial Services, modified by the amendment in part A of the Rules Committee report, as an original bill for the purpose of amendment. The self-executing amendment in part A would ensure that the bill complies with the new PAYGO requirements. It would require the enactment of a joint resolution to permit Federal compensation under the Terrorism Risk Insurance Act of 2002. The joint resolution, approving a certification by the Secretary of Treasury, in concurrence with the Secretaries of State, Homeland Security and the Attorney General, that there has been an act of terrorism, would be considered by Congress under fast-track procedures.

The rule makes in order two amendments printed in the Rules Committee report, each debatable for 10 minutes.

Mr. Speaker, the Terrorism Insurance Program was originally enacted as a short-term backstop for an insurance industry that was very hard hit by the terrorist attacks that occurred on September 11, 2001. In the years since, we have seen that the private insurance market is unable to cover the risk of both domestic and foreign acts of terrorism without assistance.

The original legislation, the Terrorism Risk Insurance Act, referred to as TRIA, was set to expire at the end of 2005. The Terrorism Risk Insurance Extension Act of 2005 extended the government backstop for two more years, through the end of this year, but left the long-term questions surrounding the program unanswered. Those unanswered questions include: whether the government-run terrorism insurance program is really necessary; how to manage the possibility of a nuclear, biological, chemical or radiological attack, and how best to allocate the risk of terrorist attack between the government and private insurers. The rule provides for consideration of a bill that answers those questions.

Experience has shown that there is a true need for government involvement in terrorism insurance. The exposure for private companies is just too great. In the wake of September 11, 2001, many companies opted to exclude terrorism risk from private insurance policies, leaving no coverage in the event of another attack. TRIA requires primary insurers to make terrorism insurance available to commercial clients that wish to purchase it while at the same time helping those insurers manage their exposure to risk of loss.

The legislation this rule provides for consideration will extend TRIA for 15 years and make necessary revisions aimed at furthering the development of a private market of terrorism risk insurance. Such a long-term extension is vital because it provides certainty and stability to the insurance and real estate markets.

People may think that TRIA is only an issue for businesses in New York City, but that is clearly not the case. In the upstate New York district which I represent, small insurance companies like Utica First, Preferred Mutual and Utica National felt the dramatic impact that 9/11 had on the private market. In the year that followed the September 11 attacks, Utica First saw the volume of policies they were writing in the New York City area increase 27 percent as other companies ceased offering coverage. In order to do so, they risked both their existing surplus and their industry ratings and also incurred greater expense because their own reinsurance required that they purchase a separate terrorism cover. Small companies like this, that continued to offer coverage, are to be commended for taking on greater risk exposure in order to provide the necessary coverage and allow businesses to continue in business and people to continue to work to support their families.

The legislation would also require insurers to offer coverage for nuclear, biological, chemical and radiological terrorist acts. Small insurers, like those in my district, are especially concerned about the effect of adding the nuclear, biological, chemical and radiological requirements to TRIA, but the risk of such an attack is real, and not having any system in place would enhance the devastating effect such a horrific attack would have if it were to happen again in our country.

This bill strikes a good balance because it not only phases in the nuclear, biological, chemical and radiological coverage beginning in 2009, but also provides small insurers, those whose direct earned premium is less than $50 million, the ability to apply for an exemption of up to 2 years with the possibility of further extending that exemption.

This legislation would also make several other critical changes to the terrorism risk insurance program. It would change the definition of terrorism under TRIA to include domestic terrorism, and reset the program trigger level at $50 million. It would expand the program to provide for group life insurance coverage, would decrease deductibles for terrorist attacks costing over $1 billion, and reduce the trigger level in the event of such an attack. Finally, it would require studies on the development of a private insurance market for terrorism risk insurance.

Mr. Speaker, this legislation is a critical step in protecting our national and economic security in the fight against terrorism.

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

Mr. SESSIONS. Mr. Speaker, I rise in strong opposition to this modified closed rule that shuts down debate in the House to every Member of this body, except the chairman of the Financial Services Committee, who has already had ample time and opportunity to modify this legislation, and to one token Republican amendment.

Two nights ago, in the Democrat Rules Committee, which over the last year has truly solidified its reputation as the graveyard of good ideas in the House of Representatives, we had a wide-ranging discussion from Members on both sides of the aisle about their

proposals to improve this legislation. We adjourned this meeting without reporting out a rule so that alternatives to subverting the Rules Committee jurisdiction, while sticking to the Democrat pay-for rule, could be studied. Unfortunately, when the opportunity came for the majority to make good on its campaign promises to run the most honest, ethical and transparent House in history by providing an open and transparent legislative process, Members of this House were, once again, silenced by the heavy-handed Democrat leadership.

While I am no longer surprised by the Democrat leadership's decision to allow politics to prevail over good government, I'm still disappointed, because as the sponsor of legislation to extend the TRIA program in the 108th Congress, I fundamentally believe that it has helped the private sector to stabilize our Nation's economy by providing a functioning marketplace for policyholders to acquire terrorism insurance and for insurers to provide it to them.

In fact, many of the positive aspects of this bill mimic policy proposals included in my legislation, and in legislation introduced last Congress by my good friend from Louisiana, RICHARD BAKER. Like these Republican bills, today's legislation would extend the current program, providing both policyholders and insurers with the certainty needed for long-term projects and our domestic economic health to move forward.

And, like prior Republican legislation, today's bill would eliminate the false distinction between foreign and domestic acts of terror. As we have learned from the London bombings and from the recent foiled terrorist plots in Germany and in New Jersey, no country is insulated from home-grown terrorism, which can be just as destructive and as costly as terrorists from abroad.

Other aspects of this legislation, such as the inclusion of nuclear, biological, chemical, or radiological coverage, mimic past Republican proposals without including market-based modifications that our proposals also contained in order to make this coverage both taxpayer friendly and cost efficient.

Unfortunately, there's one proposal in today's legislation that is unprecedented and that I simply cannot support. Written in the Rules Committee, without any consideration or debate in the Financial Services Committee, and then self-executed by the rule so that it receives no up-or-down vote, this rule contains language that skirts recent Democrat promises to abide by their own self-imposed PAYGO rules by shifting the responsibility of funding TRIA onto future Congresses.

□ 1045

By including this mandate on future Congresses, which the Supreme Court has roundly rejected as unconstitutional, the market stabilization benefits of TRIA completely evaporate.

Rather than helping to provide insurers and policyholders with the certainty that they need to manage their exposure to the financial costs of terrorism, this bill simply kicks the responsibility down the road and by and large says ''we will let somebody else worry about that.''

Rather than clearly signaling to the private sector what the Federal Government will spend in the event of another attack on the United States and what their own costs and responsibilities would be, this hastily drafted language, shoved in in the middle of the night, reintroduces political risk into this financial transaction by leaving these hard decisions up to the whims of a future Congress.

Mr. Speaker, I think this Congress should do better and they can do better than this. Instead of closed rules and artful dodges of the PAYGO rule, I think that Members and their constituents deserve the openness promised by Democrat leadership. Instead of procedural trickery and inserting language of a mysterious origin into this rule without any minority input or open debate, I think that Members and their constituents deserve transparency, which was promised by the Democrat leadership. And, most of all, instead of leaving the hard decisions and potential costs of this program to future Congresses, I believe that Members and their constituents deserve a bill that deals honestly with one of the most serious problems facing the American economy.

Unfortunately, this bill provides none of these things and is a far less responsible approach to dealing with the real-world economic problems posed by terrorism to our country, more than past Republican proposals. In fact, about the best thing that can be said about this bill and the process under which it is being considered today is the fact that perhaps it will spur the Senate to provide the American people with a more serious proposal in dealing with TRIA so that all of the flaws of this legislation can be worked out in conference.

I oppose this rule and encourage all of my colleagues on both sides of the aisle to do the same.

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

Mr. ARCURI. Mr. Speaker, I yield 6 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, there are several aspects of this. One is, of course, whether or not we should go forward with a renewal of terrorism risk insurance.

There are, in our midst, people who believe in the free market so firmly that they believe in it the way other people believe in unicorns. They believe in it even when it does not exist. There are people who oppose terrorism risk insurance from the outset and continue to because they say it should be up to the market. No one involved in the market thinks that makes sense. Indeed, we received a letter from the head of Goldman Sachs in 2005 saying there is no evidence that this can become a market item. His name was Henry Paulson, and he quite clearly said at the time the market wouldn't do it. We then proceeded with a bill that took that into account.

By the way, if the market could do it, it shouldn't because here is what the market would do, and we are talking about the insurance market: If you left this to the market or if you try to phase this out so the market would take it over, the principle of insurance says it should be more expensive to do business in those parts of the country which are likeliest to be hit by terrorists than not because that's the insurance principle. If there is a higher risk, you charge people more. We should not allow murderous fanatics who seek to damage this country to dictate what the cost of doing business is in different regions. That's not a market decision; that's a national security decision. I don't want it to be more expensive because of the murderers who would try to undermine this country to do business here or there.

It is also the case that one of the principles of insurance is that you give it and you give incentives to the insured to reduce the risk and you price in a way that gives those incentives. People can't avoid the risk. There is nothing you can do to stop the terrorists as private citizens from attacking you.

So we were going ahead with the bill. Now, we had a set of markups in subcommittee and committee in which there were some disagreements but some agreements. A number of amendments offered by Republican Members were adopted and the bill had a very large vote coming out of committee.

We then ran into a surprising obstacle. The Congressional Budget Office issued what seems to me an intellectually quite weak opinion. They said this is going to cost $10 billion over the next 5 years. Now, a $10 billion terrorism attack is not within our contemplation. I could see their saying it is not going to cost anything for this period or that it is going to cost hundreds of billions. Apparently they calculated the probability of a terrorist attack and imputed that cost. There will, in fact, be no costs until there is an attack.

My own view, frankly, was that this would have justified an emergency waiver under PAYGO. If being attacked by terrorists, if September 11, 2001, was not an emergency, then I don't understand what the word means.

We have been forced now to try to deal with this in other ways, and I understand that. It has been forced on us by CBO. The notion that we can say something now and leave it to future Congresses, the gentleman from Texas said it was unconstitutional. I am aware of no Supreme Court decision that would invalidate what we have

proposed here. And it couldn't be binding. Nothing is binding of one on a future one. I think that would be a very high degree of probability.

So we do have this approach which came up suddenly. It came up suddenly. It wasn't debated in our committee because the issue of the CBO estimate hadn't come before us in the committee. So we now have Members on the other side complaining that the rule was too restrictive.

Mr. Speaker, when I hear Members of the Republican Party who ran this House in the most blatantly undemocrat fashion for so many years now complain about a lack of democracy, I feel like I am in a motion picture theater and I'm watching an Ingmar Bergman dark movie which features the Three Stooges. The incongruity of these masters of authoritarian legislative procedure now complaining because there isn't enough democracy is one of the great conversions of all time. And I would have to say to my born-again believers in an open process that in this case at the committee level, we had a hearing, we had a subcommittee markup and a committee markup, and we dealt very much with those issues.

My own preference would have been to allow a few more amendments, but the fundamental issues have been debated, and the key issue is, unfortunately, the one that has troubled them, is how do you deal with the CBO. Now, either you do a waiver of PAYGO or you make cuts now of $10 billion in programs on the possibility of there being a terrorist attack. It seems to me that is a great favor to terrorists. Let them cut programs now by just threatening to blow us up. Or you try to come up with some set of procedures that say we really intend to do this but we can't make it absolutely binding.

I do not think the set of procedures we have here will be the final say. It was a difficult situation that we found with that, I thought, CBO estimate. And the CBO estimate basically says here is what we say but it's probably not going to be this way. And I hope, as we go forward, there will be meetings with industry. And, by the way, industry is not just the insurance industry. It's the commercial building industry. They are the ones who are at risk here. The insurance industry can walk away, but if they walk away, we won't get commercial buildings built, particularly in our big cities, which is why the mayors of the big cities are so concerned and others are concerned about economic development.

So we need further work to see how we can deal with this CBO issue, and I think we have a reasonable first cut. It is one where, it is true, we did not deal with it in our committee. What we dealt with in the committee in great detail with a number of amendments and a lot of compromise were all the other factors. And we now get this new issue. This is a good-faith effort to deal with the new issue but not in a way that is final. So I hope we can go forward.

Mr. SESSIONS. Mr. Speaker, at this time I am going to yield to the gentleman from California, who will help us to understand a little bit more clearly about the uncooked and, I believe, sloppy work that was presented to the Rules Committee such that many, many, many Members on a bipartisan basis questioned the decision that was made, and it will help us to reflect upon an opportunity about how it could be done better.

I yield 5 minutes to the ranking member of the Rules Committee, the gentleman from San Dimas, California, the Honorable DAVID DREIER.

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

Mr. DREIER. Mr. Speaker, a week ago yesterday we marked the sixth anniversary of one of the most tragic days in our Nation's history, that being September 11, 2001. We all, in the wake of that tragedy, the likes of which we had never seen in our Nation's history, came together and united in a bipartisan way to deal with the aftermath of September 11 of 2001. One of the many things that we did was realize that we are a Nation at war, and in light of that, the private insurance industry, and I am a free marketeer, the private insurance industry needed to have some kind of Federal backdrop if another horrendous terrorist attack is thrust upon the American people. So I supported the notion of saying, you know what, when we are a Nation at war, the free market can't just automatically protect those who are victimized by that kind of attack. So I became a supporter of this and I worked on it early on and supported the extension of it. And as I stand here today, I still believe that we are a Nation at war and it is imperative that we do everything possible to ensure that we, the Federal Government, stand up and play the role that we have to in leading the fight.

Well, Mr. Speaker, unfortunately, what we are doing with this rule is undermining something that Mr. ARCURI said in his opening remarks that this bill creates: certainty. Mr. ARCURI said that this bill creates certainty. Mr. Speaker, what we are doing with this self-executed provision in this rule, and my friend Mr. ACKERMAN from New York understands this very well, is we are completely obliterating any kind of certainty.

Now, this was designed as a mandatory program. Mandatory, why? Because if we face the attack, there needs to be certainty that the Federal Government is behind it. Now, I know that many people will say, oh, of course the Congress is going to take action, of course the Congress will do it. You know what, Mr. Speaker? That is not good enough for people who are investors, people who are in an industry that is responsible for dealing with the aftermath of the kind of attack that we saw on September 11.

That is why I believe it is absolutely imperative that we oppose this rule. We need to do everything that we can in a bipartisan way to defeat this rule. Why? Because we have been given this multipage, self-executing provision which undermines the jurisdiction of the Rules Committee. And that is why I am really hard pressed to believe that any member of the House Rules Committee, the traffic cop for this institution, I believe the single most important committee in this institution, how any member could basically cede the authority that we would have on this. And you look at the other committees of jurisdiction that are completely ignored, the Judiciary Committee. The Budget Committee clearly should be involved in this process. We need to have budget process reform. Our committee, our Rules Committee, Mr. Speaker, should be holding hearings on this. We should look at the issue of dynamic scoring. Yes, the hands of the Congressional Budget Office are tied because they have to look at 5- and 10-year projections. What we need to do is we need to bring about the kind of responsible reform that can ensure, that can ensure that we have the kind of certainty that is necessary.

So, Mr. Speaker, I have got to say that I know that there is strong bipartisan concern about this issue. This is not the way to deal with it. I said if given a simple choice in the Rules Committee between a waiver of PAYGO, which is, I believe, a very flawed rule that was put into place at the beginning of this Congress, or this provision, this self-executing provision, sure, I'd prefer that waiver over that. But there has got to be another solution. And the reason is that this new Congress put into the rules this PAYGO provision, very well intentioned but very, very badly flawed, Mr. Speaker. So I think that if we look at what it is we are doing on this in the name of trying to avoid a waiver of PAYGO, this self-executing provision actually waives PAYGO completely.

□ 1100

And so I've got to tell you, this is a horrible rule; it is a horrible process; it is unprecedented. And I hope the Democrats and Republicans alike will join in saying, yes, we need to have a responsible terrorism risk insurance measure passed, but we need to come down with a provision that responsibly budgets that, and this is not it.

Mr. ARCURI. I think the gentleman is right, this may be unprecedented; but the attack on 9/11 was unprecedented as well, and sometimes unprecedented events require unprecedented action, and that's what we are attempting to do today, create a rule to enact legislation like TRIA to create a backstop so that insurance companies can continue to create a stable environment for business to thrive in New York City.

Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania (Mr. KANJORSKI).

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

Mr. KANJORSKI. Mr. Speaker, I rise to support this resolution setting forth the terms of debate for considering H.R. 2761 on the House floor.

The adoption of this rule will allow the House to debate this must-pass legislation to extend the Terrorism Risk Insurance Program. We need to move this process forward as quickly as possible.

I know that some participants in today's debate will raise concerns about the structure of the rule concerning the method by which it addresses issues related to the PAYGO rules. I must concede to them that the proposed rule is imperfect in this regard.

Throughout the debate on this legislation, the chairman of the Financial Services Committee, the gentleman from Massachusetts, and I have agreed that the Terrorism Risk Insurance program is very important. It protects America's economy from terrorist attacks. Certainly, the Federal Government has a role in protecting our Nation from terrorist events.

Moreover, this Federal backstop only responds to an emergency situation and only becomes implemented after a terrorist attack. Because TRIA plans ahead for an emergency caused by terrorists, Congress should treat spending under this law as an emergency.

PAYGO is an important rule that keeps Congress fiscally responsible. PAYGO, however, should not apply to all pieces of legislation, especially those bills that plan ahead for national emergencies caused by terrorists. My view is that all legislation should be fiscally responsible to the maximum extent possible.

Accordingly, I have had concerns about costs throughout the development and debate of this legislation. In fact, I voted, in many instances, to control those costs, such as limiting the length of the extension and increasing the private sector's responsibilities after a reset.

TRIA is not an entitlement program. It is a program for protecting the economic security of our Nation. H.R. 2761 is a necessary piece of legislation that will maintain stability in our economy after a terrorist attack on our Nation, rather than waiting for the government to develop an ad hoc plan after an event.

While we cannot predict when or where the terrorists may choose to attack us, we can prudently plan ahead for such a possibility. Like many participants familiar with this debate, I have concerns about the requirement in this rule to have a separate vote of Congress on funding for the program after an attack. With Federal payments conditioned on a congressional vote even under expedited procedures, much of the certainty of the program is taken away. It is my hope, therefore, that we will continue to work on a better solution before this bill comes back to the House floor in a conference report.

That said, Mr. Speaker, we must move the process forward. I, therefore, urge my colleagues to support this rule on H.R. 2761.

Mr. SESSIONS. Mr. Speaker, I would like to congratulate the gentleman for his fine remarks. As a matter of fact, I agree with him, that I do not believe that it is proper or correct to have a mandatory bill which requires mandatory spending, but discretionary funding that's available. And that is exactly what this new Democrat majority is doing. They are saying we would be absolutely required, mandatory, to spend the money, but discretionary as to whether we're really serious about providing that or not. And I believe that that is a serious question that comes under question today about the serious nature of the policy of this.

I don't attack the underlying legislation at all. The legislation does not bother me. I've supported this for years. That's what will be the underpinning of making our country stronger and better and preparing us for what may be in our future. But you can't require something and then not provide the money, especially under PAYGO rules that you had initiated yourself.

So this is simply a debate that the new Democrat majority is having within itself about whether they're really serious about their opportunity to bring to the table serious policy issues that face this great Nation.

Mr. Speaker, at this time, I would like to yield 5 minutes to the gentleman from Georgia, Dr. PRICE.

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

Mr. PRICE of Georgia. Mr. Speaker, I appreciate my colleague from Texas and his leadership on this issue.

Mr. Speaker, I rise to oppose this remarkable rule, this martial-law rule.

Mr. Speaker, as you likely know, the new majority is becoming much more creative with their rule writing, and frankly it would be humorous if it weren't so serious.

At the beginning of this Congress, this new majority promised us a fair and an open process, but again the majority has failed to live up to that promise. Speaker PELOSI said, ''Because the debate has been limited and Americans' voices silenced by this restrictive rule, I urge my colleagues to vote against the rule.'' That's what she said before the election last year. Well, I agree with the Speaker, we ought to vote against this restrictive rule.

Chairman LOUISE SLAUGHTER of the Rules Committee said before, ''If we want to foster democracy in this body, we should take the time and the thoughtfulness to debate all legislation under an open rule. An open process should be the norm and not the exception.'' Well, I agree, Mr. Speaker. Now, is that a broken promise, or is it political expediency?

Democrat Caucus Chairman RAHM EMANUEL said before the election, ''Let's have an up-or-down vote. Don't be scared. Don't hide behind some little rule. Come on out here. Put it on the table, and let's have a vote.'' Well, Mr. Speaker, I agree.

Mr. Speaker, there were five amendments in total that were submitted to the Rules Committee last night. Two were made in order. What's the rush, Mr. Speaker? Which idea was so scary that the new majority decided to shut down debate? In the wake of a terrorist attack, as a result of this legislation, the liability of the American taxpayer is over $100 billion. So this legislation represents a dramatic increase in exposure to the taxpayer. And that may be appropriate.

I offered an amendment that would have allowed for appropriate PAYGO rules to make certain that we funded this bill. It went down by a partisan vote. My amendment would have protected the taxpayer dollars of hard-working Americans. There would be real offsets, a commonsense approach. If there is to be a taxpayer subsidy, as good stewards of the American hard-earned taxpayer dollars, we should provide the specific spending decrease to offset any new spending required by this legislation. Instead, Mr. Speaker, we get a budget gimmick that many of my friends and I believe is likely unconstitutional.

And that's not only the opinion of those on our side of the aisle. I have here a letter to Speaker PELOSI and Majority Leader HOYER from the office of Congressman ACKERMAN, a respected Member on the other side, who said, ''It is our strong belief that making the entire program contingent on Congress passing a second piece of legislation completely undermines the intent and the desired effect of the legislation.'' Not only unconstitutional, Mr. Speaker, but irresponsible.

Well, welcome to the theater of the absurd. Only in Washington would someone believe that requiring an additional vote at some point in the future for Congress to be able to release funds, where PAYGO won't apply, that it would diminish the cost to the hard-earned American taxpayer, or even that it's possible to do so.

Mr. Speaker, rules aren't rules if you only follow them when you want to. The Democrats promised to use PAYGO rules for everything. Instead, they're picking and choosing when they do so. At home, we call that breaking a rule and breaking a promise. Fiscal responsibility shouldn't just be something that we trump out there during campaigns and on the campaign trail.

What idea, what amendment was so scary that it inspired this incredibly draconian and restrictive rule? I urge my colleagues not to be scared. Don't hide behind, as Mr. EMANUEL said, some little rule. Vote ''no'' on this rule so we can have real PAYGO, real fiscal responsibility on this legislation. The American people deserve no less.

Mr. ARCURI. Mr. Speaker, the gentleman from Georgia asks, What is the

rush? He then talks about the theater of the absurd. What I find to be absurd is the fact that we are doing everything that we possibly can to try to prevent this legislation from being passed.

This is critical legislation. This is important not just to New Yorkers, this is important to the entire country. This is a critical piece of legislation that must get passed, and the steps that we are taking today are necessary if we are going to create the stability in business that is necessary to continue and allow our economy to grow.

I don't think it's absurd for the people who were there on 9/11. I don't think it's absurd for the insurance companies that now want to begin to insure the businesses and buildings in New York City. Oh, no, this is not absurd at all. This is the business of Congress. This is what we do, and this is what we do best.

Mr. Speaker, I now yield 5 minutes to the gentleman from New York (Mr. ACKERMAN).

Mr. ACKERMAN. I thank the other gentleman from New York.

Mr. Speaker, there are equities on both sides of this issue.

First of all, I think that we all have to and do understand that in order for any major development project to go forward, developers have to put together a plan, they have to put together their financing. Financing has to be secured in order for financing to be assured. Insurance has to be issued for any major project to go forward. There is no insurer that I can think of that would put $10 billion on the line without some backup in this day and age by the Federal Government, and I think that we're all pretty much in agreement to that.

In this argument of what to do on this rule and how to proceed, there are equities on both sides. It has been my view that the first thing that we should do is fix the rule so that in case this country is under a terrorist attack anywhere in the country, and this is not just New York City, we've been attacked, we've been attacked already, but anywhere in the country where a terrorist attack involving huge amounts of money, that the Federal Government would step in and we would not worry about the budget and the bottom line and balancing. Any city, any town, any State, any American community deserves to know that if America is attacked, and attacked in their city, in their neighborhood, in their community, that America stands behind them and will help make them whole and help put them back together again.

So it makes tremendous sense that the rule on PAYGO that was instituted and put into the rules of this House be made to accommodate the situation that says, in the case of war and in the case of a terrorist attack, nothing is going to stop us from moving forward, doing the business of America and assuring the American people.

My friends on the Republican side understand that, and they were helping to try to put this together. But the approach that we have taken up until this very moment, and, that is, putting the bill forward and then looking to find a fix later on down the road in my view was putting the horse in back of the cart. That has to be fixed, and that has to be addressed.

I originally came down here with the intent of opposing the rule, opposing the rule not because I oppose the bill, because I serve on the Financial Services Committee and worked very hard under the leadership and tutelage of Chairman FRANK who has done an immense job together with our Republican colleagues on the committee to bring a great bill to the floor only to find that it was subject to PAYGO.

I've come to the conclusion, Mr. Speaker, that we should not be looking to sidestep PAYGO. We should not be looking to make an exception to PAYGO. We should not be looking to work around PAYGO. What we should be doing is bringing common sense to the process and amending the PAYGO rules so that in the case of a terrorist attack, PAYGO is not applicable, not that we make an end run around it.

In the last few moments, Mr. Speaker, I have, after consultation with the majority leader, received a letter from him, and he has been in meetings with the Speaker of the House on this up until this very moment. And those who have intended to oppose the rule have received in writing from the majority leader, after consultation with the Speaker, an assurance in writing in this letter to us that this process will not go forward in its final form for a second vote in the House until we not sidestep PAYGO, but address the issue of PAYGO and make it right so that it makes common sense to the House and to the American people.

I have that assurance, Mr. Speaker, that this process will be fixed and that we are engaged in an ongoing process, that this vote will not be the final step, that the vote after the rule on the bill will not be final, that this bill will not be brought before us in the conference, that we will reverse and put the horse in front of the cart.

□ 1115

I would urge those with whom I have conferred, New Yorkers and others who were very, very concerned about this process, that with the assurance of the Speaker of the House and the majority leader of the House with whom I have worked for 25 years and whose word is gold, that we will bring common sense to this process and fix it before this process is through.

Mr. SESSIONS. Mr. Speaker, I appreciate the gentleman, once again, another speaker from our friends on the Democrat side, talking with us about how they are going to fix it. We appreciate that.

That is what we are asking for today. The best I can tell you is that the Republican Party is in favor of fixing it. We believe the best way to do it is on the floor of the House right now, because right now we could fix it where all the Members will understand what the ramifications are. The ramifications are either that we are going to say that terrorist attacks don't apply under PAYGO rules or that terrorist attacks would be in fine print, that now perhaps the Democrat majority wants to put in that all this spending applies but perhaps not under certain circumstances. I think we could craft a deal here.

But now what the gentleman is asking us to do is ''just trust me.'' Well, the first thing I would like to do is get a copy of the letter. It would be appropriate for me to ask for that. I know the gentleman, Mr. ACKERMAN, does not oppose my getting a copy of that letter. But what we are now being told is, ''now trust us that it will be brought back in a forum where there is debate, but it is either an up or down vote.'' We can't change that decision, nor can any other Member of this body change that. We have heard enough people talk today about how what is happening is wrong, should not happen, is bad policy. We ought to fix it today here on the floor if we are going to move forward and not say, ''trust me, trust me, wait for fine print or disagreement later.''

I appreciate the gentleman, Mr. ACKERMAN. I thought it was not only very nice what he did but well spoken, and I appreciate the gentleman very much.

Mr. Speaker, I yield 5 minutes to my friend, the gentleman from New York (Mr. KING).

Mr. KING of New York. Mr. Speaker, I thank the gentleman from Texas for yielding.

I rise in strong support of the underlying legislation and certainly with very strong questions and reservations about the rule. Like Mr. ACKERMAN, I certainly came to the floor intending to oppose the rule. I will study the letter which Mr. ACKERMAN obtained from the majority leader. I agree with Mr. SESSIONS that this is a very uncertain way to proceed, relying on a promise from a letter. Not that I, in any way, question the intent to follow through on the promise, but again, how that could be interpreted, what the final language will be, does raise serious issues.

Having said that, I commend Mr. ACKERMAN for his efforts. I do believe it is important that this process continue to go forward.

The reason I support the underlying legislation, Mr. Speaker, is that this is not a New York issue, even though it is often focused that way because of the fact that there have been two major terrorist attacks on New York City, but it truly is a national issue. I want to commend Chairman FRANK for his efforts at the committee level. I also want to emphasize that this was a bipartisan vote which voted this bill out of committee. I particularly appreciate

the fact that, in the committee, an amendment was offered by myself and Mr. ACKERMAN which extends TRIA 15 years, passed by a bipartisan vote.

I know that, certainly on my side of the aisle, a number of Members are concerned about the reason that the 15-year term is essential. The fact is that any significant project is going to be of 15 years' duration. Both the preliminary work and the construction itself is going to go to 15 years. The insurance money, for instance, in New York, where they are attempting to rebuild Ground Zero, would not be available at this time unless TRIA is extended. And also the insurers have the certainty that TRIA will be there for the 15 years, for the duration of the project.

I have to emphasize that there will be not one nickel spent of this money unless New York or Chicago or Los Angeles or any other city in the country is attacked by terrorists. So if any city were attacked, we know the government would step in. Why not have that precaution now? Why not give the insurers the certainty, and the municipalities the certainty, so they can go forward with this development? Otherwise, we are allowing the terrorists to set the terms and conditions. We are letting them determine what is going to be built and not rebuilt. If this 15-year extension does not go forward, if TRIA is not extended, the reality is that there will not be a rebuilding of Ground Zero. If Ground Zero is not rebuilt, then this is a magnificent victory for a horrible, horrible force, Islamic terrorism. So we should be the ones determining what our economic security is and what our homeland security is. Passage of TRIA is an essential component of that.

As the former chairman of the Homeland Security Committee and its ranking member, Mr. Speaker, I am very much aware how New York and other cities in other parts of our country are in the crosshairs of Islamic terrorism. We know that attacks are inevitable. Whether or not they are successful is another story, but certainly attempted attacks are inevitable. I believe it is essential that no matter what part of the country you are from, you have the assurance that if, God forbid, you are attacked, that there will be insurance in place for you to rebuild. Because otherwise, you are not going to find insurers stepping forward. Places like New York, which was attacked, will not receive insurance that it needs to go forward. And the terrorists will have scored and attained not just the victory they attained on September 11 where almost 3,000 people were murdered, but they will have the additional victory in that the area that they attacked will not be rebuilt.

It could be New York. As I said, it was New York in 1993. It was New York in 2001. It could be any one of a number of other cities in the future. So let us protect ourselves in the ultimate essence of homeland security and have a complete component of security, and TRIA is essential to that.

Mr. Speaker, I urge adoption of the underlying legislation. I look forward to examining the letter which Mr. ACKERMAN procured and see what that signifies for the future. But the reality is that we have to have the absolute assurance. We cannot be relying on a vote sometime in the future. The government itself could be attacked. The Capitol may not be here. There may not be a quorum of Members attainable. We have to have that absolute assurance in place now.

With that, again, I thank Chairman FRANK. I thank, certainly, Mr. SESSIONS for his courtesy. I thank Mr. ACKERMAN for his efforts. I also thank Ranking Member BACHUS for his cooperation and courtesy throughout this hearing.

Mr. ARCURI. Mr. Speaker, I thank my friend and colleague from New York (Mr. KING) for his words. He has worked hard on the TRIA legislation, and we appreciate that.

Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. CAPUANO).

Mr. CAPUANO. Mr. Speaker, reasonable people have differences of opinion on the base bill. There are a lot of things in here that I think different people can have different opinions on, the 15-year time limits and the triggers in the deductibles. A lot of them, almost all of them, are reasonable best guesses based on experience, and that is it. They are open to discussion. They are open to debate. There is no definitive answer as to which one is right. This bill is the classic example of compromise upon compromise to try to get to a bill that as many people can support and feel comfortable with as possible.

If the debate here right now or later on is on the base bill, that is hard to argue. That is a gut feeling. There are no definitives and no real answers. But I will tell you that when the argument turns to fiscal responsibility and there is this false argument that someone is more fiscally responsible than someone else, it bothers me. It bothers me a lot, because I think that is beginning to get into the great lie to the American people: ''We are more responsible than you. We are more responsible. We do this; you do that.'' Well, the truth is, not a single penny of taxpayers' money will be paid out in this bill under this rule unless Congress acts again. Not one penny.

Now, I understand that some people find that uncomfortable. I respect that. If there is another route to take, fine. I am open to discussion. I am open to the proposals. But to pretend this bill is somehow going to spend taxpayers' money when it is not is ludicrous. To pretend that people here are more fiscally responsible than others when they are not bothers me even more.

We had one major vote on PAYGO. One. And that was November 14, 2002, when the Republican-led House put forth a bill on this floor that basically gutted and terminated PAYGO. Only 19 Members of this House voted against that bill. Not a single Republican voted against it. Not one. And it gutted and killed PAYGO, according to CRS, to the tune of $560 billion. That was real money and real PAYGO that threatened a real sequestration over 5 years. Yet, the Republican-led House then, after the 9/11 attack, while we were in the middle of war, decided PAYGO was not important then. They killed it. If it wasn't important then, and yet today we are taking an action that we guarantee that no taxpayer money gets spent without additional action by this House, then I don't understand the logic. I see it as nothing but hypocritical.

Mr. SESSIONS. Mr. Speaker, you know, I do appreciate my good friend, the gentleman from Massachusetts, coming in and arguing, but his side has already given in on this point. They have already conceded that they don't like the way the bill is, the self-executing rule. There is already agreement on his side, ''Whoa, this is wrong. We don't agree with this. We will agree to fix it.''

So, I love the gentleman from Massachusetts, he and I are very good friends, but they have already conceded that point. They have already said, ''We think there could be a better way to do it. We agree to fix it.'' So what did we say on this side? ''Thank you very much, Mr. ACKERMAN. We appreciate this. That is what we have been asking for. We are pleased that we got it.''

I wish we had the agreement here today. I wish we knew what that deal was going to be before you brought the bill to the floor. That's why we held off in the Rules Committee for an extra day waiting for a better answer. Didn't get it, get to the floor.

I would say to my good friends on this side, if you want us to be a better minority, you are going to have to be a better majority. We took seriously what Speaker PELOSI said, ''honest, open, ethical Congress.'' We are still waiting for that through the Rules Committee. When she said, ''PAYGO is going to apply to everything,'' it implied that Republicans didn't do that. Then we took that at the surface of the words, not looking for fine print, not looking for how they are going to try and get out of it. So we are trying to make sure that we simply know what we are supposed to count on.

They have come to the floor today, and they have said, ''We are going to work on it.'' I am pleased we are going to do that. I am simply saying that it should have been done before it got here. That is sloppy.

Mr. Speaker, at this time, I have no additional speakers on the rule. I yield to the gentleman from New York to run down his time, then I will make my closing statement.

Mr. ARCURI. I have no further speakers, Mr. Speaker.

Mr. SESSIONS. Mr. Speaker, I will be asking Members to oppose the previous question so that I may amend the

rule to allow for the consideration of H. Res. 479, a resolution that I have not heard talked about today but the concepts are in that that I will call the ''Earmark Accountability Rule.''

At the beginning of this Congress, a number of promises were made to the American people about the Democrats' supposedly new and improved earmark rules.

□ 1130

As the Congress has worn on, however, I have noticed that while the Democrats' rule changes definitely sound good, they have not really lived up to their promise and have not really accomplished much, since the majority has repeatedly turned their head the other way when it comes to their actual enforcement.

I acknowledge that the majority has given into the minority demands for enforcement of their own rules a handful of times when it comes to appropriations conference reports. Unfortunately, we continue to see non-disclosed earmarks in all sorts of bills, also.

This rules change would simply allow the House to debate openly and honestly the validity and accuracy of earmarks contained in all bills, not just appropriations bills. If we defeat the previous question, we can address that problem today and restore this Congress' nonexistent credibility when it comes to enforcement of its rules, like we have seen once again today.

Mr. Speaker, I ask unanimous consent to have the text of the amendment and extraneous material appear in the RECORD just prior to the vote on the previous question.

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

There was no objection.

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

Mr. ARCURI. Mr. Speaker, I am troubled by the fact that today, everything we hear from the other side is smoke and mirrors. They want to talk about everything except what we are here to talk about today, and that is the rule on the TRIA legislation.

My friend from Texas infers that the Rules Committee is not open, honest and ethical. Well, I resent that. I think we are very open, we are honest, and we are very ethical. He knows that, and he shouldn't put petty partisan politics ahead of what we are here today to do, and that is to pass a rule on TRIA legislation.

Protecting the security and safety of America is without question our top priority and the reason that we are here in Congress as Members of this institution. The horrible terrorist attacks of September 11, 2001, had a devastating effect on so many people in this country; not just New Yorkers, but people all over this country.

It also had a devastating economic impact on the commercial insurance market. Many primary insurers stopped writing policies. Special guidelines were instituted when insuring buildings thought to be likely terrorist targets and other properties surrounding them. Reinsurers, those companies that insure the insurance companies, excluded terrorist events from coverage altogether.

To address this market failure, Congress passed the Terrorism Risk Insurance Act, and that was under the Republican Congress, because it was the right thing to do. And we will continue to do the right thing here today.

TRIA has been a success. Primary insurers are able to write policies and business owners are able to obtain coverage. Stability was restored to this vital market. If we do not act now to extend TRIA, this program will expire and we will be back where we were following the September 11 attacks.

H.R. 2761 extends TRIA by 15 years to provide added certainty to this vital sector of our economy that a mere 2-year extension cannot provide. The bill also lays the groundwork for the inclusion of coverage for nuclear, biological, chemical and radiological terrorist acts, while at the same time allowing for an exemption for small insurers that would be unfairly impacted by this necessary expansion.

The circumstances before us are unlike anything we have confronted in our Nation's history. We must not allow terrorist attacks to force valuable businesses to fail because they cannot afford insurance.

Mr. Speaker, I am proud to stand here today as a member of the new Democratic majority, watching out for the interests of our Nation's business community by providing much-needed predictability in the terrorism risk insurance market.

Mr. Speaker, I urge a ''yes'' vote on this rule and on the previous question.

The material previously referred to by Mr. SESSIONS is as follows:

AMENDMENT TO H. RES. 660 OFFERED BY MR. SESSIONS OF TEXAS

At the end of the resolution, add the following:

SEC. 3. That immediately upon the adoption of this resolution the House shall, without intervention of any point of order, consider the resolution (H. Res. 479) to amend the Rules of the House of Representatives to provide for enforcement of clause 9 of rule XXI of the Rules of the House of Representatives. The resolution shall be considered as read. The previous question shall be considered as ordered on the resolution to final adoption without intervening motion or demand for division of the question except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Rules; and (2) one motion to recommit.

(The information contained herein was provided by Democratic Minority on multiple occasions throughout the 109th Congress.)

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Democratic majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308–311) describes the vote on the previous question on the rule as ''a motion to direct or control the consideration of the subject before the House being made by the Member in charge.'' To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that ''the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition'' in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R–Illinois) said: ''The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition.''

Because the vote today may look bad for the Democratic majority they will say ''the vote on the previous question is simply a vote on whether to proceed to an immediate 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 definition of the previous question used in the Floor Procedures Manual published by the Rules Committee in the 109th Congress, (page 56). Here's how the Rules Committee described the rule using information from Congressional Quarterly's ''American Congressional Dictionary'': ''If the previous question is defeated, control of debate shifts to the leading opposition member (usually the minority Floor Manager) who then manages an hour of debate and may offer a germane amendment to the pending business.''

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 Democratic majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. ARCURI. 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 noes appeared to have it.

Mr. ARCURI. 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.

Votes will be taken in the following order: on approving the Journal, de novo; on ordering the previous question on H. Res. 660, by the yeas and nays; on adopting H. Res. 660, if ordered.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the unfinished business is the question on agreeing to the Speaker's approval of the Journal.

The question is on the Speaker's approval of the Journal.

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

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

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 228, nays 192, not voting 12, as follows:

[Roll No. 878]

YEAS—228

Abercrombie
Ackerman
Andrews
Arcuri
Baird
Baldwin
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Brown, Corrine
Buchanan
Butterfield
Cannon
Capps
Capuano
Cardoza
Carnahan
Carson
Castor
Chabot
Chandler
Clarke
Clay
Cleaver
Clyburn
Coble
Cohen
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
Davis, Tom
DeGette
Delahunt
DeLauro
Dent
Dicks
Dingell
Doggett
Doyle
Edwards
Ellison
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Forbes
Fortenberry
Frank (MA)
Giffords
Gillibrand
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Kingston
Klein (FL)
Kucinich
Kuhl (NY)
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Paul
Payne
Perlmutter
Pomeroy
Porter
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Skelton
Smith (NJ)
Smith (WA)
Snyder
Solis
Space
Spratt
Stark
Sutton
Tanner
Tauscher
Taylor
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Wilson (OH)
Woolsey
Wu
Wynn
Yarmuth

NAYS—192

Aderholt
Akin
Alexander
Altmire
Bachmann
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cantor
Capito
Carter
Castle
Cole (OK)
Conaway
Crenshaw
Culberson
Davis (KY)
Davis, David
Deal (GA)
DeFazio
Diaz-Balart, L.
Diaz-Balart, M.
Donnelly
Doolittle
Drake
Dreier
Duncan
Ehlers
Ellsworth
Emerson
English (PA)
Everett
Fallin
Feeney
Ferguson
Flake
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gerlach
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Hall (TX)
Hastert
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hill
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Issa
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
King (NY)
Kirk
Kline (MN)
LaHood
Lamborn
Latham
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mitchell
Moran (KS)
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Sali
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (TX)
Souder
Stearns
Stupak
Sullivan
Tancredo
Terry
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walberg
Walden (OR)
Walsh (NY)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—12

Allen
Baca
Braley (IA)
Carney
Cubin
Davis, Jo Ann
Garrett (NJ)
Gilchrest
Jindal
Johnson (GA)
Knollenberg
Slaughter

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1159

Mr. KUHL of New York changed his vote from ''nay'' to ''yea.''

So the Journal was approved.

The result of the vote was announced as above recorded.

PROVIDING FOR CONSIDERATION OF H.R. 2761, TERRORISM RISK INSURANCE REVISION AND EXTENSION ACT OF 2007

The SPEAKER pro tempore. The unfinished business is the vote on ordering the previous question on House Resolution 660, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 224, nays 197, not voting 11, as follows:

[Roll No. 879]

YEAS—224

Abercrombie
Ackerman
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carson
Castor
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Eshoo
Etheridge
Farr
Fattah
Filner
Frank (MA)
Giffords
Gillibrand
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mitchell

Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Perlmutter
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Space
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Wilson (OH)
Woolsey
Wu
Wynn
Yarmuth

NAYS—197

Aderholt
Akin
Alexander
Bachmann
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Coble
Cole (OK)
Conaway
Crenshaw
Culberson
Davis (KY)
Davis, David
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Fallin
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Hall (TX)
Hastert
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Issa
Johnson (IL)
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Kuhl (NY)
LaHood
Lamborn
Lampson
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Sali
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Tancredo
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walberg
Walden (OR)
Walsh (NY)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—11

Allen
Bachus
Carney
Cubin
Davis, Jo Ann
Engel
Gilchrest
Jindal
Johnson (GA)
Jones (OH)
Knollenberg

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1206

Mr. WELCH of Vermont changed his 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 question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SESSIONS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 223, noes 195, not voting 14, as follows:

[Roll No. 880]

AYES—223

Abercrombie
Ackerman
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carson
Castor
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Eshoo
Etheridge
Farr
Fattah
Filner
Frank (MA)
Giffords
Gillibrand
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
McCollum (MN)
McDermott
McGovern
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Perlmutter
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Space
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Wilson (OH)
Woolsey
Wu
Wynn
Yarmuth

NOES—195

Aderholt
Akin
Alexander
Altmire
Bachmann
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Coble
Cole (OK)
Crenshaw
Culberson
Davis (KY)
Davis, David
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Fallin
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Hall (TX)
Hastert
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Issa
Johnson (IL)
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Kuhl (NY)
LaHood
Lamborn
Lampson
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Sali
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Tancredo
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walberg
Walden (OR)
Walsh (NY)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—14

Allen
Carney
Conaway
Cubin
Davis, Jo Ann
Engel
Gilchrest
Jindal
Johnson (GA)
Knollenberg
Matsui
McCarthy (NY)
Pryce (OH)
Sullivan

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1214

Mr. ALTMIRE changed his vote from ''aye'' to ''no.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANK of Massachusetts. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on H.R. 2761 and to insert extraneous material therein.

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

There was no objection.

TERRORISM RISK INSURANCE REVISION AND EXTENSION ACT OF 2007

The SPEAKER pro tempore. Pursuant to House Resolution 660 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 2761.

□ 1215

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 2761) to extend the Terrorism Insurance Program of the Department of the Treasury, and for other purposes, with Mr. ISRAEL in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Massachusetts (Mr. FRANK) and the gentleman from Alabama (Mr. BACHUS) each will control 30 minutes.

The Chair recognizes the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, this is a continuation of a program that the Congress adopted in one of the previous Congresses to provide insurance in case of a terrorist attack. We had, obviously, the terrible murderous attack on America in 2001.

Substantial damage was done. Obviously, the overwhelming cost of that was in the human lives caused by these murderers, but we also had property damage. And I believe that it is unrealistic to think, and in fact inappropriate to urge, that the private insurance market, which functions very well in this country and serves us well, that that ought to be used in response to terrorism. We bring a bill forward that would provide both for life and property insurance from the Federal Government worked out in various ways.

There are two arguments for continuing this on an ongoing basis. Everybody agrees that it needs to be extended for a while. Some have said phase it out, let the private market ultimately take it over. I believe there are two reasons why that is not a good idea.

First, virtually no entities that are in the private insurance market believe that the private market could handle this well. Not only do the insurers believe that, but the customers of the insurance believe it. And primarily, by the way, the customers here are commercial real estate developers. People who are going to build large commercial buildings with tens, hundreds of millions of dollars in construction costs cannot build without a bank loan, and the banks will not lend and would not be allowed to lend by the regulators without fully insuring against all risks, including the risks of the terrorism that we wish were not around but clearly still is.

We do not believe, based on extensive conversations with virtually everyone in the marketplace, that this will work. In fact, I submit for printing in the RECORD a letter from the head of Goldman Sachs in 2005, that very important financial institution, clearly an entity that knows a great deal about the market. And in 2005, only 2 years ago, after we had TRIA for a while and the question was coming up about whether or not to continue it, he wrote to the gentleman from Louisiana (Mr. BAKER), then Chair of the Capital Market Subcommittee, that:

''Current data suggests that reinsurance, and consequently insurance, participation in the terrorism insurance market will decline if the Federal backstop is left to expire.

''Some have suggested that private markets for terrorism can successfully utilize risk transfer mechanisms such as catastrophe bonds.

''There is no evidence to suggest that the rating agencies or capital markets investors will be able to quantify the risk.''

And what he says is that he does not believe the market can do this.

THE GOLDMAN SACHS GROUP, INC.,
New York, NY, July 26, 2005.

Hon. RICHARD BAKER,
Chairman, Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises, House of Representatives, Cannon House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of The Goldman Sachs Group, lnc., a leading global investment banking, securities and investment management firm, I am writing to express my support for maintaining a federal terrorism insurance backstop.

The federal terrorism insurance program, enacted by the Terrorism Risk Insurance Act of 2002 (TRIA), has helped provide the underpinning to a robust economic recovery despite the ongoing threat of terrorism. Notwithstanding Treasury's conclusion that TRIA has achieved its original purpose, we are not aware of any meaningful evidence showing that private terrorism risk insurance or reinsurance markets have developed ample capacity to rationally price and insure against terrorism on a scale that would adequately protect our nation's economy. In fact, current data suggests that reinsurance, and consequently insurance, participation in the terrorism insurance market likely will decline significantly if the federal terrorism insurance backstop is left to expire.

Some have suggested that private markets for terrorism risk can successfully utilize risk transfer mechanisms such as catastrophe bonds (CAT bonds) that transfer risk from insurers to capital markets. Such securitization vehicles, however, represent a minor percentage of the overall insurance market and have been used mainly for natural disasters, such as earthquakes and hurricanes. There is no evidence to suggest that the rating agencies or capital markets investors will be able to more effectively quantify the risk of terrorism than insurers or reinsurers. As such, CAT bonds and other risk transfer mechanisms are unlikely to offer, at this time, the broad capacity necessary to insure America's businesses, workers and property owners against the risk of terrorism.

With less than five months remaining in the current program, American businesses soon will be forced to compete for portions of a severely constrained private insurance market and risk the possibility of being left with inadequate levels of terrorism insurance. In short, we simply cannot afford to let the private sector be economically exposed.

I appreciate your attention to this very important matter.

Sincerely,

HENRY M. PAULSON, Jr.,
Chairman and Chief Executive Officer.

The CEO of Goldman Sachs who signed this is a very distinguished expert, Henry M. Paulson, Jr. He is no longer the chief of Goldman Sachs; he is now the Secretary of the Treasury and has somewhat different views, but this is a letter that he sent in late July 2005.

So we don't think the market can handle it. But I want to argue that even if you thought the market could handle it, we shouldn't ask it to for this reason: If you insure against risk, you ultimately pass the costs along to the people who are at risk. Insurance allows you to spread that risk out among those who are at risk. But the more you are at risk, the more you pay in insurance.

If we were to adopt a purely market solution, that would mean that those parts of the country which were calculated to be likelier targets of terrorism would pay more. That is the insurance principle. If you are more likely to be the victim of terrorism, then you should pay more.

I do not think we should allow vicious fanatics who hate this country and seek to inflict severe physical damage on us to decide where it should be more expensive to do business in our country and where it should not. But if you use the private insurance mechanism, that is what you get.

There is another problem with the private insurance mechanism, not a problem, a good facet, that doesn't apply here. What you can do with private insurance is to say to these entities: You know what, if you lower your risk, we will lower your insurance costs. But people who have large office buildings cannot significantly lower their risk of being attacked by terrorists. If they could, we wouldn't want them to be. We wouldn't want people in

America in the business sector to be told, well, why don't you try to appease the terrorists so they don't blow you up. So it ought to be a public program.

Now, we have had significant debate in the committee. We had in the subcommittee and committee two full markups, an unusual degree of attention. A number of amendments were adopted from both parties. It is a different and, I believe, better bill now than it was when it was introduced. There are still some philosophical differences.

There is one issue, though, that came up after the committee consideration, and to our surprise the Congressional Budget Office said that this is going to cost a certain amount of money. I will get the estimate. I think they said $10 billion over a period of 10 years. That is a very odd thing to say. A terrorist attack will cost hundreds of billions if it happens; it will cost nothing if it doesn't. They apparently used some calculation of probability, which I think is in itself kind of dubious. Nobody, I think, can realistically talk about the probability of a terrorist attack, to give us the number that it will cost $3.5 billion over 5 years and $8.4 billion over 10 years.

One thing we know for sure is that these estimates are wrong. It will either cost a lot more, or nothing. CBO did its job, I don't think very well. Maybe that is because of the constraints they operate under. I don't make a personal criticism of them. But we have this PAYGO rule.

I will say that my own preference as an individual Member would have been to grant an emergency waiver, because if a terrorist attack is an emergency, then we shouldn't have that in there. I do not represent the thinking of the majority as of now on this or the Democratic leadership. That is an open question to evolve. So we did the next best thing, which is to adopt a set of procedures to deal with what will happen if the Federal Government has to make a payout under this.

I will say that I think that was a good effort, given the time frame. And I think it is important, given the potential expiration or the expiration date, that we should move forward, and maybe it will encourage our colleagues across the Capitol to act.

I do not believe that what we have in here will be the final answer. We have one possibility: Maybe a consensus will develop on a waiver. I can't say that I have confidence in that, but I certainly will advocate for it. If we can't get a waiver, we will within the framework of the PAYGO requirement, $3 billion over 5 years, try to work something out. And I know that is what the Democratic leadership has assured the Members from New York in particular, that they will do their best within the context of PAYGO to work this out. And I believe we can improve on where we are. We will reduce the risk that there won't be payment to the minimum amount possible, and then maybe we share that risk.

So I do not believe that what we have in this bill will be the final version. I think it is important to move this process along. I think this is as good an effort to do it as we could now. We will have to be consulting with the various parties in interest, including the cities, including the insurers, including the insured and others, and we will move forward on that. So I do believe it is very important to move forward now.

The only reason to vote against this bill at this point is not because of disagreement on some of the specifics. They will evolve as we go forward, particularly in the PAYGO response. But if you believe this is something that should be left to the market, and I do not believe that the market can or should be asked to handle terrorism. Adam Smith is one of the great intellectual contributors to thought in this world, but I don't think he knew much about terrorism, luckily for him. I do not think that the free market was adopted or is adaptable to murderous attacks of the sort we had on September 11.

So I believe this is the best we can do at this point. It is a very good bill, I believe, not perfect, with regard to the PAYGO fix, but that is something that I believe will evolve. I have every confidence that we will be able to do it better as we go forward, and I hope the bill passes.

I reserve the balance of my time.

Mr. BACHUS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as one of the original authors of the first TRIA legislation back in 2002, which passed this House with a strong vote, and also as a supporter of the extension in 2005, which I also cosponsored, I am disappointed that I have to rise today in opposition to the present bill. But I do so sincerely.

The whole idea of TRIA, the 2002 bill, the 2005 extension, was to create a short-term government backstop which would allow the insurance industry, the private market to adjust to the 9/11 reality.

By any objective measure, people on both sides of the aisle have said TRIA has been a success. Secretary Hank Paulson supported a TRIA which was a government backstop as the government continued to process the stepping back.

The terrorist insurance markets have stabilized. We have heard this debate, this word today of the gentleman from New York and the leadership and the Democratic Party and some of their differences. Even in correspondence which I have seen, he said terrorist insurance, the approach we have has been working. It is giving us insurance. The markets have stabilized. Policyholders are requesting and they are receiving coverage. Prices have declined. Reinsurance has become more available. The private marketplace is diversifying, and it is absorbing additional risk exposure every day.

This past July, Secretary Paulson, which, as I said, he supported TRIA, he doesn't support this legislation because it essentially preempts the private market. But he made this statement to me: It is my belief that the most efficient, lowest cost, and most innovative methods of providing terrorist risk insurance will come from the private sector.

I agree, and it is therefore that reason that I must oppose the bill before us today, because it works at cross-purposes with that whole philosophy of allowing a temporary backstop as the private market fills in and meets the need for terrorist risk insurance.

We presently have a TRIA program in place that relies on that private sector first and the government only as a backstop and, as I said, it is working very well. It is effectively creating what is a temporary assistance or a hand up, not a permanent handout. However, this bill replaces what has been a successful and temporary mechanism which has worked so well to allow the insurance marketplace to adopt to the 9/11 realities. It replaces it with legislation that, instead of scaling back the Federal backstop, it expands it greatly. It increases the government growth greatly. It increases taxpayers' exposure tremendously, so much so that we are not going to pay for it here today. We are going to disregard PAYGO. And I understand there is some private deal that may have been agreed to out of the public domain and unknown to Members. That is not how legislation should function. But it is a flawed bill that is, unfortunately, a departure from what has heretofore been a very successful bipartisan consensus effort on behalf of this Congress that we have all come together and adopted in the past.

TRIA should not be a partisan issue. Our division on this legislation reflects a philosophical difference and disagreement over how, how much and for how long middle-class America should subsidize the cost of terrorist insurance for both insurers and for urban developers.

□ 1230

And what is the taxpayer role?

I had hoped that we could consider a number of important amendments today to scale back these new Federal subsidies; i.e., taxpayer-supported guaranteed benefits. I had hoped that we could ask that the insurance companies pay a greater percentage; that they collect an increased amount. Unfortunately, the Democratic leadership has decided not to even allow a fair and free debate on these amendments.

The expanded Federal subsidies provided for in this bill are so expensive that they violate the House's budget rules. But, as I said, instead of admitting this violation, or even waiving it, which would be a more honest approach, or finding a way to pay for the costs to the taxpayers, the majority has turned to what I call a ''fantasy fix'' that mandates various terrorist coverage, but removes any certainty in the Federal payment.

Even the most ardent proponents of TRIA are opposed to this so-called solution to the PAYGO problem. One Democratic colleague that's on the floor today has made this statement which I associate myself with: ''Making the entire program contingent on Congress passing a second piece of legislation completely undermines the intent and desired effect of the legislation.'' He went on to say, and I quote, ''It would render the legislation almost completely useless.'' That's the legislation we have before us. That's it. That's what we're considering today.

We heard as we debated the rule that there have been some assurances given in a letter which none of us have seen from the majority leader to the Member that they're going to fix this, that they're going to fix it in conference. We're just asked to take a leap of faith. To me, that violates not only the promises that the Democratic majority made in this campaign to have an open, honest process with full disclosure, not back-room agreements. We don't even know what we're voting on. We're told, vote for something on blind faith. It'll be fixed. Yes, it's flawed. Yes, it won't work. Yes, we know we're not paying for it, but we'll do that later. Trust us.

You know, it's one thing to ask Members of Congress, it's another thing to ask the American people for their representatives to pass something they have no idea entirely what it is; to act on the assurance of a letter that 433 Members have not seen, surely not the 210 in the minority.

Policyholders are also shortchanged in this legislation. If an insurance company's losses exceed a certain level, the new bill that Members saw for the first time last night says that the consumer gets no more money until a later Congress acts, regardless of what the insurance policy says or what the company agreed to pay. In other words, they're writing a policy, the company is agreeing to pay a certain amount, but all of it is contingent upon Congress then coming in and paying for it. I'm not sure that's even constitutional, that we as a legislative body would say, go out and write insurance policies, tell policyholders this is their coverage, and another legislative body, 5, 10, 15 years down the road, they'll come in and they'll pay for it. How do we know that? What will the policy read? It will be interesting to see what the policy says. All this is contingent upon an act of Congress. How about all of this is contingent upon the ability of the United States to write such a check, or the willingness of the people to do that? What if these policies are extended and then we have a new Congress and that Congress says ''no''? The policyholders have paid for something and they have no assurance they'll ever receive a dime.

While I am a strong supporter of what has to this date been the approach of Congress for short-term extensions of this program that continues down the road of phasing out the government backstop, the taxpayer funding, and phases in greater private sector participation, and by private sector participation, I simply mean that those who are provided the coverage pay for the coverage, not someone in rural Kansas or New Mexico or Georgia, but that who's getting the benefit pays the price, not the American people.

I cannot support this bill. It extends the program for 15 years, in other words, more or less basically permanent. It writes a blank check, asks the taxpayers to pay it, but doesn't pay for it now. It makes no provisions for paying for it, other than a letter from the majority leader to a member of the New York delegation saying, in a month or two, we know this is a flawed bill, it's a no go, but we'll fix it. But vote for it right now. I cannot do that. I cannot ask the Members of the minority to do that.

Mr. Chairman, let me just say in closing that Members on this side of the aisle are prepared and we have been prepared to strongly support an extension of the TRIA program that is fiscally responsible, that does the right thing for taxpayers. But we're not going to vote for something we have no idea what we have, other than an assurance in a letter we have not seen.

While we have complete bipartisan agreement on the merits of the current TRIA program, we know that in the aftermath of 9/11 there was a need to act. We acted. We've been successful. Let's not change something that's proven to work well with a blank check from the taxpayers. This bill is a gimmick. It increases government subsidies without providing greater certainty in the marketplace. I urge my colleagues to oppose this legislation.

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

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself first 30 seconds to note that I was impressed when the gentleman said he was going to vote against this bill because of this new amendment. But he voted against the bill the last time, so apparently my friend from Alabama intends to vote against this bill twice, because he voted against it in committee. So no one should think that the effort to deal with PAYGO is the reason he's voting against it.

Secondly, no one is asking anybody to accept any blank checks, and that is a misrepresentation of the legislative process. Changes will be made, I hope, in an open way. There will be an open conference, in total contrast to the way in which his party operated. I guarantee Members, as chairman of this committee, that we will have a conference committee, it will be a legitimate conference committee, and everything will be done openly, and votes will be taken. So no one is asking anybody to do anything in secret.

And again, the gentleman, having already voted against the bill, there are only so many bases you can claim on which you vote against the bill. He says he's not going to vote for the bill. We never thought he would. He voted against it the last time.

Mr. Chairman, I yield 5½ minutes to the gentleman from New York (Mr. ACKERMAN).

Mr. ACKERMAN. Mr. Chairman, on September 11, in addition to the enormous loss of human life, the value of which cannot be measured, our Nation suffered catastrophic economic losses. The attacks of September 11 resulted in $30 billion worth of insured losses, the largest catastrophic insurance loss in the history of the United States, larger than any blizzard, tornado or hurricane. As a result, insurers and reinsurers began to worry about the likelihood and the cost of a future terrorist attack.

Worrying about risk and then monetizing that risk is the key to the insurance industry, which is an essential element in a modern dynamic economy. As happened, businesses with legitimate concerns about their solvency, insurance and reinsurance firms withdrew from the market where the attack took place. As the supply of terrorism insurance rapidly decreased, New York City developers, for whom terrorism insurance was essential to secure financing for their projects, were put in a precarious position. They needed terrorism insurance to continue building, but the market for insurance simply did not have enough supply to meet their demand. Similar shortages began occurring throughout the country. In simple terms, there was a market failure.

It was out of this dilemma that the critical need to address that original version of TRIA was born. TRIA increased the availability of terrorism insurance coverage by creating a Federal backstop that would share the burden of losses caused by any future attacks of terrorism with the insurance industry.

In the wake of 9/11, we had hoped that a temporary, 3-year program would provide enough of a shield to allow the market to fully recover. By late 2005, however, the Financial Services Committee and others in Congress realized that TRIA had not resulted in as quick or as robust a recovery of the market as was originally hoped. TRIA was extended for an additional 2 years, and is currently set to expire on December 31 of this year.

Mr. Chairman, the Terrorism Risk Insurance Revision and Extension Act is a major achievement. It eliminates the distinction between foreign and domestic acts of terror. It incorporates group life insurance into the program. And, most importantly, this legislation extends TRIA for another 15 years.

Let us be clear: the enemy of business is uncertainty. This is particularly true for multi-million or multi-billion dollar real estate development projects, the kind that breathe life into our Nation. Designing, securing capital and then contracting for construction

is a multi-year process, and if we want these kinds of projects to go forward during these uncertain times, there is simply no alternative to providing a long-term terrorism insurance backstop.

Extending TRIA by 15 years is not a whim. It is not an arbitrary number. A 15-year extension would allow developers to secure 10- and 15-year bonds when financing their projects and would cover the life span of construction for our Nation's most innovative and remarkable development projects.

Equally as important to our Nation's developers, insurers and reinsurers is the inclusion of the so-called ''reset mechanism'' in this legislation. This language ensures that, in the aftermath of another catastrophic terrorist attack, the affected area or areas do not experience the same capacity problems that we experienced in New York following September 11.

To be clear, however, the reset mechanism included in H.R. 2761 is not a special favor extended to New York. Under the language I worked out with Mr. BAKER, representing the minority side, in the event of a terrorist attack with losses of $1 billion or greater, the deductibles for any insurance company that pays out losses due to the event immediately would lower to 5 percent, while the nationwide trigger for any insurer for any future event drops to $5 million.

Mr. BAKER and I also reached agreement on my proposal to enable the Secretary of the Treasury to aggregate the total losses for two or more attacks that occur in the same geographic area in the same year, if the Secretary so chooses, so that if the total insured losses for those events are over $1 billion, the reset mechanism would be triggered. Permitting the Secretary of the Treasury to aggregate the losses of two or more attacks in the same year is absolutely essential to protect our Nation's developers, insurers and reinsurers from a scenario in which the same area suffers a loss of $1 billion in insured losses, either from two or more medium-scale attacks or from one large-scale attack.

The reset language is a true bipartisan compromise with the minority, accommodating a vast number of their concerns, and one in which I think Members of both sides should be very pleased. The new language simultaneously addresses the need to boost capacity in our Nation's highest risk areas, while recognizing that in case America suffers another catastrophic terrorist attack anywhere in this Nation, capacity shortages could be expected not only in the geographic area surrounding the site of the attack but also, quite possibly, throughout the Nation as a whole.

The chairman has asserted that he would accommodate the needs of those who have complained about the openness of the process, which I assure everybody is open. And as the leader of the conference, when the House goes into conference on this matter, Mr. Chairman, could you give us your assurance that this bill will come back in the kind of form that we will not have an issue?

Mr. FRANK of Massachusetts. Absolutely.

Let me just say, first of all, having grown up in New Jersey, I'm used to complaints from New Yorkers. But in this particular case I believe they are entirely legitimate and justified, and I can assure the gentleman that we will work together in an open way to resolve it.

Mr. BACHUS. Mr. Chairman, I would yield the gentleman from New York 30 seconds to answer an inquiry if he would allow me.

I would ask the gentleman, this letter that we heard of earlier from Mr. HOYER to yourself, could you share a copy of that letter with the minority?

Mr. ACKERMAN. This is a private letter from the leadership to myself. I will be glad to show it to a Member of the minority side that signed the letter.

Mr. BACHUS. Could we see it now?

Mr. ACKERMAN. I will share it with a Member of the minority side who signed the letter.

Mr. BACHUS. Could we make a copy of it?

Mr. ACKERMAN. I think you have heard my answer.

Mr. BACHUS. So this is a private sort of agreement between the two of you?

Mr. ACKERMAN. This is the word of the majority leader to our delegation.

□ 1245

Mr. BACHUS. Mr. Chairman, at this time I yield 2 minutes to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Chairman, just as a disclaimer to the chairman of the committee, I did vote against this bill in committee and am still talking against the bill. Mr. Chairman, that is always a shock to you, and I'm just trying to settle your nerves down here at the beginning of my comments.

I am supportive of the TRIA concept in general. I understand the market is not yet where it needs to be. As I explained in committee, our company was one of the companies who had to renew our insurance 30 days after 9/11. On October 11 every year we had to renew insurance. So we were some of the first to encounter the problem that some insurances simply weren't going to write insurance if we did not have some solutions. So I understood the concept. But we put into place some legislative changes that were slowly moving the marketplace to where it needed to be.

And the market was responding. The marketplace was increasing the deductible percentages. The trigger limit was raised between the first two versions of the TRIA bill, and the industry retention level was raised, the Federal co-share was lowered, and those were all positive signs because we all recognized that the last thing we want to do is have, say, an agency like the Postal Service in charge of risk insurance. It does not meet the standards for a very mobile market.

So in the long term, we would like to have the private sector handling this problem. It's where the responsibility then would fall on the people who are getting the benefit.

As it is written, this bill begins to move us far beyond that concept. It begins to increase the mission, providing what should have been a temporary solution making it into a 15-year solution and with decreasing amounts of private sector employment or utilization. So responsibility in the end should be borne by the people who are buying the insurance and the insurance companies.

And, again, I would speak against the bill, and I thank the gentleman for yielding.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2 minutes now to a senior member of our committee, the Chair of the Subcommittee on Financial Institutions and Consumer Credit, someone who has worked a great deal on this, the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Chairman, I thank our chairman for his heroic leadership on this, along with the New York delegation, GARY ACKERMAN, and many, many others. This is an absolutely necessity for New York City and for our country and for our economy.

After 9/11, I have never seen this body so united and determined, and I thank you for all of your help. But by far, the most important action by this Congress was enacting TRIA. Before TRIA, we could not even build a Popsicle stand in lower Manhattan. No one could build anything. Critical to our economic recovery was the passage of this Federal backstop, and I implore my colleagues to join the leadership, Mr. FRANK and others, in passing this.

They say it is not needed, but I hear from businesses in New York they cannot get insurance. Some have gone to Lloyd's of London. They get insurance policies that say you have this policy on the condition that TRIA is reauthorized. This is critically important.

And I would like to stress to my colleagues that a very important part of our homeland security is our economic security. TRIA not only helped the rebuilding of New York City, it created jobs and helped America's economy grow despite the continuing terrorist threats against the United States.

TRIA has no cost to the taxpayer unless there is a terrorist attack. And in that terrible event, if it happens, and I hope it doesn't, TRIA saves the government money by structuring what would otherwise be hastily drafted emergency spending. Of course, setting up a public/private partnership to provide insurance coverage is more cost-effective than throwing money at the disaster after the fact.

So this is very important. I would like to be associated with the comments of my colleagues Mr. ACKERMAN and Mr. FRANK on the reset and the need for long-term planning, 15 years. I thank my colleagues for your help after 9/11. Give our economy help now. Vote for this.

Mr. BACHUS. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Chairman, I thank the gentleman for yielding. I certainly thank him for his leadership in this area.

If I could paraphrase President Ronald Reagan, the closest thing to eternal life on Earth is a Federal program. And certainly the legislation that comes before us today helps prove this.

When TRIA was brought to the floor, and I, admittedly, was not here but I have read the RECORD, supposedly it was to be a temporary program at a time of great economic hardship to our Nation.

I just heard the gentlewoman from New York speak very eloquently on the subject. But I recall from the RECORD her own words: ''We are simply working to keep our economy on track with a short-term program that addresses the new terrorist threat.''

Now we are being asked for a 15-year extension on what has already been a 5-year program.

The gentleman from Pennsylvania, who is now our chairman of the Capital Markets Subcommittee: ''We wisely designed the TRIA Act as a temporary backstop to get our Nation through a period of economic uncertainty until the private sector could develop models.''

Now, maybe those on the other side of the aisle have a different definition of ''temporary.'' I was here to vote for the TRIA extension, and I voted for it. I thought that the market needed some time to develop. But let's face it. If we vote for this, we are voting for a permanent, a de facto permanent, huge government insurance program on top of those that we already have, none of which, none of which, are financially sound.

And we have to remember when we are hearing debate on the floor about how critical it is in the fight against terror that we have terrorism reinsurance. I believe terrorism reinsurance is important, but I think even more important in fighting terror is prevention, ensuring it doesn't happen in the first place. And yet we have Member after Member after Member on the other side of the aisle that would make it more difficult for our government to monitor the conversations of suspected terrorists. We have Member after Member on the other side of the aisle voting to assure that a portion of our intelligence budget, to paraphrase the former Director of the CIA, goes to spying on bugs and bunnies instead of terrorists. Prevention is what is key in the fight against this terror.

Now, of course, reinsurance is important, and, again, as I said, I voted for another extension. But to hear those on the other side of the aisle, they would say, well, there is no way that the market can develop this. I'm not sure I agree with that, and I know that the President's working group on financial markets doesn't agree with that. They say that the availability and affordability of terrorism risk insurance has improved since the terrorist attacks. Despite increases in risk retentions under TRIA, insurers have allocated additional capacity to terrorism risk, prices have declined, and take-up rates have increased.

And let me quote here from this working group: ''The presence of subsidized Federal reinsurance through TRIA appears to negatively affect the emergence of private reinsurance capacity because it dilutes demand for private sector reinsurance.''

Now, the chairman, whom I certainly respect, and he is entitled to his own opinions, he doesn't believe the market could ever develop. Well, I would respectfully say to our chairman: How are we ever going to know? How are we ever going to know when you are giving away something for free that the market otherwise would charge for and all of the signs are there that the market can develop?

Some tell us this is a new risk that we don't know how to model for. Well, there was a time when the insurance industry didn't know how to model for airline catasrophes. They didn't know how to model for data processing collapses. And this is not the first time in our Nation's history that we have faced great threats. How did we model the Cold War when thousands of nuclear arms were pointed at us and somehow construction still took place in America?

Construction has taken place in New York based upon a 3-year extension, not a de facto permanent extension, but based on a 3-year extension with higher deductibles and with less government subsidy.

So I don't believe that building is going to come to a complete stop. But if there is a market failure, we could have worked on a bipartisan basis for something restricted that was temporary, dealing with nuclear, chemical, and biological, with large deductibles and large industry retentions.

Instead, we are going to create a massive new insurance program that threatens the taxpayer, another great threat to this Nation. We should oppose this bill.

Mr. FRANK of Massachusetts. Mr. Chairman, I now yield 2 minutes to another member of the committee, whose district in Jersey City is as close to the site of the terrorism attack of 2001 as any, other than the district in which it happened.

Mr. SIRES. Mr. Chairman, I thank the chairman for yielding me time.

As you know, my district is in northern New Jersey, right across the river from New York City. I also represent parts of Newark and Jersey City, which are both considered high-threat areas. As a matter of fact, the New York Times has called parts of my district as containing two of the most dangerous miles in the country. As you can imagine, my constituents deal with the threat of terrorism every day.

When I was Speaker of the New Jersey Assembly, I made homeland security a top priority. Already in my first year in the U.S. House of Representatives, we have tackled important national security issues. The reauthorization of TRIA is another step in the process and something of great importance to the businesses of my congressional district and to this country.

I believe that the Financial Services Committee has thoroughly considered this reauthorization. We held hearings in New York City back in March where we had the opportunity to hear directly from the mayor of New York, Mayor Bloomberg, and Senator SCHUMER about the need for TRIA reauthorization. I am confident that H.R. 2761 takes their suggestions into consideration. The work of the Financial Services Committee that led to the drafting of this bill makes me proud to be a cosponsor. I think this legislation addresses all the major issues involved in the reauthorization, while maintaining the system that continues to ensure that there is coverage for terrorist attacks.

I want to thank Chairman FRANK and Congressman CAPUANO for introducing the reauthorization legislation, and I look forward to working with the committee and the leadership to make sure that this bill passes.

Mr. BACHUS. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. CULBERSON).

Mr. CULBERSON. Mr. Chairman, this bill should be defeated because it is irresponsible and absolutely fiscally dangerous to pass a piece of legislation like this with an open-ended obligation on the U.S. Treasury. The bill should be defeated because, for all practical purposes, no private insurer will ever write coverage again in this area because they can now count on the U.S. Treasury to pay for this coverage. And the bill should be defeated because of its massive potential cost that the CBO has scored it, a 10-year cost of about $10.4 billion.

But I think probably the most important reason this bill should be defeated is one that we, as stewards of the Treasury, need to keep in mind on every bill, on every amendment, on every vote that involves spending a dollar of the taxpayers' money, that all of us in Congress should keep in mind the single, in my mind, most important fact that I have run across as a Member of Congress, and that is that David Walker, the Comptroller General of the United States, the director of the Government Accountability Office, has estimated that in order to pay off the existing obligations of the Federal Government, both direct and indirect, the existing obligations of the Federal

Government are so massive that every American would have to buy $170,000 worth of Treasury bills today in order to pay off the debt, the interest on the national debt, Medicare, Medicaid, Social Security. All the existing obligations, the Federal programs that are out there in existence today, those obligations are so massive that every living American would have to buy $170,000 in Treasury bills in order to pay them off.

□ 1300

It is absolutely imperative that this Congress on every bill, every amendment and every vote do everything we can to prevent adding to that burden, and to subtract from it as much as we can as, in our private lives, if you had a second mortgage on a house and the credit cards were all topped out, you would only spend money on the bare essentials. We have the same obligation, and even higher, a greater obligation here in Congress, as stewards of the Federal Treasury, to ensure that we're not passing on obligations to future generations, or adding to that $170,000 burden. And I don't want to hear the proponents of this bill come back and say, well, this administration added a lot to that burden. I can tell you personally I voted against almost every one of those big spending initiatives that the White House proposed. My district opposed a lot of the expansions of these big new spending programs. I voted against No Child Left Behind as a violation of the 10th amendment and spending money we didn't have. I voted against the Medicare prescription drug bill as spending money we didn't have. I voted against the farm bill as spending money we didn't have and I'm not going to pass that on to my daughter or future generations.

Most of us on this side, the fiscal conservatives in this House, have consistently opposed big new spending programs, and this bill is probably the worst I've seen so far. It is, in my mind, a perfect illustration of a liberal Democrat fiscal policy that they have passed an open-ended obligation onto future generations, a blank check on the U.S. Treasury. It's an utterly irresponsible and dangerous piece of legislation and it should be defeated.

Mr. FRANK of Massachusetts. Mr. Chairman, I will give myself 15 seconds to say I was waiting for the gentleman to tell me he voted against the war in Iraq. He talked about all these things he voted against. Added together and doubled, they don't add up to the war in Iraq, the continuing indefinite drain. Hundreds of billions of dollars have already gone, and they are committed to spending hundreds of billions more to make us worse off.

Mr. Chairman, I yield 1½ minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. I thank my friend, the chairman, for yielding.

I commend the last two speakers on the Republican side because they have at last made it clear what this debate is really about: Is there a Federal role for assisting the private sector in dealing with the management of the infinite risk of terror, or is there not?

I'm really surprised to hear in this debate how firmly my friends on the other side of the aisle cling to the notion that the market and the market alone can work this one out.

I used to be an insurance commissioner. What I know about insurance is that infinite risk cannot be priced, it cannot be underwritten, it cannot be reserved, it doesn't work. And that is why, right across the face of the insurance industry, we have heard as a body from the experts that they cannot make this coverage work private sector alone. They can whittle away at the edges basically by backing away from risk, coshares, enormous deductibles, the rest of it, but they have not told us they can make this market function.

But in the face of what reality holds forth, the minority is unmoved. They don't like government making business work. And so even in the face of a very uncertain construction sector, they would pull this coverage away.

Pass this bill.

Mr. BACHUS. Mr. Chairman, I would like to inquire as to the remaining time on our side.

The CHAIRMAN. The gentleman from Alabama has 8 minutes left; the gentleman from Massachusetts has 9¼ minutes left.

Mr. BACHUS. Mr. Chairman, at this time I would like to yield 3½ minutes to the gentleman from Louisiana (Mr. BAKER).

Mr. BAKER. I thank the gentleman for yielding and am appreciative of this time.

I wish to express my appreciation to committee leadership for attempting to address a most difficult subject matter. I have had some interest in this matter for a period of years, and understand the difficulty of crafting a remedy to which all Members may agree.

However, I have been troubled by the characterization that there would be Members, if voting ''no'' on this measure, would be ideologues voting for some unusual reason rather than in the Nation's best interests or in the Nation's recovery effort in the great city of New York.

It would be of note, I think, to the body to recall that it was November 29, 2001, at 4:37 p.m., in this august body when the House had a recorded vote 2 months after 9/11 on the adoption of the very first Terrorism Risk Insurance Program. You will find in the RECORD, which I have a copy of should it be needed for review, Mr. ACKERMAN, Mr. CLYBURN, Mr. CROWLEY, Mr. HINCHEY, Mr. HOYER, Mr. ISRAEL, Mr. KANJORSKI, Mrs. MALONEY, Mrs. MCCARTHY, Ms. PELOSI, Mr. SERRANO, Ms. SLAUGHTER, Mr. WEINER, Ms. WATERS, Ms. VELÁZQUEZ, Mr. MEEKS, Mr. MCNULTY, Mr. ENGEL, Mr. FRANK all found it appropriate and the right discharge of duty to vote ''no'' on the terrorism reinsurance proposal adopted two months after 9/11.

Now, I have no criticism to be made of those Members for taking that action. They did what they thought best for their constituents in that window of responsibility. I would merely point out that in the bills that we have passed on two occasions in this House under Republican leadership, we looked upon this responsibility as a loan to the industry to help them at a time of serious liquidity crisis to be able to withstand this assault, meet their financial obligations to the insureds, and move forward. But at such time as it was determined the crisis had passed, there was a mandatory obligation to repay the taxpayers of the United States the generosity that was extended in the form of a bridge loan and to give back to the taxpayers their generosity which enabled the industry to survive.

This bill does not require mandatory repayment of assistance. It is, in fact, a gift to the industry in a time of crisis, which is appropriate. But in the period of time in which the industry returns to profitability, is it wrong to say, ''Taxpayers, here's your money back. You helped us in a crisis, now it's time for us to repay your generosity''? I think that is a pivotal cornerstone of whatever we do going forward in assisting sectors of our economy which have untoward experiences that we cannot predict, where there is serious economic dislocation. But it is not right to give away the taxpayers' money without accountability.

For that reason alone, I suggest Members, who may choose to do so, could oppose this legislation and do so on a philosophical basis that is purely defensible. There are many other reasons why some may have concern.

Now, I will be quick to acknowledge that I worked with the gentleman from New York in addressing one serious flaw, and I appreciate the gentleman's willingness to extend that courtesy and fix that one significant difficulty with a legislative proposal. I am appreciative of that, and I look forward to working with him as they go forward through this process.

The bill today is flawed, and I would hope you would seriously consider a ''no'' vote.

Mr. FRANK of Massachusetts. I yield 15 seconds to the gentleman from New York to make a response.

Mr. ACKERMAN. I thank the chairman.

My name was cited, along with a list of other New Yorkers having opposed the original TRIA when it came to the floor. The reason we did so is not because of TRIA, it was because the minority side, the Republican side at the time, tried to use this as a vehicle to move tort reform and added all sorts of tort reform provisions to the TRIA bill, which we absolutely opposed because it was a politically motivated move and not because of TRIA.

Mr. FRANK of Massachusetts. I yield 3¾ minutes to the gentleman from

Pennsylvania, the chairman of the subcommittee who guided this bill through a very thoughtful bipartisan markup.

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

Mr. KANJORSKI. Mr. Chairman, I rise in support of H.R. 2761, the Terrorism Risk Insurance Revision and Extension Act. Because the supply of terrorism reinsurance has not returned to its pre-September 11 levels, we must now act to extend TRIA before the law expires on December 31.

Terrorism insurance plays a critical role in protecting jobs and promoting our Nation's economic security. While this legislation may contain a few provisions that cause me concern, passage of this bill today will move the process forward. This extension makes several meaningful and necessary reforms to the program.

First, this bill eliminates the distinction between foreign and domestic acts of terrorism. Terrorism, regardless of its cause or perpetrator, aims to destabilize the government. We must protect against that risk.

Second, H.R. 2761 incorporates group life insurance as a covered line. The original TRIA did not include group life. I am pleased that this House, as it did in 2005, has decided to correct that oversight. We need to protect individuals, not just buildings they work in, by adding group life to TRIA.

Third, the bill improves protection against acts of nuclear, biological, chemical and radiological terrorism. This coverage properly represents the most significant reform of this extension effort.

We designed TRIA to protect the economic security of our Nation against terrorist threats. Congress, therefore, should address the possible threat of an attack by nuclear, biological, chemical or radiological means. Recognizing insurers' difficulty of modeling and pricing these events, this package limits the exposure of insurers on this risk, but allows the market to grow over time. H.R. 2761 further allows Treasury to exempt certain small insurers from this requirement. We need each of these prior modifications in order to sustain our Nation's economic recovery after a terrorist event.

This legislation is not about helping the insurance industry. The Terrorist Risk Insurance Program is about the continued availability and affordability of terrorism coverage and keeping America's markets strong.

That said, I do have some lingering concerns about some provisions in the product before us. When considering this legislation in the Financial Services Committee, I recognized the need for a longer extension period, but a 15-year extension is too long in my view.

Additionally, we should improve the bill's reset mechanism going forward. A reset mechanism can help both the area suffering an attack and the Nation to recover after a terrorist event. It can also help insurers to rebuild capacity. However, we ought to make sure that the size of the reset is in proportion to the size of the loss and to rebuild private capacity as quickly as possible.

In closing, Mr. Chairman, this is not a Democratic or a Republican issue. As I have previously said on this floor, it is an American issue, a business issue, an economic security issue.

I encourage my colleagues, including Mr. BAKER, to put your doubts aside and help us move this process forward so that over the next 110 days we can provide the coverage necessary to keep the American economy growing.

Mr. BAKER. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin (Mr. RYAN).

Mr. RYAN of Wisconsin. I thank the gentleman for yielding.

Mr. Chairman, I rise in opposition to this. My friend from North Dakota said in the debate a minute ago that the minority doesn't want the government to help business. That was kind of an odd characterization. Here's what the minority wants: We want Congress to keep its word. And what do I mean when I say that? In the beginning of this Congress, Congress said that they were going to pay for things as they go. We were going to have this vaunted PAYGO rule that when we commit new spending, we will pay for it. We won't do deficit spending. What does this bill do? This bill thumbs its nose at the PAYGO system.

I think the best description of how this bill is not paid for was written in Congress Daily this morning, and I quote: ''The House will take up legislation today to renew the Federal Government's Terrorism Risk Insurance Program despite concerns that it violates PAYGO rules. CBO has ruled that the bill, which would reauthorize and expand the program for 15 years and cost the Federal government $3.7 billion over 5 years, $10.4 billion over a 10-year period. House leaders pulled the bill last week because it carried no offsets, but Democratic leaders found a way around the problem by requiring that if an attack occurred, Congress would have to vote again in a fast-track procedure to release the funds contained in the bill.'' Well, to do it justice, it's about $8.4 billion net cost, just to set the record straight for the minority.

What they're basically doing here is they're declaring this an emergency when an emergency hasn't even occurred yet. They're basically declaring this emergency spending, outside of the budget rules, not paid for, $8.4 billion, before an emergency has even occurred.

I've seen gimmicks in my day, Mr. Chairman, but this one takes the cake. This violates PAYGO. If it doesn't do it technically, it sure does it in spirit. So if we're going to say we're going to pay for legislation, then, by golly, let's pay for legislation. This doesn't do that. Not to mention the fact that this crowds out the private sector. Not to mention the fact that this tells all the insurers, go ahead and release this insurance, and if a terrorist attack occurs, we'll have some emergency legislation that pays for it after the fact. It's kind of like telling the homeowner, you don't have to pay premiums on your insurance until after your house has been burnt down, then pay your premiums and then we'll give you your payback. It doesn't work like that. That's not how insurance works. That's not how taxpayers pay their bills. That's not how Congress should operate. And, more importantly, that is not the rules that this Congress said it would operate under.

This violates those rules. If not technically, it sure does so in spirit. And I think when Congress says it's a new day, that we're going to pay for our spending, by golly, that's exactly what Congress ought to do, and that is not what this Congress is doing.

□ 1315

For this and many other reasons, Mr. Chairman, this legislation is flawed. It should be defeated. It encourages a crowding out of the private sector. And more importantly, it doesn't pay for the promises that are being committed here today. That is wrong. That violates the rhetoric and the principles that the majority has set out for itself.

Mr. Chairman, I urge a ''no'' vote.

Mr. FRANK of Massachusetts. I yield 2 minutes to the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ).

Ms. WASSERMAN SCHULTZ. Mr. Chairman, I ask the gentleman to engage in a colloquy.

On the travel fairness language included in the bill, there are two provisions which I believe require additional work and which I hope the gentleman will be willing to work on with me as the bill progresses toward conference, the war exception and the impact on existing State laws.

The first is the exception allowing denial or limitation of coverage for people traveling to areas under intense armed conflict. The current language uses the term ''ongoing military conflict''; however, this term is not defined in statute or any other legislation. We must make sure the language reflects the most accurate description of the conflict areas in question and not unintentionally include areas that do not rise to the definition of war zone.

Secondly, on another point that I want to try to ask for the gentleman's assistance in conference is the issue of how this law will affect the States with similar laws. The current provision is silent on the issue of States with stronger travel fairness laws on the book, States such as Florida, Colorado, and Washington. As representatives of the Federal Government, Congress should not attempt to preempt State laws with Federal legislation when the State law provides greater protection. In other words, the Federal law should act as a floor, not as a ceiling, a base level of protection for the consumer.

I would appreciate the gentleman's willingness to work to address these two issues in the conference.

Mr. FRANK of Massachusetts. I agree with the gentlewoman on both points. First, there is nothing in this language, and I should say that this issue of preventing unfair denials of life insurance, she was the one who brought it up. She brought it up in the prior Congress. And now that we are in the majority, we are able to accommodate it.

I appreciate the fact that the gentlewoman worked with us as we worked with the life insurance companies. I believe we have an acceptable set of principles. She is right that this language does need a little bit more, I think, refinement on conflict. I think there's a conceptual agreement. I agree with her as to the need for definition.

As a preemption, that is very simple. I am a strong believer we should not be preempting unless we say so explicitly. There has been an excess of subtle preemption. By itself, this bill does not do that. Insurance has been primarily a State issue. This is a Federal statement, but it is not at all meant to be preemptive.

Ms. WASSERMAN SCHULTZ. I thank the gentleman and Mr. BACHUS both for their support.

Mr. BACHUS. Mr. Chairman, TRIA is working well as a temporary matter. The insurance market is beginning to fill out and, sadly, this is a step in the wrong direction.

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

Mr. FRANK of Massachusetts. Before I yield to the gentleman from Vermont (Mr. WELCH), I would just point out that when we voted on this in committee before we had the PAYGO glitch, the vote on the Republican side was 19 opposed, 14 in favor, so it was hardly a one-sided partisan bill. It partly reflects the work that the gentleman from Pennsylvania (Mr. KANJORSKI) did in accommodating a lot of the concerns.

Mr. Chairman, I yield 2 minutes to the gentleman from Vermont.

Mr. WELCH of Vermont. May I engage in a colloquy with the gentleman from Massachusetts?

Mr. FRANK of Massachusetts. Yes.

Mr. WELCH of Vermont. Mr. Chairman, among other things, your bill balances the needs of smaller insurers and larger insurers. You have two provisions in there to try to help the small insurers play their part but not be overly burdened.

Mr. FRANK of Massachusetts. Get to the question.

Mr. WELCH of Vermont. The question is this: Our small insurers in Vermont that do business in a good and friendly way usually are in the range of $100 million. That is above your limit. The requirement that they will have to, in effect, indicate an insolvency risk threatens their rating which would adversely affect their business.

My question is, as you go forward, and as new information becomes available, my hope is that you and the committee would be willing to make what adjustments are feasible within the context of the overall goal.

Mr. FRANK of Massachusetts. If the gentleman would yield, he has pointed to a very important issue. We did try to make some accommodation with the small insurers, but I don't think we have finally done that. But I would say, you know, the notion that a bill that comes to the floor is not graven in stone shouldn't come as a surprise to people. We have a Senate. We have a genuine conference. It will be an open conference.

I should say I understand why some of my colleagues on the Republican side were somewhat puzzled at the notion that we might go to conference and, in an open way in conference, further amend the bill. They didn't believe in that. They didn't have any. So for them, that was all done in secret.

We will have an open conference to address these. And this is one of the issues. I do believe that it is legitimate. We will be meeting with, and the staffs will be meeting with, the smaller private insurers. To the extent possible consistent with the purpose of the bill, we will seek to improve on the accommodation.

Mr. WELCH of Vermont. I very much appreciate that.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield the balance of my time to the gentleman from Rhode Island (Mr. LANGEVIN).

The CHAIRMAN. The gentleman from Rhode Island is recognized for 1¼ minutes.

Mr. LANGEVIN. I truly do thank the gentleman from Massachusetts for yielding and the minority for granting the unanimous consent request.

Mr. Chairman, I rise in strong support of the Terrorism Risk Insurance Revision and Extension Act of 2007. This critical bill reauthorizes the Federal Terrorism Insurance Program, which backs up private insurers in the event of a terrorist attack and extends the measure for 15 years. As chairman of the Homeland Security Subcommittee on Emerging Threats, Cybersecurity, and Science and Technology, I am certainly pleased that this bill would ensure coverage in the event of a nuclear, biological, chemical or radiological attack.

While no one wants to ever imagine that a nuclear, chemical, biological, radiological event could occur, the possibility is, unfortunately, a reality. Therefore, we must not only protect against this risk, but ensure that our Nation can recover financially if the unthinkable does happen.

This measure takes an important step forward by lowering the deductible from 20 percent to 3.5 percent for insurance coverage against NCBR attacks, and I am certainly proud to support this important measure.

Mr. Chairman, I want to thank Chairman FRANK for his leadership on this important issue.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill, modified by the amendment printed in part A of House Report 110–333, is adopted. The bill, as amended, shall be considered as an original bill for the purpose of further amendment under the 5-minute rule and shall be considered read.

The text of the bill, as amended, is as follows:

H.R. 2761

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 ''Terrorism Risk Insurance Revision and Extension Act of 2007''.

SEC. 2. TERMINATION OF PROGRAM.

Subsection (a) of section 108 of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2022''.

SEC. 3. REVISION OF TERRORISM INSURANCE PROGRAM.

(a) IN GENERAL.—The Terrorism Risk Insurance Act of 2002 is amended—

(1) by striking sections 101, 102, and 103 and inserting the following new sections:

''SEC. 101. CONGRESSIONAL FINDINGS AND PURPOSE.

''(a) FINDINGS.—The Congress finds that—

''(1) the ability of businesses and individuals to obtain property and casualty insurance at reasonable and predictable prices, in order to spread the risk of both routine and catastrophic loss, is critical to economic growth, urban development, and the construction and maintenance of public and private housing, as well as to the promotion of United States exports and foreign trade in an increasingly interconnected world;

''(2) property and casualty insurance firms are important financial institutions, the products of which allow mutualization of risk and the efficient use of financial resources and enhance the ability of the economy to maintain stability, while responding to a variety of economic, political, environmental, and other risks with a minimum of disruption;

''(3) the ability of the insurance industry to cover the unprecedented financial risks presented by potential acts of terrorism in the United States can be a major factor in the recovery from terrorist attacks, while maintaining the stability of the economy;

''(4) widespread financial market uncertainties have arisen following the terrorist attacks of September 11, 2001, including the absence of information from which financial institutions can make statistically valid estimates of the probability and cost of future terrorist events, and therefore the size, funding, and allocation of the risk of loss caused by such acts of terrorism;

''(5) a decision by property and casualty insurers to deal with such uncertainties, either by terminating property and casualty coverage for losses arising from terrorist events, or by radically escalating premium coverage to compensate for risks of loss that are not readily predictable, could seriously hamper ongoing and planned construction, property acquisition, and other business projects, generate a dramatic increase in rents, and otherwise suppress economic activity;

''(6) the United States Government should coordinate with insurers to provide financial compensation to insured parties for losses from acts of terrorism, contributing to the stabilization of the United States economy in a time of national crisis, and periodically assess the ability of the financial services industry to develop the systems, mechanisms, products, and programs necessary to create a viable financial services market for private terrorism risk insurance that will

lessen the financial participation of the United States Government;

''(7) in addition to a terrorist attack on the United States using conventional means or weapons, there is and continues to be a potential threat of a terrorist attack involving the use of unconventional means or weapons, such as nuclear, biological, chemical, or radiological agents;

''(8) as nuclear, biological, chemical, or radiological acts of terrorism (known as NBCR terrorism) present a threat of loss of life, injury, disease, and property damage potentially unparalleled in scope and complexity by any prior event, natural or man-made, the Federal Government's responsibility in providing for and preserving national economic security calls for a strong Federal role in ensuring financial compensation and economic recovery in the event of such an attack;

''(9) a report issued by the Government Accountability Office in September 2006 concluded that 'any purely market-driven expansion of coverage' for NBCR terrorism risk is 'highly unlikely in the foreseeable future', and the September 2006 report from the President's Working Group on Financial Markets concluded that reinsurance for NBCR terrorist events is virtually unavailable and that '[g]iven the general reluctance of insurance companies to provide coverage for these types of risks, there may be little potential for future market development';

''(10) group life insurance companies are important financial institutions whose products make life insurance coverage affordable for millions of Americans and often serve as their only life insurance benefit;

''(11) the group life insurance industry, in the event of a severe act of terrorism, is vulnerable to insolvency because high concentrations of covered employees work in the same locations, because primary group life insurers do not exclude conventional and NBCR terrorism risks while most catastrophic reinsurance does exclude such terrorism risks, and because a large-scale loss of life would fall outside of actuarial expectations of death; and

''(12) the United States Government should provide temporary financial compensation to insured parties, contributing to the stabilization of the United States economy in a time of national crisis, while the financial services industry develops the systems, mechanisms, products, and programs necessary to create a viable financial services market for private terrorism risk insurance.

''(b) PURPOSE.—The purpose of this title is to establish a temporary Federal program that provides for a transparent system of shared public and private compensation for insured losses resulting from acts of terrorism, in order to—

''(1) protect consumers by addressing market disruptions and ensure the continued widespread availability and affordability of property and casualty insurance and group life insurance for all types of terrorism risk, including conventional terrorism risk and nuclear, biological, chemical, and radiological terrorism risk;

''(2) allow for a transitional period for the private markets to stabilize, resume pricing of such insurance, and build capacity to absorb any future losses, while preserving State insurance regulation and consumer protections (unless otherwise preempted by this Act); and

''(3) provide finite liability limits for terrorism insurance losses for insurers and the United States Government.

"SEC. 102. DEFINITIONS.

''In this title, the following definitions shall apply:

''(1) ACT OF TERRORISM.—

''(A) CERTIFICATION.—The term 'act of terrorism' means any act that is certified by the Secretary, in concurrence with the Secretary of State, the Secretary of Homeland Security, and the Attorney General of the United States—

''(i) to be an act of terrorism;

''(ii) to be a violent act or an act that is dangerous to—

''(I) human life;

''(II) property; or

''(III) infrastructure;

''(iii) to have resulted in damage within the United States, or outside of the United States in the case of—

''(I) an air carrier or vessel described in paragraph (9)(B); or

''(II) the premises of a United States mission; and

''(iv) to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

''(B) LIMITATION.—No act shall be certified by the Secretary as an act of terrorism if—

''(i) the act is committed as part of the course of a war declared by the Congress, except that this clause shall not apply with respect to any coverage for workers' compensation; or

''(ii) property and casualty insurance and group life insurance losses resulting from the act, in the aggregate, do not exceed $5,000,000.

''(C) CERTIFICATION OF ACT OF NBCR TERRORISM.—Upon certification of an act of terrorism, the Secretary, in concurrence with the Secretary of State, the Secretary of Homeland Security, and the Attorney General of the United States, shall determine whether the act of terrorism meets the definition of NBCR terrorism in this section. If such determination is that the act does meet such definition, the Secretary shall further certify such act of terrorism as an act of NBCR terrorism.

''(D) DETERMINATIONS FINAL.—Any certification of, or determination not to certify, an act as an act of terrorism or as an act of NBCR terrorism under this paragraph shall be final, and shall not be subject to judicial review.

''(E) NONDELEGATION.—The Secretary may not delegate or designate to any other officer, employee, or person, any determination under this paragraph of whether, during the effective period of the Program, an act of terrorism, including an act of NBCR terrorism, has occurred.

''(F) COMPENSATION SUBJECT TO FURTHER CONGRESSIONAL ACTION.—Nothwithstanding any certification of an act under this paragraph as an act of terrorism or an act of NBCR terrorism, Federal compensation under the Program shall be subject to the provisions of section 103(h).

''(G) SUBMISSION OF CERTIFICATION UNDER THIS PARAGRAPH.—Upon any certification under subparagraph (A), the Secretary shall submit such certification to the Congress.''.

''(2) AFFILIATE.—The term 'affiliate' means, with respect to an insurer, any entity that controls, is controlled by, or is under common control with the insurer.

''(3) AMOUNT AT RISK.—The term 'amount at risk' means face amount less statutory policy reserves for group life insurance issued by any insurer for insurance against losses occurring at the locations described in subparagraph (A) of paragraph (9).

''(4) CONTROL.—An entity has 'control' over another entity, if—

''(A) the entity directly or indirectly or acting through 1 or more other persons owns, controls, or has power to vote 25 percent or more of any class of voting securities of the other entity;

''(B) the entity controls in any manner the election of a majority of the directors or trustees of the other entity; or

''(C) the Secretary determines, after notice and opportunity for hearing, that the entity directly or indirectly exercises a controlling influence over the management or policies of the other entity; except that for purposes of any proceeding under this subparagraph, there shall be a presumption that any entity which directly or indirectly owns, controls, or has power to vote less than 5 percent of any class of voting securities of another entity does not have control over that entity.

''(5) COVERED LINES.—The term 'covered lines' means property and casualty insurance and group life insurance, as defined in this section.

''(6) DIRECT EARNED PREMIUM.—The term 'direct earned premium' means a direct earned premium for property and casualty insurance issued by any insurer for insurance against losses occurring at the locations described in subparagraph (A) of paragraph (9).

''(7) EXCESS INSURED LOSS.—The term 'excess insured loss' means, with respect to a Program Year, any portion of the amount of insured losses during such Program Year that exceeds the cap on annual liability under section 103(e)(2)(A).

''(8) GROUP LIFE INSURANCE.—The term 'group life insurance' means an insurance contract that provides life insurance coverage, including term life insurance coverage, universal life insurance coverage, variable universal life insurance coverage, and accidental death coverage, or a combination thereof, for a number of individuals under a single contract, on the basis of a group selection of risks, but does not include 'Corporate Owned Life Insurance' or 'Business Owned Life Insurance,' each as defined under the Internal Revenue Code of 1986, or any similar product, or group life reinsurance or retrocessional reinsurance.

''(9) INSURED LOSS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'insured loss' means any loss resulting from an act of terrorism (including an act of war, in the case of workers' compensation) that is covered by primary or excess property and casualty insurance, or group life insurance to the extent of the amount at risk, issued by an insurer, if such loss—

''(i) occurs within the United States; or

''(ii) occurs to an air carrier (as defined in section 40102 of title 49, United States Code), to a United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), regardless of where the loss occurs, or at the premises of any United States mission.

''(B) LIMITATION FOR GROUP LIFE INSURANCE.—Such term shall not include any losses of an insurer resulting from coverage of any single certificate holder under any group life insurance coverages of the insurer to the extent such losses are not compensated under the Program by reason of section 103(e)(1)(D).

''(10) INSURER.—The term 'insurer' means any entity, including any affiliate thereof—

''(A) that is—

''(i) licensed or admitted to engage in the business of providing primary or excess insurance, or group life insurance, in any State;

''(ii) not licensed or admitted as described in clause (i), if it is an eligible surplus line carrier listed on the Quarterly Listing of Alien Insurers of the NAIC, or any successor thereto;

''(iii) approved for the purpose of offering property and casualty insurance by a Federal agency in connection with maritime, energy, or aviation activity;

''(iv) a State residual market insurance entity or State workers' compensation fund; or

''(v) any other entity described in section 103(f), to the extent provided in the rules of the Secretary issued under section 103(f);

''(B) that receives direct earned premiums for any type of commercial property and casualty insurance coverage, or, in the case of group life insurance, that receives direct premiums, other than in the case of entities described in sections 103(d) and 103(f); and

''(C) that meets any other criteria that the Secretary may reasonably prescribe.

''(11) INSURER DEDUCTIBLE.—The term 'insurer deductible' means—

''(A) for the Transition Period, the value of an insurer's direct earned premiums over the calendar year immediately preceding the date of enactment of this Act, multiplied by 1 percent;

''(B) for Program Year 1, the value of an insurer's direct earned premiums over the calendar year immediately preceding Program Year 1, multiplied by 7 percent;

''(C) for Program Year 2, the value of an insurer's direct earned premiums over the calendar year immediately preceding Program Year 2, multiplied by 10 percent;

''(D) for Program Year 3, the value of an insurer's direct earned premiums over the calendar year immediately preceding Program Year 3, multiplied by 15 percent;

''(E) for Program Year 4, the value of an insurer's direct earned premiums over the calendar year immediately preceding Program Year 4, multiplied by 17.5 percent;

''(F) for Program Year 5, the value of an insurer's direct earned premiums over the calendar year immediately preceding Program Year 5, multiplied by 20 percent;

''(G) for each additional Program Year—

''(i) with respect to property and casualty insurance, the value of an insurer's direct earned premiums over the calendar year immediately preceding such Program Year, multiplied by 20 percent; and

''(ii) with respect to group life insurance, the value of an insurer's amount at risk over the calendar year immediately preceding such Program Year, multiplied by 0.0351 percent;

''(H) notwithstanding subparagraphs (A) through (G), for the Transition Period or any Program Year, if an insurer has not had a full year of operations during the calendar year immediately preceding such Period or Program Year, such portion of the direct earned premiums with respect to property and casualty insurance, and such portion of the amounts at risk with respect to group life insurance, of the insurer as the Secretary determines appropriate, subject to appropriate methodologies established by the Secretary for measuring such direct earned premiums and amounts at risk;

''(I) notwithstanding subparagraphs (A) through (H) and (J), in the case of any act of NBCR terrorism, for any additional Program Year—

''(i) with respect to property and casualty insurance, the value of an insurer's direct earned premiums over the calendar year immediately preceding such Program Year, multiplied by a percentage, which—

''(I) for the second additional Program Year, shall be 3.5 percent; and

''(II) for each succeeding Program Year thereafter, shall be 50 basis points greater than the percentage applicable to the preceding additional Program Year; and

''(ii) with respect to group life insurance, the value of an insurer's amount at risk over the calendar year immediately preceding such Program Year, multiplied by a percentage, which—

''(I) for the first additional Program Year, shall be 0.00614 percent; and

''(II) for each succeeding Program Year thereafter, shall be 0.088 basis point greater than the percentage applicable to the preceding additional Program Year; and

''(J) notwithstanding subparagraph (G)(i), if aggregate industry insured losses resulting from a certified act of terrorism exceed $1,000,000,000, for any insurer that sustains insured losses resulting from such act of terrorism, the value of such insurer's direct earned premiums over the calendar year immediately preceding the Program Year, multiplied by a percentage, which—

''(i) for the first additional Program Year shall be 5 percent;

''(ii) for each additional Program Year thereafter, shall be 50 basis points greater than the percentage applicable to the preceding additional Program Year, except that if an act of terrorism occurs during any additional Program Year that results in aggregate industry insured losses exceeding $1,000,000,000, the percentage for the succeeding additional Program Year shall be 5 percent and the increase under this clause shall apply to additional Program Years thereafter;

except that for purposes of determining under this subparagraph whether aggregate industry insured losses exceed $1,000,000,000, the Secretary may combine insured losses resulting from two or more certified acts of terrorism occurring during such Program Year in the same geographic area (with such area determined by the Secretary), in which case such insurer shall be permitted to combine insured losses resulting from such acts of terrorism for purposes of satisfying its insurer deductible under this subparagraph; and except that the insurer deductible under this subparagraph shall apply only with respect to compensation of insured losses resulting from such certified act, or combined certified acts, and that for purposes of compensation of any other insured losses occurring in the same Program Year, the insurer deductible determined under subparagraph (G)(i) or (I) shall apply.

''(12) NAIC.—The term 'NAIC' means the National Association of Insurance Commissioners.

''(13) NBCR TERRORISM.—The term 'NBCR terrorism' means an act of terrorism that involves nuclear, biological, chemical, or radiological reactions, releases, or contaminations, to the extent any insured losses result from any such reactions, releases, or contaminations.

''(14) PERSON.—The term 'person' means any individual, business or nonprofit entity (including those organized in the form of a partnership, limited liability company, corporation, or association), trust or estate, or a State or political subdivision of a State or other governmental unit.

''(15) PROGRAM.—The term 'Program' means the Terrorism Insurance Program established by this title.

''(16) PROGRAM YEARS.—

''(A) TRANSITION PERIOD.—The term 'Transition Period' means the period beginning on the date of enactment of this Act and ending on December 31, 2002.

''(B) PROGRAM YEAR 1.—The term 'Program Year 1' means the period beginning on January 1, 2003 and ending on December 31, 2003.

''(C) PROGRAM YEAR 2.—The term 'Program Year 2' means the period beginning on January 1, 2004 and ending on December 31, 2004.

''(D) PROGRAM YEAR 3.—The term 'Program Year 3' means the period beginning on January 1, 2005 and ending on December 31, 2005.

''(E) PROGRAM YEAR 4.—The term 'Program Year 4' means the period beginning on January 1, 2006 and ending on December 31, 2006.

''(F) PROGRAM YEAR 5.—The term 'Program Year 5' means the period beginning on January 1, 2007 and ending on December 31, 2007.

''(G) ADDITIONAL PROGRAM YEAR.—The term 'additional Program Year' means any additional one-year period after Program Year 5 during which the Program is in effect, which period shall begin on January 1 and end on December 31 of the same calendar year.

''(17) PROPERTY AND CASUALTY INSURANCE.—The term 'property and casualty insurance'—

''(A) means commercial lines of property and casualty insurance, including excess insurance, workers' compensation insurance, and directors and officers liability insurance; and

''(B) does not include—

''(i) Federal crop insurance issued or reinsured under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), or any other type of crop or livestock insurance that is privately issued or reinsured;

''(ii) private mortgage insurance (as that term is defined in section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901)) or title insurance;

''(iii) financial guaranty insurance issued by monoline financial guaranty insurance corporations;

''(iv) insurance for medical malpractice;

''(v) health or life insurance, including group life insurance;

''(vi) flood insurance provided under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.);

''(vii) reinsurance or retrocessional reinsurance;

''(viii) commercial automobile insurance;

''(ix) burglary and theft insurance;

''(x) surety insurance; or

''(xi) professional liability insurance.

''(18) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

''(19) STATE.—The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, each of the United States Virgin Islands, and any territory or possession of the United States.

''(20) UNITED STATES.—The term 'United States' means the several States, and includes the territorial sea and the continental shelf of the United States, as those terms are defined in the Violent Crime Control and Law Enforcement Act of 1994 (18 U.S.C. 2280, 2281).

''(21) RULE OF CONSTRUCTION FOR DATES.—With respect to any reference to a date in this title, such day shall be construed—

''(A) to begin at 12:01 a.m. on that date; and

''(B) to end at midnight on that date.

''SEC. 103. TERRORISM INSURANCE PROGRAM.

''(a) ESTABLISHMENT OF PROGRAM.—

''(1) IN GENERAL.—There is established in the Department of the Treasury the Terrorism Insurance Program.

''(2) AUTHORITY OF THE SECRETARY.—Notwithstanding any other provision of State or Federal law, the Secretary shall administer the Program, and, subject only to subsection (h)(1), shall pay the Federal share of compensation for insured losses in accordance with subsection (e).

''(3) MANDATORY PARTICIPATION.—Each entity that meets the definition of an insurer under this title shall participate in the Program.

''(4) NBCR EXEMPTION FOR CERTAIN INSURERS.—Notwithstanding the requirements of paragraph (3):

''(A) ELIGIBILITY.—Upon request, the Secretary may provide an exemption from the requirements of subparagraph (B) of subsection (c)(1) in the Program to an entity that otherwise meets the definition of an insurer under this title if—

''(i) such insurer's direct earned premium is less than $50,000,000 in the calendar year immediately preceding the current additional Program Year; and

''(ii) the Secretary makes the determination set forth in subparagraph (D).

''(B) INSURER GROUP.—For purposes of subparagraph (A)(i), the direct earned premium of any insurer shall include the direct earned premiums of every affiliate of that insurer.

''(C) INFORMATION AND CONSULTATION.—Any insurer requesting an exemption pursuant to this paragraph shall provide any information the Secretary may require to establish its eligibility for the exemption. In developing standards for evaluating eligibility for the exemption under this paragraph, the Secretary shall consult with the NAIC.

''(D) DETERMINATION.—In making any determination regarding eligibility for exemption under this paragraph, the Secretary shall consult with the insurance commissioner of the State or other appropriate State regulatory authority where the insurer is domiciled and determine whether the insurer has demonstrated that it would become insolvent if it were required, in the event of an act of NBCR terrorism, to satisfy—

''(i) its deductible and maximum applicable share above the deductible pursuant to sections 102(11)(I) and 103(e)(1)(B), respectively, for such act of NBCR terrorism resulting in aggregate industry insured losses above the trigger established in section 103(e)(1)(C); or

''(ii) its maximum payment obligations for insured losses for such act of NBCR terrorism resulting in aggregate industry insured losses below the trigger established in section 103(e)(1)(C).

''(E) WORKERS' COMPENSATION AND OTHER COMPULSORY INSURANCE LAW.—In granting an exemption under this paragraph, the Secretary shall not approve any request for exemption with regard to State workers' compensation insurance or other compulsory insurance law requiring coverage of the risks described in subparagraph (B) of subsection (c)(1).

''(F) EXEMPTION PERIOD.—

''(i) IN GENERAL.—Any exemption granted to an insurer by the Secretary under this paragraph shall have a duration of not longer than 2 years.

''(ii) EXTENSION.—Notwithstanding clause (i), the Secretary may, upon application by an insurer granted an exemption under this paragraph, extend such exemption for additional periods of not longer than 2 years.

''(b) CONDITIONS FOR FEDERAL PAYMENTS.—No payment may be made by the Secretary under this section with respect to an insured loss that is covered by an insurer, unless—

''(1) there is enacted a joint resolution for payment of Federal compensation with respect to the act of terroism that resulted in the insured loss;

''(2) the person that suffers the insured loss, or a person acting on behalf of that person, files a claim with the insurer;

''(3) the insurer provides clear and conspicuous disclosure to the policyholder of the premium charged for insured losses covered by the Program (including the additional premium, if any, charged for the coverage for insured losses resulting from acts of NBCR terrorism as made available pursuant to subsection (c)(1)(B)) and the Federal share of compensation for insured losses under the Program—

''(A) in the case of any policy that is issued before the date of enactment of this Act, not later than 90 days after that date of enactment;

''(B) in the case of any policy that is issued within 90 days of the date of enactment of this Act, at the time of offer, purchase, and renewal of the policy; and

''(C) in the case of any policy that is issued more than 90 days after the date of enactment of this Act, on a separate line item in the policy, at the time of offer, purchase, and renewal of the policy;

''(4) the insurer processes the claim for the insured loss in accordance with appropriate business practices, and any reasonable procedures that the Secretary may prescribe; and

''(5) the insurer submits to the Secretary, in accordance with such reasonable procedures as the Secretary may establish—

''(A) a claim for payment of the Federal share of compensation for insured losses under the Program;

''(B) written certification—

''(i) of the underlying claim; and

''(ii) of all payments made for insured losses; and

''(C) certification of its compliance with the provisions of this subsection.

''(c) MANDATORY AVAILABILITY.—

''(1) AVAILABILITY OF COVERAGE FOR INSURED LOSSES.—Subject to paragraph (3), during each Program Year, each entity that meets the definition of an insurer under section 102 shall make available—

''(A) in all of its insurance policies for covered lines, coverage for insured losses that does not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism; and

''(B) in insurance policies for covered lines for which the coverage described in subparagraph (A) is provided, exceptions to the pollution and nuclear hazard exclusions of such policies that render such exclusions inapplicable only as to insured losses arising from acts of NBCR terrorism.

''(2) ALLOWABLE EXCLUSIONS IN OTHER COVERAGE.—Subject to paragraph (3) and notwithstanding any other provision of Federal or State law, including any State workers' compensation and other compulsory insurance law, if a person elects not to purchase an insurance policy with the coverage described in paragraph (1)—

''(A) an insurer may exclude coverage for all losses from acts of terrorism including acts of NBCR terrorism, except for State workers' compensation and other compulsory insurance law requiring coverage of the risks described in subsection (c)(1) (unless permitted by State law); or

''(B) an insurer may offer other options for coverage that differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism;

except that nothing in this paragraph shall affect paragraph (4).

''(3) APPLICABILITY FOR NBCR TERRORISM.—Notwithstanding any other provision of this Act, paragraphs (1)(B) and (2) shall apply, beginning upon January 1, 2009, with respect to coverage for acts of NBCR terrorism, that is purchased or renewed on or after such date.

''(4) AVAILABILITY OF LIFE INSURANCE WITHOUT REGARD TO LAWFUL FOREIGN TRAVEL.—During each Program Year, each entity that meets the definition of an insurer under section 102 shall make available, in all of its life insurance policies issued after the date of the enactment of the Terrorism Risk Insurance Revision and Extension Act of 2007 under which the insured person is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States, coverage that neither considers past, nor precludes future, lawful foreign travel by the person insured, and shall not decline such coverage based on past or future, lawful foreign travel by the person insured or charge a premium for such coverage that is excessive and not based on a good faith actuarial analysis, except that an insurer may decline or, upon inception or renewal of a policy, limit the amount of coverage provided under any life insurance policy based on plans to engage in future lawful foreign travel to occur within 12 months of such inception or renewal of the policy but only if, at time of application—

''(A) such declination is based on, or such limitation applies only with respect to, travel to a foreign destination—

''(i) for which the Director of the Centers for Disease Control and Prevention of the Department of Health and Human Services has issued a highest level alert or warning, including a recommendation against non-essential travel, due to a serious health-related condition;

''(ii) in which there is an ongoing military conflict involving the armed forces of a sovereign nation other than the nation to which the insured person is traveling; or

''(iii)(I) that the insurer has specifically designated in the terms of the life insurance policy at the inception of the policy or at renewal, as applicable; and

''(II) with respect to which the insurer has made a good-faith determination that—

''(aa) a serious unlawful situation exists which is ongoing; and

''(bb) the credibility of information by which the insurer can verify the death of the insured person is compromised; and

''(B) in the case of any limitation of coverage, such limitation is specifically stated in the terms of the life insurance policy at the inception of the policy or at renewal, as applicable.

''(d) STATE RESIDUAL MARKET INSURANCE ENTITIES.—

''(1) IN GENERAL.—The Secretary shall issue regulations, as soon as practicable after the date of enactment of this Act, that apply the provisions of this title to State residual market insurance entities and State workers' compensation funds.

''(2) TREATMENT OF CERTAIN ENTITIES.—For purposes of the regulations issued pursuant to paragraph (1)—

''(A) a State residual market insurance entity that does not share its profits and losses with private sector insurers shall be treated as a separate insurer; and

''(B) a State residual market insurance entity that shares its profits and losses with private sector insurers shall not be treated as a separate insurer, and shall report to each private sector insurance participant its share of the insured losses of the entity, which shall be included in each private sector insurer's insured losses.

''(3) TREATMENT OF PARTICIPATION IN CERTAIN ENTITIES.—Any insurer that participates in sharing profits and losses of a State residual market insurance entity shall include in its calculations of premiums any premiums distributed to the insurer by the State residual market insurance entity.

''(e) INSURED LOSS SHARED COMPENSATION.—

''(1) FEDERAL SHARE.—

''(A) CONVENTIONAL TERRORISM.—Except as provided in subparagraph (B), the Federal share of compensation under the Program to be paid by the Secretary subject to subsection (h)(1), for insured losses of an insurer during any additional Program Year shall be equal to the sum of—

''(i) 85 percent of that portion of the amount of such insured losses that—

''(I) exceeds the applicable insurer deductible required to be paid during such Program Year; and

''(II) based upon pro rata determinations pursuant to paragraph (2)(B), does not result in aggregate industry insured losses during such Program Year exceeding $100,000,000,000; and

''(ii) 100 percent of the insured losses of the insurer that, based upon pro rata determinations pursuant to paragraph (2)(B), result in aggregate industry insured losses during such Program Year exceeding $100,000,000,000, up to the limit under paragraph (2)(A).

''(B) NBCR TERRORISM.—

''(i) AMOUNT OF COMPENSATION.—The Federal share of compensation under the Program to be paid by the Secretary for insured losses of an insurer resulting from NBCR terrorism during any additional Program Year shall be equal to the sum of—

''(I) the amount of qualified NBCR losses (as such term is defined in clause (ii)) of the insurer, multiplied by a percentage based on the aggregate industry qualified NBCR losses for the Program Year, which percentage shall be—

''(aa) 85 percent of such aggregate industry qualified NBCR losses of less than $10,000,000,000;

''(bb) 87.5 percent of such aggregate industry qualified NBCR losses between $10,000,000,000 and $20,000,000,000;

''(cc) 90 percent of such aggregate industry qualified NBCR losses between $20,000,000,000 and $40,000,000,000;

''(dd) 92.5 percent of such aggregate industry qualified NBCR losses of between $40,000,000,000 and $60,000,000,000; and

''(ee) 95 percent of such aggregate industry qualified NBCR losses of more than $60,000,000,000;

and shall be prorated per insurer based on each insurer's percentage of the aggregate industry qualified NBCR losses for such additional Program Year; and

''(II) 100 percent of the insured losses of the insurer resulting from NBCR terrorism that, based upon pro rata determinations pursuant to paragraph (2)(B), result in aggregate industry insured losses during such Program Year exceeding $100,000,000,000, up to the limit under paragraph (2)(A).

''(ii) QUALIFIED NBCR LOSSES.—For purposes of this subparagraph, the term 'qualified NBCR losses' means, with respect to insured losses of an insurer resulting from NBCR terrorism during an additional Program Year, that portion of the amount of such insured losses that—

''(I) exceeds the applicable insurer deductible required to be paid during such Program Year; and

''(II) based upon pro rata determinations pursuant to paragraph (2)(B), does not result in aggregate industry insured losses during such Program Year exceeding $100,000,000,000.

''(C) PROGRAM TRIGGER.—In the case of a certified act of terrorism occurring after March 31, 2006, no compensation shall be paid, pursuant to subsection (h)(1), by the Secretary under subsection (a), unless the aggregate industry insured losses resulting from such certified act of terrorism exceed $50,000,000, except that if a certified act of terrorism occurs for which resulting aggregate industry insured losses exceed $1,000,000,000, the applicable amount for any subsequent certified act of terrorism shall be the amount specified in section 102(1)(B)(ii).

''(D) LIMITATION ON COMPENSATION FOR GROUP LIFE INSURANCE.—Notwithstanding any other provision of this Act, the Federal share of compensation under the Program paid, pursuant to subsection (h)(1), by the Secretary for insured losses of an insurer resulting from coverage of any single certificate holder under any group life insurance coverages of the insurer may not during any additional Program Year exceed $1,000,000.

''(E) PROHIBITION ON DUPLICATIVE COMPENSATION.—The Federal share of compensation for insured losses under the Program shall be reduced by the amount of compensation provided by the Federal Government to any person under any other Federal program for those insured losses.

''(2) CAP ON ANNUAL LIABILITY.—

''(A) IN GENERAL.—Notwithstanding paragraph (1) or any other provision of Federal or State law, including any State workers' compensation or other compulsory insurance law, if the aggregate amount of the Federal share of compensation to be paid to all insurers pursuant to paragraph (1) exceeds $100,000,000,000, during any additional Program Year (until such time as the Congress may act otherwise with respect to such losses)—

''(i) the Secretary shall not make any payment under this title for any portion of the amount of the aggregate insured losses during such Program Year for which the Federal share exceeds $100,000,000,000; and

''(ii) no insurer that has met its insurer deductible shall be liable for the payment of any portion of the aggregate insured losses during such Program Year that exceeds $100,000,000,000.

''(B) INSURER SHARE.—For purposes of subparagraph (A), the Secretary shall determine the pro rata share of insured losses to be paid by each insurer that incurs insured losses under the Program.

''(C) CLAIMS ALLOCATIONS.—The Secretary shall, by regulation, provide for insurers to allocate claims payments for insured losses under applicable insurance policies in any case described in subparagraph (A). Such regulations shall include provisions for payment, for the purpose of addressing emergency needs of applicable individuals affected by an act of terrorism, of a portion of claims for insured losses promptly upon filing of such claims.

''(3) LIMITATION ON INSURER FINANCIAL RESPONSIBILITY.—

''(A) LIMITATION.—Notwithstanding any other provision of Federal or State law, including any State workers' compensation or other compulsory insurance law, an insurer's financial responsibility for insured losses from acts of terrorism shall be limited as follows:

''(i) FEDERAL COMPENSATION NOT PROVIDED.—In any case of an act of terrorism with respect to which there has not been enacted a joint resolution for payment of Federal compensation described in subsection (h)(2), an insurer's financial responsbility for insured losses from such act of terrorism shall be limited to its applicable insurer deductible.

''(ii) FEDERAL COMPENSATION PROVIDED.—In any case of an act of terrorism with respect to which there has been enacted a joint resolution for payment of Federal compensation described in subsection (h)(2), an insurer's financial responsbility for insured losses from such act of terrorism shall be limited to—

''(I) its applicable insurer deductible; and

''(II) its applicable share of insured losses that exceed its applicable insurer deductible, subject to the requirements of paragraph (2).

''(B) FEDERAL REIMBURSEMENT.—''In the case of any act of terrorism with respect to which there has been enacted a joint resolution for payment of Federal compensation described in subsection (h)(2) and notwithstanding any other provision of Federal or State law, the Secretary shall—

''(i) reimburse insurers for any payment of excess insured losses made prior to publication of any notification pursuant to paragraph (4)(A);

''(ii) reimburse insurers for any payment of excess insured losses occurring on or after the date of any notification pursuant to paragraph (4)(A), but only to the extent that—

''(I) such payment is ordered by a court pursuant to subparagraph (C) of this paragraph or is directed by State law, notwithstanding this paragraph, or by Federal law;

''(II) such payment is limited to compensating insurers for their payment of excess insured losses and does not include punitive damages, or litigation or other costs; and

''(III) the insurer has made a good-faith effort to defend against any claims for such payment; and

''(iii) have the right to intervene in any legal proceedings relating to such claims specified in clause (ii)(III).

''(C) FEDERAL COURT JURISDICTION.—

''(i) CONDITIONS.—All claims relating to or arising out of an insurer's financial responsibility for insured losses from acts of terrorism under this paragraph shall be within the original and exclusive jurisdiction of the district courts of the United States, in accordance with the procedures established in subparagraph (D), if the Secretary certifies that the following conditions have been met, or that there is a reasonable likelihood that the following conditions may be met:

''(I) The aggregate amount of the Federal share of compensation to be paid to all insurers pursuant to paragraph (1) exceeds $100,000,000,000, pursuant to paragraph (2); and

''(II) the insurer has paid its applicable insurer deductible and its pro rata share of insured losses determined pursuant to paragraph (2)(B).

''(ii) REMOVAL OF STATE COURT ACTIONS.—If the Secretary certifies that conditions set forth in subclauses (I) and (II) of clause (i) have been met, all pending State court actions that relate to or arise out of an insurer's financial responsibility for insured losses from acts of terrorism under this paragraph shall be removed to a district court of the United States in accordance with subparagraph (D).

''(D) VENUE.—For each certification made by the Secretary pursuant to subparagraph (C)(i), not later than 90 days after the Secretary's determination the Judicial Panel on Multidistrict Litigation shall designate one district court or, if necessary, multiple district courts of the United States that shall have original and exclusive jurisdiction over all actions for any claim relating to or arising out of an insurer's financial responsibility for insured losses from acts of terrorism under this paragraph.

''(E) FEDERAL COURT JURISDICTION AND VENUE IN CASES OF NO FEDERAL COMPENSATION.—In the case of any act of terrorism with respect to which there has not been enacted a joint resolution for payment of Federal compensation described in subsection (h)(2)—

''(i) all claims relating to or arising out of an insurer's financial responsbility for insured losses from such act of terrorism shall be within the original and exclusive jurisdiction of the district courts of the United States, in accordance with the procedures established in clause (iii);

''(ii) all pending State court actions that relate to or arise out of an insurer's financial responsbility for insured losses from such act of terrorism shall be removed to a district court of the United States in accordance with clause (iii); and

''(iii) not later than 90 days after the Secretary's certification of such act of terrorism, the Judicial Panel on Multidistrict Litigation shall designate one district court or, if necessary, multiple district courts of the United States that shall have original and exclusive jurisdiction over all actions for any claim relating to or arising out of an insurer's financial responsibility for insured losses from such act of terrorism.

''(4) NOTICES REGARDING LOSSES AND ANNUAL LIABILITY CAP.—

''(A) APPROACHING CAP.—If the Secretary determines estimated or actual aggregate Federal compensation to be paid pursuant to paragraph (1) equals or exceeds $80,000,000,000 during any Program Year, the Secretary shall promptly provide notification in accordance with subparagraph (D)—

''(i) of such estimated or actual aggregate Federal compensation to be paid;

''(ii) of the likelihood that such aggregate Federal compensation to be paid for such Program Year will equal or exceed $100,000,000,000; and

''(iii) that, pursuant to paragraph (2)(A)(ii), insurers are not required to make payments of excess insured losses.

''(B) EVENT LIKELY TO CAUSE LOSSES TO EXCEED CAP.—If any act of terrorism occurs that the Secretary determines is likely to cause estimated or actual aggregate Federal compensation to be paid pursuant to paragraph (1) to exceed $100,000,000,000 during any Program Year, the Secretary shall, not later than 10 days after such act, provide notification in accordance with subparagraph (D)—

''(i) of such estimated or actual aggregate Federal compensation to be paid; and

''(ii) that, pursuant to paragraph (2)(A)(ii), insurers are not required to make payments for excess insured losses.

''(C) EXCEEDING CAP.—If the Secretary determines estimated or actual aggregate Federal compensation to be paid pursuant to paragraph (1) equals or exceeds $100,000,000,000 during any Program Year—

''(i) the Secretary shall promptly provide notification in accordance with subparagraph (D)—

''(I) of such estimated or actual aggregate Federal compensation to be paid; and

''(II) that, pursuant to paragraph (2)(A)(ii), insurers are not required to make payments for excess insured losses unless the Congress provides for payments for excess insured losses pursuant to clause (ii) of this subparagraph; and

''(ii) the Congress shall determine the procedures for and the source of any payments for such excess insured losses.

''(D) PARTIES NOTIFIED.—Notification is provided in accordance with this subparagraph only if notification is provided—

''(i) to the Congress, in writing; and

''(ii) to insurers, by causing such notice to be published in the Federal Register.

''(E) DETERMINATIONS.—The Secretary shall make determinations regarding estimated and actual aggregate Federal compensation to be paid promptly after any act of terrorism as may be necessary to comply with this paragraph.

''(F) MANDATORY DISCLOSURE FOR INSURANCE CONTRACTS.—All policies for property and casualty insurance and group life insurance shall be deemed to contain a provision to the effect that, in the case of any act of terrorism with respect to which there has been enacted a joint resolution for payment of Federal compensation described in subsection (h)(2), no insurer that has met its applicable insurer deductible and its applicable share of insured losses that exceed its applicable insurer deductible but are not compensated pursuant to paragraph (1), shall be obligated to pay for any portion of excess insured loss. Notwithstanding the preceding sentence, insurers shall include a disclosure in their policies detailing the maximum level of Government

assistance and the applicable insurer share. ''All policies for property and casualty insurance and group life insurance shall be deemed to contain, and insurers shall be permitted to include in their policies, a provision to the effect that, in the case of insured losses resulting from any act of terrorism with respect to which there has not been enacted a joint resolution for payment of Federal compensation described in subsection (h)(2), no insurer shall be obligated to pay for any portion of any such insured losses that exceeds its applicable insurer deductible.

''(5) FINAL NETTING.—The Secretary shall have sole discretion to determine the time at which claims relating to any insured loss or act of terrorism shall become final.

''(6) DETERMINATIONS FINAL.—Any determination of the Secretary under this subsection shall be final, unless expressly provided, and shall not be subject to judicial review.

''(7) INSURANCE MARKETPLACE AGGREGATE RETENTION AMOUNT.—For purposes of paragraph (8), the insurance marketplace aggregate retention amount shall be—

''(A) for the period beginning on the first day of the Transition Period and ending on the last day of Program Year 1, the lesser of—

''(i) $10,000,000,000; and

''(ii) the aggregate amount, for all insurers, of insured losses during such period;

''(B) for Program Year 2, the lesser of—

''(i) $12,500,000,000; and

''(ii) the aggregate amount, for all insurers, of insured losses during such Program Year;

''(C) for Program Year 3, the lesser of—

''(i) $15,000,000,000; and

''(ii) the aggregate amount, for all insurers, of insured losses during such Program Year;

''(D) for Program Year 4, the lesser of—

''(i) $25,000,000,000; and

''(ii) the aggregate amount, for all insurers, of insured losses during such Program Year;

''(E) for Program Year 5, the lesser of—

''(i) $27,500,000,000; and

''(ii) the aggregate amount, for all insurers, of insured losses during such Program Year; and

''(F) for each additional Program Year—

''(i) for property and casualty insurance, the lesser of—

''(I) $27,500,000,000; and

''(II) the aggregate amount, for all such insurance, of insured losses during such Program Year; and

''(ii) for group life insurance, the lesser of—

''(I) $5,000,000,000; and

''(II) the aggregate amount, for all such insurance, of insured losses during such Program Year.

''(8) RECOUPMENT OF FEDERAL SHARE.—

''(A) MANDATORY RECOUPMENT AMOUNT.—For purposes of this paragraph, the mandatory recoupment amount for each of the Program Years referred to in subparagraphs (A) through (F) of paragraph (7) shall be the difference between—

''(i) the applicable insurance marketplace aggregate retention amount under paragraph (7) for such Program Year; and

''(ii) the aggregate amount, for all applicable insurers (pursuant to subparagraph (E)), of insured losses during such Program Year that are not compensated by the Federal Government because such losses—

''(I) are within the insurer deductible for the insurer subject to the losses; or

''(II) are within the portion of losses of the insurer that exceed the insurer deductible, but are not compensated pursuant to paragraph (1).

''(B) NO MANDATORY RECOUPMENT IF UNCOMPENSATED LOSSES EXCEED APPLICABLE INSURANCE MARKETPLACE RETENTION.—Notwithstanding subparagraph (A), if the aggregate amount of uncompensated insured losses referred to in clause (ii) of such subparagraph for any Program Year referred to in any of subparagraphs (A) through (F) of paragraph (7) is greater than the applicable insurance marketplace aggregate retention amount under paragraph (7) for such Program Year, the mandatory recoupment amount shall be $0.

''(C) MANDATORY ESTABLISHMENT OF SURCHARGES TO RECOUP MANDATORY RECOUPMENT AMOUNT.—The Secretary shall collect, for repayment of the Federal financial assistance provided in connection with all acts of terrorism (or acts of war, in the case of workers' compensation) occurring during any of the Program Years referred to in any of subparagraphs (A) through (F) of paragraph (7), terrorism loss risk-spreading premiums in an amount equal to any mandatory recoupment amount for such Program Year.

''(D) DISCRETIONARY RECOUPMENT OF REMAINDER OF FINANCIAL ASSISTANCE.—To the extent that the amount of Federal financial assistance provided exceeds any mandatory recoupment amount, the Secretary may—

''(i) recoup, through terrorism loss risk-spreading premiums, such additional amounts; or

''(ii) submit a report to the Congress identifying such amounts that the Secretary believes cannot be recouped, based on—

''(I) the ultimate costs to taxpayers of no additional recoupment;

''(II) the economic conditions in the commercial marketplace, including the capitalization, profitability, and investment returns of the insurance industry and the current cycle of the insurance markets;

''(III) the affordability of commercial insurance for small- and medium-sized businesses; and

''(IV) such other factors as the Secretary considers appropriate.

''(E) SEPARATE RECOUPMENT.—''The Secretary shall provide that—

''(i) any recoupment under this paragraph of amounts paid for Federal financial assistance for insured losses for property and casualty insurance shall be applied to property and casualty insurance policies; and

''(ii) any recoupment under this paragraph of amounts paid for Federal financial assistance for insured losses for group life insurance shall be applied to group life insurance policies.

''(9) POLICY SURCHARGE FOR TERRORISM LOSS RISK-SPREADING PREMIUMS.—

''(A) POLICYHOLDER PREMIUM.—Subject to paragraph (8)(E), any amount established by the Secretary as a terrorism loss risk-spreading premium shall—

''(i) be imposed as a policyholder premium surcharge on property and casualty insurance policies and group life insurance policies in force after the date of such establishment;

''(ii) begin with such period of coverage during the year as the Secretary determines appropriate; and

''(iii) be based on—

''(I) a percentage of the premium amount charged for property and casualty insurance coverage under the policy; and

''(II) a percentage of the amount at risk for group life insurance coverage under the policy.

''(B) COLLECTION.—The Secretary shall provide for insurers to collect terrorism loss risk-spreading premiums and remit such amounts collected to the Secretary.

''(C) PERCENTAGE LIMITATION.—A terrorism loss risk-spreading premium may not exceed, on an annual basis—

''(i) with respect to property and casualty insurance, the amount equal to 3 percent of the premium charged under the policy; and

''(ii) with respect to group life insurance, the amount equal to 0.0053 percent of the amount at risk under the policy.

''(D) ADJUSTMENT FOR URBAN AND SMALLER COMMERCIAL AND RURAL AREAS AND DIFFERENT LINES OF INSURANCE.—

''(i) ADJUSTMENTS.—In determining the method and manner of imposing terrorism loss risk-spreading premiums, including the amount of such premiums, the Secretary shall take into consideration—

''(I) the economic impact on commercial centers of urban areas, including the effect on commercial rents and commercial insurance premiums, particularly rents and premiums charged to small businesses, and the availability of lease space and commercial insurance within urban areas;

''(II) the risk factors related to rural areas and smaller commercial centers, including the potential exposure to loss and the likely magnitude of such loss, as well as any resulting cross-subsidization that might result; and

''(III) the various exposures to terrorism risk for different lines of insurance.

''(ii) RECOUPMENT OF ADJUSTMENTS.—Any mandatory recoupment amounts not collected by the Secretary because of adjustments under this subparagraph shall be recouped through additional terrorism loss risk-spreading premiums.

''(E) TIMING OF PREMIUMS.—The Secretary may adjust the timing of terrorism loss risk-spreading premiums to provide for equivalent application of the provisions of this title to policies that are not based on a calendar year, or to apply such provisions on a daily, monthly, or quarterly basis, as appropriate.

''(f) CAPTIVE INSURERS AND OTHER SELF-INSURANCE ARRANGEMENTS.—The Secretary may, in consultation with the NAIC or the appropriate State regulatory authority, apply the provisions of this title, as appropriate, to other classes or types of captive insurers and other self-insurance arrangements by municipalities and other entities (such as workers' compensation self-insurance programs and State workers' compensation reinsurance pools), but only if such application is determined before the occurrence of an act of terrorism in which such an entity incurs an insured loss and all of the provisions of this title are applied comparably to such entities.

''(g) REINSURANCE TO COVER EXPOSURE.—

''(1) OBTAINING COVERAGE.—This title may not be construed to limit or prevent insurers from obtaining reinsurance coverage for insurer deductibles or insured losses retained by insurers pursuant to this section, nor shall the obtaining of such coverage affect the calculation of such deductibles or retentions.

''(2) LIMITATION ON FINANCIAL ASSISTANCE.—The amount of financial assistance provided pursuant to this section shall not be reduced by reinsurance paid or payable to an insurer from other sources, except that recoveries from such other sources, taken together with financial assistance for the Transition Period or a Program Year provided pursuant to this section, may not exceed the aggregate amount of the insurer's insured losses for such period. If such recoveries and financial assistance for the Transition Period or a Program Year exceed such aggregate amount of insured losses for that period and there is no agreement between the insurer and any reinsurer to the contrary, an amount in excess of such aggregate insured losses shall be returned to the Secretary.

''(h) PRIVILEDGED PROCEDURE FOR JOINT RESOLUTION FOR PAYMENT OF FEDERAL COMPENSATION.—

''(1) IN GENERAL.—The Secretary shall pay the Federal share of compensation under the Program for insured losses resulting from an act of terrorism only if there is enacted a joint resolution for payment of Federal compensation with respect to such act of terrorism.

''(2) JOINT RESOLUTION.—For purposes of this subsection, the term 'joint resolution for payment of Federal compensation' means a joint resolution that—

''(A) does not have a preamble;

''(B) the matter after the resolving clause of which is as follows: 'That the Congress approves of the certification by the Secretary of the Treasury under section 102(1)(A) of the Terrorism Risk Insurance Act of 2002.'; and

''(C) the title of which is as follows: 'To permit Federal compensation under the Terrorism Risk Insurance Act of 2002'.

''(3) INTRODUCTION AND REFERRAL.—Upon receipt of a submission under section 102(1)(G), the joint resolution described in this subsection shall be introduced by the majority leader of each House or his designee (by request). In the case in which a House is not in session, such joint resolution shall be so introduced upon convening the first day of session after the date of receipt of the certification. Upon introduction, the joint resolution shall be referred to the appropriate calendar in each House.

''(4) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

''(A) PROCEEDING TO CONSIDERATION.—Upon referral to the appropriate calendar, it shall be in order to move to proceed to consider the joint resolution in the House. Such a motion shall be in order only at a time designated by the Speaker in the legislative schedule within two legislative days. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

''(B) CONSIDERATION.—The joint resolution shall be considered as read. All points of order against teh joint resolution and against its consideration are waived. The previous question shall be considered as ordered on the joint resolution to its passage without intervening motion except one hour of debate equally divided and controlled by a proponent and an opponent and one motion to limit debate on the joint resolution. A motion to reconsider the vote on passage of the joint resolution shall not be in order.

''(5) CONSIDERATION IN THE SENATE.—

''(A) PROCEEDING.—Upon introduction, the joint resolution shall be placed on the Calendar of Business, General Orders. A motion to proceed to the consideration of the joint resolution shall be in order at any time. The motion is privileged and not debatable. A motion to proceed to consideration of the joint resolution may be made even though a previous motion to the same effect has been disagreed to. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to.

''(B) DEBATE.—Debate on the joint resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours. The time shall be equally divided between and controlled by, the majority leader and the minority leader or their designees.

''(C) DEBATABLE MOTIONS AND APPEALS.—Debate on any debatable motion or appeal in relation to the joint resolution shall be limited to not more than one hour from the time allotted for debate, equally divided and controlled by the majority leader and the minirity leader or their designees.

''(D) MOTION TO LIMIT DEBATE.—A motion to further limit debate is not debatable.

''(E) MOTION TO RECOMMIT.—Any motion to commit or recommit the joint resolution shall not be in order.

''(F) FINAL PASSAGE.—The Chair shall put the question on final passage of the joint resolution no later than 72 hours from the time the measure is introduced.

''(6) AMENDMENTS PROHIBITED.—No amendment to, or motion to strike a provision from, a joint resolution considered under this subsection shall be in order in either the Senate or the House of Representatives.

''(7) CONSIDERATION BY THE OTHER HOUSE.—In the case of a joint resolution described in this subsection, if before passage by one House of a joint resolution of that House, that House receives such joint resolution from the other House, then—

''(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

''(B) the vote on final passage shall be on the joint resolution of the other House.

''(8) HOUSE AND SENATE RULEMAKING.—This subsection is enacted by the Congress as an exercise of the rulemaking power of the house of Representatives and Senate, respectively, and as such is deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such rules; and with full recognition of the consitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.'';

(2) in section 104(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 new paragraph:

''(3) during the 90-day period beginning upon the certification of any act of terrorism, to issue such regulations as the Secretary considers necessary to carry out this Act without regard to the notice and comment provisions of section 553 of title 5, United States Code.'';

(3) in section 104, by adding at the end the following new subsection:

''(h) ANNUAL ADJUSTMENT.—

''(1) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary shall adjust, for the second additional Program Year and for each additional Program Year thereafter, based upon the percentage change in an appropriate index during the 12-month period preceding such Program Year, each of the following amounts (as such amount may have been previously adjusted):

''(A) The dollar amount in section 102(1)(B)(ii) (relating to act of terrorism).

''(B) The dollar amount in section 102(11)(J) (relating to aggregate industry insured losses in a previously impacted area).

''(C) The dollar amounts in subparagraphs (A) and (B) of section 103(e)(1) (relating to limitation on Federal share).

''(D) The dollar amounts in section 103(e)(1)(C) (relating to Program trigger).

''(E) The dollar amount in section 103(e)(1)(D) (relating to limitation on group life insurance compensation).

''(F) The dollar amounts in section 103(e)(2) (relating to cap on annual liability).

''(G) The dollar amounts in section 103(e)(3)(C) (relating to limitation on insurer financial liability).

''(H) The dollar amounts in section 103(e)(4) (relating to notices regarding losses and annual liability cap).

''(I) The dollar amounts in section 103(e)(7) (relating to insurance marketplace aggregate retention amount).

''(J) The dollar amounts in section 109(b)(1)(C) (relating to membership of Commission on Terrorism Insurance Risk).

''(2) PUBLICATION.—The Secretary shall make the dollar amounts for each additional Program Year, as adjusted pursuant to this subsection, publicly available in a timely manner.'';

(4) in section 106(a)(2)—

(A) in subparagraph (B), by striking ''and'' at the end;

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

(C) by inserting after subparagraph (B) the following new subparagraphs:

''(C) during the period beginning on the date of the enactment of the Terrorism Risk Insurance Revision and Extension Act of 2007 and ending on December 31, 2008, rates and forms for property and casualty insurance, and group life insurance, required by this title and providing coverage except for NBCR terrorism that are filed with any State shall not be subject to prior approval or a waiting period under any law of a State that would otherwise be applicable, except that nothing in this title affects the ability of any State to invalidate a rate as excessive, inadequate, or unfairly discriminatory, and, with respect to forms, where a State has prior approval authority, it shall apply to allow subsequent review of such forms;

''(D) during the period beginning on the date of the enactment of the Terrorism Risk Insurance Revision and Extension Act of 2007, and ending on December 31, 2009, forms for property and casualty insurance, and group life insurance, covered by this title and providing coverage for NBCR terrorism that are filed with any State, to the extent of the addition of such coverage for NBCR terrorism and where such coverage was not previously required, shall not be subject to prior approval or waiting period under any law of a State that would otherwise be applicable;

''(E) during the period beginning on the date of the enactment of the Terrorism Risk Insurance Revision and Extension Act of 2007, and ending on December 31, 2010, rates for property and casualty insurance, and group life insurance, covered by this title and providing coverage for NBCR terrorism that are filed with any State, to the extent of the addition of such coverage for NBCR terrorism and where such coverage was not previously required, shall not be subject to prior approval or waiting period under any law of a State that would otherwise be applicable, except that nothing in this title affects the ability of any State to invalidate a rate as inadequate or unfairly discriminatory; and'';

(5) in section 106, by adding at the end the following new subsection:

''(c) RULE OF CONSTRUCTION REGARDING INSURER COORDINATION.—Nothing in this Act shall be construed to prohibit, restrict, or otherwise limit an insurer from entering into an arrangement with another insurer to make available coverage for any portion of insured losses to fulfill the requirements of section 103(c). The Secretary shall develop, in consultation with the NAIC, minimum financial solvency standards and other standards the Secretary determines appropriate with respect to such arrangements. Nothing in this subsection shall be construed to establish any legal partnership.''; and

(6) in section 108(c)(1), by striking ''paragraph (4), (5), (6), (7), or (8)'' and inserting ''paragraph (5), (6), (7), (8), or (9)''.

(b) REGULATIONS ON CLAIMS ALLOCATIONS.—The Secretary of the Treasury shall issue the regulations referred to in subparagraph (C) of section 103(e)(2) of the Terrorism Risk Insurance Act of 2002, as amended by subsection (a)(1) of this section, and to carry out subparagraph (B) of such section 103(e)(2), not later than the expiration of the 120-day period beginning upon the date of the enactment of this Act.

(c) REGULATIONS ON NBCR EXEMPTIONS.—The Secretary of the Treasury shall issue the regulations to carry out paragraph (4) of section 103(a) of the Terrorism Risk Insurance Act of 2002, as amended by subsection (a)(1) of this section, not later than the expiration of the 180-day period beginning upon the date of the enactment of this Act.

SEC. 4. TERRORISM BUY-DOWN FUND.

The Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amended—

(1) by inserting after section 106 the following new section:

''SEC. 106A. TERRORISM BUY-DOWN FUND.

''(a) ESTABLISHMENT.—The Secretary shall establish a Terrorism Buy-Down Fund (in this section referred to as the 'Fund') that shall make available additional terrorism coverage for the insured losses of insurers, which shall be available for purchase by insurers on a voluntary basis.

''(b) PURCHASE OF DEDUCTIBLE, CO-SHARE, AND TRIGGER BUY-DOWN COVERAGE.—

''(1) IN GENERAL.—An insurer may purchase deductible, co-share, and pre-trigger buy-down coverage (in this section referred to as 'buy-down coverage') through the Fund by making an election, in advance, to treat some or all of

the premiums it has disclosed pursuant to section 106(b)(3) as fee charges for the Program imposed by the Secretary and remitting such amounts to the Fund.

''(2) LIMITS.—An insurer may not purchase buy-down coverage in an amount greater than the lesser of—

''(A) the highest amount specified in section 103(e)(1)(C); and

''(B) the insurer's one-in-one-hundred-year risk exposure to acts of terrorism.

''(c) BUY-DOWN COVERAGE.—The Fund shall provide the buy-down coverage to an insurer for losses for acts of terrorism, without application of the insurer deductible and in addition to any otherwise payable Federal share of compensation pursuant to section 103(e).

''(d) BUILD-UP.—The buy-down coverage that shall be payable to an insurer for qualifying losses shall be the aggregate of the insurer's buy-down coverage premiums plus interest accrued on such amounts.

''(e) USE BY INSURERS.—

''(1) QUALIFYING LOSSES.—For the purpose of this section, qualifying losses are insured losses by an insurer that are not excess losses and that do not include amounts for which Federal financial assistance pursuant to section 103(e) is received, notwithstanding any limits otherwise applicable regarding section 103(e)(1)(C) (regarding program triggers) or section 102(11) (regarding insurer deductibles).

''(2) USE OF BUY-DOWN COVERAGE.—An insurer may use any buy-down coverage payments received under subsection (f) to satisfy—

''(A) the applicable insurer deductibles for the insurer;

''(B) the portion of the insurer's losses that exceed the insurer deductible but are not compensated by the Federal share; and

''(C) the insurer's obligations to pay for insured losses if the Program trigger under section 103(e)(1)(C) is not satisfied.

''(3) BUY-DOWN COVERAGE DOES NOT REDUCE FEDERAL CO-SHARE.—The receipt by an insurer of buy-down coverage under this section for insured losses shall not be considered with respect to calculating the insurer's insured losses with respect to the insurer's deductible and eligibility for Federal financial assistance pursuant to section 103(e).

''(4) INSOLVENCY.—An insurer may sell its rights to buy-down coverage from the Fund to another insurer as part of or to avoid an insolvency or as part of a merger, sale, or major reorganization.

''(f) PAYMENT OF BUY-DOWN COVERAGE.—The Fund shall pay the qualifying losses of an insurer purchasing buy-down coverage up to the amount described in subsection (d).

''(g) GOVERNMENT BORROWING.—The Secretary may borrow the funds from the Fund to offset, in whole or in part, the Federal share of compensation provided to all insurers under the Program, except that—

''(1) the Fund shall always immediately provide any buy-down coverage payments required under subsection (f); and

''(2) any such amounts borrowed must be replenished with appropriate interest.

''(h) RISK-SHARING MECHANISMS.—The Secretary shall establish voluntary risk-sharing mechanisms for insurers purchasing buy-down coverage from the Fund to pool their reinsurance purchases and otherwise share terrorism risk.

''(i) TERMINATION.—Upon termination of the Program under section 108, and subject to the Secretary's continuing authority under section 108(b) to adjust claims in satisfaction under the Program, the Secretary shall provide that the Fund shall become a privately-operated mutual terrorism reinsurance company owned by the insurers that have submitted buy-down coverage premiums in proportion to such premiums minus any buy-down coverage payments received.''; and

(2) in the table of contents in section 1(b), by inserting after the item relating to section 106 the following new item:

''Sec. 106A. Terrorism Buy-Down Fund.''.

SEC. 5. ANALYSIS AND STUDY.

(a) ANALYSIS OF MARKET CONDITIONS.—Section 108 of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amended by striking subsection (e) and inserting the following:

''(e) ANALYSIS OF MARKET CONDITIONS FOR TERRORISM RISK INSURANCE.—

''(1) IN GENERAL.—The Secretary, in consultation with the NAIC, representatives of the insurance industry, representatives of the securities industry, and representatives of policyholders, shall perform an analysis regarding the long-term availability and affordability of insurance for terrorism risk in the private marketplace, including coverage for—

''(A) property and casualty insurance;

''(B) group life insurance;

''(C) workers' compensation;

''(D) nuclear, biological, chemical, and radiological events; and

''(E) commercial real estate.

''(2) BIENNIAL REPORTS.—The Secretary shall submit biennial reports to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, on its findings pursuant to the analysis conducted under paragraph (1). The first such report shall be submitted not later than the expiration of the 24-month period beginning on the date of the enactment of the Terrorism Risk Insurance Revision and Extension Act of 2007.

''(3) TESTIMONY.—Upon submission of each biennial report under paragraph (2), the Secretary shall provide oral testimony to the Committee on Financial Services of the House of Representatives and Committee on Banking, Housing, and Urban Affairs of the United States Senate regarding the report and the analysis under this subsection for which the report is submitted.''.

(b) COMMISSION ON TERRORISM RISK INSURANCE.—Title I of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amended—

(1) by adding at the end the following new section:

''SEC. 109. COMMISSION ON TERRORISM RISK INSURANCE.

''(a) ESTABLISHMENT.—There is hereby established the Commission on Terrorism Risk Insurance (in this section referred to as the 'Commission').

''(b) MEMBERSHIP.—

''(1) The Commission shall consist of 21 members, as follows:

''(A) The Secretary of the Treasury or the designee of the Secretary.

''(B) One member who is a State insurance commissioner, designated by the NAIC.

''(C) 15 members, who shall be appointed by the President, who shall include—

''(i) a representative of group life insurers;

''(ii) a representative of property and casualty insurers with direct earned premium of $1,000,000,000 or less;

''(iii) a representative of property and casualty insurers with direct earned premium of more than $1,000,000,000;

''(iv) a representative of multiline insurers;

''(v) a representative of independent insurance agents;

''(vi) a representative of insurance brokers;

''(vii) a policyholder representative;

''(viii) a representative of the survivors of the victims of the attacks of September 11, 2001;

''(ix) a representative of the reinsurance industry;

''(x) a representative of workers' compensation insurers;

''(xi) a representative from the commercial mortgage-backed securities industry;

''(xii) a representative from a nationally recognized statistical rating organization;

''(xiii) a real estate developer;

''(xiv) a representative of workers' compensation insurers created by State legislatures, selected in consultation with the American Association of State Compensation Insurance Funds from among its members; and

''(xv) a representative from the commercial real estate brokerage industry or the commercial property management industry.

''(D) Four members, who shall serve as liaisons to the Congress, who shall include two members jointly selected by the Chairman and Ranking Member of the Committee on Financial Services of the House of Representatives and two members jointly selected by the Chairman and Ranking Member of the Committee on Banking, Housing, and Urban Affairs of the Senate.

''(2) SECRETARY.—The Program Director of the Terrorism Risk Insurance Act of the Department of the Treasury shall serve as Secretary of the Commission. The Secretary of the Commission shall determine the manner in which the Commission shall operate, including funding and staffing.

''(c) DUTIES.—

''(1) IN GENERAL.—The Commission shall identify and make recommendations regarding—

''(A) possible actions to encourage, facilitate, and sustain provision by the private insurance industry in the United States of affordable coverage for losses due to an act or acts of terrorism;

''(B) possible actions or mechanisms to sustain or supplement the ability of the insurance industry in the United States to cover losses resulting from acts of terrorism in the event that—

''(i) such losses jeopardize the capital and surplus of the insurance industry in the United States as a whole; or

''(ii) other consequences from such acts occur, as determined by the Commission, that may significantly affect the ability of the insurance industry in the United States to cover such losses independently; and

''(C) possible actions to significantly reduce the Federal role in covering losses resulting from acts of terrorism.

''(2) EVALUATIONS.—In identifying and making the recommendations required under paragraph (1), the Commission shall specifically evaluate the utility and viability of proposals aimed at improving the availability of insurance against terrorism risk in the private marketplace.

''(3) INITIAL MEETING.—The Commission shall hold its first meeting during the 3-month period that begins 15 months after the date of the enactment of the Terrorism Risk Insurance Revision and Extension Act of 2007.

''(4) REPORTS.—

''(A) CONTENTS.—The Commission shall submit two reports to the Congress that—

''(i) evaluate and make recommendations regarding whether there is a need for a Federal terrorism risk insurance program;

''(ii) if so, include a specific, detailed recommendation for the replacement of the Program under this title; and

''(iii) include the identifications, evaluations, and recommendations required under paragraphs (1) and (2).

''(B) TIMING.—The first report required under subparagraph (A) shall be submitted before the expiration of the 60-month period beginning on the date of the enactment of the Terrorism Risk Insurance Revision and Extension Act of 2007. The second such report shall be submitted before the expiration of the 96-month period beginning upon such date of enactment.''; and

(2) in the table of contents in section 1(b), by inserting after the item relating to section 108 the following new item:

''Sec. 109. Commission on Terrorism Risk Insurance.''.

SEC. 6. APPLICABILITY.

The amendments made by this Act shall apply beginning on January 1, 2008. The provisions of

the Terrorism Risk Insurance Act of 2002, as in effect on the day before the date of the enactment of this Act, shall apply through the end of December 31, 2007.

Mr. HINOJOSA. Mr. Chairman, I rise today in support of H.R. 2761, the Terrorism Risk Insurance Revision and Extension Act, TRIREA, of 2007, which will both extend and improve upon the current Terrorism Risk Insurance Program.

I am very pleased that the legislation will include domestic terrorism as a covered event. I strongly support the inclusion of group life insurance as a covered line under the new TRIA legislation, and I applaud Chairman FRANK for allowing the return of farm owners multiple peril as a TRIA-covered line.

I want to thank Chairman BARNEY FRANK, Chairman PAUL KANJORSKI, Chairwoman CAROLYN MALONEY and Congressman MICHAEL CAPUANO for working so diligently on this bill and bringing it to the floor today.

At this point, I ask unanimous consent to submit for the record the following letters of support of H.R. 2761: (1) a letter from the American Insurance Association; (2) a letter from the Financial Services Roundtable; (3) a letter from the Coalition to Insure Against Terrorism; and, (4) a letter of support from the Mortgage Bankers Association.

I want to stress one important point that seems to have been lost in the discussion of terrorism overall and the debate on the Terrorism Risk Insurance Act and program in particular.

Mr. Chairman, we are all in this together—not just New York City or Washington, DC, or other large cities but cities both large and small. We must protect all our constituents in all our cities in the United States, and this bill, H.R. 2761 goes a long way towards attaining that goal.

As far as I know, there is no definitive methodology that will determine where terrorists might strike next in the United States. So, we all need to remain vigilant, even those of us from small cities and rural areas. We all need to be prepared, and we all need to help prevent terrorist attacks.

This legislation will help us attain our goals.

For these reasons and more, I encourage my colleagues to vote in favor of H.R. 2761.

AMERICAN INSURANCE ASSOCIATION,
Washington, DC, September 18, 2007.

Hon. NANCY PELOSI,
Speaker, House of Representatives, Washington, DC.
Hon. STENY HOYER,
Majority Leader, House of Representatives, Washington, DC.
Hon. JOHN BOEHNER,
Minority Leader, House of Representatives, Washington, DC.
Hon. ROY BLUNT,
Minority Whip, House of Representatives, Washington, DC.

DEAR SPEAKER PELOSI, MINORITY LEADER BOEHNER, MAJORITY LEADER HOYER, AND MINORITY WHIP BLUNT: We understand that H.R. 2761 is scheduled for House floor consideration tomorrow. We commend the House for moving forward on this critical legislation.

Apart from extending the existing program, H.R. 2761 confronts the unique insurance challenges posed by terrorist threats of a nuclear, biological, chemical or radiological nature (NBCR). In the last two years, two separate government studies—one by the President's Working Group on Financial Markets (led by Treasury) and another by the Government Accountability Office—have concluded what insurers already knew: that, outside of state mandates, there is virtually no private insurance market capacity for NBCR terrorism risk and there is little potential for such a market to emerge in the near future. H.R. 2761 fills that void by requiring insurers to make available additional NBCR terrorism insurance as part of the Federal backstop where policyholders accept the terrorism coverage offered under current law, and by providing insurers with more limited and certain financial exposure that reflects the distinctive catastrophic nature of NBCR terrorism. For this and other reasons, the American Insurance Association and its more than 350 property casualty insurance company members strongly endorse H.R. 2761 as it was reported out of the House Financial Services Committee.

We understand that a new provision has been added to address the concerns resulting from the Congressional Budget Office report, which would require additional Congressional action to authorize Federal payment for an act of terrorism. The industry has serious reservations about the commercial workability and certainty of the provision and the potential adverse marketplace impact. As the legislation moves forward in the process, we look forward to working with you and others in Congress to ensure these concerns are resolved in a way that preserves the future viability of the program.

Sincerely,

MARC RACICOT,
President.

THE FINANCIAL SERVICES ROUNDTABLE,
Washington, DC, September 19, 2007.

Hon. BARNEY FRANK,
Chairman, Committee on Financial Services, House of Representatives, Washington, DC.

DEAR CHAIRMAN FRANK: On behalf of the members of the Financial Services Roundtable, I am writing to express my strong support for H.R. 2761, the ''Terrorism Risk Insurance Revision and Extension Act of 2007 (TRIREA)'' which will extend the public/private partnership created in 2002 to enhance our nation's economic security.

The Terrorism Risk Insurance Act (TRIA) has served as a vital economic policy enabling insurers and policy holders to arrive at commercial insurance agreements that provide adequate coverage for the insured while protecting the solvency of the insurer. Without TRIA, the commercial insurance marketplace faces severe disruption.

H.R. 2761 continues this important partnership, and improves upon it. Notably, the bill extends the program for 15 years, enables coverage for megacatastrophes involving nuclear, biological, chemical and radiological events and covers group life—the only type of life insurance held by most Americans.

I understand that the manager's amendment to the bill makes an essential change to the program making government funds available only after a future congressional action. While generally, we could not support adding contingencies into a bill that is designed to create certainty, I understand the change is necessary to move the bill forward in a timely manner.

As such, I encourage your support for the rule and H.R. 2761 and ask you to oppose any motion to recommit.

Thank you for your consideration of this important matter. Should you have any questions, please do not hesitate to call me, or Andy Barbour of my staff.

Best Regards,

STEVE BARTLETT,
President and CEO.

VOTE ''YES'' ON H.R. 2761

The undersigned members of the Coalition to Insure Against Terrorism (CIAT), a broad based coalition of business insurance policyholders representing a significant segment of the nation's GDP, strongly urge you to vote ''yes'' on H.R. 2761 Terrorism Risk Insurance Revision and Extension Act of 2007 (TRIREA).

American Bankers Association; American Bankers Insurance Association; American Council of Engineering Companies; American Gas Association; American Hotel and Lodging Association; American Land Title Association; American Public Gas Association; American Public Power Association; American Resort Development Association; American Society of Association Executives; Associated Builders and Contractors; Associated General Contractors of America; Association of American Railroads; Association of Art Museum Directors; Babson Capital Management LLC; The Bond Market Association; Building Owners and Managers Association International; Boston Properties; and CCIM Institute.

Campbell Soup Company; Century 21 Department Stores; Chemical Producers and Distributors Association; Citigroup Inc.; Commercial Mortgage Securities Association; Cornerstone Real Estate Advisers, Inc.; CSX Corporation; Edison Electric Institute; Electric Power Supply Association; The Financial Services Roundtable; The Food Marketing Institute; General Aviation Manufacturers Association; Helicopter Association International; Hilton Hotels Corporation; Host Hotels and Resorts; Independent Electrical Contractors; Institute of Real Estate Management; Intercontinental Hotels; and International Council of Shopping Centers.

International Franchise Association; International Safety Equipment Association; The Long Island Import Export Association; Marriott International; Mortgage Bankers Association; National Apartment Association; National Association of Home Builders; National Association of Industrial and Office Properties; National Association of Manufacturers; National Association of REALTORS®; National Association of Real Estate Investment Trusts; National Association of Waterfront Employers; National Association of Wholesaler-Distributors; National Basketball Association; National Collegiate Athletic Association; National Council of Chain Restaurants; National Football League; National Hockey League; and National Multi Housing Council.

National Petrochemical & Refiners Association; National Restaurant Association; National Retail Federation; National Roofing Contractors Association; National Rural Electric Cooperative Association; The New England Council; Partnership for New York City; Office of the Commissioner of Baseball; Public Utilities Risk Management Association; The Real Estate Board of New York; The Real Estate Roundtable; Society of American Florists; Starwood Hotels and Resorts; Taxicab, Limousine & Paratransit Association; Travel Business Roundtable; Trizec Properties, Inc.; UJA-Federation of New York; Union Pacific Corporation; and U.S. Chamber of Commerce.

MORTGAGE BANKERS ASSOCIATION,
Washington, DC, September 17, 2007.

Hon. STENY H. HOYER,
Majority Leader, House of Representatives, Washington, DC.
Hon. JOHN A. BOEHNER,
Republican Leader, House of Representatives, Washington, DC.

DEAR LEADER HOYER AND LEADER BOEHNER: On behalf of the Mortgage Bankers Association (MBA), I am writing to express my strong support for H.R. 2761, the Terrorism Risk Insurance Revision and Extension Act of 2007 and strongly urge Members of the House of Representatives to support the legislation when it comes to the House floor.

H.R. 2761, introduced by Representative Michael Capuano, passed the Committee on Financial Services by a bipartisan vote of 49–20 on August 1, 2007. Significant additions to the prior legislation, the Terrorism Risk Insurance Extension Act of 2005 (TRIEA), include:

Extension of the Terrorism Risk Insurance Act for 15 years;

Coverage of nuclear, biological, chemical or radiological (NBCR) attacks;

Coverage of domestic source terrorism; and

Provision for group life insurance.

The 15-year extension will allow for greater stability in the commercial real estate lending industry where the average loan duration is 10 years. The addition of NBCR coverage will be welcome news to owners and investors in a market where the very limited availability of NBCR terrorism coverage, at any price, has left virtually all properties uninsured against an NBCR event. Given the current concerns about homegrown terrorist acts, particularly since recent events in Europe, the bill extends the program to include acts of domestic terrorism. Finally, the bill includes, for the first time, group life insurance in the program. As a whole, the inclusion of these items in H.R. 2761 eliminates significant terrorism insurance coverage gaps that could inflict great financial damage to American businesses.

Extending TRIEA is essential to continued American economic growth. An inadequate supply of terrorism insurance would potentially trigger bond downgrades, sharply reducing the availability of loan capital for commercial real estate, increasing borrowing costs and undermine economic growth, including employment in the construction and real estate sectors. In fact, conversations with rating agencies indicate that without such a federal backstop, bond downgrades will likely occur, as was the case in the time period between the September 11, 2001 terrorist attacks and the enactment of Terrorism Risk Insurance Act of 2002.

The Terrorism Risk Insurance Revision and Extension Act is strong legislation that will greatly benefit the American economy, giving developers and their investors the constancy they need to work on large-scale real estate projects.

Thank you for the opportunity to share our views on this critical issue. We urge Members of the House of Representatives to support this important legislation.

Sincerely,

JOHN M. ROBBINS,
Chairman.

Mrs. MCCARTHY of New York. Mr. Chairman, I rise in support of H.R. 2761, the Terrorism Risk Insurance Revision and Extension Act of 2007. This legislation extends the TRIA program for 15 years, and it is vital to our Nation.

A longer TRIA means economic certainty and stability in commercial real estate. A longer TRIA means better planning, better rates, and better returns for investors. A longer TRIA is good for the economy.

Financing for major construction often takes more than 10 years. If a project seeks finance for a project in year one of the new TRIA, investors might have the confidence to advance these funds. However, if a project is conceived in year two or year three, and if TRIA is extended for only 10 years, then investors will know that TRIA will be around for only 7 years. The investors may not provide the necessary capital, or those investors may change far more interest than they would under TRIA.

What happens if a community cannot rebuild after an act of terror? Jobs are lost and with them tax revenue from the local to the state and to the federal level. It simply is not rational to believe that somehow a limited TRIA will save money in the long run.

I simply do not believe that the reinsurance industry has the ability or the interest in providing terrorism risk insurance. A federal backup like TRIA is essential.

My colleagues need to remember that TRIA is not a handout and it is not a benefit. The program pays out only in the event of an act of terrorism against the United States; and terrorism is neither a benefit nor a handout.

When one part of America is attacked, the entire country is attacked. When one city or region suffers, then the rest of the country pitches in to help. We have done that in the past after earthquakes, floods, droughts, hurricanes, and acts of terror.

I hope that none of you have to experience what the people of New York, New Jersey, and Connecticut experienced 6 years ago. The next attack may occur in Orlando, Chicago, Los Angeles, or even small cities across this Nation. The people and the government will respond, as we have in the past.

But, TRIA ensures that taxpayers will not have to bear the entire burden of the response. The bill requires insurance companies to do what they do best: provide insurance. Without TRIA, the American taxpayers will have to bear the entire cost of responding to another act of terrorism.

I fully support the TRIA legislation brought before the House today and urge my colleagues to pass the legislation and allow for Senate Action.

Mr. GARRETT of New Jersey. Mr. Chairman, I rise today to voice my very reluctant opposition to the underlying bill.

Over the last 8 months, the Financial Services Committee has had several hearings on this important topic, including one that I attended in New York City. I thought these hearings were very productive and I am pleased that the Committee and this House are focused on an issue that is not only very important to the 5th district of New Jersey, but to our national economic well-being.

After the terrorist attacks of 9/11, terrorism risk insurance either became unavailable or extremely expensive and many businesses were no longer able to purchase insurance that would protect them in any future terrorist attack. Financially, terrorist threats pose a risk of serious harm not only to the insurance industry, but also to the real estate, transportation, construction, energy, and utility sectors. Even beyond the horrific human toll, terrorists could inflict real pain by melting our infrastructure and economy down.

Recognizing the detrimental effects an attack could have upon our economy, Congress acted quickly and responsibly to debate and pass the Terrorism Risk Insurance Act of 2002, better known as TRIA. This temporary Act helped stabilize the terrorism insurance marketplace and restore capacity to that large part of the U.S. economy.

In 2005, Congress extended the TRIA program with some additional reforms and changes for 2 more years. I supported this extension because I felt that more time was needed to allow the private markets increase their capacity and develop new and creative ways to work out the problems that existed.

Since September 11, insurers and reinsurers have cautiously reentered the terrorism insurance market, allocating more capacity year-to-year. More commercial policyholders are becoming insured, year-to-year. At the same time, the federal role has scaled back correspondingly, with higher deductibles, higher co-pays, higher triggers, and fewer lines of insurance covered. I view this increased private-sector involvement and decreased government involvement, to be a positive development.

Unfortunately, the bill before us today sets these positive and natural developments back. Still more unfortunate is that though this is an issue that the Financial Services Committee has historically acted on in a bipartisan manner, the Chairman rebuffed in full and without, what I believe, proper consideration a number of very reasonable proposals that my colleagues on this side of the aisle offered—amendments that might have made this bill more palatable and perhaps staved off the Presidential veto threat now on the table.

My primary concern is the proposed length of duration of the government program. This bill would extend the life of this program by 15 years. A short-term, temporary extension allows for periodic reassessment of market conditions to see if there is more room for private sector participation. It allows for a gradual scaling-back of the government program going-forward as we observe how private insurers and reinsurers continue to expand the market. A short-term extension permits the natural evolution of the market to occur.

Given that the private sector continues to increase its capacity to cover terrorism risk insurance, I believe a short-term extension is more appropriate than creating a permanent government program. If we establish an essentially permanent program, the private sector will lose its incentive to look for innovative and newer solutions.

And realistically passing a 15-year extension is equivalent to passing an essentially permanent program. If we extend the program for too long of a time period, I fear we will not revisit this important topic and continue to try and make improvements like we did after the last time the program expired. As we all know, Congress rarely opens already passed legislation to make changes and improvements. We did not reopen the Transportation Bill, the Farm Bill and other long-term reauthorizations regardless of the problems that arose. And, we will not reopen this bill either.

So, Mr. Chairman, while I would support a temporary extension of this important program, I cannot support extending the program by 15 years, decreasing the amount of private sector participation, and loading an extra burden on the U.S. taxpayer. I ask my colleagues to vote against this legislation.

Mr. PAUL. Mr. Chairman, six years ago, when the Congress considered the bill creating the terrorism insurance program, I urged my colleagues to reject it. One of the reasons I opposed the bill was my concern that, contrary to the claims of the bill's supporters, terrorism insurance would not be allowed to sunset. As I said then:

''The drafters of H.R. 3210 claim that this creates a 'temporary' government program. However, Mr. Speaker, what happens in three years if industry lobbyists come to Capitol Hill to explain that there is still a need for this program because of the continuing threat of terrorist attacks. Does anyone seriously believe that Congress will refuse to reauthorize this

'temporary' insurance program or provide some other form of taxpayer help to the insurance industry? I would like to remind my colleagues that the federal budget is full of expenditures for long-lasting programs that were originally intended to be 'temporary.'"

I am disappointed to be proven correct. I am also skeptical that, having renewed the program twice, this time for fifteen years, Congress will ever allow it to expire.

As Congress considers extending this program, I renew my opposition to it for substantially the same reasons I stated six years ago. However, I do have a suggestion on how to improve the program. Since one claimed problem with allowing the private market to provide terrorism insurance is the difficulty of quantifying the risk of an attack, the taxpayers' liability under the terrorism reinsurance program should be reduced for an attack occurring when the country is under orange or red alert. After all, because the point of the alert system is to let Americans know when there is an increased likelihood of an attack it is reasonable to expect insurance companies to demand that their clients take extra precautionary measures during periods of high alert. Reducing taxpayer subsidies will provide an incentive to ensure private parties take every possible precaution to minimize the potential damage from possible terrorists attack.

Since my fundamental objections to the program remain the same as six years ago, I am attaching my statement regarding H.R. 3210, which created the terrorist insurance program in the 107th Congress:

Mr. Chairman, no one doubts that the government has a role to play in compensating American citizens who are victimized by terrorist attacks. However, Congress should not lose sight of fundamental economic and constitutional principles when considering how best to provide the victims of terrorist attacks just compensation. I am afraid that H.R. 3210, the Terrorism Risk Protection Act, violates several of those principles and therefore passage of this bill is not in the best interests of the American people.

Under H.R. 3210, taxpayers are responsible for paying 90 percent of the costs of a terrorist incident when the total cost of that incident exceeds a certain threshold. While insurance companies technically are responsible under the bill for paying back monies received from the Treasury, the administrator of this program may defer repayment of the majority of the subsidy in order to ''avoid the likely insolvency of the commercial insurer,'' or avoid ''unreasonable economic disruption and market instability.'' This language may cause administrators to defer indefinitely the repayment of the loans, thus causing taxpayers to permanently bear the loss. This scenario is especially likely when one considers that ''avoid . . . likely insolvency, unreasonable economic disruption, and market instability'' are highly subjective standards, and that any administrator who attempts to enforce a strict repayment schedule likely will come under heavy political pressure to be more ''flexible'' in collecting debts owed to the taxpayers.

The drafters of H.R. 3210 claim that this creates a ''temporary'' government program. However, Mr. Speaker, what happens in three years if industry lobbyists come to Capitol Hill to explain that there is still a need for this program because of the continuing threat of terrorist attacks. Does anyone seriously believe that Congress will refuse to reauthorize this ''temporary'' insurance program or provide some other form of taxpayer help to the insurance industry? I would like to remind my colleagues that the federal budget is full of expenditures for long-lasting programs that were originally intended to be ''temporary.''

H.R. 3210 compounds the danger to taxpayers because of what economists call the ''moral hazard'' problem. A moral hazard is created when individuals have the costs incurred from a risky action subsidized by a third party. In such a case individuals may engage in unnecessary risks or fail to take steps to minimize their risks. After all, if a third party will bear the costs of negative consequences of risky behavior, why should individuals invest their resources in avoiding or minimizing risk?

While no one can plan for terrorist attacks, individuals and businesses can take steps to enhance security. For example, I think we would all agree that industrial plants in the United States enjoy reasonably good security. They are protected not by the local police, but by owners putting up barbed wire fences, hiring guards with guns, and requiring identification cards to enter. One reason private firms put these security measures in place is because insurance companies provide them with incentives, in the form of lower premiums, to adopt security measures. H.R. 3210 contains no incentives for this private activity. The bill does not even recognize the important role insurance plays in providing incentives to minimize risks. By removing an incentive for private parties to avoid or at least mitigate the damage from a future terrorist attack, the government inadvertently increases the damage that will be inflicted by future attacks!

Instead of forcing taxpayers to subsidize the costs of terrorism insurance, Congress should consider creating a tax credit or deduction for premiums paid for terrorism insurance, as well as a deduction for claims and other costs borne by the insurance industry connected with offering terrorism insurance. A tax credit approach reduces government's control over the insurance market. Furthermore, since a tax credit approach encourages people to devote more of their own resources to terrorism insurance, the moral hazard problems associated with federally funded insurance is avoided.

The version of H.R. 3210 passed by the Financial Services committee took a good first step in this direction by repealing the tax penalty which prevents insurance companies from properly reserving funds for human-created catastrophes. I am disappointed that this sensible provision was removed from the final bill. Instead, H.R. 3210 instructs the Treasury Department to study the benefits of allowing insurers to establish tax-free reserves to cover losses from terrorist events. The perceived need to study the wisdom of cutting taxes while expanding the federal government without hesitation demonstrates much that is wrong with Washington.

In conclusion, Mr. Chairman, H.R. 3210 may reduce the risk to insurance companies from future losses, but it increases the costs incurred by the American taxpayer. More significantly, by ignoring the moral hazard problem this bill may have the unintended consequence of increasing the losses suffered in any future terrorist attacks. Therefore, passage of this bill is not in the long-term interests of the American people.

Mr. LARSON of Connecticut. Mr. Chairman, today I rise in strong support of H.R. 2761, the Terrorism Risk Insurance Revision and Extension Act of 2007, which would reauthorize the Federal terrorism insurance program (TRIA) for 15 years.

I am pleased that the years spent working on this issue with constituents, the insurance industry, and the financial services industries to build a consensus has produced a bill so widely supported by Members in the House on both sides of the aisle that has the strong support of the business community. I applaud Chairman FRANK, the members of the House Financial Services Committee, and Representative CAPUANO, the chief sponsor of the bill, for their leadership in crafting this critical legislation protecting the safety and security of America.

It is estimated that the September 11th terrorist attacks resulted in $40 billion in insured claims, the largest man-made insurance disaster on record. After the 9/11 attacks, given the size of potential liabilities, there was growing concern that insurance companies and reinsurers might not be able to write policies to insure losses due to future acts of terrorism. As a result, the TRIA program was enacted in 2002 in an attempt to prevent an industry-wide catastrophe in the event of another domestic terrorist attack. The TRIA program provides a federal backstop to the insurance industry by providing compensation for a portion of insured losses resulting from acts certified by the Government as acts of terrorism. The law was reauthorized with some changes in 2005 (P.L. 109–44) and will expire on December 31, 2007.

Currently, TRIA only covers foreign terrorism; however, this bill would extend TRIA coverage to both foreign and domestic terrorism. The bill would set the ''trigger'' level—the size of an attack at which the Federal Government would provide aid to insurers—at $50 million. According to studies from the Government Accountability Office (GAO), the risk of nuclear, biological, chemical and radiological terrorism is uninsurable absent a Federal Government backstop. In response, this legislation would include acts of nuclear, biological, chemical, and radiological terrorism in TRIA. The bill would also add group life insurance to the types of insurance for which terrorism insurance coverage must be made available by insurers. Finally, H.R. 2761 would create a 21-member ''blue ribbon'' commission to propose long-term solutions to covering terrorism risk. The goal of this legislation is to protect America's economy during a time of national crisis and is important to the economic security of the business community in Hartford and the Capital Region.

I urge my colleagues to vote in favor of final passage and for the President to sign this bill into law. The continued insurance and safety of our Nation against terrorist attacks is an urgent and bipartisan issue.

The CHAIRMAN. No further amendment to the bill, as amended, is in order except those printed in part B of the report. Each further amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject

to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. FRANK OF MASSACHUSETTS

The CHAIRMAN. It is now in order to consider amendment No. 1 printed in House Report 110–333.

Mr. FRANK of Massachusetts. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. FRANK of Massachusetts:

Strike section 102(1)(C) of the Terrorism Risk Insurance Act of 2002, as proposed to be amended by section 3(a)(1) of the bill, and insert the following:

''(C) CERTIFICATION OF ACT OF NBCR TERRORISM.—Where a certified act of terrorism is carried out by means of a nuclear, biological, chemical, or radiological weapon or similar instrumentality, the Secretary shall further certify such act of terrorism as an act of NBCR terrorism. If a certified act of terrorism involves any other weapon or instrumentality, the Secretary, in concurrence with the Secretary of State, the Secretary of Homeland Security, and the Attorney General of the United States, shall determine whether the act of terrorism meets the definition of NBCR terrorism in this section. If such determination is that the act does meet such definition, the Secretary shall further certify that such act as an act of NBCR terrorism. Nothing in this subparagraph shall prohibit the Secretary from determining that a single act of terrorism resulted in both NBCR and non-NBCR insured losses.''.

In section 102(11)(I)(ii)(II) of the Terrorism Risk Insurance Act of 2002, as proposed to be amended by section 3(a)(1) of the bill, strike ''and'' at the end.

In section 102(11)(J)(i) of the Terrorism Risk Insurance Act of 2002, as proposed to be amended by section 3(a)(1) of the bill, add ''and'' at the end.

In section 102(11)(J) of the Terrorism Risk Insurance Act of 2002, as proposed to be amended by section 3(a)(1) of the bill, strike the period at the end and insert ''; and''.

At the end of section 102(11) of the Terrorism Risk Insurance Act of 2002, as proposed to be amended by section 3(a)(1) of the bill, add the following:

''(K) for the fifth additional Program Year and any Additional Program year thereafter, notwithstanding subparagraph (I)(i), if aggregate industry insured losses resulting from a certified act of NBCR terrorism exceed $1,000,000,000, for any insurer that sustains insured losses resulting from such act of NBCR terrorism, the value of such insurer's direct earned premiums over the calendar year immediately preceding the Program Year, multiplied by a percentage, which—

''(i) for the fifth additional Program Year shall be 5 percent; and

''(ii) for each additional Program Year thereafter, shall be 50 basis points greater than the percentage applicable to the preceding additional Program Year, except that if an act of NBCR terrorism occurs during the fifth additional Program Year or any additional Program Year thereafter that results in aggregate industry insured losses exceeding $1,000,000,000, the percentage for the succeeding additional Program Year shall be 5 percent and the increase under this clause shall apply to additional Program Years thereafter;

except that for purposes of determining under this subparagraph whether aggregate industry insured losses exceed $1,000,000,000, the Secretary may combine insured losses resulting from two or more certified acts of NBCR terrorism occurring during such Program Year in the same geographic area (with such area determined by the Secretary), in which case such insurer shall be permitted to combine insured losses resulting from such acts of NBCR terrorism for purposes of satisfying its insurer deductible under this subparagraph; and except that the insurer deductible under this subparagraph shall apply only with respect to compensation of insured losses resulting from such certified act, or combined certified acts, and that for purposes of compensation of any other insured losses occurring in the same Program Year, the insurer deductible determined under subparagraph (I)(i) shall apply.''.

In section 102(13) of the Terrorism Risk Insurance Act of 2002, as proposed to be amended by section 3(a)(1) of the bill, strike ''involves nuclear, biological'' and all that follows and insert ''involves or triggers nuclear, biological, chemical, or radiological reactions, releases, or contaminations, but only if any aggregate industry insured losses that result from such reactions, releases, or contaminations exceed the amount set forth in paragraph (1)(B)(ii).''.

In section 103(c)(4)(A)(iii)(II)(aa) of the Terrorism Risk Insurance Act of 2002, as proposed to be amended by section 3(a)(1) of the bill, strike ''unlawful'' and insert ''fraudulent''.

In section 103(c)(4)(A)(iii)(II)(bb) of the Terrorism Risk Insurance Act of 2002, as proposed to be amended by section 3(a)(1) of the bill, after ''insured person is'' insert ''substantially''.

In section 103(e)(1)(B)(ii) of the Terrorism Risk Insurance Act of 2002, as proposed to be amended by section 3(a)(1) of the bill, insert ''result from any such reactions, releases, or contaminations and that'' after ''such insured losses that'' .

In section 103(e)(1)(B)(ii)(I) of the Terrorism Risk Insurance Act of 2002, as proposed to be amended by section 3(a)(1) of the bill, strike ''exceeds'' and insert ''exceed''.

In section 103(h)(1) of the Terrorism Risk Insurance Act of 2002, in the matter preceding subparagraph (A), as proposed to be amended by section 3(a)(1) of the bill, strike ''an appropriate index'' and all that follows through the colon and insert ''the Consumer Price Index for All Urban Consumers (CPI–U), as published by the Bureau of Labor Statistics of the Department of Labor, during the 12-month period preceding such program year, each of the dollar amounts set forth in this title (as such amount may have been previously adjusted), including the following amounts:''.

Strike subparagraph (B) of section 103(h)(1) of the Terrorism Risk Insurance Act of 2002, as proposed to be amended by section 3(a)(1) of the bill, and insert the following:

''(B) The dollar amounts in subparagraphs (J) and (K) of section 102(11) (relating to an insurer deductible threshold based on the amount of aggregate industry insured losses).''.

In section 3 of the bill, redesignate subsection (c) as subsection (d).

In section 3 of the bill, after subsection (b) insert the following new subsection:

(c) REGULATIONS ON CERTIFICATION OF AN ACT OF NBCR TERRORISM.—The Secretary of the Treasury shall issue the regulations to carry out subparagraph (C) of section 102(1) of the Terrorism Risk Insurance Act of 2002, as amended by subsection (a)(1) of this section, not later than the expiration of the 180-day period beginning upon the date of the enactment of this Act.

The CHAIRMAN. Pursuant to House Resolution 660, the gentleman from Massachusetts (Mr. FRANK) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I recognize myself for 1 minute.

Mr. Chairman, this is an agreed-upon set of amendments. As I said, it was a bipartisan process, to some extent, in drafting. This makes technical revisions and requires Treasury to promulgate rules to clarify the nuclear, biological, chemical and radiation certification process. It provides that there be indexing, which is, I think, in accordance, there are some copayments, et cetera, and these will be indexed. It applies the reset mechanism to the deductible for nuclear, biological, chemical and radiological, and it makes technical and conforming changes. I believe, as I said, this represents a consensus.

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

Mr. BACHUS. Mr. Chairman, I rise to claim time in opposition, although I am not opposed to the manager's amendment.

The CHAIRMAN. Without objection, the gentleman from Alabama is recognized for 5 minutes.

There was no objection.

Mr. BACHUS. Mr. Chairman, this amendment has some improvements to the bill. I would like to express to the chairman that I appreciate his willingness to work to make, I think, some needed and technical changes to the bill. I would encourage my colleagues to vote for the manager's amendment and, again, express, although the chairman and I have some philosophical differences in the overall TRIA legislation and whether how temporary it ought to be or how permanent it ought to be or the extent of where the Federal subsidies, on this amendment we have no disagreement.

We continue to work well in a bipartisan manner despite our philosophical differences.

Mr. Chairman, I urge Members to support the manager's amendment.

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

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the ranking member. We were able to work out a number of these things. I would just want to return to a couple of broader points. I want to make two points. One, I don't think the market will work and neither does any participant in the market either as an insurer, or any significant number, or as the insured. But even if it could, it does not seem to me that it should. If you did this purely in the private market, you would give to the vicious attackers of America the power to decide that it would be more

expensive to do business in some parts of our country than others. You could have another video from the despicable Osama Bin Laden in which he could threaten that he would take action against this area or that area, these facilities or those facilities, and their insurance premiums would go up.

Yes, the private market should govern all those things which it deals with, with fire and with other forms of casualty and even with natural disasters. But to put in the hands of America's enemies this economic power is a grave error. Should the taxpayers pay for it? Yes, because it is a matter of national defense. It is a matter of homeland security. We are not talking about insuring people against the risk if they built a commercial building of liability to injury, of fire, of theft, of improper or inadequate construction. We are saying that, no, if you are in business in America, you should not have to insure against an attack on this country based on hatred of us.

So that is why I believe that we should do this as a public policy matter.

Mr. Chairman, at this point, I yield 2 minutes to the gentleman from North Carolina, a member of the committee who is one of our most thoughtful Members to discuss the general principle of the bill.

Mr. WATT. I am actually walking into the floor at a good time to pick up on the point that the Chair of the committee is making.

This has kind of turned out to be the kind of debate that you hear in politics: Democrats believe in government and government can do everything; and Republicans believe in the private sector, and the private sector can do everything. The truth of the matter is neither one of those things is correct. There are some things that government can do and there are some things, a lot of things, that the private sector can do. One thing I think the private sector cannot do effectively is to insure against the kind of things that are really governmental responsibilities, protection of ourselves, our national defense. When that fails, it becomes a responsibility of government to accept and provide a safety net for our business community, or for our people.

It is unfortunate that this debate has deteriorated into that kind of dichotomy. You have to either have all of government or all of the private sector.

We think this is an ideal time for the government to be providing this kind of insurance protection so that business and the private sector and real estate development can continue to operate without fear of intervention by foreign powers or terrorists.

And I rise in support of the amendment

□ 1330

Mr. BACHUS. Mr. Chairman, I ask unanimous consent to reclaim 30 seconds of my time.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. BACHUS. I thank the Chairman.

Let me say to all Members of this body, we are not saying and neither has it been our position that the government does not have a role to play in offering a backstop to terrorist insurance. We believe that that ought to be a limited goal, and we believe that we ought to continue in the path of the prior TRIA extensions, where we continue to let the private market fill in.

We believe, on the other hand, and we not only believe, but this bill calls for higher deductibles, higher premiums and higher taxpayer participation, and we feel like we are reversing our role

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. FRANK).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. PEARCE. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Massachusetts will be postponed.

AMENDMENT NO. 2 OFFERED BY MR. PEARCE

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in part B of House Report 110–333.

Mr. PEARCE. Mr. Chairman, I have an amendment at the desk.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. PEARCE:

In the matter proposed to be added by the amendment made by section 3(a)(1) of the bill, in section 102(11)(J)(ii), strike ''50 basis points'' and insert ''100 basis points''.

The CHAIRMAN. Pursuant to House Resolution 660, the gentleman from New Mexico (Mr. PEARCE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Mexico.

Mr. PEARCE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to offer an amendment to the Terrorism Risk Insurance Revision and Extension Act of 2007. My amendment takes one critical step forward in writing insurer participation back into TRIA.

Five years ago, the Terrorism Risk Insurance Act, TRIA, was signed into law as a temporary program to facilitate transition to a viable market for private terrorism insurance. Since enacting TRIA in 2002, insurer deductibles have increased incrementally by at least 2.5 percent each year, from 7 percent in the first year to the current 20 percent level.

The bill before us today scales back insurance industry participation in the terrorism risk market and reduces the expectation that a private market will one day take over. H.R. 2761 would lower the 20 percent deductible to 5 percent, increasing by one-half percent each year for events above $1 billion. At that rate, it would take 30 years before the deductibles would reach today's level, where Treasury assures us the market is performing very well.

While I am supportive of TRIA as a concept and understand the market is not yet where it needs to be to take over terrorism insurance, I believe strongly that the responsibility for terrorism insurance needs to be on the insurers, not on the taxpayers.

My amendment will rewrite some of the insurance industry participation back into TRIA. I have proposed a modest increase in deductible each year of 1 percent, an increase of one-half percent from where the bill is today. It will ensure that deductibles are back up to the current 20 percent level at the end of the 15-year extension.

I believe my amendment is a step in the right direction towards encouraging a private terrorism insurance market, while providing the insurance industry with the environment for a stable transition. I hope that you will join me in supporting this important amendment.

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

Mr. ACKERMAN. Mr. Chairman, I rise to claim the time in opposition.

The CHAIRMAN. The gentleman from New York is recognized for 5 minutes.

Mr. ACKERMAN. Mr. Chairman, our friends on the Republican side pride themselves on being tough on terror, and rightfully so. To be honest, it is evident when you listen to President Bush and he says things like ''You're either with us or against us.''

But also the President said in the wake of 9/11, he said this here in this Chamber to the Congress and to the American people, and I quote our President, ''Terrorist attacks can shake the foundations of our biggest buildings, but they cannot touch the foundations of America. These acts shatter steel, but they cannot dent the steel of American resolve.'' Our President said that to us, Mr. Chairman.

After looking over the amendment, I realize the gentleman from New Mexico was not yet elected to be here and probably didn't get the memo about what the President said, because the effect of his amendment would allow terrorists to tell us where we can and where we cannot build after a catastrophic terrorist attack.

The bill would reset the deductible from 20 percent to 5 percent after a terrorist attack, which is good. The amendment that the gentleman proposes would increase the reset deductible to as high as 19 percent after a terrorist attack, which is almost the same as the original 20 percent. Small comfort.

Undermining the purpose and the intent of the reset mechanism by eliminating the incentives created by the reset would price insurers out of areas affected by terrorist attacks, prohibiting developers from rebuilding.

It would seem to me that to support this amendment is so blatantly to oppose the American resolve that President Bush claimed in the wake of September 11. Should we have left Ground Zero smoldering and not build the Freedom Tower? Should we concede defeat to Osama bin Laden? Should he dictate where we can and cannot build?

I say to the gentleman from New Mexico, if we cannot build and rebuild in the areas where terrorists attack, that is a major defeat for our country and a resounding retreat from the spirit of our Nation.

I yield to the gentleman from Massachusetts, the chairman of the committee.

Mr. FRANK of Massachusetts. I join the gentleman in opposition, and I want to address this charge that we heard from one of the Members that this is a typical liberal Democratic bigspending program.

I will include for the RECORD a strong endorsement of H.R. 2761 from the Coalition to Insure Against Terrorism. It is composed of such traditional liberal groups as the American Bankers Association, the National Apartment Association, the National Association of Manufacturers, the U.S. Chamber of Commerce, the National Retail Federation, the National Restaurant Association and the National Association of Industrial and Office Property. Virtually every business involved in this, the Financial Services Roundtable, led by that radical, our former colleague, Mr. Bartlett of Texas, every business group from the insuring and insured part says this is not for the market.

I would add also a letter from the National League of Cities strongly urging on behalf of the cities of America passage of this bill as it was reported out of committee.

Finally, from the American Insurance Association, a strong argument. In particular, it thanks us for including nuclear, biological, chemical and radiological.

Those who said the market can do it, it says two separate government studies have concluded what insurers already knew, that outside of State mandates, there is virtually no private insurance market capacity for NBCR. ''For this and other reasons,'' they like the whole bill, ''the American Insurance Association and its more than 350 property casualty insurance companies strongly endorse H.R. 2761 as it was reported out of the committee.'' They have got some concern about the reset, and we will talk about that and we agree with them. But here is this strong endorsement.

Yes, it is true that this is something that some liberal Democrats support. And here is the signer on behalf of the American Insurance Association, Governor Marc Racicot, I believe a former chairman of the Republican National Committee. I want to congratulate my Democratic colleagues. To have insinuated a liberal Democrat into the chairmanship of the Republican National Committee is a degree of flexibility I didn't know we have.

So this notion that this is some liberal invention and that the market can do it is repudiated by everyone who knows anything about the market. I hope the amendment is defeated and the bill is passed.

VOTE ''YES'' ON H.R. 2761

The undersigned members of the Coalition to Insure Against Terrorism (CIAT), a broad based coalition of business insurance policyholders representing a significant segment of the nation's GDP, strongly urge you to vote ''yes'' on H.R. 2761 Terrorism Risk Insurance Revision and Extension Act of 2007 (TRIREA).

American Bankers Association; American Bankers Insurance Association; American Council of Engineering Companies; American Gas Association; American Hotel and Lodging Association; American Land Title Association; American Public Gas Association; American Public Power Association; American Resort Development Association; American Society of Association Executives; Associated Builders and Contractors; Associated General Contractors of America; Association of American Railroads; Association of Art Museum Directors; Babson Capital Management LLC; The Bond Market Association; Building Owners and Managers Association International; Boston Properties; and CCIM Institute.

Campbell Soup Company; Century 21 Department Stores; Chemical Producers and Distributors Association; Citigroup Inc.; Commercial Mortgage Securities Association; Cornerstone Real Estate Advisers, Inc.; CSX Corporation; Edison Electric Institute; Electric Power Supply Association; The Financial Services Roundtable; The Food Marketing Institute; General Aviation Manufacturers Association; Helicopter Association International; Hilton Hotels Corporation; Host Hotels and Resorts; Independent Electrical Contractors; Institute of Real Estate Management; Intercontinental Hotels; and International Council of Shopping Centers.

International Franchise Association; International Safety Equipment Association; The Long Island Import Export Association; Marriott International; Mortgage Bankers Association; National Apartment Association; National Association of Home Builders; National Association of Industrial and Office Properties; National Association of Manufacturers; National Association of REALTORS®; National Association of Real Estate Investment Trusts; National Association of Waterfront Employers; National Association of Wholesaler-Distributors; National Basketball Association; National Collegiate Athletic Association; National Council of Chain Restaurants; National Football League; National Hockey League; and National Multi Housing Council.

National Petrochemical & Refiners Association; National Restaurant Association; National Retail Federation; National Roofing Contractors Association; National Rural Electric Cooperative Association; The New England Council; Partnership for New York City; Office of the Commissioner of Baseball; Public Utilities Risk Management Association; The Real Estate Board of New York; The Real Estate Roundtable; Society of American Florists; Starwood Hotels and Resorts; Taxicab, Limousine & Paratransit Association; Travel Business Roundtable; Trizec Properties, Inc.; UJA-Federation of New York; Union Pacific Corporation; and U.S. Chamber of Commerce.

AMERICAN INSURANCE ASSOCIATION,
Washington, DC, September 18, 2007.

Hon. NANCY PELOSI,
Speaker, House of Representatives, Washington, DC.
Hon. STENY HOYER,
Majority Leader, House of Representatives, Washington, DC.
Hon. JOHN BOEHNER,
Minority Leader, House of Representatives, Washington, DC.
Hon. ROY BLUNT,
Minority Whip, House of Representatives, Washington, DC.

DEAR SPEAKER PELOSI, MINORITY LEADER BOEHNER, MAJORITY LEADER HOYER, AND MINORITY WHIP BLUNT: We understand that H.R. 2761 is scheduled for House floor consideration tomorrow. We commend the House for moving forward on this critical legislation.

Apart from extending the existing program, H.R. 2761 confronts the unique insurance challenges posed by terrorist threats of a nuclear, biological, chemical or radiological nature (NBCR). In the last two years, two separate government studies—one by the President's Working Group on Financial Markets (led by Treasury) and another by the Government Accountability Office—have concluded what insurers already knew: that, outside of state mandates, there is virtually no private insurance market capacity for NBCR terrorism risk and there is little potential for such a market to emerge in the near future. H.R.2761 fills that void by requiring insurers to make available additional NBCR terrorism insurance as part of the Federal backstop where policyholders accept the terrorism coverage offered under current law, and by providing insurers with more limited and certain financial exposure that reflects the distinctive catastrophic nature of NBCR terrorism. For this and other reasons, the American Insurance Association and its more than 350 property casualty insurance company members strongly endorse H.R. 2761 as it was reported out of the House Financial Services Committee.

We understand that a new provision has been added to address the concerns resulting from the Congressional Budget Office report, which would require additional Congressional action to authorize Federal payment for an act of terrorism. The industry has serious reservations about the commercial workability and certainty of the provision and the potential adverse marketplace impact. As the legislation moves forward in the process, we look forward to working with you and others in Congress to ensure these concerns are resolved in a way that preserves the future viability of the program.

Sincerely,

GOVERNOR MARC RACICOT,
President, American Insurance Association.

NATIONAL LEAGUE OF CITIES,
Washington, DC, September 19, 2007.

Hon. BARNEY FRANK,
Chairman, House of Representatives, Committee on Financial Services, Rayburn House Office Building, Washington, DC.
Hon. SPENCER BACHUS,
Ranking Member, House of Representatives, Committee on Financial Services, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN FRANK AND RANKING MEMBER BACHUS: I am writing on behalf of the 19,000 cities and towns represented by the National League of Cities to express our support for the Terrorism Risk Insurance Revision and Extension Act of 2007, H.R. 2761.

The Terrorism Risk Insurance Act (TRIA) creates an important mechanism under which the Federal government provides a vital federal backstop to potential catastrophic loss caused by terrorism. In addition to safeguarding America's economy and

stabilizing the terrorism insurance marketplace, TRIA provides the necessary direct federal insurance assistance to state and local governments in the case of terrorist acts.

The Act would extend the Terrorism Insurance Program for a sufficient time period to assure local governments that adequate and affordable insurance against losses caused by terrorism is readily available in the marketplace. The legislation also extends coverage to domestic acts of terrorism, which will add an additional level of protection against losses to America's cities and towns.

For these reasons, NLC supports H.R. 2761. We thank you for your leadership on this important legislation and look forward to working with you to ensure its passage.

Sincerely yours,

DONALD J. BORUT,
Executive Director.

Mr. PEARCE. Mr. Chairman, I yield 30 seconds to the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Chairman, I want to thank the chairman of the full committee for reading that list of those that endorsed it. You will notice that some of the absences were the Consumer Federation of America, which said that this bill was not good for consumers, i.e. taxpayers. The National Taxpayers Association obviously wasn't on that list, because it is a great deal for the insurance companies, and we all acknowledge that. It merely subsidizes them at the expense of taxpayers. The one name missing is taxpayers. They will pay for this legislation.

Mr. ACKERMAN. Mr. Chairman, I further yield to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. I would say yes, the taxpayers do pay. It is a matter of national defense. Where people are building and incurring risks, they should pay for it themselves. I accept that point. We are talking about how we respond to Osama bin Laden or other murderers who would attack this country.

I think it is appropriate that the country as a whole respond, and not allow the terrorists to pick and choose which Americans will have to suffer disproportionately.

Mr. PEARCE. Mr. Chairman, I find the comments very strange from the opponents of the amendment. They say that my amendment will stop rebuilding and let Osama bin Laden tell us where to rebuild.

Currently the rate of insurance deductible is at 20 percent. The rebuilding is going on quite well, frankly, and they have sustained 2.5 percent increases through the past 6 years. What we are simply saying is we are going to start at 5 percent and increase 1 percent a year over 15 years back up to the 20 percent level. Yet we are being told that regardless of what is being built now, something is going to change in the equation and the people are going to stop rebuilding if we go up and go to this one-half percent increase.

I find it heartening to know that we are within a half percent of stopping the entire economy of the U.S. on a one-half percent deductible and giving over our independence to the terrorists based on this one-half percent, when the truth is the last 6 years showed us that the industry will sustain 2.5 percent increases and continue to build exactly where they want to build, and in fact the industry will sustain on its own at least up to 20 percent. If we are estimating something above that, that would be unchartered territory. But I do find the arguments somewhat stunning.

I reserve the balance of my time.

Mr. ACKERMAN. Mr. Chairman, we have no further speakers. I would just urge all of our colleagues to join with the former chairman of the Republican National Committee and Mr. FRANK and myself and oppose this amendment before the House.

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

Mr. PEARCE. Mr. Chairman, I have no other speakers and would just urge Members to support the amendment so that we can convert this public program back into a private program over a long course of time.

Mrs. MALONEY of New York. Mr. Chairman, I rise in strong opposition to this amendment. This amendment effectively guts a provision of this bill which is essential for the recovery of localities that are the subject of terrorist attacks.

As we know in New York, insurance companies are reluctant to write coverage at all for sites of terrorist attacks because they find the risk of another attack too high given the deductible under TRIA. Insurance companies aren't willing to pay the higher deductible more than once, in other words, for any given site. We in New York face this problem today as there is far less coverage available for lower Manhattan than is required, but this problem will confront any locality that is the subject of an attack.

The reset mechanism in the bill solves this problem by lowering the deductible for any locality that has been the subject of a significant attack. It applies nationally and will greatly help with economic recovery by helping to provide adequate terrorism insurance.

We have worked on a bipartisan basis to make sure this reset mechanism works for the whole Nation, for industry, for policy holders and that it is fiscally responsible.

This amendment guts the reset mechanism by mandating large and rapid increases in the deductible once it resets to a lower number after a large terrorist attack.

Under this amendment, the reset deductible could rise in a short time to as high as 19 percent, which is almost the same as the original deductible of 20 percent. This defeats the purpose of the reset mechanism, which we worked so hard to craft as a balanced and effective tool.

A TRIA bill that does not consider the special problems of sites recovering from an attack is not an effective or well designed plan.

I urge my colleagues to reject this misguided amendment.

Mr. PEARCE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Mexico (Mr. PEARCE).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. PEARCE. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New Mexico will be postponed.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order:

Amendment No. 1 printed in part B by Mr. FRANK of Massachusetts;

Amendment No. 2 printed in part B by Mr. PEARCE of New Mexico.

The Chair will reduce to 5 minutes the time for the second electronic vote in this series.

AMENDMENT NO. 1 OFFERED BY MR. FRANK OF MASSACHUSETTS

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Massachusetts (Mr. FRANK) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 426, noes 1, not voting 10, as follows:

[Roll No. 881]

AYES—426

Abercrombie	Boustany	Conyers
Ackerman	Boyd (FL)	Cooper
Aderholt	Boyda (KS)	Costa
Akin	Brady (PA)	Costello
Alexander	Brady (TX)	Courtney
Altmire	Braley (IA)	Cramer
Andrews	Broun (GA)	Crenshaw
Arcuri	Brown (SC)	Crowley
Baca	Brown, Corrine	Cuellar
Bachmann	Brown-Waite, Ginny	Culberson
Bachus	Buchanan	Cummings
Baird	Burgess	Davis (AL)
Baker	Burton (IN)	Davis (CA)
Baldwin	Butterfield	Davis (IL)
Barrett (SC)	Buyer	Davis (KY)
Barrow	Calvert	Davis, David
Bartlett (MD)	Camp (MI)	Davis, Lincoln
Barton (TX)	Campbell (CA)	Davis, Tom
Bean	Cannon	Deal (GA)
Becerra	Cantor	DeFazio
Berkley	Capito	DeGette
Berman	Capps	Delahunt
Berry	Capuano	DeLauro
Biggert	Cardoza	Dent
Bilbray	Carnahan	Diaz-Balart, L.
Bilirakis	Carson	Diaz-Balart, M.
Bishop (GA)	Carter	Dicks
Bishop (NY)	Castor	Dingell
Bishop (UT)	Chabot	Doggett
Blackburn	Chandler	Donnelly
Blumenauer	Christensen	Doolittle
Blunt	Clarke	Doyle
Boehner	Clay	Drake
Bonner	Cleaver	Dreier
Bono	Clyburn	Duncan
Boozman	Coble	Edwards
Bordallo	Cohen	Ehlers
Boren	Cole (OK)	Ellison
Boswell	Conaway	Ellsworth
Boucher		Emanuel

Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Faleomavaega
Fallin
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Forbes
Fortenberry
Fortuño
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gillibrand
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hall (TX)
Hare
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hobson
Hodes
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Hunter
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Jordan
Kagen
Kanjorski
Kaptur
Keller
Kennedy
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Klein (FL)
Kline (MN)
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Lamborn
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Mahoney (FL)
Maloney (NY)
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
McNerney
McNulty
Meek (FL)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Norton
Nunes
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pence
Perlmutter
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Richardson
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sali
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Saxton
Schakowsky
Schiff
Schmidt
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Sestak
Shadegg
Shays
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Space
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tancredo
Tanner
Tauscher
Taylor
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walberg
Walden (OR)
Walsh (NY)
Walz (MN)
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Weldon (FL)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (OH)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Yarmuth
Young (AK)
Young (FL)

NOES—1

Castle

NOT VOTING—10

Allen
Carney
Cubin
Davis, Jo Ann
Gilchrest
Jindal
Johnson (GA)
Johnson, Sam
Meeks (NY)
Serrano

□ 1407

Mrs. BACHMANN, Messrs. SIMPSON, EHLERS, BURGESS, BRADY of Texas and Mrs. BLACKBURN changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 2 OFFERED BY MR. PEARCE

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from New Mexico (Mr. PEARCE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 194, noes 230, not voting 13, as follows:

[Roll No. 882]

AYES—194

Aderholt
Akin
Alexander
Bachmann
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bean
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Coble
Cole (OK)
Conaway
Crenshaw
Culberson
Davis (KY)
Davis, David
Deal (GA)
DeFazio
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Donnelly
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Fallin
Feeney
Flake
Forbes
Fortenberry
Fortuño
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Hall (TX)
Hastert
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hill
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Issa
Johnson (IL)
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
Kingston
Kline (MN)
Knollenberg
LaHood
Lamborn
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marshall
McCarthy (CA)
McCotter
McCrery
McHenry
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mitchell
Moran (KS)
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Sali
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Taylor
Terry
Thornberry
Tiahrt
Tiberi
Tierney
Turner
Udall (CO)
Upton
Walberg
Walden (OR)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—230

Abercrombie
Ackerman
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Bordallo
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carson
Castor
Chandler
Christensen
Clarke
Clay
Cleaver
Clyburn
Cohen
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
Davis, Tom
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Engel
Eshoo
Etheridge
Faleomavaega
Farr
Fattah
Ferguson
Filner
Fossella
Frank (MA)
Giffords
Gillibrand
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
King (NY)
Kirk
Klein (FL)
Kucinich
Kuhl (NY)
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McHugh
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Norton
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Perlmutter
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Reynolds
Richardson
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Sestak
Shays
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Space
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Towns
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walsh (NY)
Walz (MN)
Wasserman Schultz
Waters

Watson	Welch (VT)	Wu
Watt	Wexler	Wynn
Waxman	Wilson (OH)	Yarmuth
Weiner	Woolsey	

NOT VOTING—13

Allen	Hooley	Miller, George
Carney	Jindal	Serrano
Cubin	Johnson (GA)	Tancredo
Davis, Jo Ann	Marchant	
Gilchrest	McCaul (TX)	

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). Members are advised there are 2 minutes left in this vote.

□ 1414

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. ROSS) having assumed the chair, Mr. ISRAEL, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 2761) to extend the Terrorism Insurance Program of the Department of the Treasury, and for other purposes, pursuant to House Resolution 660, he reported the bill, as amended by that resolution, back to the House with a further amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. DREIER

Mr. DREIER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. DREIER. Absolutely.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Dreier moves to recommit the bill, H.R. 2761, to the Committee on Financial Services with instructions to report the same to the House promptly without the changes made by the amendment printed in part A of the report of the Committee on Rules (Report No. 110–333, 110th Congress) accompanying the resolution, H. Res. 660, 110th Congress.

The SPEAKER pro tempore. The gentleman from California is recognized for 5 minutes.

Mr. DREIER. Mr. Speaker, I offer this motion to recommit to rectify what my Rules Committee colleague, the gentleman from Miami (Mr. LINCOLN DIAZ-BALART), eloquently described as an outrage.

What we have done in this measure is unprecedented, and we are undermining the goal that I think most all of us share of trying to have a responsible Federal backdrop to deal with the potential terrorist attack on our country.

Mr. Speaker, one of the things that we all know is that certainty is absolutely essential when you are dealing with the issue of insurance. Now, we know that people can't run a business without insurance, people can't hire people without insurance, they can't build without insurance. Insurance is absolutely essential. But it is critical that certainty be provided and, unfortunately, it is not being provided under this measure.

I would like to quote the letter that was sent from our friend from New York (Mr. ACKERMAN) to Speaker PELOSI when he said, ''It is our strong belief, however, that making the entire program contingent on Congress passing a second piece of legislation completely undermines the intent and desired effect of the legislation. Under this proposal, policyholders would not know for certain whether their policies would pay out in the event of an attack and insurers could be placed in the unthinkable position of either not paying out on their policies or facing insolvency. The uncertainty that this proposed solution to the PAYGO problem would cause would render the legislation almost completely useless.''

Now, Mr. Speaker, it is very, very important that that certainty be provided. Now, I have heard that there is a letter that has come from the Speaker to my friend from New York (Mr. ACKERMAN) that says this will be rectified. Well, Mr. Speaker, by passing this motion to recommit, we can guarantee that it will be rectified. We can guarantee that it will be rectified because we are in fact sending it back to the committee.

Why is it we are doing this promptly rather than forthwith? We know there are PAYGO problems that need to be addressed by this committee. The problem with what we have done is that in the name of trying to protect this poorly crafted PAYGO rule that was put into place at the beginning of the 110th Congress, we are waiving PAYGO. That is exactly what is happening here, Mr. Speaker.

So I urge my colleagues, if you in fact want a responsible Terrorism Insurance Act package, we need to recommit this bill to the committee so that they can come out with an even better work product than the one they have today.

I urge an ''aye'' vote on the motion to recommit.

Mr. FRANK of Massachusetts. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Massachusetts is recognized for 5 minutes.

Mr. FRANK of Massachusetts. First of all, of course it says ''promptly.'' Members make a choice. The purpose of this is terrorism risk insurance expires the end of this year. We are on a reasonable timetable but not one that has a lot of water in it.

Yesterday, on an important bill that goes before the Committee on Financial Services, they said ''promptly.'' So the notion is that they can make the Committee on Financial Services a revolving door and then complain when we can't get the work done when we will have to do it two and three times.

Secondly, Members on the other side, and I don't know where the gentleman from California was on this, but in Committee, before the PAYGO problem arose, while we got substantial Republican support, 14, 19 Republicans, including the ranking member, voted ''no.'' So the Republicans had taken an opposing position in the majority. The administration is in the majority against it.

And what are they telling us? That a bill that the Republicans on the whole are against doesn't do enough for the people who want the bill. This is people intervening on behalf of people who don't want their intervention.

It is true that there is some ambiguity that I hope will be resolved; but the American Insurance Association, and that is the group that, despite the Republican's argument that this can be done by the market, says no, the market can't handle it. And, in a letter signed by a former chairman of the Republican National Committee, Governor Marc Racicot, president of the AIA, they say please go ahead with the bill. And they say: We have concerns about this fix. We hope we can go forward and work on it as opposed to delaying it further.

We got a letter today from the Chamber of Commerce and the National Association of Manufacturers, the Bankers, the League of Cities, being aware of the problem and of the first cut at fixing it, that say please go forward.

Now, if the people who were expecting to be the participants in this program said, wait a minute, this can't go forward, they would be, I think, entitled to be listened to. When people who have on the whole been opposed to the whole program and who voted against it before this arose now appear to say, oh, my goodness, this poor program, you are not doing enough justice, when they want to kill it, I don't think have a lot of credibility.

So, yes, this does need some work. There are a variety of suggestions that have been made. We do have a Senate to go forward and we have a conference process.

And I will say to the Republicans, I understand their skepticism about a conference process, because when they were in the power, they didn't have any. They did a lot of backroom, okay, we will do this.

We will have a conference. I am chairman of this committee. I can promise, and I have talked to the leadership, we will have an open conference and there will be debates and discussions.

I am explaining it because the Republicans, some of them, the newer ones don't know what one is. It will be the

House and the Senate, and we will talk about it. And so we will address this particular issue.

And, again, all of those who are in favor of this program as it was drafted, all of them want us to go forward as we continue to make this final fix. Most of those who are saying, oh, no, you can't go forward, it is not perfect, didn't like it in any case.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. DREIER. I thank my friend for yielding. Just to answer the question that was raised earlier, I will say to my friend, if we pass this motion to recommit, I will vote in favor of the legislation and I would recommend that some of the other committee follow the example set.

Mr. FRANK of Massachusetts. I thank the gentleman, but I take back my time. He will vote in favor of the legislation after it is sent back to committee, after it is wide open again to an amendment process, after members of the committee on his side of the aisle will offer a whole lot of new amendments. And so weeks could go by before we are able to get floor time again and do it. There are a lot of things on the floor, and they are complaining that we didn't pass other things.

So the gentleman will vote for it in the sweet by-and-by if we send it back. There is an alternative: We go through the regular process. The Senate votes on this, aware of the CBO. We go to an open conference. We debate it, and we bring that to the floor.

I will yield again to the gentleman.

Mr. DREIER. I thank my friend for yielding.

And I will simply say, Mr. Speaker, that the issue here happens to be jurisdictional as well. He is talking about conference committees and everything. The Rules Committee abdicates this responsibility through expedited procedures by going through this process.

Mr. FRANK of Massachusetts. I know turf is more important to some Members than anything else.

Mr. DREIER. No, the institution is very important.

Mr. FRANK of Massachusetts. It is rather odd to proclaim yourself an institutionalist while violating the rules.

The fact is that I understand turf makes some people jittery. And I will certainly advocate that the Rules Committee be included in the conference report.

Again, the Republicans have forgotten how conferences work. Conferences can have more than one committee, so the Rules Committee can get representation on the conference.

Again, everybody who is for this bill in the House and the private sector, people on the whole and the cities, the representatives of the public affected, want us to go forward and say, in good faith work, this out.

People who have been on the whole opposed to it, not entirely but on the whole opposed to it, have found this hook to try and hold it up. I don't think they are trying to hold it up to make it better when a majority of them wanted to kill it in the first place.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

RECORDED VOTE

Mr. DREIER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 196, noes 228, not voting 8, as follows:

[Roll No. 883]

YEAS—196

Aderholt
Akin
Alexander
Altmire
Bachmann
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Coble
Cole (OK)
Conaway
Crenshaw
Culberson
Davis (KY)
Davis, David
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Fallin
Feeney
Ferguson
Flake
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Hall (TX)
Hastert
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Issa
Johnson (IL)
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
Kingston
Kirk
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Lampson
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Sali
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Tancredo
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walberg
Walden (OR)
Walsh (NY)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—228

Abercrombie
Ackerman
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carson
Castor
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Fossella
Frank (MA)
Giffords
Gillibrand
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
King (NY)
Klein (FL)
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Perlmutter
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shays
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Space
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Wilson (OH)
Woolsey
Wu
Wynn
Yarmuth

NOT VOTING—8

Allen
Carney
Cubin
Davis, Jo Ann
Jindal
Johnson (GA)
McHugh
Miller, George

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining on this vote.

□ 1445

Mr. RUPPERSBERGER changed his vote from ''yea'' to ''nay.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

Mr. PRICE of Georgia. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 312, nays 110, not voting 10, as follows:

[Roll No. 884]

YEAS—312

Abercrombie
Ackerman
Alexander
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Blunt
Bono
Boozman
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Butterfield
Calvert
Cantor
Capito
Capps
Capuano
Cardoza
Carnahan
Carson
Castor
Chandler
Clarke
Clay
Cleaver
Clyburn
Coble
Cohen
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crenshaw
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis, Lincoln
Davis, Tom
DeFazio
DeGette
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Farr
Fattah
Ferguson
Filner
Fortenberry
Fossella
Frank (MA)
Frelinghuysen
Gallegly
Gerlach
Giffords
Gilchrest
Gillibrand
Gonzalez
Gordon
Graves
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hall (TX)
Hare
Harman
Hastert
Hastings (FL)
Hayes
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hobson
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Hunter
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (NC)
Jones (OH)
Kagen
Kanjorski
Kaptur
Keller
Kennedy
Kildee
Kilpatrick
Kind
King (NY)
Kirk
Klein (FL)
Knollenberg
Kucinich
Kuhl (NY)
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McCotter
McDermott
McGovern
McHenry
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (MI)
Miller (NC)
Miller, Gary
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Nadler
Napolitano
Neal (MA)
Nunes
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Perlmutter
Peterson (MN)
Pickering
Platts
Pomeroy
Porter
Price (NC)
Pryce (OH)
Putnam
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Richardson
Rodriguez
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Saxton
Schakowsky
Schiff
Schmidt
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sessions
Sestak
Shays
Shea-Porter
Sherman
Shimkus
Shuler
Sires
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Space
Spratt
Stark
Stearns
Stupak
Sutton
Tanner
Tauscher
Taylor
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walberg
Walsh (NY)
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Weller
Wexler
Whitfield
Wilson (NM)
Wilson (OH)
Wolf
Woolsey
Wu
Wynn
Yarmuth
Young (AK)
Young (FL)

NAYS—110

Aderholt
Akin
Bachmann
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Berry
Biggert
Bilbray
Blackburn
Bonner
Boustany
Brady (TX)
Broun (GA)
Burgess
Burton (IN)
Buyer
Camp (MI)
Campbell (CA)
Cannon
Carter
Castle
Chabot
Cole (OK)
Conaway
Culberson
Davis, David
Deal (GA)
Doolittle
Drake
Dreier
Duncan
Ehlers
Everett
Fallin
Feeney
Flake
Forbes
Foxx
Franks (AZ)
Garrett (NJ)
Gingrey
Gohmert
Goode
Goodlatte
Granger
Hastings (WA)
Heller
Hensarling
Herger
Hoekstra
Inglis (SC)
Issa
Johnson (IL)
Johnson, Sam
Jordan
King (IA)
Kingston
Kline (MN)
LaHood
Lamborn
Lewis (CA)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
McCarthy (CA)
McCaul (TX)
McCrery
McKeon
McMorris Rodgers
Miller (FL)
Musgrave
Myrick
Neugebauer
Paul
Pearce
Pence
Peterson (PA)
Petri
Pitts
Poe
Price (GA)
Radanovich
Rogers (AL)
Rohrabacher
Roskam
Royce
Ryan (WI)
Sali
Sensenbrenner
Shadegg
Shuster
Simpson
Smith (NE)
Smith (TX)
Souder
Sullivan
Tancredo
Walden (OR)
Wamp
Weldon (FL)
Westmoreland
Wicker
Wilson (SC)

NOT VOTING—10

Allen
Boehner
Carney
Cubin
Davis, Jo Ann
Delahunt
Jindal
Johnson (GA)
McHugh
Miller, George

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that 2 minutes are remaining in this vote.

□ 1454

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2761, TERRORISM RISK INSURANCE REVISION AND EXTENSION ACT OF 2007

Mr. FRANK of Massachusetts. Mr. Speaker, I ask unanimous consent that in the engrossment of H.R. 2761, the Clerk be authorized to correct section numbers, punctuation, cross-references, and to make such other technical and conforming changes as may be necessary to accurately reflect the actions of the House.

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1644

Mr. ANDREWS. Mr. Speaker, I ask unanimous consent that the gentleman from Wisconsin's (Mr. RYAN) name be removed as a cosponsor of H.R. 1644. Our staff inadvertently, mistakenly added his name.

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

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

FOOD AND DRUG ADMINISTRATION AMENDMENTS ACT OF 2007

Mr. DINGELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3580) to amend the Federal Food, Drug, and Cosmetic Act to revise and extend the user-fee programs for prescription drugs and for medical devices, to enhance the postmarket authorities of the Food and Drug Administration with respect to the safety of drugs, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3580

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 ''Food and Drug Administration Amendments Act of 2007''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—PRESCRIPTION DRUG USER FEE AMENDMENTS OF 2007

SEC. 101. SHORT TITLE; REFERENCES IN TITLE; FINDING.

(a) SHORT TITLE.—This title may be cited as the ''Prescription Drug User Fee Amendments of 2007''.

(b) REFERENCES IN TITLE.—Except as otherwise specified, amendments made by this title to a section or other provision of law are amendments to such section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(c) FINDING.—The Congress finds that the fees authorized by the amendments made in this title will be dedicated toward expediting the drug development process and the process for the review of human drug applications, including postmarket drug safety activities, as set forth in the goals identified for purposes of part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, in the letters from the Secretary of Health and Human Services to the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate and the Chairman of the Committee on Energy and Commerce of the House of Representatives, as set forth in the Congressional Record.

SEC. 102. DEFINITIONS.

Section 735 (21 U.S.C. 379g) is amended—

(1) in the matter before paragraph (1), by striking ''For purposes of this subchapter'' and inserting ''For purposes of this part'';

(2) in paragraph (1)—

(A) in subparagraph (A), by striking ''505(b)(1),'' and inserting ''505(b), or'';

(B) by striking subparagraph (B);

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

(D) in the matter following subparagraph (B), as so redesignated, by striking ''subparagraph (C)'' and inserting ''subparagraph (B)'';

(3) in paragraph (3)(C)—

(A) by striking ''505(j)(7)(A)'' and inserting ''505(j)(7)(A) (not including the discontinued section of such list)''; and

(B) by inserting before the period ''(not including the discontinued section of such list)'';

(4) in paragraph (4), by inserting before the period at the end the following: ''(such as capsules, tablets, or lyophilized products before reconstitution)'';

(5) by amending paragraph (6)(F) to read as follows:

''(F) Postmarket safety activities with respect to drugs approved under human drug applications or supplements, including the following activities:

''(i) Collecting, developing, and reviewing safety information on approved drugs, including adverse event reports.

''(ii) Developing and using improved adverse-event data-collection systems, including information technology systems.

''(iii) Developing and using improved analytical tools to assess potential safety problems, including access to external data bases.

''(iv) Implementing and enforcing section 505(o) (relating to postapproval studies and

clinical trials and labeling changes) and section 505(p) (relating to risk evaluation and mitigation strategies).

''(v) Carrying out section 505(k)(5) (relating to adverse event reports and postmarket safety activities).'';

(6) in paragraph (8)—

(A) by striking ''April of the preceding fiscal year'' and inserting ''October of the preceding fiscal year''; and

(B) by striking ''April 1997'' and inserting ''October 1996'';

(7) by redesignating paragraph (9) as paragraph (11); and

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

''(9) The term 'person' includes an affiliate thereof.

''(10) The term 'active', with respect to a commercial investigational new drug application, means such an application to which information was submitted during the relevant period.''.

SEC. 103. AUTHORITY TO ASSESS AND USE DRUG FEES.

(a) TYPES OF FEES.—Section 736(a) (21 U.S.C. 379h(a)) is amended—

(1) in the matter preceding paragraph (1), by striking ''2003'' and inserting ''2008'';

(2) in paragraph (1)—

(A) in subparagraph (D)—

(i) in the heading, by inserting ''OR WITHDRAWN BEFORE FILING'' after ''REFUSED FOR FILING''; and

(ii) by inserting before the period at the end the following: ''or withdrawn without a waiver before filing'';

(B) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(C) by inserting after subparagraph (D) the following:

''(E) FEES FOR APPLICATIONS PREVIOUSLY REFUSED FOR FILING OR WITHDRAWN BEFORE FILING.—A human drug application or supplement that was submitted but was refused for filing, or was withdrawn before being accepted or refused for filing, shall be subject to the full fee under subparagraph (A) upon being resubmitted or filed over protest, unless the fee is waived or reduced under subsection (d).''; and

(3) in paragraph (2)—

(A) in subparagraph (A), by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''; and

(B) by adding at the end the following:

''(C) SPECIAL RULES FOR POSITRON EMISSION TOMOGRAPHY DRUGS.—

''(i) IN GENERAL.—Except as provided in clause (ii), each person who is named as the applicant in an approved human drug application for a positron emission tomography drug shall be subject under subparagraph (A) to one-sixth of an annual establishment fee with respect to each such establishment identified in the application as producing positron emission tomography drugs under the approved application.

''(ii) EXCEPTION FROM ANNUAL ESTABLISHMENT FEE.—Each person who is named as the applicant in an application described in clause (i) shall not be assessed an annual establishment fee for a fiscal year if the person certifies to the Secretary, at a time specified by the Secretary and using procedures specified by the Secretary, that—

''(I) the person is a not-for-profit medical center that has only 1 establishment for the production of positron emission tomography drugs; and

''(II) at least 95 percent of the total number of doses of each positron emission tomography drug produced by such establishment during such fiscal year will be used within the medical center.

''(iii) DEFINITION.—For purposes of this subparagraph, the term 'positron emission tomography drug' has the meaning given to the term 'compounded positron emission tomography drug' in section 201(ii), except that paragraph (1)(B) of such section shall not apply.''.

(b) FEE REVENUE AMOUNTS.—Section 736(b) (21 U.S.C. 379h(b)) is amended to read as follows:

''(b) FEE REVENUE AMOUNTS.—

''(1) IN GENERAL.—For each of the fiscal years 2008 through 2012, fees under subsection (a) shall, except as provided in subsections (c), (d), (f), and (g), be established to generate a total revenue amount under such subsection that is equal to the sum of—

''(A) $392,783,000; and

''(B) an amount equal to the modified workload adjustment factor for fiscal year 2007 (as determined under paragraph (3)).

''(2) TYPES OF FEES.—Of the total revenue amount determined for a fiscal year under paragraph (1)—

''(A) one-third shall be derived from fees under subsection (a)(1) (relating to human drug applications and supplements);

''(B) one-third shall be derived from fees under subsection (a)(2) (relating to prescription drug establishments); and

''(C) one-third shall be derived from fees under subsection (a)(3) (relating to prescription drug products).

''(3) MODIFIED WORKLOAD ADJUSTMENT FACTOR FOR FISCAL YEAR 2007.—For purposes of paragraph (1)(B), the Secretary shall determine the modified workload adjustment factor by determining the dollar amount that results from applying the methodology that was in effect under subsection (c)(2) for fiscal year 2007 to the amount $354,893,000, except that, with respect to the portion of such determination that is based on the change in the total number of commercial investigational new drug applications, the Secretary shall count the number of such applications that were active during the most recent 12-month period for which data on such submissions is available.

''(4) ADDITIONAL FEE REVENUES FOR DRUG SAFETY.—

''(A) IN GENERAL.—For each of the fiscal years 2008 through 2012, paragraph (1)(A) shall be applied by substituting the amount determined under subparagraph (B) for '$392,783,000'.

''(B) AMOUNT DETERMINED.—For each of the fiscal years 2008 through 2012, the amount determined under this subparagraph is the sum of—

''(i) $392,783,000; plus

''(ii)(I) for fiscal year 2008, $25,000,000;

''(II) for fiscal year 2009, $35,000,000;

''(III) for fiscal year 2010, $45,000,000;

''(IV) for fiscal year 2011, $55,000,000; and

''(V) for fiscal year 2012, $65,000,000.''.

(c) ADJUSTMENTS TO FEES.—

(1) INFLATION ADJUSTMENT.—Section 736(c)(1) (21 U.S.C. 379h(c)(1)) is amended—

(A) in the matter preceding subparagraph (A), by striking ''The revenues established in subsection (b)'' and inserting ''For fiscal year 2009 and subsequent fiscal years, the revenues established in subsection (b)'';

(B) in subparagraph (A), by striking ''or'' at the end;

(C) in subparagraph (B), by striking the period at the end and inserting '', or'';

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

''(C) the average annual change in the cost, per full-time equivalent position of the Food and Drug Administration, of all personnel compensation and benefits paid with respect to such positions for the first 5 years of the preceding 6 fiscal years.''; and

(E) in the matter following subparagraph (C) (as added by subparagraph (D)), by striking ''fiscal year 2003'' and inserting ''fiscal year 2008''.

(2) WORKLOAD ADJUSTMENT.—Section 736(c)(2) (21 U.S.C. 379h(c)(2)) is amended—

(A) in the matter preceding subparagraph (A), by striking ''Beginning with fiscal year 2004,'' and inserting ''For fiscal year 2009 and subsequent fiscal years,'';

(B) in subparagraph (A), in the first sentence—

(i) by striking ''human drug applications,'' and inserting ''human drug applications (adjusted for changes in review activities, as described in the notice that the Secretary is required to publish in the Federal Register under this subparagraph),'';

(ii) by striking ''commercial investigational new drug applications,''; and

(iii) by inserting before the period the following: '', and the change in the total number of active commercial investigational new drug applications (adjusted for changes in review activities, as so described) during the most recent 12-month period for which data on such submissions is available'';

(C) in subparagraph (B), by adding at the end the following: ''Any adjustment for changes in review activities made in setting fees and revenue amounts for fiscal year 2009 may not result in the total workload adjustment being more than 2 percentage points higher than it would have been in the absence of the adjustment for changes in review activities.''; and

(D) by adding at the end the following:

''(C) The Secretary shall contract with an independent accounting firm to study the adjustment for changes in review activities applied in setting fees and revenue amounts for fiscal year 2009 and to make recommendations, if warranted, for future changes in the methodology for calculating the adjustment. After review of the recommendations, the Secretary shall, if warranted, make appropriate changes to the methodology, and the changes shall be effective for each of the fiscal years 2010 through 2012. The Secretary shall not make any adjustment for changes in review activities for any fiscal year after 2009 unless such study has been completed.''.

(3) RENT AND RENT-RELATED COST ADJUSTMENT.—Section 736(c) (21 U.S.C. 379h(c)) is amended—

(A) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(B) by inserting after paragraph (2) the following:

''(3) RENT AND RENT-RELATED COST ADJUSTMENT.—For fiscal year 2010 and each subsequent fiscal year, the Secretary shall, before making adjustments under paragraphs (1) and (2), decrease the fee revenue amount established in subsection (b) if actual costs paid for rent and rent-related expenses for the preceding fiscal year are less than estimates made for such year in fiscal year 2006. Any reduction made under this paragraph shall not exceed the amount by which such costs fall below the estimates made in fiscal year 2006 for such fiscal year, and shall not exceed $11,721,000 for any fiscal year.''.

(4) FINAL YEAR ADJUSTMENT.—Paragraph (4) of section 736(c) (21 U.S.C. 379h(c)), as redesignated by paragraph (3)(A), is amended to read as follows:

''(4) FINAL YEAR ADJUSTMENT.—

''(A) INCREASE IN FEES.—For fiscal year 2012, the Secretary may, in addition to adjustments under this paragraph and paragraphs (1), (2), and (3), further increase the fee revenues and fees established in subsection (b) if such an adjustment is necessary to provide for not more than 3 months of operating reserves of carryover user fees for the process for the review of human drug applications for the first 3 months of fiscal year 2013. If such an adjustment is necessary, the rationale for the amount of the increase

shall be contained in the annual notice establishing fee revenues and fees for fiscal year 2012. If the Secretary has carryover balances for such process in excess of 3 months of such operating reserves, the adjustment under this subparagraph shall not be made.

''(B) DECREASE IN FEES.—

''(i) IN GENERAL.—For fiscal year 2012, the Secretary may, in addition to adjustments under this paragraph and paragraphs (1), (2), and (3), decrease the fee revenues and fees established in subsection (b) by the amount determined in clause (ii), if, for fiscal year 2009 or 2010—

''(I) the amount of the total appropriations for the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated for such fiscal year) exceeds the amount of the total appropriations for the Food and Drug Administration for fiscal year 2008 (excluding the amount of fees appropriated for such fiscal year), adjusted as provided under paragraph (1); and

''(II) the amount of the total appropriations expended for the process for the review of human drug applications at the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated for such fiscal year) exceeds the amount of appropriations expended for the process for the review of human drug applications at the Food and Drug Administration for fiscal year 2008 (excluding the amount of fees appropriated for such fiscal year), adjusted as provided under paragraph (1).

''(ii) AMOUNT OF DECREASE.—The amount determined in this clause is the lesser of—

''(I) the amount equal to the sum of the amounts that, for each of fiscal years 2009 and 2010, is the lesser of—

''(aa) the excess amount described in clause (i)(II) for such fiscal year; or

''(bb) the amount specified in subsection (b)(4)(B)(ii) for such fiscal year; or

''(II) $65,000,000.

''(iii) LIMITATIONS.—

''(I) FISCAL YEAR CONDITION.—In making the determination under clause (ii), an amount described in subclause (I) of such clause for fiscal year 2009 or 2010 shall be taken into account only if subclauses (I) and (II) of clause (i) apply to such fiscal year.

''(II) RELATION TO SUBPARAGRAPH (A).—The Secretary shall limit any decrease under this paragraph if such a limitation is necessary to provide for the 3 months of operating reserves described in subparagraph (A).''.

(5) LIMIT.—Paragraph (5) of section 736(c) (21 U.S.C. 379h(c)), as redesignated by paragraph (3)(A), is amended by striking ''2002'' and inserting ''2007''.

(d) FEE WAIVER OR REDUCTION.—Section 736(d) (21 U.S.C. 379h(d)) is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A)—

(A) by inserting after ''The Secretary shall grant'' the following: ''to a person who is named as the applicant in a human drug application''; and

(B) by inserting ''to that person'' after ''one or more fees assessed'';

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(3) by inserting after paragraph (1) the following:

''(2) CONSIDERATIONS.—In determining whether to grant a waiver or reduction of a fee under paragraph (1), the Secretary shall consider only the circumstances and assets of the applicant involved and any affiliate of the applicant.''; and

(4) in paragraph (4) (as redesignated by paragraph (2)), in subparagraph (A), by inserting before the period the following: '', and that does not have a drug product that has been approved under a human drug application and introduced or delivered for introduction into interstate commerce''.

(e) CREDITING AND AVAILABILITY OF FEES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 736(g)(3) (21 U.S.C. 379h(g)(3)) is amended to read as follows:

''(3) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 2008 through 2012, there is authorized to be appropriated for fees under this section an amount equal to the total revenue amount determined under subsection (b) for the fiscal year, as adjusted or otherwise affected under subsection (c) and paragraph (4) of this subsection.''.

(2) OFFSET.—Section 736(g)(4) (21 U.S.C. 379h(g)(4)) is amended to read as follows:

''(4) OFFSET.—If the sum of the cumulative amount of fees collected under this section for the fiscal years 2008 through 2010 and the amount of fees estimated to be collected under this section for fiscal year 2011 exceeds the cumulative amount appropriated under paragraph (3) for the fiscal years 2008 through 2011, the excess shall be credited to the appropriation account of the Food and Drug Administration as provided in paragraph (1), and shall be subtracted from the amount of fees that would otherwise be authorized to be collected under this section pursuant to appropriation Acts for fiscal year 2012.''.

(f) EXEMPTION FOR ORPHAN DRUGS.—Section 736 (21 U.S.C. 379h) is further amended by adding at the end the following:

''(k) ORPHAN DRUGS.—

''(1) EXEMPTION.—A drug designated under section 526 for a rare disease or condition and approved under section 505 or under section 351 of the Public Health Service Act shall be exempt from product and establishment fees under this section, if the drug meets all of the following conditions:

''(A) The drug meets the public health requirements contained in this Act as such requirements are applied to requests for waivers for product and establishment fees.

''(B) The drug is owned or licensed and is marketed by a company that had less than $50,000,000 in gross worldwide revenue during the previous year.

''(2) EVIDENCE OF QUALIFICATION.—An exemption under paragraph (1) applies with respect to a drug only if the applicant involved submits a certification that its gross annual revenues did not exceed $50,000,000 for the preceding 12 months before the exemption was requested.''.

(g) CONFORMING AMENDMENT.—Section 736(a) (21 U.S.C. 379h(a)) is amended in paragraphs (1)(A)(i), (1)(A)(ii), (2)(A), and (3)(A) by striking ''(c)(4)'' each place such term appears and inserting ''(c)(5)''.

(h) TECHNICAL AMENDMENT.—

(1) AMENDMENT.—Section 736(g)(1) (21 U.S.C. 379h(g)(1)) is amended by striking the first sentence and inserting the following: ''Fees authorized under subsection (a) shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Such fees are authorized to remain available until expended.''.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect as if included in section 504 of the Prescription Drug User Fee Amendments of 2002 (Public Law 107–188; 116 Stat. 687).

SEC. 104. FEES RELATING TO ADVISORY REVIEW OF PRESCRIPTION-DRUG TELEVISION ADVERTISING.

Part 2 of subchapter C of chapter VII (21 U.S.C. 379g et seq.) is amended by adding after section 736 the following:

''SEC. 736A. FEES RELATING TO ADVISORY REVIEW OF PRESCRIPTION-DRUG TELEVISION ADVERTISING.

''(a) TYPES OF DIRECT-TO-CONSUMER TELEVISION ADVERTISEMENT REVIEW FEES.—Beginning in fiscal year 2008, the Secretary shall assess and collect fees in accordance with this section as follows:

''(1) ADVISORY REVIEW FEE.—

''(A) IN GENERAL.—With respect to a proposed direct-to-consumer television advertisement (referred to in this section as a 'DTC advertisement'), each person that on or after October 1, 2007, submits such an advertisement for advisory review by the Secretary prior to its initial public dissemination shall, except as provided in subparagraph (B), be subject to a fee established under subsection (c)(3).

''(B) EXCEPTION FOR REQUIRED SUBMISSIONS.—A DTC advertisement that is required to be submitted to the Secretary prior to initial public dissemination is not subject to a fee under subparagraph (A) unless the sponsor designates the submission as a submission for advisory review.

''(C) NOTICE TO SECRETARY OF NUMBER OF ADVERTISEMENTS.—Not later than June 1 of each fiscal year, the Secretary shall publish a notice in the Federal Register requesting any person to notify the Secretary within 30 days of the number of DTC advertisements the person intends to submit for advisory review in the next fiscal year. Notwithstanding the preceding sentence, for fiscal year 2008, the Secretary shall publish such a notice in the Federal Register not later than 30 days after the date of the enactment of the Food and Drug Administration Amendments Act of 2007.

''(D) PAYMENT.—

''(i) IN GENERAL.—The fee required by subparagraph (A) (referred to in this section as 'an advisory review fee') shall be due not later than October 1 of the fiscal year in which the DTC advertisement involved is intended to be submitted for advisory review, subject to subparagraph (F)(i). Notwithstanding the preceding sentence, the advisory review fee for any DTC advertisement that is intended to be submitted for advisory review during fiscal year 2008 shall be due not later than 120 days after the date of the enactment of the Food and Drug Administration Amendments of 2007 or an earlier date as specified by the Secretary.

''(ii) EFFECT OF SUBMISSION.—Notification of the Secretary under subparagraph (C) of the number of DTC advertisements a person intends to submit for advisory review is a legally binding commitment by that person to pay the annual advisory review fee for that number of submissions on or before October 1 of the fiscal year in which the advertisement is intended to be submitted. Notwithstanding the preceding sentence, the commitment shall be a legally binding commitment by that person to pay the annual advisory review fee for that number of submissions for fiscal year 2008 by the date specified in clause (i).

''(iii) NOTICE REGARDING CARRYOVER SUBMISSIONS.—In making a notification under subparagraph (C), the person involved shall in addition notify the Secretary if under subparagraph (F)(i) the person intends to submit a DTC advertisement for which the advisory review fee has already been paid. If the person does not so notify the Secretary, each DTC advertisement submitted by the person for advisory review in the fiscal year involved shall be subject to the advisory review fee.

''(E) MODIFICATION OF ADVISORY REVIEW FEE.—

''(i) LATE PAYMENT.—If a person has submitted a notification under subparagraph (C) with respect to a fiscal year and has not paid all advisory review fees due under subparagraph (D) not later than November 1 of such fiscal year (or, in the case of such a notification submitted with respect to fiscal year 2008, not later than 150 days after the date of the enactment of the Food and Drug Administration Amendments Act of 2007 or an earlier date specified by the Secretary), the fees

shall be regarded as late and an increase in the amount of fees applies in accordance with this clause, notwithstanding any other provision of this section. For such person, all advisory review fees for such fiscal year shall be due and payable 20 days before any direct-to-consumer advertisement is submitted to the Secretary for advisory review, and each such fee shall be equal to 150 percent of the fee that otherwise would have applied pursuant to subsection (c)(3).

''(ii) EXCEEDING IDENTIFIED NUMBER OF SUBMISSIONS.—If a person submits a number of DTC advertisements for advisory review in a fiscal year that exceeds the number identified by the person under subparagraph (C), an increase in the amount of fees applies under this clause for each submission in excess of such number, notwithstanding any other provision of this section. For each such DTC advertisement, the advisory review fee shall be due and payable 20 days before the advertisement is submitted to the Secretary, and the fee shall be equal to 150 percent of the fee that otherwise would have applied pursuant to subsection (c)(3).

''(F) LIMITS.—

''(i) SUBMISSIONS.—For each advisory review fee paid by a person for a fiscal year, the person is entitled to acceptance for advisory review by the Secretary of one DTC advertisement and acceptance of one resubmission for advisory review of the same advertisement. The advertisement shall be submitted for review in the fiscal year for which the fee was assessed, except that a person may carry over not more than one paid advisory review submission to the next fiscal year. Resubmissions may be submitted without regard to the fiscal year of the initial advisory review submission.

''(ii) NO REFUNDS.—Except as provided by subsections (d)(4) and (f), fees paid under this section shall not be refunded.

''(iii) NO WAIVERS, EXEMPTIONS, OR REDUCTIONS.—The Secretary shall not grant a waiver, exemption, or reduction of any fees due or payable under this section.

''(iv) RIGHT TO ADVISORY REVIEW NOT TRANSFERABLE.—The right to an advisory review under this paragraph is not transferable, except to a successor in interest.

''(2) OPERATING RESERVE FEE.—

''(A) IN GENERAL.—Each person that on or after October 1, 2007, is assessed an advisory review fee under paragraph (1) shall be subject to fee established under subsection (d)(2) (referred to in this section as an 'operating reserve fee') for the first fiscal year in which an advisory review fee is assessed to such person. The person is not subject to an operating reserve fee for any other fiscal year.

''(B) PAYMENT.—Except as provided in subparagraph (C), the operating reserve fee shall be due no later than—

''(i) October 1 of the first fiscal year in which the person is required to pay an advisory review fee under paragraph (1); or

''(ii) for fiscal year 2008, 120 days after the date of the enactment of the Food and Drug Administration Amendments Act of 2007 or an earlier date specified by the Secretary.

''(C) LATE NOTICE OF SUBMISSION.—If, in the first fiscal year of a person's participation in the program under this section, that person submits any DTC advertisements for advisory review that are in excess of the number identified by that person in response to the Federal Register notice described in subsection (a)(1)(C), that person shall pay an operating reserve fee for each of those advisory reviews equal to the advisory review fee for each submission established under paragraph (1)(E)(ii). Fees required by this subparagraph shall be in addition to any fees required by subparagraph (A). Fees under this subparagraph shall be due 20 days before any DTC advertisement is submitted by such person to the Secretary for advisory review.

''(D) LATE PAYMENT.—

''(i) IN GENERAL.—Notwithstanding subparagraph (B), and subject to clause (ii), an operating reserve fee shall be regarded as late if the person required to pay the fee has not paid the complete operating reserve fee by—

''(I) for fiscal year 2008, 150 days after the date of the enactment of the Food and Drug Administration Amendments Act of 2007 or an earlier date specified by the Secretary; or

''(II) in any subsequent year, November 1.

''(ii) COMPLETE PAYMENT.—The complete operating reserve fee shall be due and payable 20 days before any DTC advertisement is submitted by such person to the Secretary for advisory review.

''(iii) AMOUNT.—Notwithstanding any other provision of this section, an operating reserve fee that is regarded as late under this subparagraph shall be equal to 150 percent of the operating reserve fee that otherwise would have applied pursuant to subsection (d).

''(b) ADVISORY REVIEW FEE REVENUE AMOUNTS.—Fees under subsection (a)(1) shall be established to generate revenue amounts of $6,250,000 for each of fiscal years 2008 through 2012, as adjusted pursuant to subsections (c) and (g)(4).

''(c) ADJUSTMENTS.—

''(1) INFLATION ADJUSTMENT.—Beginning with fiscal year 2009, the revenues established in subsection (b) shall be adjusted by the Secretary by notice, published in the Federal Register, for a fiscal year to reflect the greater of—

''(A) the total percentage change that occurred in the Consumer Price Index for all urban consumers (all items; U.S. city average), for the 12-month period ending June 30 preceding the fiscal year for which fees are being established;

''(B) the total percentage change for the previous fiscal year in basic pay under the General Schedule in accordance with section 5332 of title 5, United States Code, as adjusted by any locality-based comparability payment pursuant to section 5304 of such title for Federal employees stationed in the District of Columbia; or

''(C) the average annual change in the cost, per full-time equivalent position of the Food and Drug Administration, of all personnel compensation and benefits paid with respect to such positions for the first 5 fiscal years of the previous 6 fiscal years.

The adjustment made each fiscal year by this subsection shall be added on a compounded basis to the sum of all adjustments made each fiscal year after fiscal year 2008 under this subsection.

''(2) WORKLOAD ADJUSTMENT.—Beginning with fiscal year 2009, after the fee revenues established in subsection (b) are adjusted for a fiscal year for inflation in accordance with paragraph (1), the fee revenues shall be adjusted further for such fiscal year to reflect changes in the workload of the Secretary with respect to the submission of DTC advertisements for advisory review prior to initial dissemination. With respect to such adjustment:

''(A) The adjustment shall be determined by the Secretary based upon the number of DTC advertisements identified pursuant to subsection (a)(1)(C) for the upcoming fiscal year, excluding allowable previously paid carry over submissions. The adjustment shall be determined by multiplying the number of such advertisements projected for that fiscal year that exceeds 150 by $27,600 (adjusted each year beginning with fiscal year 2009 for inflation in accordance with paragraph (1)). The Secretary shall publish in the Federal Register the fee revenues and fees resulting from the adjustment and the supporting methodologies.

''(B) Under no circumstances shall the adjustment result in fee revenues for a fiscal year that are less than the fee revenues established for the prior fiscal year.

''(3) ANNUAL FEE SETTING FOR ADVISORY REVIEW.—

''(A) IN GENERAL.—Not later than August 1 of each fiscal year (or, with respect to fiscal year 2008, not later than 90 days after the date of the enactment of the Food and Drug Administration Amendments Act of 2007), the Secretary shall establish for the next fiscal year the DTC advertisement advisory review fee under subsection (a)(1), based on the revenue amounts established under subsection (b), the adjustments provided under paragraphs (1) and (2), and the number of DTC advertisements identified pursuant to subsection (a)(1)(C), excluding allowable previously-paid carry over submissions. The annual advisory review fee shall be established by dividing the fee revenue for a fiscal year (as adjusted pursuant to this subsection) by the number of DTC advertisements so identified, excluding allowable previously-paid carry over submissions under subsection (a)(1)(F)(i).

''(B) FISCAL YEAR 2008 FEE LIMIT.—Notwithstanding subsection (b) and the adjustments pursuant to this subsection, the fee established under subparagraph (A) for fiscal year 2008 may not be more than $83,000 per submission for advisory review.

''(C) ANNUAL FEE LIMIT.—Notwithstanding subsection (b) and the adjustments pursuant to this subsection, the fee established under subparagraph (A) for a fiscal year after fiscal year 2008 may not be more than 50 percent more than the fee established for the prior fiscal year.

''(D) LIMIT.—The total amount of fees obligated for a fiscal year may not exceed the total costs for such fiscal year for the resources allocated for the process for the advisory review of prescription drug advertising.

''(d) OPERATING RESERVES.—

''(1) IN GENERAL.—The Secretary shall establish in the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation a Direct-to-Consumer Advisory Review Operating Reserve, of at least $6,250,000 in fiscal year 2008, to continue the program under this section in the event the fees collected in any subsequent fiscal year pursuant to subsection (a)(1) do not generate the fee revenue amount established for that fiscal year.

''(2) FEE SETTING.—The Secretary shall establish the operating reserve fee under subsection (a)(2)(A) for each person required to pay the fee by multiplying the number of DTC advertisements identified by that person pursuant to subsection (a)(1)(C) by the advisory review fee established pursuant to subsection (c)(3) for that fiscal year, except that in no case shall the operating reserve fee assessed be less than the operating reserve fee assessed if the person had first participated in the program under this section in fiscal year 2008.

''(3) USE OF OPERATING RESERVE.—The Secretary may use funds from the reserves only to the extent necessary in any fiscal year to make up the difference between the fee revenue amount established for that fiscal year under subsections (b) and (c) and the amount of fees actually collected for that fiscal year pursuant to subsection (a)(1), or to pay costs of ending the program under this section if it is terminated pursuant to subsection (f) or not reauthorized beyond fiscal year 2012.

''(4) REFUND OF OPERATING RESERVES.—Within 120 days after the end of fiscal year 2012, or if the program under this section ends early pursuant to subsection (f), the

Secretary, after setting aside sufficient operating reserve amounts to terminate the program under this section, shall refund all amounts remaining in the operating reserve on a pro rata basis to each person that paid an operating reserve fee assessment. In no event shall the refund to any person exceed the total amount of operating reserve fees paid by such person pursuant to subsection (a)(2).

''(e) EFFECT OF FAILURE TO PAY FEES.—Notwithstanding any other requirement, a submission for advisory review of a DTC advertisement submitted by a person subject to fees under subsection (a) shall be considered incomplete and shall not be accepted for review by the Secretary until all fees owed by such person under this section have been paid.

''(f) EFFECT OF INADEQUATE FUNDING OF PROGRAM.—

''(1) INITIAL FUNDING.—If on November 1, 2007, or 120 days after the date of the enactment of the Food and Drug Administration Amendments Act of 2007, whichever is later, the Secretary has not received at least $11,250,000 in advisory review fees and operating reserve fees combined, the program under this section shall not commence and all collected fees shall be refunded.

''(2) LATER FISCAL YEARS.—Beginning in fiscal year 2009, if, on November 1 of the fiscal year, the combination of the operating reserves, annual fee revenues from that fiscal year, and unobligated fee revenues from prior fiscal years falls below $9,000,000, adjusted for inflation (as described in subsection (c)(1)), the program under this section shall terminate, and the Secretary shall notify all participants, retain any money from the unused advisory review fees and the operating reserves needed to terminate the program, and refund the remainder of the unused fees and operating reserves. To the extent required to terminate the program, the Secretary shall first use unobligated advisory review fee revenues from prior fiscal years, then the operating reserves, and finally, unused advisory review fees from the relevant fiscal year.

''(g) CREDITING AND AVAILABILITY OF FEES.—

''(1) IN GENERAL.—Fees authorized under subsection (a) shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Such fees are authorized to remain available until expended. Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation to such appropriation account for salaries and expenses with such fiscal year limitation. The sums transferred shall be available solely for the process for the advisory review of prescription drug advertising.

''(2) COLLECTIONS AND APPROPRIATION ACTS.—

''(A) IN GENERAL.—The fees authorized by this section—

''(i) shall be retained in each fiscal year in an amount not to exceed the amount specified in appropriation Acts, or otherwise made available for obligation for such fiscal year; and

''(ii) shall be available for obligation only if the amounts appropriated as budget authority for such fiscal year are sufficient to support a number of full-time equivalent review employees that is not fewer than the number of such employees supported in fiscal year 2007.

''(B) REVIEW EMPLOYEES.—For purposes of subparagraph (A)(ii), the term 'full-time equivalent review employees' means the total combined number of full-time equivalent employees in—

''(i) the Center for Drug Evaluation and Research, Division of Drug Marketing, Advertising, and Communications, Food and Drug Administration; and

''(ii) the Center for Biologics Evaluation and Research, Advertising and Promotional Labeling Branch, Food and Drug Administration.

''(3) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 2008 through 2012, there is authorized to be appropriated for fees under this section an amount equal to the total revenue amount determined under subsection (b) for the fiscal year, as adjusted pursuant to subsection (c) and paragraph (4) of this subsection, plus amounts collected for the reserve fund under subsection (d).

''(4) OFFSET.—Any amount of fees collected for a fiscal year under this section that exceeds the amount of fees specified in appropriation Acts for such fiscal year shall be credited to the appropriation account of the Food and Drug Administration as provided in paragraph (1), and shall be subtracted from the amount of fees that would otherwise be collected under this section pursuant to appropriation Acts for a subsequent fiscal year.

''(h) DEFINITIONS.—For purposes of this section:

''(1) The term 'advisory review' means reviewing and providing advisory comments on DTC advertisements regarding compliance of a proposed advertisement with the requirements of this Act prior to its initial public dissemination.

''(2) The term 'advisory review fee' has the meaning indicated for such term in subsection (a)(1)(D).

''(3) The term 'carry over submission' means a submission for an advisory review for which a fee was paid in one fiscal year that is submitted for review in the following fiscal year.

''(4) The term 'direct-to-consumer television advertisement' means an advertisement for a prescription drug product (as defined in section 735(3)) intended to be displayed on any television channel for less than 3 minutes.

''(5) The term 'DTC advertisement' has the meaning indicated for such term in subsection (a)(1)(A).

''(6) The term 'operating reserve fee' has the meaning indicated for such term in subsection (a)(2)(A).

''(7) The term 'person' includes an individual, partnership, corporation, and association, and any affiliate thereof or successor in interest.

''(8) The term 'process for the advisory review of prescription drug advertising' means the activities necessary to review and provide advisory comments on DTC advertisements prior to public dissemination and, to the extent the Secretary has additional staff resources available under the program under this section that are not necessary for the advisory review of DTC advertisements, the activities necessary to review and provide advisory comments on other proposed advertisements and promotional material prior to public dissemination.

''(9) The term 'resources allocated for the process for the advisory review of prescription drug advertising' means the expenses incurred in connection with the process for the advisory review of prescription drug advertising for—

''(A) officers and employees of the Food and Drug Administration, contractors of the Food and Drug Administration, advisory committees, and costs related to such officers, employees, and committees, and to contracts with such contractors;

''(B) management of information, and the acquisition, maintenance, and repair of computer resources;

''(C) leasing, maintenance, renovation, and repair of facilities and acquisition, maintenance, and repair of fixtures, furniture, scientific equipment, and other necessary materials and supplies;

''(D) collection of fees under this section and accounting for resources allocated for the advisory review of prescription drug advertising; and

''(E) terminating the program under this section pursuant to subsection (f)(2) if that becomes necessary.

''(10) The term 'resubmission' means a subsequent submission for advisory review of a direct-to-consumer television advertisement that has been revised in response to the Secretary's comments on an original submission. A resubmission may not introduce significant new concepts or creative themes into the television advertisement.

''(11) The term 'submission for advisory review' means an original submission of a direct-to-consumer television advertisement for which the sponsor voluntarily requests advisory comments before the advertisement is publicly disseminated.''.

SEC. 105. REAUTHORIZATION; REPORTING REQUIREMENTS.

Part 2 of subchapter C of chapter VII (21 U.S.C. 379g et seq.), as amended by section 104, is further amended by inserting after section 736A the following:

''SEC. 736B. REAUTHORIZATION; REPORTING REQUIREMENTS.

''(a) PERFORMANCE REPORT.—Beginning with fiscal year 2008, not later than 120 days after the end of each fiscal year for which fees are collected under this part, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 101(c) of the Food and Drug Administration Amendments Act of 2007 during such fiscal year and the future plans of the Food and Drug Administration for meeting the goals. The report for a fiscal year shall include information on all previous cohorts for which the Secretary has not given a complete response on all human drug applications and supplements in the cohort.

''(b) FISCAL REPORT.—Beginning with fiscal year 2008, not later than 120 days after the end of each fiscal year for which fees are collected under this part, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected for such fiscal year.

''(c) PUBLIC AVAILABILITY.—The Secretary shall make the reports required under subsections (a) and (b) available to the public on the Internet Web site of the Food and Drug Administration.

''(d) REAUTHORIZATION.—

''(1) CONSULTATION.—In developing recommendations to present to the Congress with respect to the goals, and plans for meeting the goals, for the process for the review of human drug applications for the first 5 fiscal years after fiscal year 2012, and for the reauthorization of this part for such fiscal years, the Secretary shall consult with—

''(A) the Committee on Energy and Commerce of the House of Representatives;

''(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

''(C) scientific and academic experts;

''(D) health care professionals;

''(E) representatives of patient and consumer advocacy groups; and

''(F) the regulated industry.

''(2) PRIOR PUBLIC INPUT.—Prior to beginning negotiations with the regulated industry on the reauthorization of this part, the Secretary shall—

''(A) publish a notice in the Federal Register requesting public input on the reauthorization;

''(B) hold a public meeting at which the public may present its views on the reauthorization, including specific suggestions for changes to the goals referred to in subsection (a);

''(C) provide a period of 30 days after the public meeting to obtain written comments from the public suggesting changes to this part; and

''(D) publish the comments on the Food and Drug Administration's Internet Web site.

''(3) PERIODIC CONSULTATION.—Not less frequently than once every month during negotiations with the regulated industry, the Secretary shall hold discussions with representatives of patient and consumer advocacy groups to continue discussions of their views on the reauthorization and their suggestions for changes to this part as expressed under paragraph (2).

''(4) PUBLIC REVIEW OF RECOMMENDATIONS.—After negotiations with the regulated industry, the Secretary shall—

''(A) present the recommendations developed under paragraph (1) to the Congressional committees specified in such paragraph;

''(B) publish such recommendations in the Federal Register;

''(C) provide for a period of 30 days for the public to provide written comments on such recommendations;

''(D) hold a meeting at which the public may present its views on such recommendations; and

''(E) after consideration of such public views and comments, revise such recommendations as necessary.

''(5) TRANSMITTAL OF RECOMMENDATIONS.—Not later than January 15, 2012, the Secretary shall transmit to the Congress the revised recommendations under paragraph (4), a summary of the views and comments received under such paragraph, and any changes made to the recommendations in response to such views and comments.

''(6) MINUTES OF NEGOTIATION MEETINGS.—

''(A) PUBLIC AVAILABILITY.—Before presenting the recommendations developed under paragraphs (1) through (5) to the Congress, the Secretary shall make publicly available, on the public Web site of the Food and Drug Administration, minutes of all negotiation meetings conducted under this subsection between the Food and Drug Administration and the regulated industry.

''(B) CONTENT.—The minutes described under subparagraph (A) shall summarize any substantive proposal made by any party to the negotiations as well as significant controversies or differences of opinion during the negotiations and their resolution.''.

SEC. 106. SUNSET DATES.

(a) AUTHORIZATION.—The amendments made by sections 102, 103, and 104 cease to be effective October 1, 2012.

(b) REPORTING REQUIREMENTS.—The amendment made by section 105 ceases to be effective January 31, 2013.

SEC. 107. EFFECTIVE DATE.

The amendments made by this title shall take effect on October 1, 2007, or the date of the enactment of this Act, whichever is later, except that fees under part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act shall be assessed for all human drug applications received on or after October 1, 2007, regardless of the date of the enactment of this Act.

SEC. 108. SAVINGS CLAUSE.

Notwithstanding section 509 of the Prescription Drug User Fee Amendments of 2002 (21 U.S.C. 379g note), and notwithstanding the amendments made by this title, part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, as in effect on the day before the date of the enactment of this title, shall continue to be in effect with respect to human drug applications and supplements (as defined in such part as of such day) that on or after October 1, 2002, but before October 1, 2007, were accepted by the Food and Drug Administration for filing with respect to assessing and collecting any fee required by such part for a fiscal year prior to fiscal year 2008.

SEC. 109. TECHNICAL AMENDMENT; CONFORMING AMENDMENT.

(a) Section 739 (21 U.S.C. 379j–11) is amended in the matter preceding paragraph (1) by striking ''subchapter'' and inserting ''part''.

(b) Paragraph (11) of section 739 (21 U.S.C. 379j–11) is amended by striking ''735(9)'' and inserting ''735(11)''.

TITLE II—MEDICAL DEVICE USER FEE AMENDMENTS OF 2007

SEC. 201. SHORT TITLE; REFERENCES IN TITLE; FINDING.

(a) SHORT TITLE.—This title may be cited as the ''Medical Device User Fee Amendments of 2007''.

(b) REFERENCES IN TITLE.—Except as otherwise specified, amendments made by this title to a section or other provision of law are amendments to such section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(c) FINDING.—The Congress finds that the fees authorized under the amendments made by this title will be dedicated toward expediting the process for the review of device applications and for assuring the safety and effectiveness of devices, as set forth in the goals identified for purposes of part 3 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act in the letters from the Secretary of Health and Human Services to the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate and the Chairman of the Committee on Energy and Commerce of the House of Representatives, as set forth in the Congressional Record.

Subtitle A—Fees Related to Medical Devices

SEC. 211. DEFINITIONS.

Section 737 is amended—

(1) in the matter preceding paragraph (1), by striking ''For purposes of this subchapter'' and inserting ''For purposes of this part'';

(2) by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (8), (9), (10), and (12), respectively;

(3) by inserting after paragraph (4) the following:

''(5) The term '30-day notice' means a notice under section 515(d)(6) that is limited to a request to make modifications to manufacturing procedures or methods of manufacture affecting the safety and effectiveness of the device.

''(6) The term 'request for classification information' means a request made under section 513(g) for information respecting the class in which a device has been classified or the requirements applicable to a device.

''(7) The term 'annual fee', for periodic reporting concerning a class III device, means the annual fee associated with periodic reports required by a premarket application approval order.'';

(4) in paragraph (10), as so redesignated—

(A) by striking ''April of the preceding fiscal year'' and inserting ''October of the preceding fiscal year''; and

(B) by striking ''April 2002'' and inserting ''October 2001'';

(5) by inserting after paragraph (10), as so amended, the following:

''(11) The term 'person' includes an affiliate thereof.''; and

(6) by inserting after paragraph (12), as so redesignated, the following:

''(13) The term 'establishment subject to a registration fee' means an establishment that is required to register with the Secretary under section 510 and is one of the following types of establishments:

''(A) MANUFACTURER.—An establishment that makes by any means any article that is a device, including an establishment that sterilizes or otherwise makes such article for or on behalf of a specification developer or any other person.

''(B) SINGLE-USE DEVICE REPROCESSOR.—An establishment that, within the meaning of section 201(ll)(2)(A), performs additional processing and manufacturing operations on a single-use device that has previously been used on a patient.

''(C) SPECIFICATION DEVELOPER.—An establishment that develops specifications for a device that is distributed under the establishment's name but which performs no manufacturing, including an establishment that, in addition to developing specifications, also arranges for the manufacturing of devices labeled with another establishment's name by a contract manufacturer.''.

SEC. 212. AUTHORITY TO ASSESS AND USE DEVICE FEES.

(a) TYPES OF FEES.—

(1) IN GENERAL.—Section 738(a) (21 U.S.C. 379j(a)) is amended—

(A) in paragraph (1), by striking ''Beginning on the date of the enactment of the Medical Device User Fee and Modernization Act of 2002'' and inserting ''Beginning in fiscal year 2008''; and

(B) by amending the designation and heading of paragraph (2) to read as follows:

''(2) PREMARKET APPLICATION, PREMARKET REPORT, SUPPLEMENT, AND SUBMISSION FEE, AND ANNUAL FEE FOR PERIODIC REPORTING CONCERNING A CLASS III DEVICE.—''.

(2) FEE AMOUNTS.—Section 738(a)(2)(A) (21 U.S.C. 379j(a)(2)(A)) is amended—

(A) in clause (iii), by striking ''a fee equal to the fee that applies'' and inserting ''a fee equal to 75 percent of the fee that applies'';

(B) in clause (iv), by striking ''21.5 percent'' and inserting ''15 percent'';

(C) in clause (v), by striking ''7.2 percent'' and inserting ''7 percent'';

(D) by redesignating clauses (vi) and (vii) as clauses (vii) and (viii), respectively;

(E) by inserting after clause (v) the following:

''(vi) For a 30-day notice, a fee equal to 1.6 percent of the fee that applies under clause (i).'';

(F) in clause (viii), as so redesignated—

(i) by striking ''1.42 percent'' and inserting ''1.84 percent''; and

(ii) by striking '', subject to any adjustment under subsection (e)(2)(C)(ii)''; and

(G) by inserting after such clause (viii) the following:

''(ix) For a request for classification information, a fee equal to 1.35 percent of the fee that applies under clause (i).

''(x) For periodic reporting concerning a class III device, an annual fee equal to 3.5 percent of the fee that applies under clause (i).''.

(3) PAYMENT.—Section 738(a)(2)(C) (21 U.S.C. 379j(a)(2)(C)) is amended to read as follows:

''(C) PAYMENT.—The fee required by subparagraph (A) shall be due upon submission of the premarket application, premarket report, supplement, premarket notification submission, 30-day notice, request for classification information, or periodic reporting concerning a class III device. Applicants submitting portions of applications pursuant to section 515(c)(4) shall pay such fees upon submission of the first portion of such applications.''.

(4) REFUNDS.—Section 738(a)(2)(D) (21 U.S.C. 379j(a)(2)(D)) is amended—

(A) in clause (iii), by striking the last two sentences; and

(B) by adding after clause (iii) the following:

''(iv) MODULAR APPLICATIONS WITHDRAWN BEFORE FIRST ACTION.—The Secretary shall refund 75 percent of the application fee paid for an application submitted under section 515(c)(4) that is withdrawn before a second portion is submitted and before a first action on the first portion.

''(v) LATER WITHDRAWN MODULAR APPLICATIONS.—If an application submitted under section 515(c)(4) is withdrawn after a second or subsequent portion is submitted but before any first action, the Secretary may return a portion of the fee. The amount of refund, if any, shall be based on the level of effort already expended on the review of the portions submitted.

''(vi) SOLE DISCRETION TO REFUND.—The Secretary shall have sole discretion to refund a fee or portion of the fee under clause (iii) or (v). A determination by the Secretary concerning a refund under clause (iii) or (v) shall not be reviewable.''.

(5) ANNUAL ESTABLISHMENT REGISTRATION FEE.—Section 738(a) (21 U.S.C. 379j(a)) is amended by adding after paragraph (2) the following:

''(3) ANNUAL ESTABLISHMENT REGISTRATION FEE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), each establishment subject to a registration fee shall be subject to a fee for each initial or annual registration under section 510 beginning with its registration for fiscal year 2008.

''(B) EXCEPTION.—No fee shall be required under subparagraph (A) for an establishment operated by a State or Federal governmental entity or an Indian tribe (as defined in the Indian Self Determination and Educational Assistance Act), unless a device manufactured by the establishment is to be distributed commercially.

''(C) PAYMENT.—The fee required under subparagraph (A) shall be due once each fiscal year, upon the initial registration of the establishment or upon the annual registration under section 510.''.

(b) FEE AMOUNTS.—Section 738(b) (21 U.S.C. 379j(b)) is amended to read as follows:

''(b) FEE AMOUNTS.—Except as provided in subsections (c), (d), (e), and (h) the fees under subsection (a) shall be based on the following fee amounts:

Fee Type	Fiscal Year 2008	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011	Fiscal Year 2012
Premarket Application	$185,000	$200,725	$217,787	$236,298	$256,384
Establishment Registration	$1,706	$1,851	$2,008	$2,179	$2,364.''.

(c) ANNUAL FEE SETTING.—

(1) IN GENERAL.—Section 738(c) (21 U.S.C. 379j(c)(1)) is amended—

(A) in the subsection heading, by striking ''Annual Fee Setting'' and inserting ''ANNUAL FEE SETTING''; and

(B) in paragraph (1), by striking the last sentence.

(2) ADJUSTMENT OF ANNUAL ESTABLISHMENT FEE.—Section 738(c) (21 U.S.C. 379j(c)), as amended by paragraph (1), is further amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by inserting after paragraph (1) the following:

''(2) ADJUSTMENT.—

''(A) IN GENERAL.—When setting fees for fiscal year 2010, the Secretary may increase the fee under subsection (a)(3)(A) (applicable to establishments subject to registration) only if the Secretary estimates that the number of establishments submitting fees for fiscal year 2009 is fewer than 12,250. The percentage increase shall be the percentage by which the estimate of establishments submitting fees in fiscal year 2009 is fewer than 12,750, but in no case may the percentage increase be more than 8.5 percent over that specified in subsection (b) for fiscal year 2010. If the Secretary makes any adjustment to the fee under subsection (a)(3)(A) for fiscal year 2010, then such fee for fiscal years 2011 and 2012 shall be adjusted so that such fee for fiscal year 2011 is equal to the adjusted fee for fiscal year 2010 increased by 8.5 percent, and such fee for fiscal year 2012 is equal to the adjusted fee for fiscal year 2011 increased by 8.5 percent.

''(B) PUBLICATION.—For any adjustment made under subparagraph (A), the Secretary shall publish in the Federal Register the Secretary's determination to make the adjustment and the rationale for the determination.''; and

(C) in paragraph (4), as redesignated by this paragraph, in subparagraph (A)—

(i) by striking ''For fiscal years 2006 and 2007, the Secretary'' and inserting ''The Secretary''; and

(ii) by striking ''for the first month of fiscal year 2008'' and inserting ''for the first month of the next fiscal year''.

(d) SMALL BUSINESSES; FEE WAIVER AND FEE REDUCTION REGARDING PREMARKET APPROVAL.—

(1) IN GENERAL.—Section 738(d)(1) (21 U.S.C. 379j(d)(1)) is amended—

(A) by striking '', partners, and parent firms''; and

(B) by striking ''clauses (i) through (vi) of subsection (a)(2)(A)'' and inserting ''clauses (i) through (v) and clauses (vii), (ix), and (x) of subsection (a)(2)(A)''.

(2) RULES RELATING TO PREMARKET APPROVAL FEES.—

(A) DEFINITION.—Section 738(d)(2)(A) (21 U.S.C. 379j(d)(2)(A)) is amended by striking '', partners, and parent firms''.

(B) EVIDENCE OF QUALIFICATION.—Section 738(d)(2)(B) (21 U.S.C. 379j(d)(2)(B)) is amended—

(i) by striking ''(B) EVIDENCE OF QUALIFICATION.—An applicant'' and inserting the following:

''(B) EVIDENCE OF QUALIFICATION.—

''(i) IN GENERAL.—An applicant'';

(ii) by striking ''The applicant shall support its claim'' and inserting the following:

''(ii) FIRMS SUBMITTING TAX RETURNS TO THE UNITED STATES INTERNAL REVENUE SERVICE.—The applicant shall support its claim'';

(iii) by striking '', partners, and parent firms'' each place it appears;

(iv) by striking the last sentence and inserting ''If no tax forms are submitted for any affiliate, the applicant shall certify that the applicant has no affiliates.''; and

(v) by adding at the end the following:

''(iii) FIRMS NOT SUBMITTING TAX RETURNS TO THE UNITED STATES INTERNAL REVENUE SERVICE.—In the case of an applicant that has not previously submitted a Federal income tax return, the applicant and each of its affiliates shall demonstrate that it meets the definition under subparagraph (A) by submission of a signed certification, in such form as the Secretary may direct through a notice published in the Federal Register, that the applicant or affiliate meets the criteria for a small business and a certification, in English, from the national taxing authority of the country in which the applicant or, if applicable, affiliate is headquartered. The certification from such taxing authority shall bear the official seal of such taxing authority and shall provide the applicant's or affiliate's gross receipts or sales for the most recent year in both the local currency of such country and in United States dollars, the exchange rate used in converting such local currency to dollars, and the dates during which these receipts or sales were collected. The applicant shall also submit a statement signed by the head of the applicant's firm or by its chief financial officer that the applicant has submitted certifications for all of its affiliates, or that the applicant has no affiliates.''.

(3) REDUCED FEES.—Section 738(d)(2)(C) (21 U.S.C. 379j(d)(2)(C)) is amended to read as follows:

''(C) REDUCED FEES.—Where the Secretary finds that the applicant involved meets the definition under subparagraph (A), the fees established under subsection (c)(1) may be paid at a reduced rate of—

''(i) 25 percent of the fee established under such subsection for a premarket application, a premarket report, a supplement, or periodic reporting concerning a class III device; and

''(ii) 50 percent of the fee established under such subsection for a 30-day notice or a request for classification information.''.

(e) SMALL BUSINESSES; FEE REDUCTION REGARDING PREMARKET NOTIFICATION SUBMISSIONS.—

(1) IN GENERAL.—Section 738(e)(1) (21 U.S.C. 379j(e)(1)) is amended—

(A) by striking ''2004'' and inserting ''2008''; and

(B) by striking ''(a)(2)(A)(vii)'' and inserting ''(a)(2)(A)(viii)''.

(2) RULES RELATING TO PREMARKET NOTIFICATION SUBMISSIONS.—

(A) DEFINITION.—Section 738(e)(2)(A) (21 U.S.C. 379j(e)(2)(A)) is amended by striking '', partners, and parent firms''.

(B) EVIDENCE OF QUALIFICATION.—Section 738(e)(2)(B) (21 U.S.C. 379j(e)(2)(B)) is amended—

(i) by striking ''(B) EVIDENCE OF QUALIFICATION.—An applicant'' and inserting the following:

''(B) EVIDENCE OF QUALIFICATION.—

''(i) IN GENERAL.—An applicant'';

(ii) by striking ''The applicant shall support its claim'' and inserting the following:

''(ii) FIRMS SUBMITTING TAX RETURNS TO THE UNITED STATES INTERNAL REVENUE SERVICE.—The applicant shall support its claim'';

(iii) by striking '', partners, and parent firms'' each place it appears;

(iv) by striking the last sentence and inserting ''If no tax forms are submitted for any affiliate, the applicant shall certify that the applicant has no affiliates.''; and

(v) by adding at the end the following:

''(iii) FIRMS NOT SUBMITTING TAX RETURNS TO THE UNITED STATES INTERNAL REVENUE SERVICE.—In the case of an applicant that has not previously submitted a Federal income tax return, the applicant and each of its affiliates shall demonstrate that it meets the definition under subparagraph (A) by submission of a signed certification, in such form as the Secretary may direct through a notice published in the Federal Register, that the applicant or affiliate meets the criteria for a small business and a certification, in English, from the national taxing authority of the country in which the applicant or, if applicable, affiliate is headquartered. The certification from such taxing authority shall bear the official seal of such taxing authority and shall provide the applicant's or affiliate's gross receipts or sales for the most recent year in both the local currency of such country and in United States dollars, the exchange rate used in converting such local currency to dollars, and the dates during which these receipts or sales were collected. The applicant shall also submit a statement signed by the head of the applicant's firm or by its chief financial officer that the applicant has submitted certifications for all of its affiliates, or that the applicant has no affiliates.''.

(3) REDUCED FEES.—Section 738(e)(2)(C) (21 U.S.C. 379j(e)(2)(C)) is amended to read as follows:

''(C) REDUCED FEES.—For fiscal year 2008 and each subsequent fiscal year, where the Secretary finds that the applicant involved meets the definition under subparagraph (A), the fee for a premarket notification submission may be paid at 50 percent of the fee that applies under subsection (a)(2)(A)(viii), and as established under subsection (c)(1).''.

(f) EFFECT OF FAILURE TO PAY FEES.—Section 738(f) (21 U.S.C. 379j(f)) is amended to read as follows:

''(f) EFFECT OF FAILURE TO PAY FEES.—

''(1) NO ACCEPTANCE OF SUBMISSIONS.—A premarket application, premarket report, supplement, premarket notification submission, 30-day notice, request for classification information, or periodic reporting concerning a class III device submitted by a person subject to fees under subsection (a)(2) and (a)(3) shall be considered incomplete and shall not be accepted by the Secretary until all fees owed by such person have been paid.

''(2) NO REGISTRATION.—Registration information submitted under section 510 by an establishment subject to a registration fee shall be considered incomplete and shall not be accepted by the Secretary until the registration fee under subsection (a)(3) owed for the establishment has been paid. Until the fee is paid and the registration is complete, the establishment is deemed to have failed to register in accordance with section 510.''.

(g) CONDITIONS.—Section 738(g) (21 U.S.C. 379j(g)) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) PERFORMANCE GOALS; TERMINATION OF PROGRAM.—With respect to the amount that, under the salaries and expenses account of the Food and Drug Administration, is appropriated for a fiscal year for devices and radiological products, fees may not be assessed under subsection (a) for the fiscal year, and the Secretary is not expected to meet any performance goals identified for the fiscal year, if—

''(A) the amount so appropriated for the fiscal year, excluding the amount of fees appropriated for the fiscal year, is more than 1 percent less than $205,720,000 multiplied by the adjustment factor applicable to such fiscal year; or

''(B) fees were not assessed under subsection (a) for the previous fiscal year.''; and

(2) by amending paragraph (2) to read as follows:

''(2) AUTHORITY.—If the Secretary does not assess fees under subsection (a) during any portion of a fiscal year because of paragraph (1) and if at a later date in such fiscal year the Secretary may assess such fees, the Secretary may assess and collect such fees, without any modification in the rate for premarket applications, supplements, premarket reports, premarket notification submissions, 30-day notices, requests for classification information, periodic reporting concerning a class III device, and establishment registrations at any time in such fiscal year, notwithstanding the provisions of subsection (a) relating to the date fees are to be paid.''.

(h) CREDITING AND AVAILABILITY OF FEES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 738(h)(3) (21 U.S.C. 379j(h)(3)) is amended to read as follows:

''(3) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated for fees under this section—

''(A) $48,431,000 for fiscal year 2008;

''(B) $52,547,000 for fiscal year 2009;

''(C) $57,014,000 for fiscal year 2010;

''(D) $61,860,000 for fiscal year 2011; and

''(E) $67,118,000 for fiscal year 2012.''.

(2) OFFSET.—Section 738(h)(4) (21 U.S.C. 379j(h)(3)) is amended to read as follows:

''(4) OFFSET.—If the cumulative amount of fees collected during fiscal years 2008, 2009, and 2010, added to the amount estimated to be collected for fiscal year 2011, which estimate shall be based upon the amount of fees received by the Secretary through June 30, 2011, exceeds the amount of fees specified in aggregate in paragraph (3) for these four fiscal years, the aggregate amount in excess shall be credited to the appropriation account of the Food and Drug Administration as provided in paragraph (1), and shall be subtracted from the amount of fees that would otherwise be authorized to be collected under this section pursuant to appropriation Acts for fiscal year 2012.''.

SEC. 213. REAUTHORIZATION; REPORTING REQUIREMENTS.

Part 3 of subchapter C of chapter VII is amended by inserting after section 738 the following:

''SEC. 738A. REAUTHORIZATION; REPORTING REQUIREMENTS.

''(a) REPORTS.—

''(1) PERFORMANCE REPORT.—For fiscal years 2008 through 2012, not later than 120 days after the end of each fiscal year during which fees are collected under this part, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 201(c) of the Food and Drug Administration Amendments Act of 2007 during such fiscal year and the future plans of the Food and Drug Administration for meeting the goals. The report for a fiscal year shall include information on all previous cohorts for which the Secretary has not given a complete response on all device premarket applications and reports, supplements, and premarket notifications in the cohort.

''(2) FISCAL REPORT.—For fiscal years 2008 through 2012, not later than 120 days after the end of each fiscal year during which fees are collected under this part, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected during such fiscal year for which the report is made.

''(3) PUBLIC AVAILABILITY.—The Secretary shall make the reports required under paragraphs (1) and (2) available to the public on the Internet Web site of the Food and Drug Administration.

''(b) REAUTHORIZATION.—

''(1) CONSULTATION.—In developing recommendations to present to Congress with respect to the goals, and plans for meeting the goals, for the process for the review of device applications for the first 5 fiscal years after fiscal year 2012, and for the reauthorization of this part for such fiscal years, the Secretary shall consult with—

''(A) the Committee on Energy and Commerce of the House of Representatives;

''(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

''(C) scientific and academic experts;

''(D) health care professionals;

''(E) representatives of patient and consumer advocacy groups; and

''(F) the regulated industry.

''(2) PRIOR PUBLIC INPUT.—Prior to beginning negotiations with the regulated industry on the reauthorization of this part, the Secretary shall—

''(A) publish a notice in the Federal Register requesting public input on the reauthorization;

''(B) hold a public meeting at which the public may present its views on the reauthorization, including specific suggestions for changes to the goals referred to in subsection (a)(1);

''(C) provide a period of 30 days after the public meeting to obtain written comments from the public suggesting changes to this part; and

''(D) publish the comments on the Food and Drug Administration's Internet Web site.

''(3) PERIODIC CONSULTATION.—Not less frequently than once every month during negotiations with the regulated industry, the Secretary shall hold discussions with representatives of patient and consumer advocacy groups to continue discussions of their views on the reauthorization and their suggestions for changes to this part as expressed under paragraph (2).

''(4) PUBLIC REVIEW OF RECOMMENDATIONS.—After negotiations with the regulated industry, the Secretary shall—

''(A) present the recommendations developed under paragraph (1) to the Congressional committees specified in such paragraph;

''(B) publish such recommendations in the Federal Register;

''(C) provide for a period of 30 days for the public to provide written comments on such recommendations;

''(D) hold a meeting at which the public may present its views on such recommendations; and

''(E) after consideration of such public views and comments, revise such recommendations as necessary.

''(5) TRANSMITTAL OF RECOMMENDATIONS.—Not later than January 15, 2012, the Secretary shall transmit to Congress the revised recommendations under paragraph (4), a summary of the views and comments received under such paragraph, and any

changes made to the recommendations in response to such views and comments.

''(6) MINUTES OF NEGOTIATION MEETINGS.—

''(A) PUBLIC AVAILABILITY.—Before presenting the recommendations developed under paragraphs (1) through (5) to the Congress, the Secretary shall make publicly available, on the public Web site of the Food and Drug Administration, minutes of all negotiation meetings conducted under this subsection between the Food and Drug Administration and the regulated industry.

''(B) CONTENT.—The minutes described under subparagraph (A) shall summarize any substantive proposal made by any party to the negotiations as well as significant controversies or differences of opinion during the negotiations and their resolution.''.

SEC. 214. SAVINGS CLAUSE.

Notwithstanding section 107 of the Medical Device User Fee and Modernization Act of 2002 (Public Law 107–250), and notwithstanding the amendments made by this subtitle, part 3 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379i et seq.), as in effect on the day before the date of the enactment of this subtitle, shall continue to be in effect with respect to premarket applications, premarket reports, premarket notification submissions, and supplements (as defined in such part as of such day) that on or after October 1, 2002, but before October 1, 2007, were accepted by the Food and Drug Administration for filing with respect to assessing and collecting any fee required by such part for a fiscal year prior to fiscal year 2008.

SEC. 215. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR POSTMARKET SAFETY INFORMATION.

For the purpose of collecting, developing, reviewing, and evaluating postmarket safety information on medical devices, there are authorized to be appropriated to the Food and Drug Administration, in addition to the amounts authorized by other provisions of law for such purpose—

(1) $7,100,000 for fiscal year 2008;

(2) $7,455,000 for fiscal year 2009;

(3) $7,827,750 for fiscal year 2010;

(4) $8,219,138 for fiscal year 2011; and

(5) $8,630,094 for fiscal year 2012.

SEC. 216. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on October 1, 2007, or the date of the enactment of this Act, whichever is later, except that fees under part 3 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act shall be assessed for all premarket applications, premarket reports, supplements, 30-day notices, and premarket notification submissions received on or after October 1, 2007, regardless of the date of the enactment of this Act.

SEC. 217. SUNSET CLAUSE.

The amendments made by this subtitle cease to be effective October 1, 2012, except that section 738A of the Federal Food, Drug, and Cosmetic Act (regarding annual performance and financial reports) ceases to be effective January 31, 2013.

Subtitle B—Amendments Regarding Regulation of Medical Devices

SEC. 221. EXTENSION OF AUTHORITY FOR THIRD PARTY REVIEW OF PREMARKET NOTIFICATION.

Section 523(c) (21 U.S.C. 360m(c)) is amended by striking ''2007'' and inserting ''2012''.

SEC. 222. REGISTRATION.

(a) ANNUAL REGISTRATION OF PRODUCERS OF DRUGS AND DEVICES.—Section 510(b) (21 U.S.C. 360(b)) is amended—

(1) by striking ''(b) On or before'' and inserting ''(b)(1) On or before'';

(2) by striking ''or a device or devices''; and

(3) by adding at the end the following:

''(2) During the period beginning on October 1 and ending on December 31 of each year, every person who owns or operates any establishment in any State engaged in the manufacture, preparation, propagation, compounding, or processing of a device or devices shall register with the Secretary his name, places of business, and all such establishments.''.

(b) REGISTRATION OF FOREIGN ESTABLISHMENTS.—Section 510(i)(1) (21 U.S.C. 360(i)(1)) is amended by striking ''On or before December 31'' and all that follows and inserting the following: ''Any establishment within any foreign country engaged in the manufacture, preparation, propagation, compounding, or processing of a drug or device that is imported or offered for import into the United States shall, through electronic means in accordance with the criteria of the Secretary—

''(A) upon first engaging in any such activity, immediately register with the Secretary the name and place of business of the establishment, the name of the United States agent for the establishment, the name of each importer of such drug or device in the United States that is known to the establishment, and the name of each person who imports or offers for import such drug or device to the United States for purposes of importation; and

''(B) each establishment subject to the requirements of subparagraph (A) shall thereafter—

''(i) with respect to drugs, register with the Secretary on or before December 31 of each year; and

''(ii) with respect to devices, register with the Secretary during the period beginning on October 1 and ending on December 31 of each year.''.

SEC. 223. FILING OF LISTS OF DRUGS AND DEVICES MANUFACTURED, PREPARED, PROPAGATED, AND COMPOUNDED BY REGISTRANTS; STATEMENTS; ACCOMPANYING DISCLOSURES.

Section 510(j)(2) (21 U.S.C. 360(j)(2)) is amended, in the matter preceding subparagraph (A), by striking ''Each person'' and all that follows through ''the following information:'' and inserting ''Each person who registers with the Secretary under this section shall report to the Secretary, with regard to drugs once during the month of June of each year and once during the month of December of each year, and with regard to devices once each year during the period beginning on October 1 and ending on December 31, the following information:''.

SEC. 224. ELECTRONIC REGISTRATION AND LISTING.

Section 510(p) (21 U.S.C. 360(p)) is amended to read as follows:

''(p) Registrations and listings under this section (including the submission of updated information) shall be submitted to the Secretary by electronic means unless the Secretary grants a request for waiver of such requirement because use of electronic means is not reasonable for the person requesting such waiver.''.

SEC. 225. REPORT BY GOVERNMENT ACCOUNTABILITY OFFICE.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the appropriate use of the process under section 510(k) of the Federal Food, Drug, and Cosmetic Act as part of the device classification process to determine whether a new device is as safe and effective as a classified device.

(b) CONSIDERATION.—In determining the effectiveness of the premarket notification and classification authority under section 510(k) and subsections (f) and (i) of section 513 of the Federal Food, Drug, and Cosmetic Act, the study under subsection (a) shall consider the Secretary of Health and Human Services's evaluation of the respective intended uses and technologies of such devices, including the effectiveness of such Secretary's comparative assessment of technological characteristics such as device materials, principles of operations, and power sources.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall complete the study under subsection (a) and submit to the Congress a report on the results of such study.

SEC. 226. UNIQUE DEVICE IDENTIFICATION SYSTEM.

(a) IN GENERAL.—Section 519 (21 U.S.C. 360i) is amended—

(1) by redesignating subsection (f) as subsection (g); and

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

''Unique Device Identification System

''(f) The Secretary shall promulgate regulations establishing a unique device identification system for medical devices requiring the label of devices to bear a unique identifier, unless the Secretary requires an alternative placement or provides an exception for a particular device or type of device. The unique identifier shall adequately identify the device through distribution and use, and may include information on the lot or serial number.''.

(b) CONFORMING AMENDMENT.—Section 303 (21 U.S.C. 333) is amended—

(1) by redesignating the subsection that follows subsection (e) as subsection (f); and

(2) in paragraph (1)(B)(ii) of subsection (f), as so redesignated, by striking ''519(f)'' and inserting ''519(g)''.

SEC. 227. FREQUENCY OF REPORTING FOR CERTAIN DEVICES.

Subparagraph (B) of section 519(a)(1) (21 U.S.C. 360i(a)(1)) is amended by striking ''were to recur;'' and inserting the following: ''were to recur, which report under this subparagraph—

''(i) shall be submitted in accordance with part 803 of title 21, Code of Federal Regulations (or successor regulations), unless the Secretary grants an exemption or variance from, or an alternative to, a requirement under such regulations pursuant to section 803.19 of such part, if the device involved is—

''(I) a class III device;

''(II) a class II device that is permanently implantable, is life supporting, or is life sustaining; or

''(III) a type of device which the Secretary has, by notice published in the Federal Register or letter to the person who is the manufacturer or importer of the device, indicated should be subject to such part 803 in order to protect the public health;

''(ii) shall, if the device is not subject to clause (i), be submitted in accordance with criteria established by the Secretary for reports made pursuant to this clause, which criteria shall require the reports to be in summary form and made on a quarterly basis; or

''(iii) shall, if the device is imported into the United States and for which part 803 of title 21, Code of Federal Regulations (or successor regulations) requires an importer to submit a report to the manufacturer, be submitted by the importer to the manufacturer in accordance with part 803 of title 21, Code of Federal Regulations (or successor regulations)''.

SEC. 228. INSPECTIONS BY ACCREDITED PERSONS.

Section 704(g) (21 U.S.C. 374(g)) is amended—

(1) in paragraph (1), by striking ''Not later than one year after the date of the enactment of this subsection, the Secretary'' and inserting ''The Secretary'';

(2) in paragraph (2), by—

(A) striking ''Not later than 180 days after the date of enactment of this subsection, the Secretary'' and inserting ''The Secretary''; and

(B) striking the fifth sentence;

(3) in paragraph (3), by adding at the end the following:

''(F) Such person shall notify the Secretary of any withdrawal, suspension, restriction, or expiration of certificate of conformance with the quality systems standard referred to in paragraph (7) for any device establishment that such person inspects under this subsection not later than 30 days after such withdrawal, suspension, restriction, or expiration.

''(G) Such person may conduct audits to establish conformance with the quality systems standard referred to in paragraph (7).'';

(4) by amending paragraph (6) to read as follows:

''(6)(A) Subject to subparagraphs (B) and (C), a device establishment is eligible for inspection by persons accredited under paragraph (2) if the following conditions are met:

''(i) The Secretary classified the results of the most recent inspection of the establishment as 'no action indicated' or 'voluntary action indicated'.

''(ii) With respect to inspections of the establishment to be conducted by an accredited person, the owner or operator of the establishment submits to the Secretary a notice that—

''(I) provides the date of the last inspection of the establishment by the Secretary and the classification of that inspection;

''(II) states the intention of the owner or operator to use an accredited person to conduct inspections of the establishment;

''(III) identifies the particular accredited person the owner or operator intends to select to conduct such inspections; and

''(IV) includes a certification that, with respect to the devices that are manufactured, prepared, propagated, compounded, or processed in the establishment—

''(aa) at least 1 of such devices is marketed in the United States; and

''(bb) at least 1 of such devices is marketed, or is intended to be marketed, in 1 or more foreign countries, 1 of which countries certifies, accredits, or otherwise recognizes the person accredited under paragraph (2) and identified under subclause (III) as a person authorized to conduct inspections of device establishments.

''(B)(i) Except with respect to the requirement of subparagraph (A)(i), a device establishment is deemed to have clearance to participate in the program and to use the accredited person identified in the notice under subparagraph (A)(ii) for inspections of the establishment unless the Secretary, not later than 30 days after receiving such notice, issues a response that—

''(I) denies clearance to participate as provided under subparagraph (C); or

''(II) makes a request under clause (ii).

''(ii) The Secretary may request from the owner or operator of a device establishment in response to the notice under subparagraph (A)(ii) with respect to the establishment, or from the particular accredited person identified in such notice—

''(I) compliance data for the establishment in accordance with clause (iii)(I); or

''(II) information concerning the relationship between the owner or operator of the establishment and the accredited person identified in such notice in accordance with clause (iii)(II).

The owner or operator of the establishment, or such accredited person, as the case may be, shall respond to such a request not later than 60 days after receiving such request.

''(iii)(I) The compliance data to be submitted by the owner or operator of a device establishment in response to a request under clause (ii)(I) are data describing whether the quality controls of the establishment have been sufficient for ensuring consistent compliance with current good manufacturing practice within the meaning of section 501(h) and with other applicable provisions of this Act. Such data shall include complete reports of inspectional findings regarding good manufacturing practice or other quality control audits that, during the preceding 2-year period, were conducted at the establishment by persons other than the owner or operator of the establishment, together with all other compliance data the Secretary deems necessary. Data under the preceding sentence shall demonstrate to the Secretary whether the establishment has facilitated consistent compliance by promptly correcting any compliance problems identified in such inspections.

''(II) A request to an accredited person under clause (ii)(II) may not seek any information that is not required to be maintained by such person in records under subsection (f)(1).

''(iv) A device establishment is deemed to have clearance to participate in the program and to use the accredited person identified in the notice under subparagraph (A)(ii) for inspections of the establishment unless the Secretary, not later than 60 days after receiving the information requested under clause (ii), issues a response that denies clearance to participate as provided under subparagraph (C).

''(C)(i) The Secretary may deny clearance to a device establishment if the Secretary has evidence that the certification under subparagraph (A)(ii)(IV) is untrue and the Secretary provides to the owner or operator of the establishment a statement summarizing such evidence.

''(ii) The Secretary may deny clearance to a device establishment if the Secretary determines that the establishment has failed to demonstrate consistent compliance for purposes of subparagraph (B)(iii)(I) and the Secretary provides to the owner or operator of the establishment a statement of the reasons for such determination.

''(iii)(I) The Secretary may reject the selection of the accredited person identified in the notice under subparagraph (A)(ii) if the Secretary provides to the owner or operator of the establishment a statement of the reasons for such rejection. Reasons for the rejection may include that the establishment or the accredited person, as the case may be, has failed to fully respond to the request, or that the Secretary has concerns regarding the relationship between the establishment and such accredited person.

''(II) If the Secretary rejects the selection of an accredited person by the owner or operator of a device establishment, the owner or operator may make an additional selection of an accredited person by submitting to the Secretary a notice that identifies the additional selection. Clauses (i) and (ii) of subparagraph (B), and subclause (I) of this clause, apply to the selection of an accredited person through a notice under the preceding sentence in the same manner and to the same extent as such provisions apply to a selection of an accredited person through a notice under subparagraph (A)(ii).

''(iv) In the case of a device establishment that is denied clearance under clause (i) or (ii) or with respect to which the selection of the accredited person is rejected under clause (iii), the Secretary shall designate a person to review the statement of reasons, or statement summarizing such evidence, as the case may be, of the Secretary under such clause if, during the 30-day period beginning on the date on which the owner or operator of the establishment receives such statement, the owner or operator requests the review. The review shall commence not later than 30 days after the owner or operator requests the review, unless the Secretary and the owner or operator otherwise agree.'';

(5) in paragraph (7)—

(A) in subparagraph (A), by striking ''(A) Persons'' and all that follows through the end and inserting the following: ''(A) Persons accredited under paragraph (2) to conduct inspections shall record in writing their inspection observations and shall present the observations to the device establishment's designated representative and describe each observation. Additionally, such accredited person shall prepare an inspection report in a form and manner designated by the Secretary to conduct inspections, taking into consideration the goals of international harmonization of quality systems standards. Any official classification of the inspection shall be determined by the Secretary.''; and

(B) by adding at the end the following:

''(F) For the purpose of setting risk-based inspectional priorities, the Secretary shall accept voluntary submissions of reports of audits assessing conformance with appropriate quality systems standards set by the International Organization for Standardization (ISO) and identified by the Secretary in public notice. If the owner or operator of an establishment elects to submit audit reports under this subparagraph, the owner or operator shall submit all such audit reports with respect to the establishment during the preceding 2-year periods.''; and

(6) in paragraph (10)(C)(iii), by striking ''based'' and inserting ''base''.

SEC. 229. STUDY OF NOSOCOMIAL INFECTIONS RELATING TO MEDICAL DEVICES.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study on—

(1) the number of nosocomial infections attributable to new and reused medical devices; and

(2) the causes of such nosocomial infections, including the following:

(A) Reprocessed single-use devices.

(B) Handling of sterilized medical devices.

(C) In-hospital sterilization of medical devices.

(D) Health care professionals' practices for patient examination and treatment.

(E) Hospital-based policies and procedures for infection control and prevention.

(F) Hospital-based practices for handling of medical waste.

(G) Other causes.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall complete the study under subsection (a) and submit to the Congress a report on the results of such study.

(c) DEFINITION.—In this section, the term ''nosocomial infection'' means an infection that is acquired while an individual is a patient at a hospital and was neither present nor incubating in the patient prior to receiving services in the hospital.

SEC. 230. REPORT BY THE FOOD AND DRUG ADMINISTRATION REGARDING LABELING INFORMATION ON THE RELATIONSHIP BETWEEN THE USE OF INDOOR TANNING DEVICES AND DEVELOPMENT OF SKIN CANCER OR OTHER SKIN DAMAGE.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary''), acting through the Commissioner of Food and Drugs, shall determine—

(1) whether the labeling requirements for indoor tanning devices, including the positioning requirements, provide sufficient information to consumers regarding the risks that the use of such devices pose for the development of irreversible damage to the eyes and skin, including skin cancer; and

(2)(A) whether modifying the warning label required on tanning beds to read, ''Ultraviolet radiation can cause skin cancer'', or any other additional warning, would communicate the risks of indoor tanning more effectively; or

(B) whether there is no warning that would be capable of adequately communicating such risks.

(b) CONSUMER TESTING.—In making the determinations under subsection (a), the Secretary shall conduct appropriate consumer testing to determine consumer understanding of label warnings.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to the Congress a report that provides the determinations under subsection (a). In addition, the Secretary shall include in the report the measures being implemented by the Secretary to significantly reduce the risks associated with indoor tanning devices.

TITLE III—PEDIATRIC MEDICAL DEVICE SAFETY AND IMPROVEMENT ACT OF 2007

SEC. 301. SHORT TITLE.

This title may be cited as the ''Pediatric Medical Device Safety and Improvement Act of 2007''.

SEC. 302. TRACKING PEDIATRIC DEVICE APPROVALS.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 515 the following:

''SEC. 515A. PEDIATRIC USES OF DEVICES.

''(a) NEW DEVICES.—

''(1) IN GENERAL.—A person that submits to the Secretary an application under section 520(m), or an application (or supplement to an application) or a product development protocol under section 515, shall include in the application or protocol the information described in paragraph (2).

''(2) REQUIRED INFORMATION.—The application or protocol described in paragraph (1) shall include, with respect to the device for which approval is sought and if readily available—

''(A) a description of any pediatric subpopulations that suffer from the disease or condition that the device is intended to treat, diagnose, or cure; and

''(B) the number of affected pediatric patients.

''(3) ANNUAL REPORT.—Not later than 18 months after the date of the enactment of this section, and annually thereafter, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that includes—

''(A) the number of devices approved in the year preceding the year in which the report is submitted, for which there is a pediatric subpopulation that suffers from the disease or condition that the device is intended to treat, diagnose, or cure;

''(B) the number of devices approved in the year preceding the year in which the report is submitted, labeled for use in pediatric patients;

''(C) the number of pediatric devices approved in the year preceding the year in which the report is submitted, exempted from a fee pursuant to section 738(a)(2)(B)(v); and

''(D) the review time for each device described in subparagraphs (A), (B), and (C).

''(b) DETERMINATION OF PEDIATRIC EFFECTIVENESS BASED ON SIMILAR COURSE OF DISEASE OR CONDITION OR SIMILAR EFFECT OF DEVICE ON ADULTS.—

''(1) IN GENERAL.—If the course of the disease or condition and the effects of the device are sufficiently similar in adults and pediatric patients, the Secretary may conclude that adult data may be used to support a determination of a reasonable assurance of effectiveness in pediatric populations, as appropriate.

''(2) EXTRAPOLATION BETWEEN SUBPOPULATIONS.—A study may not be needed in each pediatric subpopulation if data from one subpopulation can be extrapolated to another subpopulation.

''(c) PEDIATRIC SUBPOPULATION.—For purposes of this section, the term 'pediatric subpopulation' has the meaning given the term in section 520(m)(6)(E)(ii).''.

SEC. 303. MODIFICATION TO HUMANITARIAN DEVICE EXEMPTION.

(a) IN GENERAL.—Section 520(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(m)) is amended—

(1) in paragraph (3), by striking ''No'' and inserting ''Except as provided in paragraph (6), no'';

(2) in paragraph (5)—

(A) by inserting '', if the Secretary has reason to believe that the requirements of paragraph (6) are no longer met,'' after ''public health''; and

(B) by adding at the end the following: ''If the person granted an exemption under paragraph (2) fails to demonstrate continued compliance with the requirements of this subsection, the Secretary may suspend or withdraw the exemption from the effectiveness requirements of sections 514 and 515 for a humanitarian device only after providing notice and an opportunity for an informal hearing.''; and

(3) by striking paragraph (6) and inserting after paragraph (5) the following new paragraphs:

''(6)(A) Except as provided in subparagraph (D), the prohibition in paragraph (3) shall not apply with respect to a person granted an exemption under paragraph (2) if each of the following conditions apply:

''(i)(I) The device with respect to which the exemption is granted is intended for the treatment or diagnosis of a disease or condition that occurs in pediatric patients or in a pediatric subpopulation, and such device is labeled for use in pediatric patients or in a pediatric subpopulation in which the disease or condition occurs.

''(II) The device was not previously approved under this subsection for the pediatric patients or the pediatric subpopulation described in subclause (I) prior to the date of the enactment of the Pediatric Medical Device Safety and Improvement Act of 2007.

''(ii) During any calendar year, the number of such devices distributed during that year does not exceed the annual distribution number specified by the Secretary when the Secretary grants such exemption. The annual distribution number shall be based on the number of individuals affected by the disease or condition that such device is intended to treat, diagnose, or cure, and of that number, the number of individuals likely to use the device, and the number of devices reasonably necessary to treat such individuals. In no case shall the annual distribution number exceed the number identified in paragraph (2)(A).

''(iii) Such person immediately notifies the Secretary if the number of such devices distributed during any calendar year exceeds the annual distribution number referred to in clause (ii).

''(iv) The request for such exemption is submitted on or before October 1, 2012.

''(B) The Secretary may inspect the records relating to the number of devices distributed during any calendar year of a person granted an exemption under paragraph (2) for which the prohibition in paragraph (3) does not apply.

''(C) A person may petition the Secretary to modify the annual distribution number specified by the Secretary under subparagraph (A)(ii) with respect to a device if additional information on the number of individuals affected by the disease or condition arises, and the Secretary may modify such number but in no case shall the annual distribution number exceed the number identified in paragraph (2)(A).

''(D) If a person notifies the Secretary, or the Secretary determines through an inspection under subparagraph (B), that the number of devices distributed during any calendar year exceeds the annual distribution number, as required under subparagraph (A)(iii), and modified under subparagraph (C), if applicable, then the prohibition in paragraph (3) shall apply with respect to such person for such device for any sales of such device after such notification.

''(E)(i) In this subsection, the term 'pediatric patients' means patients who are 21 years of age or younger at the time of the diagnosis or treatment.

''(ii) In this subsection, the term 'pediatric subpopulation' means 1 of the following populations:

''(I) Neonates.

''(II) Infants.

''(III) Children.

''(IV) Adolescents.

''(7) The Secretary shall refer any report of an adverse event regarding a device for which the prohibition under paragraph (3) does not apply pursuant to paragraph (6)(A) that the Secretary receives to the Office of Pediatric Therapeutics, established under section 6 of the Best Pharmaceuticals for Children Act (Public Law 107–109). In considering the report, the Director of the Office of Pediatric Therapeutics, in consultation with experts in the Center for Devices and Radiological Health, shall provide for periodic review of the report by the Pediatric Advisory Committee, including obtaining any recommendations of such committee regarding whether the Secretary should take action under this Act in response to the report.

''(8) The Secretary, acting through the Office of Pediatric Therapeutics and the Center for Devices and Radiological Health, shall provide for an annual review by the Pediatric Advisory Committee of all devices described in paragraph (6) to ensure that the exemption under paragraph (2) remains appropriate for the pediatric populations for which it is granted.''.

(b) REPORT.—Not later than January 1, 2012, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the impact of allowing persons granted an exemption under section 520(m)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(m)(2)) with respect to a device to profit from such device pursuant to section 520(m)(6) of such Act (21 U.S.C. 360j(m)(6)) (as amended by subsection (a)), including—

(1) an assessment of whether such section 520(m)(6) (as amended by subsection (a)) has increased the availability of pediatric devices for conditions that occur in small numbers of children, including any increase or decrease in the number of—

(A) exemptions granted under such section 520(m)(2) for pediatric devices; and

(B) applications approved under section 515 of such Act (21 U.S.C. 360e) for devices intended to treat, diagnose, or cure conditions

that occur in pediatric patients or for devices labeled for use in a pediatric population;

(2) the conditions or diseases the pediatric devices were intended to treat or diagnose and the estimated size of the pediatric patient population for each condition or disease;

(3) the costs of purchasing pediatric devices, based on a representative sampling of children's hospitals;

(4) the extent to which the costs of such devices are covered by health insurance;

(5) the impact, if any, of allowing profit on access to such devices for patients;

(6) the profits made by manufacturers for each device that receives an exemption;

(7) an estimate of the extent of the use of the pediatric devices by both adults and pediatric populations for a condition or disease other than the condition or disease on the label of such devices;

(8) recommendations of the Comptroller General of the United States regarding the effectiveness of such section 520(m)(6) (as amended by subsection (a)) and whether any modifications to such section 520(m)(6) (as amended by subsection (a)) should be made;

(9) existing obstacles to pediatric device development; and

(10) an evaluation of the demonstration grants described in section 305, which shall include an evaluation of the number of pediatric medical devices—

(A) that have been or are being studied in children; and

(B) that have been submitted to the Food and Drug Administration for approval, clearance, or review under such section 520(m) (as amended by this Act) and any regulatory actions taken.

(c) GUIDANCE.—Not later than 180 days after the date of the enactment of this Act, the Commissioner of Food and Drugs shall issue guidance for institutional review committees on how to evaluate requests for approval for devices for which a humanitarian device exemption under section 520(m)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(m)(2)) has been granted.

SEC. 304. ENCOURAGING PEDIATRIC MEDICAL DEVICE RESEARCH.

(a) CONTACT POINT FOR AVAILABLE FUNDING.—Section 402(b) of the Public Health Service Act (42 U.S.C. 282(b)) is amended—

(1) in paragraph (21), by striking ''and'' after the semicolon at the end;

(2) in paragraph (22), by striking the period at the end and inserting ''; and''; and

(3) by inserting after paragraph (22) the following:

''(23) shall designate a contact point or office to help innovators and physicians identify sources of funding available for pediatric medical device development.''.

(b) PLAN FOR PEDIATRIC MEDICAL DEVICE RESEARCH.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, the Director of the National Institutes of Health, and the Director of the Agency for Healthcare Research and Quality, shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a plan for expanding pediatric medical device research and development. In developing such plan, the Secretary of Health and Human Services shall consult with individuals and organizations with appropriate expertise in pediatric medical devices.

(2) CONTENTS.—The plan under paragraph (1) shall include—

(A) the current status of federally funded pediatric medical device research;

(B) any gaps in such research, which may include a survey of pediatric medical providers regarding unmet pediatric medical device needs, as needed; and

(C) a research agenda for improving pediatric medical device development and Food and Drug Administration clearance or approval of pediatric medical devices, and for evaluating the short- and long-term safety and effectiveness of pediatric medical devices.

SEC. 305. DEMONSTRATION GRANTS FOR IMPROVING PEDIATRIC DEVICE AVAILABILITY.

(a) IN GENERAL.—

(1) REQUEST FOR PROPOSALS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue a request for proposals for 1 or more grants or contracts to nonprofit consortia for demonstration projects to promote pediatric device development.

(2) DETERMINATION ON GRANTS OR CONTRACTS.—Not later than 180 days after the date the Secretary of Health and Human Services issues a request for proposals under paragraph (1), the Secretary shall make a determination on the grants or contracts under this section.

(b) APPLICATION.—A nonprofit consortium that desires to receive a grant or contract under this section shall submit an application to the Secretary of Health and Human Services at such time, in such manner, and containing such information as the Secretary may require.

(c) USE OF FUNDS.—A nonprofit consortium that receives a grant or contract under this section shall facilitate the development, production, and distribution of pediatric medical devices by—

(1) encouraging innovation and connecting qualified individuals with pediatric device ideas with potential manufacturers;

(2) mentoring and managing pediatric device projects through the development process, including product identification, prototype design, device development, and marketing;

(3) connecting innovators and physicians to existing Federal and non-Federal resources, including resources from the Food and Drug Administration, the National Institutes of Health, the Small Business Administration, the Department of Energy, the Department of Education, the National Science Foundation, the Department of Veterans Affairs, the Agency for Healthcare Research and Quality, and the National Institute of Standards and Technology;

(4) assessing the scientific and medical merit of proposed pediatric device projects; and

(5) providing assistance and advice as needed on business development, personnel training, prototype development, postmarket needs, and other activities consistent with the purposes of this section.

(d) COORDINATION.—

(1) NATIONAL INSTITUTES OF HEALTH.—Each consortium that receives a grant or contract under this section shall—

(A) coordinate with the National Institutes of Health's pediatric device contact point or office, designated under section 402(b)(23) of the Public Health Service Act, as added by section 304(a) of this Act; and

(B) provide to the National Institutes of Health any identified pediatric device needs that the consortium lacks sufficient capacity to address or those needs in which the consortium has been unable to stimulate manufacturer interest.

(2) FOOD AND DRUG ADMINISTRATION.—Each consortium that receives a grant or contract under this section shall coordinate with the Commissioner of Food and Drugs and device companies to facilitate the application for approval or clearance of devices labeled for pediatric use.

(3) EFFECTIVENESS AND OUTCOMES.—Each consortium that receives a grant or contract under this section shall annually report to the Secretary of Health and Human Services on the status of pediatric device development, production, and distribution that has been facilitated by the consortium.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $6,000,000 for each of fiscal years 2008 through 2012.

SEC. 306. AMENDMENTS TO OFFICE OF PEDIATRIC THERAPEUTICS AND PEDIATRIC ADVISORY COMMITTEE.

(a) OFFICE OF PEDIATRIC THERAPEUTICS.—Section 6(b) of the Best Pharmaceuticals for Children Act (21 U.S.C. 393a(b)) is amended by inserting '', including increasing pediatric access to medical devices'' after ''pediatric issues''.

(b) PEDIATRIC ADVISORY COMMITTEE.—Section 14 of the Best Pharmaceuticals for Children Act (42 U.S.C. 284m note) is amended—

(1) in subsection (a), by inserting ''(including drugs and biological products) and medical devices'' after ''therapeutics''; and

(2) in subsection (b)—

(A) in paragraph (1), by inserting ''(including drugs and biological products) and medical devices'' after ''therapeutics''; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ''and 505B'' and inserting ''505B, 510(k), 515, and 520(m)'';

(ii) by striking subparagraph (B) and inserting the following:

''(B) identification of research priorities related to therapeutics (including drugs and biological products) and medical devices for pediatric populations and the need for additional diagnostics and treatments for specific pediatric diseases or conditions;''; and

(iii) in subparagraph (C), by inserting ''(including drugs and biological products) and medical devices'' after ''therapeutics''.

SEC. 307. POSTMARKET SURVEILLANCE.

Section 522 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360l) is amended—

(1) by amending the section heading and designation to read as follows:

''SEC. 522. POSTMARKET SURVEILLANCE.'';

(2) by striking subsection (a) and inserting the following:

''(a) POSTMARKET SURVEILLANCE.—

''(1) IN GENERAL.—

''(A) CONDUCT.—The Secretary may by order require a manufacturer to conduct postmarket surveillance for any device of the manufacturer that is a class II or class III device—

''(i) the failure of which would be reasonably likely to have serious adverse health consequences;

''(ii) that is expected to have significant use in pediatric populations; or

''(iii) that is intended to be—

''(I) implanted in the human body for more than 1 year; or

''(II) a life-sustaining or life-supporting device used outside a device user facility.

''(B) CONDITION.—The Secretary may order a postmarket surveillance under subparagraph (A) as a condition to approval or clearance of a device described in subparagraph (A)(ii).

''(2) RULE OF CONSTRUCTION.—The provisions of paragraph (1) shall have no effect on authorities otherwise provided under the Act or regulations issued under this Act.''; and

(3) in subsection (b)—

(A) by striking ''(b) SURVEILLANCE APPROVAL.—Each'' and inserting the following:

''(b) SURVEILLANCE APPROVAL.—

''(1) IN GENERAL.—Each'';

(B) by striking ''The Secretary, in consultation'' and inserting ''Except as provided in paragraph (2), the Secretary, in consultation'';

(C) by striking ''Any determination'' and inserting ''Except as provided in paragraph (2), any determination''; and

(D) by adding at the end the following:

''(2) LONGER SURVEILLANCE FOR PEDIATRIC DEVICES.—The Secretary may by order require a prospective surveillance period of more than 36 months with respect to a device that is expected to have significant use in pediatric populations if such period of more than 36 months is necessary in order to assess the impact of the device on growth and development, or the effects of growth, development, activity level, or other factors on the safety or efficacy of the device.

''(c) DISPUTE RESOLUTION.—A manufacturer may request review under section 562 of any order or condition requiring postmarket surveillance under this section. During the pendency of such review, the device subject to such a postmarket surveillance order or condition shall not, because of noncompliance with such order or condition, be deemed in violation of section 301(q)(1)(C), adulterated under section 501(f)(1), misbranded under section 502(t)(3), or in violation of, as applicable, section 510(k) or section 515, unless deemed necessary to protect the public health.''.

TITLE IV—PEDIATRIC RESEARCH EQUITY ACT OF 2007

SEC. 401. SHORT TITLE.

This title may be cited as the ''Pediatric Research Equity Act of 2007''.

SEC. 402. REAUTHORIZATION OF PEDIATRIC RESEARCH EQUITY ACT.

(a) IN GENERAL.—Section 505B of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355c) is amended to read as follows:

''SEC. 505B. RESEARCH INTO PEDIATRIC USES FOR DRUGS AND BIOLOGICAL PRODUCTS.

''(a) NEW DRUGS AND BIOLOGICAL PRODUCTS.—

''(1) IN GENERAL.—A person that submits, on or after the date of the enactment of the Pediatric Research Equity Act of 2007, an application (or supplement to an application)—

''(A) under section 505 for a new active ingredient, new indication, new dosage form, new dosing regimen, or new route of administration, or

''(B) under section 351 of the Public Health Service Act (42 U.S.C. 262) for a new active ingredient, new indication, new dosage form, new dosing regimen, or new route of administration,

shall submit with the application the assessments described in paragraph (2).

''(2) ASSESSMENTS.—

''(A) IN GENERAL.—The assessments referred to in paragraph (1) shall contain data, gathered using appropriate formulations for each age group for which the assessment is required, that are adequate—

''(i) to assess the safety and effectiveness of the drug or the biological product for the claimed indications in all relevant pediatric subpopulations; and

''(ii) to support dosing and administration for each pediatric subpopulation for which the drug or the biological product is safe and effective.

''(B) SIMILAR COURSE OF DISEASE OR SIMILAR EFFECT OF DRUG OR BIOLOGICAL PRODUCT.—

''(i) IN GENERAL.—If the course of the disease and the effects of the drug are sufficiently similar in adults and pediatric patients, the Secretary may conclude that pediatric effectiveness can be extrapolated from adequate and well-controlled studies in adults, usually supplemented with other information obtained in pediatric patients, such as pharmacokinetic studies.

''(ii) EXTRAPOLATION BETWEEN AGE GROUPS.—A study may not be needed in each pediatric age group if data from one age group can be extrapolated to another age group.

''(iii) INFORMATION ON EXTRAPOLATION.—A brief documentation of the scientific data supporting the conclusion under clauses (i) and (ii) shall be included in any pertinent reviews for the application under section 505 of this Act or section 351 of the Public Health Service Act (42 U.S.C. 262).

''(3) DEFERRAL.—

''(A) IN GENERAL.—On the initiative of the Secretary or at the request of the applicant, the Secretary may defer submission of some or all assessments required under paragraph (1) until a specified date after approval of the drug or issuance of the license for a biological product if—

''(i) the Secretary finds that—

''(I) the drug or biological product is ready for approval for use in adults before pediatric studies are complete;

''(II) pediatric studies should be delayed until additional safety or effectiveness data have been collected; or

''(III) there is another appropriate reason for deferral; and

''(ii) the applicant submits to the Secretary—

''(I) certification of the grounds for deferring the assessments;

''(II) a description of the planned or ongoing studies;

''(III) evidence that the studies are being conducted or will be conducted with due diligence and at the earliest possible time; and

''(IV) a timeline for the completion of such studies.

''(B) ANNUAL REVIEW.—

''(i) IN GENERAL.—On an annual basis following the approval of a deferral under subparagraph (A), the applicant shall submit to the Secretary the following information:

''(I) Information detailing the progress made in conducting pediatric studies.

''(II) If no progress has been made in conducting such studies, evidence and documentation that such studies will be conducted with due diligence and at the earliest possible time.

''(ii) PUBLIC AVAILABILITY.—The information submitted through the annual review under clause (i) shall promptly be made available to the public in an easily accessible manner, including through the Web site of the Food and Drug Administration.

''(4) WAIVERS.—

''(A) FULL WAIVER.—On the initiative of the Secretary or at the request of an applicant, the Secretary shall grant a full waiver, as appropriate, of the requirement to submit assessments for a drug or biological product under this subsection if the applicant certifies and the Secretary finds that—

''(i) necessary studies are impossible or highly impracticable (because, for example, the number of patients is so small or the patients are geographically dispersed);

''(ii) there is evidence strongly suggesting that the drug or biological product would be ineffective or unsafe in all pediatric age groups; or

''(iii) the drug or biological product—

''(I) does not represent a meaningful therapeutic benefit over existing therapies for pediatric patients; and

''(II) is not likely to be used in a substantial number of pediatric patients.

''(B) PARTIAL WAIVER.—On the initiative of the Secretary or at the request of an applicant, the Secretary shall grant a partial waiver, as appropriate, of the requirement to submit assessments for a drug or biological product under this subsection with respect to a specific pediatric age group if the applicant certifies and the Secretary finds that—

''(i) necessary studies are impossible or highly impracticable (because, for example, the number of patients in that age group is so small or patients in that age group are geographically dispersed);

''(ii) there is evidence strongly suggesting that the drug or biological product would be ineffective or unsafe in that age group;

''(iii) the drug or biological product—

''(I) does not represent a meaningful therapeutic benefit over existing therapies for pediatric patients in that age group; and

''(II) is not likely to be used by a substantial number of pediatric patients in that age group; or

''(iv) the applicant can demonstrate that reasonable attempts to produce a pediatric formulation necessary for that age group have failed.

''(C) PEDIATRIC FORMULATION NOT POSSIBLE.—If a waiver is granted on the ground that it is not possible to develop a pediatric formulation, the waiver shall cover only the pediatric groups requiring that formulation. An applicant seeking either a full or partial waiver shall submit to the Secretary documentation detailing why a pediatric formulation cannot be developed and, if the waiver is granted, the applicant's submission shall promptly be made available to the public in an easily accessible manner, including through posting on the Web site of the Food and Drug Administration.

''(D) LABELING REQUIREMENT.—If the Secretary grants a full or partial waiver because there is evidence that a drug or biological product would be ineffective or unsafe in pediatric populations, the information shall be included in the labeling for the drug or biological product.

''(b) MARKETED DRUGS AND BIOLOGICAL PRODUCTS.—

''(1) IN GENERAL.—After providing notice in the form of a letter (that, for a drug approved under section 505, references a declined written request under section 505A for a labeled indication which written request is not referred under section 505A(n)(1)(A) to the Foundation of the National Institutes of Health for the pediatric studies), the Secretary may (by order in the form of a letter) require the sponsor or holder of an approved application for a drug under section 505 or the holder of a license for a biological product under section 351 of the Public Health Service Act to submit by a specified date the assessments described in subsection (a)(2), if the Secretary finds that—

''(A)(i) the drug or biological product is used for a substantial number of pediatric patients for the labeled indications; and

''(ii) adequate pediatric labeling could confer a benefit on pediatric patients;

''(B) there is reason to believe that the drug or biological product would represent a meaningful therapeutic benefit over existing therapies for pediatric patients for 1 or more of the claimed indications; or

''(C) the absence of adequate pediatric labeling could pose a risk to pediatric patients.

''(2) WAIVERS.—

''(A) FULL WAIVER.—At the request of an applicant, the Secretary shall grant a full waiver, as appropriate, of the requirement to submit assessments under this subsection if the applicant certifies and the Secretary finds that—

''(i) necessary studies are impossible or highly impracticable (because, for example, the number of patients in that age group is so small or patients in that age group are geographically dispersed); or

''(ii) there is evidence strongly suggesting that the drug or biological product would be ineffective or unsafe in all pediatric age groups.

''(B) PARTIAL WAIVER.—At the request of an applicant, the Secretary shall grant a partial

waiver, as appropriate, of the requirement to submit assessments under this subsection with respect to a specific pediatric age group if the applicant certifies and the Secretary finds that—

''(i) necessary studies are impossible or highly impracticable (because, for example, the number of patients in that age group is so small or patients in that age group are geographically dispersed);

''(ii) there is evidence strongly suggesting that the drug or biological product would be ineffective or unsafe in that age group;

''(iii)(I) the drug or biological product—

''(aa) does not represent a meaningful therapeutic benefit over existing therapies for pediatric patients in that age group; and

''(bb) is not likely to be used in a substantial number of pediatric patients in that age group; and

''(II) the absence of adequate labeling could not pose significant risks to pediatric patients; or

''(iv) the applicant can demonstrate that reasonable attempts to produce a pediatric formulation necessary for that age group have failed.

''(C) PEDIATRIC FORMULATION NOT POSSIBLE.—If a waiver is granted on the ground that it is not possible to develop a pediatric formulation, the waiver shall cover only the pediatric groups requiring that formulation. An applicant seeking either a full or partial waiver shall submit to the Secretary documentation detailing why a pediatric formulation cannot be developed and, if the waiver is granted, the applicant's submission shall promptly be made available to the public in an easily accessible manner, including through posting on the Web site of the Food and Drug Administration.

''(D) LABELING REQUIREMENT.—If the Secretary grants a full or partial waiver because there is evidence that a drug or biological product would be ineffective or unsafe in pediatric populations, the information shall be included in the labeling for the drug or biological product.

''(3) EFFECT OF SUBSECTION.—Nothing in this subsection alters or amends section 301(j) of this Act or section 552 of title 5 or section 1905 of title 18, United States Code.

''(c) MEANINGFUL THERAPEUTIC BENEFIT.—For the purposes of paragraph (4)(A)(iii)(I) and (4)(B)(iii)(I) of subsection (a) and paragraphs (1)(B) and (2)(B)(iii)(I)(aa) of subsection (b), a drug or biological product shall be considered to represent a meaningful therapeutic benefit over existing therapies if the Secretary determines that—

''(1) if approved, the drug or biological product could represent an improvement in the treatment, diagnosis, or prevention of a disease, compared with marketed products adequately labeled for that use in the relevant pediatric population; or

''(2) the drug or biological product is in a class of products or for an indication for which there is a need for additional options.

''(d) SUBMISSION OF ASSESSMENTS.—If a person fails to submit an assessment described in subsection (a)(2), or a request for approval of a pediatric formulation described in subsection (a) or (b), in accordance with applicable provisions of subsections (a) and (b)—

''(1) the drug or biological product that is the subject of the assessment or request may be considered misbranded solely because of that failure and subject to relevant enforcement action (except that the drug or biological product shall not be subject to action under section 303); but

''(2) the failure to submit the assessment or request shall not be the basis for a proceeding—

''(A) to withdraw approval for a drug under section 505(e); or

''(B) to revoke the license for a biological product under section 351 of the Public Health Service Act.

''(e) MEETINGS.—Before and during the investigational process for a new drug or biological product, the Secretary shall meet at appropriate times with the sponsor of the new drug or biological product to discuss—

''(1) information that the sponsor submits on plans and timelines for pediatric studies; or

''(2) any planned request by the sponsor for waiver or deferral of pediatric studies.

''(f) REVIEW OF PEDIATRIC PLANS, ASSESSMENTS, DEFERRALS, AND WAIVERS.—

''(1) REVIEW.—Beginning not later than 30 days after the date of the enactment of the Pediatric Research Equity Act of 2007, the Secretary shall utilize the internal committee established under section 505C to provide consultation to reviewing divisions on all pediatric plans and assessments prior to approval of an application or supplement for which a pediatric assessment is required under this section and all deferral and waiver requests granted pursuant to this section.

''(2) ACTIVITY BY COMMITTEE.—The committee referred to in paragraph (1) may operate using appropriate members of such committee and need not convene all members of the committee.

''(3) DOCUMENTATION OF COMMITTEE ACTION.—For each drug or biological product, the committee referred to in paragraph (1) shall document, for each activity described in paragraph (4) or (5), which members of the committee participated in such activity.

''(4) REVIEW OF PEDIATRIC PLANS, ASSESSMENTS, DEFERRALS, AND WAIVERS.—Consultation on pediatric plans and assessments by the committee referred to in paragraph (1) pursuant to this section shall occur prior to approval of an application or supplement for which a pediatric assessment is required under this section. The committee shall review all requests for deferrals and waivers from the requirement to submit a pediatric assessment granted under this section and shall provide recommendations as needed to reviewing divisions, including with respect to whether such a supplement, when submitted, shall be considered for priority review.

''(5) RETROSPECTIVE REVIEW OF PEDIATRIC ASSESSMENTS, DEFERRALS, AND WAIVERS.—Not later than 1 year after the date of the enactment of the Pediatric Research Equity Act of 2007, the committee referred to in paragraph (1) shall conduct a retrospective review and analysis of a representative sample of assessments submitted and deferrals and waivers approved under this section since the enactment of the Pediatric Research Equity Act of 2003. Such review shall include an analysis of the quality and consistency of pediatric information in pediatric assessments and the appropriateness of waivers and deferrals granted. Based on such review, the Secretary shall issue recommendations to the review divisions for improvements and initiate guidance to industry related to the scope of pediatric studies required under this section.

''(6) TRACKING OF ASSESSMENTS AND LABELING CHANGES.—The Secretary, in consultation with the committee referred to in paragraph (1), shall track and make available to the public in an easily accessible manner, including through posting on the Web site of the Food and Drug Administration—

''(A) the number of assessments conducted under this section;

''(B) the specific drugs and biological products and their uses assessed under this section;

''(C) the types of assessments conducted under this section, including trial design, the number of pediatric patients studied, and the number of centers and countries involved;

''(D) the total number of deferrals requested and granted under this section and, if granted, the reasons for such deferrals, the timeline for completion, and the number completed and pending by the specified date, as outlined in subsection (a)(3);

''(E) the number of waivers requested and granted under this section and, if granted, the reasons for the waivers;

''(F) the number of pediatric formulations developed and the number of pediatric formulations not developed and the reasons any such formulation was not developed;

''(G) the labeling changes made as a result of assessments conducted under this section;

''(H) an annual summary of labeling changes made as a result of assessments conducted under this section for distribution pursuant to subsection (h)(2);

''(I) an annual summary of information submitted pursuant to subsection (a)(3)(B); and

''(J) the number of times the committee referred to in paragraph (1) made a recommendation to the Secretary under paragraph (4) regarding priority review, the number of times the Secretary followed or did not follow such a recommendation, and, if not followed, the reasons why such a recommendation was not followed.

''(g) LABELING CHANGES.—

''(1) DISPUTE RESOLUTION.—

''(A) REQUEST FOR LABELING CHANGE AND FAILURE TO AGREE.—If, on or after the date of the enactment of the Pediatric Research Equity Act of 2007, the Commissioner determines that a sponsor and the Commissioner have been unable to reach agreement on appropriate changes to the labeling for the drug that is the subject of the application or supplement, not later than 180 days after the date of the submission of the application or supplement—

''(i) the Commissioner shall request that the sponsor of the application make any labeling change that the Commissioner determines to be appropriate; and

''(ii) if the sponsor does not agree within 30 days after the Commissioner's request to make a labeling change requested by the Commissioner, the Commissioner shall refer the matter to the Pediatric Advisory Committee.

''(B) ACTION BY THE PEDIATRIC ADVISORY COMMITTEE.—Not later than 90 days after receiving a referral under subparagraph (A)(ii), the Pediatric Advisory Committee shall—

''(i) review the pediatric study reports; and

''(ii) make a recommendation to the Commissioner concerning appropriate labeling changes, if any.

''(C) CONSIDERATION OF RECOMMENDATIONS.—The Commissioner shall consider the recommendations of the Pediatric Advisory Committee and, if appropriate, not later than 30 days after receiving the recommendation, make a request to the sponsor of the application or supplement to make any labeling changes that the Commissioner determines to be appropriate.

''(D) MISBRANDING.—If the sponsor of the application or supplement, within 30 days after receiving a request under subparagraph (C), does not agree to make a labeling change requested by the Commissioner, the Commissioner may deem the drug that is the subject of the application or supplement to be misbranded.

''(E) NO EFFECT ON AUTHORITY.—Nothing in this subsection limits the authority of the United States to bring an enforcement action under this Act when a drug lacks appropriate pediatric labeling. Neither course of action (the Pediatric Advisory Committee process or an enforcement action referred to in the preceding sentence) shall preclude,

delay, or serve as the basis to stay the other course of action.

''(2) OTHER LABELING CHANGES.—If, on or after the date of the enactment of the Pediatric Research Equity Act of 2007, the Secretary makes a determination that a pediatric assessment conducted under this section does or does not demonstrate that the drug that is the subject of such assessment is safe and effective in pediatric populations or subpopulations, including whether such assessment results are inconclusive, the Secretary shall order the label of such product to include information about the results of the assessment and a statement of the Secretary's determination.

''(h) DISSEMINATION OF PEDIATRIC INFORMATION.—

''(1) IN GENERAL.—Not later than 210 days after the date of submission of a pediatric assessment under this section, the Secretary shall make available to the public in an easily accessible manner the medical, statistical, and clinical pharmacology reviews of such pediatric assessments, and shall post such assessments on the Web site of the Food and Drug Administration.

''(2) DISSEMINATION OF INFORMATION REGARDING LABELING CHANGES.—Beginning on the date of the enactment of the Pediatric Research Equity Act of 2007, the Secretary shall require that the sponsors of the assessments that result in labeling changes that are reflected in the annual summary developed pursuant to subsection (f)(6)(H) distribute such information to physicians and other health care providers.

''(3) EFFECT OF SUBSECTION.—Nothing in this subsection shall alter or amend section 301(j) of this Act or section 552 of title 5 or section 1905 of title 18, United States Code.

''(i) ADVERSE EVENT REPORTING.—

''(1) REPORTING IN YEAR ONE.—Beginning on the date of the enactment of the Pediatric Research Equity Act of 2007, during the one-year period beginning on the date a labeling change is made pursuant to subsection (g), the Secretary shall ensure that all adverse event reports that have been received for such drug (regardless of when such report was received) are referred to the Office of Pediatric Therapeutics. In considering such reports, the Director of such Office shall provide for the review of such reports by the Pediatric Advisory Committee, including obtaining any recommendations of such committee regarding whether the Secretary should take action under this Act in response to such reports.

''(2) REPORTING IN SUBSEQUENT YEARS.—Following the one-year period described in paragraph (1), the Secretary shall, as appropriate, refer to the Office of Pediatric Therapeutics all pediatric adverse event reports for a drug for which a pediatric study was conducted under this section. In considering such reports, the Director of such Office may provide for the review of such reports by the Pediatric Advisory Committee, including obtaining any recommendation of such Committee regarding whether the Secretary should take action in response to such reports.

''(3) EFFECT.—The requirements of this subsection shall supplement, not supplant, other review of such adverse event reports by the Secretary.

''(j) SCOPE OF AUTHORITY.—Nothing in this section provides to the Secretary any authority to require a pediatric assessment of any drug or biological product, or any assessment regarding other populations or uses of a drug or biological product, other than the pediatric assessments described in this section.

''(k) ORPHAN DRUGS.—Unless the Secretary requires otherwise by regulation, this section does not apply to any drug for an indication for which orphan designation has been granted under section 526.

''(l) INSTITUTE OF MEDICINE STUDY.—

''(1) IN GENERAL.—Not later than three years after the date of the enactment of the Pediatric Research Equity Act of 2007, the Secretary shall contract with the Institute of Medicine to conduct a study and report to Congress regarding the pediatric studies conducted pursuant to this section or precursor regulations since 1997 and labeling changes made as a result of such studies.

''(2) CONTENT OF STUDY.—The study under paragraph (1) shall review and assess the use of extrapolation for pediatric subpopulations, the use of alternative endpoints for pediatric populations, neonatal assessment tools, the number and type of pediatric adverse events, and ethical issues in pediatric clinical trials.

''(3) REPRESENTATIVE SAMPLE.—The Institute of Medicine may devise an appropriate mechanism to review a representative sample of studies conducted pursuant to this section from each review division within the Center for Drug Evaluation and Research in order to make the requested assessment.

''(m) INTEGRATION WITH OTHER PEDIATRIC STUDIES.—The authority under this section shall remain in effect so long as an application subject to this section may be accepted for filing by the Secretary on or before the date specified in section 505A(q).''.

(b) APPLICABILITY.—

(1) IN GENERAL.—Notwithstanding subsection (h) of section 505B of the Federal Food, Drug and Cosmetic Act, as in effect on the day before the date of the enactment of this Act, a pending assessment, including a deferred assessment, required under such section 505B shall be deemed to have been required under section 505B of the Federal Food, Drug and Cosmetic Act as in effect on or after the date of the enactment of this Act.

(2) CERTAIN ASSESSMENTS AND WAIVER REQUESTS.—An assessment pending on or after the date that is 1 year prior to the date of the enactment of this Act shall be subject to the tracking and disclosure requirements established under such section 505B, as in effect on or after such date of enactment, except that any such assessments submitted or waivers of such assessments requested before such date of enactment shall not be subject to subsections (a)(4)(C), (b)(2)(C), (f)(6)(F), and (h) of such section 505B.

SEC. 403. ESTABLISHMENT OF INTERNAL COMMITTEE.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 505B the following:

''SEC. 505C. INTERNAL COMMITTEE FOR REVIEW OF PEDIATRIC PLANS, ASSESSMENTS, DEFERRALS, AND WAIVERS.

''The Secretary shall establish an internal committee within the Food and Drug Administration to carry out the activities as described in sections 505A(f) and 505B(f). Such internal committee shall include employees of the Food and Drug Administration, with expertise in pediatrics (including representation from the Office of Pediatric Therapeutics), biopharmacology, statistics, chemistry, legal issues, pediatric ethics, and the appropriate expertise pertaining to the pediatric product under review, such as expertise in child and adolescent psychiatry, and other individuals designated by the Secretary.''.

SEC. 404. GOVERNMENT ACCOUNTABILITY OFFICE REPORT.

Not later than January 1, 2011, the Comptroller General of the United States, in consultation with the Secretary of Health and Human Services, shall submit to the Congress a report that addresses the effectiveness of sections 505A and 505B of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a, 355c) and section 409I of the Public Health Service Act (42 U.S.C. 284m) in ensuring that medicines used by children are tested and properly labeled. Such report shall include—

(1) the number and importance of drugs and biological products for children that are being tested as a result of the amendments made by this title and title V and the importance for children, health care providers, parents, and others of labeling changes made as a result of such testing;

(2) the number and importance of drugs and biological products for children that are not being tested for their use notwithstanding the provisions of this title and title V and possible reasons for the lack of testing;

(3) the number of drugs and biological products for which testing is being done and labeling changes required, including the date labeling changes are made and which labeling changes required the use of the dispute resolution process established pursuant to the amendments made by this title, together with a description of the outcomes of such process, including a description of the disputes and the recommendations of the Pediatric Advisory Committee;

(4) any recommendations for modifications to the programs established under sections 505A and 505B of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) and section 409I of the Public Health Service Act (42 U.S.C. 284m) that the Secretary determines to be appropriate, including a detailed rationale for each recommendation; and

(5)(A) the efforts made by the Secretary to increase the number of studies conducted in the neonate population; and

(B) the results of those efforts, including efforts made to encourage the conduct of appropriate studies in neonates by companies with products that have sufficient safety and other information to make the conduct of the studies ethical and safe.

TITLE V—BEST PHARMACEUTICALS FOR CHILDREN ACT OF 2007

SEC. 501. SHORT TITLE.

This title may be cited as the ''Best Pharmaceuticals for Children Act of 2007''.

SEC. 502. REAUTHORIZATION OF BEST PHARMACEUTICALS FOR CHILDREN ACT.

(a) PEDIATRIC STUDIES OF DRUGS.—

(1) IN GENERAL.—Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) is amended to read as follows:

''SEC. 505A. PEDIATRIC STUDIES OF DRUGS.

''(a) DEFINITIONS.—As used in this section, the term 'pediatric studies' or 'studies' means at least one clinical investigation (that, at the Secretary's discretion, may include pharmacokinetic studies) in pediatric age groups (including neonates in appropriate cases) in which a drug is anticipated to be used, and, at the discretion of the Secretary, may include preclinical studies.

''(b) MARKET EXCLUSIVITY FOR NEW DRUGS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if, prior to approval of an application that is submitted under section 505(b)(1), the Secretary determines that information relating to the use of a new drug in the pediatric population may produce health benefits in that population, the Secretary makes a written request for pediatric studies (which shall include a timeframe for completing such studies), the applicant agrees to the request, such studies are completed using appropriate formulations for each age group for which the study is requested within any such timeframe, and the reports thereof are submitted and accepted in accordance with subsection (d)(3)—

''(A)(i)(I) the period referred to in subsection (c)(3)(E)(ii) of section 505, and in subsection (j)(5)(F)(ii) of such section, is deemed to be five years and six months rather than five years, and the references in subsections (c)(3)(E)(ii) and (j)(5)(F)(ii) of such section to four years, to forty-eight months, and to seven and one-half years are deemed to be four and one-half years, fifty-four months, and eight years, respectively; or

''(II) the period referred to in clauses (iii) and (iv) of subsection (c)(3)(E) of such section, and in clauses (iii) and (iv) of subsection (j)(5)(F) of such section, is deemed to be three years and six months rather than three years; and

''(ii) if the drug is designated under section 526 for a rare disease or condition, the period referred to in section 527(a) is deemed to be seven years and six months rather than seven years; and

''(B)(i) if the drug is the subject of—

''(I) a listed patent for which a certification has been submitted under subsection (b)(2)(A)(ii) or (j)(2)(A)(vii)(II) of section 505 and for which pediatric studies were submitted prior to the expiration of the patent (including any patent extensions); or

''(II) a listed patent for which a certification has been submitted under subsections (b)(2)(A)(iii) or (j)(2)(A)(vii)(III) of section 505,

the period during which an application may not be approved under section 505(c)(3) or section 505(j)(5)(B) shall be extended by a period of six months after the date the patent expires (including any patent extensions); or

''(ii) if the drug is the subject of a listed patent for which a certification has been submitted under subsection (b)(2)(A)(iv) or (j)(2)(A)(vii)(IV) of section 505, and in the patent infringement litigation resulting from the certification the court determines that the patent is valid and would be infringed, the period during which an application may not be approved under section 505(c)(3) or section 505(j)(5)(B) shall be extended by a period of six months after the date the patent expires (including any patent extensions).

''(2) EXCEPTION.—The Secretary shall not extend the period referred to in paragraph (1)(A) or (1)(B) if the determination made under subsection (d)(3) is made later than 9 months prior to the expiration of such period.

''(c) MARKET EXCLUSIVITY FOR ALREADY-MARKETED DRUGS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if the Secretary determines that information relating to the use of an approved drug in the pediatric population may produce health benefits in that population and makes a written request to the holder of an approved application under section 505(b)(1) for pediatric studies (which shall include a timeframe for completing such studies), the holder agrees to the request, such studies are completed using appropriate formulations for each age group for which the study is requested within any such timeframe, and the reports thereof are submitted and accepted in accordance with subsection (d)(3)—

''(A)(i)(I) the period referred to in subsection (c)(3)(E)(ii) of section 505, and in subsection (j)(5)(F)(ii) of such section, is deemed to be five years and six months rather than five years, and the references in subsections (c)(3)(E)(ii) and (j)(5)(F)(ii) of such section to four years, to forty-eight months, and to seven and one-half years are deemed to be four and one-half years, fifty-four months, and eight years, respectively; or

''(II) the period referred to in clauses (iii) and (iv) of subsection (c)(3)(D) of such section, and in clauses (iii) and (iv) of subsection (j)(5)(F) of such section, is deemed to be three years and six months rather than three years; and

''(ii) if the drug is designated under section 526 for a rare disease or condition, the period referred to in section 527(a) is deemed to be seven years and six months rather than seven years; and

''(B)(i) if the drug is the subject of—

''(I) a listed patent for which a certification has been submitted under subsection (b)(2)(A)(ii) or (j)(2)(A)(vii)(II) of section 505 and for which pediatric studies were submitted prior to the expiration of the patent (including any patent extensions); or

''(II) a listed patent for which a certification has been submitted under subsection (b)(2)(A)(iii) or (j)(2)(A)(vii)(III) of section 505,

the period during which an application may not be approved under section 505(c)(3) or section 505(j)(5)(B)(ii) shall be extended by a period of six months after the date the patent expires (including any patent extensions); or

''(ii) if the drug is the subject of a listed patent for which a certification has been submitted under subsection (b)(2)(A)(iv) or (j)(2)(A)(vii)(IV) of section 505, and in the patent infringement litigation resulting from the certification the court determines that the patent is valid and would be infringed, the period during which an application may not be approved under section 505(c)(3) or section 505(j)(5)(B) shall be extended by a period of six months after the date the patent expires (including any patent extensions)

''(2) EXCEPTION.—The Secretary shall not extend the period referred to in paragraph (1)(A) or (1)(B) if the determination made under subsection (d)(3) is made later than 9 months prior to the expiration of such period.

''(d) CONDUCT OF PEDIATRIC STUDIES.—

''(1) REQUEST FOR STUDIES.—

''(A) IN GENERAL.—The Secretary may, after consultation with the sponsor of an application for an investigational new drug under section 505(i), the sponsor of an application for a new drug under section 505(b)(1), or the holder of an approved application for a drug under section 505(b)(1), issue to the sponsor or holder a written request for the conduct of pediatric studies for such drug. In issuing such request, the Secretary shall take into account adequate representation of children of ethnic and racial minorities. Such request to conduct pediatric studies shall be in writing and shall include a timeframe for such studies and a request to the sponsor or holder to propose pediatric labeling resulting from such studies.

''(B) SINGLE WRITTEN REQUEST.—A single written request—

''(i) may relate to more than one use of a drug; and

''(ii) may include uses that are both approved and unapproved.

''(2) WRITTEN REQUEST FOR PEDIATRIC STUDIES.—

''(A) REQUEST AND RESPONSE.—

''(i) IN GENERAL.—If the Secretary makes a written request for pediatric studies (including neonates, as appropriate) under subsection (b) or (c), the applicant or holder, not later than 180 days after receiving the written request, shall respond to the Secretary as to the intention of the applicant or holder to act on the request by—

''(I) indicating when the pediatric studies will be initiated, if the applicant or holder agrees to the request; or

''(II) indicating that the applicant or holder does not agree to the request and stating the reasons for declining the request.

''(ii) DISAGREE WITH REQUEST.—If, on or after the date of the enactment of the Best Pharmaceuticals for Children Act of 2007, the applicant or holder does not agree to the request on the grounds that it is not possible to develop the appropriate pediatric formulation, the applicant or holder shall submit to the Secretary the reasons such pediatric formulation cannot be developed.

''(B) ADVERSE EVENT REPORTS.—An applicant or holder that, on or after the date of the enactment of the Best Pharmaceuticals for Children Act of 2007, agrees to the request for such studies shall provide the Secretary, at the same time as the submission of the reports of such studies, with all postmarket adverse event reports regarding the drug that is the subject of such studies and are available prior to submission of such reports.

''(3) MEETING THE STUDIES REQUIREMENT.—Not later than 180 days after the submission of the reports of the studies, the Secretary shall accept or reject such reports and so notify the sponsor or holder. The Secretary's only responsibility in accepting or rejecting the reports shall be to determine, within the 180-day period, whether the studies fairly respond to the written request, have been conducted in accordance with commonly accepted scientific principles and protocols, and have been reported in accordance with the requirements of the Secretary for filing.

''(4) EFFECT OF SUBSECTION.—Nothing in this subsection alters or amends section 301(j) of this Act or section 552 of title 5 or section 1905 of title 18, United States Code.

''(e) NOTICE OF DETERMINATIONS ON STUDIES REQUIREMENT.—

''(1) IN GENERAL.—The Secretary shall publish a notice of any determination, made on or after the date of the enactment of the Best Pharmaceuticals for Children Act of 2007, that the requirements of subsection (d) have been met and that submissions and approvals under subsection (b)(2) or (j) of section 505 for a drug will be subject to the provisions of this section. Such notice shall be published not later than 30 days after the date of the Secretary's determination regarding market exclusivity and shall include a copy of the written request made under subsection (b) or (c).

''(2) IDENTIFICATION OF CERTAIN DRUGS.—The Secretary shall publish a notice identifying any drug for which, on or after the date of the enactment of the Best Pharmaceuticals for Children Act of 2007, a pediatric formulation was developed, studied, and found to be safe and effective in the pediatric population (or specified subpopulation) if the pediatric formulation for such drug is not introduced onto the market within one year after the date that the Secretary publishes the notice described in paragraph (1). Such notice identifying such drug shall be published not later than 30 days after the date of the expiration of such one year period.

''(f) INTERNAL REVIEW OF WRITTEN REQUESTS AND PEDIATRIC STUDIES.—

''(1) INTERNAL REVIEW.—The Secretary shall utilize the internal review committee established under section 505C to review all written requests issued on or after the date of the enactment of the Best Pharmaceuticals for Children Act of 2007, in accordance with paragraph (2).

''(2) REVIEW OF WRITTEN REQUESTS.—The committee referred to in paragraph (1) shall review all written requests issued pursuant to this section prior to being issued.

''(3) REVIEW OF PEDIATRIC STUDIES.—The committee referred to in paragraph (1) may review studies conducted pursuant to this section to make a recommendation to the Secretary whether to accept or reject such reports under subsection (d)(3).

''(4) ACTIVITY BY COMMITTEE.—The committee referred to in paragraph (1) may operate using appropriate members of such committee and need not convene all members of the committee.

''(5) DOCUMENTATION OF COMMITTEE ACTION.—For each drug, the committee referred to in paragraph (1) shall document, for each activity described in paragraph (2) or (3), which members of the committee participated in such activity.

''(6) TRACKING PEDIATRIC STUDIES AND LABELING CHANGES.—The Secretary, in consultation with the committee referred to in paragraph (1), shall track and make available to the public, in an easily accessible manner, including through posting on the Web site of the Food and Drug Administration—

''(A) the number of studies conducted under this section and under section 409I of the Public Health Service Act;

''(B) the specific drugs and drug uses, including labeled and off-labeled indications, studied under such sections;

''(C) the types of studies conducted under such sections, including trial design, the number of pediatric patients studied, and the number of centers and countries involved;

''(D) the number of pediatric formulations developed and the number of pediatric formulations not developed and the reasons such formulations were not developed;

''(E) the labeling changes made as a result of studies conducted under such sections;

''(F) an annual summary of labeling changes made as a result of studies conducted under such sections for distribution pursuant to subsection (k)(2); and

''(G) information regarding reports submitted on or after the date of the enactment of the Best Pharmaceuticals for Children Act of 2007.

''(g) LIMITATIONS.—Notwithstanding subsection (c)(2), a drug to which the six-month period under subsection (b) or (c) has already been applied—

''(1) may receive an additional six-month period under subsection (c)(1)(A)(i)(II) for a supplemental application if all other requirements under this section are satisfied, except that such drug may not receive any additional such period under subsection (c)(1)(B); and

''(2) may not receive any additional such period under subsection (c)(1)(A)(ii).

''(h) RELATIONSHIP TO PEDIATRIC RESEARCH REQUIREMENTS.—Notwithstanding any other provision of law, if any pediatric study is required by a provision of law (including a regulation) other than this section and such study meets the completeness, timeliness, and other requirements of this section, such study shall be deemed to satisfy the requirement for market exclusivity pursuant to this section.

''(i) LABELING CHANGES.—

''(1) PRIORITY STATUS FOR PEDIATRIC APPLICATIONS AND SUPPLEMENTS.—Any application or supplement to an application under section 505 proposing a labeling change as a result of any pediatric study conducted pursuant to this section—

''(A) shall be considered to be a priority application or supplement; and

''(B) shall be subject to the performance goals established by the Commissioner for priority drugs.

''(2) DISPUTE RESOLUTION.—

''(A) REQUEST FOR LABELING CHANGE AND FAILURE TO AGREE.—If, on or after the date of the enactment of the Best Pharmaceuticals for Children Act of 2007, the Commissioner determines that the sponsor and the Commissioner have been unable to reach agreement on appropriate changes to the labeling for the drug that is the subject of the application, not later than 180 days after the date of submission of the application—

''(i) the Commissioner shall request that the sponsor of the application make any labeling change that the Commissioner determines to be appropriate; and

''(ii) if the sponsor of the application does not agree within 30 days after the Commissioner's request to make a labeling change requested by the Commissioner, the Commissioner shall refer the matter to the Pediatric Advisory Committee.

''(B) ACTION BY THE PEDIATRIC ADVISORY COMMITTEE.—Not later than 90 days after receiving a referral under subparagraph (A)(ii), the Pediatric Advisory Committee shall—

''(i) review the pediatric study reports; and

''(ii) make a recommendation to the Commissioner concerning appropriate labeling changes, if any.

''(C) CONSIDERATION OF RECOMMENDATIONS.—The Commissioner shall consider the recommendations of the Pediatric Advisory Committee and, if appropriate, not later than 30 days after receiving the recommendation, make a request to the sponsor of the application to make any labeling change that the Commissioner determines to be appropriate.

''(D) MISBRANDING.—If the sponsor of the application, within 30 days after receiving a request under subparagraph (C), does not agree to make a labeling change requested by the Commissioner, the Commissioner may deem the drug that is the subject of the application to be misbranded.

''(E) NO EFFECT ON AUTHORITY.—Nothing in this subsection limits the authority of the United States to bring an enforcement action under this Act when a drug lacks appropriate pediatric labeling. Neither course of action (the Pediatric Advisory Committee process or an enforcement action referred to in the preceding sentence) shall preclude, delay, or serve as the basis to stay the other course of action.

''(j) OTHER LABELING CHANGES.—If, on or after the date of the enactment of the Best Pharmaceuticals for Children Act of 2007, the Secretary determines that a pediatric study conducted under this section does or does not demonstrate that the drug that is the subject of the study is safe and effective, including whether such study results are inconclusive, in pediatric populations or subpopulations, the Secretary shall order the labeling of such product to include information about the results of the study and a statement of the Secretary's determination.

''(k) DISSEMINATION OF PEDIATRIC INFORMATION.—

''(1) IN GENERAL.—Not later than 210 days after the date of submission of a report on a pediatric study under this section, the Secretary shall make available to the public the medical, statistical, and clinical pharmacology reviews of pediatric studies conducted under subsection (b) or (c).

''(2) DISSEMINATION OF INFORMATION REGARDING LABELING CHANGES.—Beginning on the date of the enactment of the Best Pharmaceuticals for Children Act of 2007, the Secretary shall include as a requirement of a written request that the sponsors of the studies that result in labeling changes that are reflected in the annual summary developed pursuant to subsection (f)(3)(F) distribute, at least annually (or more frequently if the Secretary determines that it would be beneficial to the public health), such information to physicians and other health care providers.

''(3) EFFECT OF SUBSECTION.—Nothing in this subsection alters or amends section 301(j) of this Act or section 552 of title 5 or section 1905 of title 18, United States Code.

''(l) ADVERSE EVENT REPORTING.—

''(1) REPORTING IN YEAR ONE.—Beginning on the date of the enactment of the Best Pharmaceuticals for Children Act of 2007, during the one-year period beginning on the date a labeling change is approved pursuant to subsection (i), the Secretary shall ensure that all adverse event reports that have been received for such drug (regardless of when such report was received) are referred to the Office of Pediatric Therapeutics established under section 6 of the Best Pharmaceuticals for Children Act (Public Law 107–109). In considering the reports, the Director of such Office shall provide for the review of the reports by the Pediatric Advisory Committee, including obtaining any recommendations of such Committee regarding whether the Secretary should take action under this Act in response to such reports.

''(2) REPORTING IN SUBSEQUENT YEARS.—Following the one-year period described in paragraph (1), the Secretary shall, as appropriate, refer to the Office of Pediatric Therapeutics all pediatric adverse event reports for a drug for which a pediatric study was conducted under this section. In considering such reports, the Director of such Office may provide for the review of such reports by the Pediatric Advisory Committee, including obtaining any recommendation of such Committee regarding whether the Secretary should take action in response to such reports.

''(3) EFFECT.—The requirements of this subsection shall supplement, not supplant, other review of such adverse event reports by the Secretary.

''(m) CLARIFICATION OF INTERACTION OF MARKET EXCLUSIVITY UNDER THIS SECTION AND MARKET EXCLUSIVITY AWARDED TO AN APPLICANT FOR APPROVAL OF A DRUG UNDER SECTION 505(j).—If a 180-day period under section 505(j)(5)(B)(iv) overlaps with a 6-month exclusivity period under this section, so that the applicant for approval of a drug under section 505(j) entitled to the 180-day period under that section loses a portion of the 180-day period to which the applicant is entitled for the drug, the 180-day period shall be extended from—

''(1) the date on which the 180-day period would have expired by the number of days of the overlap, if the 180-day period would, but for the application of this subsection, expire after the 6-month exclusivity period; or

''(2) the date on which the 6-month exclusivity period expires, by the number of days of the overlap if the 180-day period would, but for the application of this subsection, expire during the six-month exclusivity period.

''(n) REFERRAL IF PEDIATRIC STUDIES NOT COMPLETED.—

''(1) IN GENERAL.—Beginning on the date of the enactment of the Best Pharmaceuticals for Children Act of 2007, if pediatric studies of a drug have not been completed under subsection (d) and if the Secretary, through the committee established under section 505C, determines that there is a continuing need for information relating to the use of the drug in the pediatric population (including neonates, as appropriate), the Secretary shall carry out the following:

''(A) For a drug for which a listed patent has not expired, make a determination regarding whether an assessment shall be required to be submitted under section 505B(b). Prior to making such a determination, the Secretary may not take more than 30 days to certify whether the Foundation for the National Institutes of Health has sufficient funding at the time of such certification to initiate and fund all of the studies in the written request in their entirety within the timeframes specified within the written request. Only if the Secretary makes such certification in the affirmative, the Secretary

shall refer all pediatric studies in the written request to the Foundation for the National Institutes of Health for the conduct of such studies, and such Foundation shall fund such studies. If no certification has been made at the end of the 30-day period, or if the Secretary certifies that funds are not sufficient to initiate and fund all the studies in their entirety, the Secretary shall consider whether assessments shall be required under section 505B(b) for such drug.

''(B) For a drug that has no listed patents or has 1 or more listed patents that have expired, the Secretary shall refer the drug for inclusion on the list established under section 409I of the Public Health Service Act for the conduct of studies.

''(2) PUBLIC NOTICE.—The Secretary shall give the public notice of a decision under paragraph (1)(A) not to require an assessment under section 505B and the basis for such decision.

''(3) EFFECT OF SUBSECTION.—Nothing in this subsection alters or amends section 301(j) of this Act or section 552 of title 5 or section 1905 of title 18, United States Code.

''(o) PROMPT APPROVAL OF DRUGS UNDER SECTION 505(j) WHEN PEDIATRIC INFORMATION IS ADDED TO LABELING.—

''(1) GENERAL RULE.—A drug for which an application has been submitted or approved under section 505(j) shall not be considered ineligible for approval under that section or misbranded under section 502 on the basis that the labeling of the drug omits a pediatric indication or any other aspect of labeling pertaining to pediatric use when the omitted indication or other aspect is protected by patent or by exclusivity under clause (iii) or (iv) of section 505(j)(5)(F).

''(2) LABELING.—Notwithstanding clauses (iii) and (iv) of section 505(j)(5)(F), the Secretary may require that the labeling of a drug approved under section 505(j) that omits a pediatric indication or other aspect of labeling as described in paragraph (1) include—

''(A) a statement that, because of marketing exclusivity for a manufacturer—

''(i) the drug is not labeled for pediatric use; or

''(ii) in the case of a drug for which there is an additional pediatric use not referred to in paragraph (1), the drug is not labeled for the pediatric use under paragraph (1); and

''(B) a statement of any appropriate pediatric contraindications, warnings, or precautions that the Secretary considers necessary.

''(3) PRESERVATION OF PEDIATRIC EXCLUSIVITY AND OTHER PROVISIONS.—This subsection does not affect—

''(A) the availability or scope of exclusivity under this section;

''(B) the availability or scope of exclusivity under section 505 for pediatric formulations;

''(C) the question of the eligibility for approval of any application under section 505(j) that omits any other conditions of approval entitled to exclusivity under clause (iii) or (iv) of section 505(j)(5)(F); or

''(D) except as expressly provided in paragraphs (1) and (2), the operation of section 505.

''(p) INSTITUTE OF MEDICINE STUDY.—Not later than 3 years after the date of the enactment of the Best Pharmaceuticals for Children Act of 2007, the Secretary shall enter into a contract with the Institute of Medicine to conduct a study and report to Congress regarding the written requests made and the studies conducted pursuant to this section. The Institute of Medicine may devise an appropriate mechanism to review a representative sample of requests made and studies conducted pursuant to this section in order to conduct such study. Such study shall—

''(1) review such representative written requests issued by the Secretary since 1997 under subsections (b) and (c);

''(2) review and assess such representative pediatric studies conducted under subsections (b) and (c) since 1997 and labeling changes made as a result of such studies;

''(3) review the use of extrapolation for pediatric subpopulations, the use of alternative endpoints for pediatric populations, neonatal assessment tools, and ethical issues in pediatric clinical trials;

''(4) review and assess the pediatric studies of biological products as required under subsections (a) and (b) of section 505B; and

''(5) make recommendations regarding appropriate incentives for encouraging pediatric studies of biologics.

''(q) SUNSET.—A drug may not receive any 6-month period under subsection (b) or (c) unless—

''(1) on or before October 1, 2012, the Secretary makes a written request for pediatric studies of the drug;

''(2) on or before October 1, 2012, an application for the drug is accepted for filing under section 505(b); and

''(3) all requirements of this section are met.''.

(2) APPLICABILITY.—

(A) IN GENERAL.—The amendment made by this subsection shall apply to written requests under section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) issued on or after the date of the enactment of this Act.

(B) CERTAIN WRITTEN REQUESTS.—A written request issued under section 505A of the Federal Food, Drug, and Cosmetic Act, as in effect on the day before the date of the enactment of this Act, which has been accepted and for which no determination under subsection (d)(2) of such section has been made before such date of enactment, shall be subject to such section 505A, except that such written requests shall be subject to subsections (d)(2)(A)(ii), (e)(1) and (2), (f), (i)(2)(A), (j), (k)(1), (l)(1), and (n) of section 505A of the Federal Food, Drug, and Cosmetic Act, as in effect on or after the date of the enactment of this Act.

(b) PROGRAM FOR PEDIATRIC STUDIES OF DRUGS.—Section 409I of the Public Health Service Act (42 U.S.C. 284m) is amended to read as follows:

''SEC. 409I. PROGRAM FOR PEDIATRIC STUDIES OF DRUGS.

''(a) LIST OF PRIORITY ISSUES IN PEDIATRIC THERAPEUTICS.—

''(1) IN GENERAL.—Not later than one year after the date of the enactment of the Best Pharmaceuticals for Children Act of 2007, the Secretary, acting through the Director of the National Institutes of Health and in consultation with the Commissioner of Food and Drugs and experts in pediatric research, shall develop and publish a priority list of needs in pediatric therapeutics, including drugs or indications that require study. The list shall be revised every three years.

''(2) CONSIDERATION OF AVAILABLE INFORMATION.—In developing and prioritizing the list under paragraph (1), the Secretary shall consider—

''(A) therapeutic gaps in pediatrics that may include developmental pharmacology, pharmacogenetic determinants of drug response, metabolism of drugs and biologics in children, and pediatric clinical trials;

''(B) particular pediatric diseases, disorders or conditions where more complete knowledge and testing of therapeutics, including drugs and biologics, may be beneficial in pediatric populations; and

''(C) the adequacy of necessary infrastructure to conduct pediatric pharmacological research, including research networks and trained pediatric investigators.

''(b) PEDIATRIC STUDIES AND RESEARCH.—The Secretary, acting through the National Institutes of Health, shall award funds to entities that have the expertise to conduct pediatric clinical trials or other research (including qualified universities, hospitals, laboratories, contract research organizations, practice groups, federally funded programs such as pediatric pharmacology research units, other public or private institutions, or individuals) to enable the entities to conduct the drug studies or other research on the issues described in subsection (a). The Secretary may use contracts, grants, or other appropriate funding mechanisms to award funds under this subsection.

''(c) PROCESS FOR PROPOSED PEDIATRIC STUDY REQUESTS AND LABELING CHANGES.—

''(1) SUBMISSION OF PROPOSED PEDIATRIC STUDY REQUEST.—The Director of the National Institutes of Health shall, as appropriate, submit proposed pediatric study requests for consideration by the Commissioner of Food and Drugs for pediatric studies of a specific pediatric indication identified under subsection (a). Such a proposed pediatric study request shall be made in a manner equivalent to a written request made under subsection (b) or (c) of section 505A of the Federal Food, Drug, and Cosmetic Act, including with respect to the information provided on the pediatric studies to be conducted pursuant to the request. The Director of the National Institutes of Health may submit a proposed pediatric study request for a drug for which—

''(A)(i) there is an approved application under section 505(j) of the Federal Food, Drug, and Cosmetic Act; or

''(ii) there is a submitted application that could be approved under the criteria of such section; and

''(B) there is no patent protection or market exclusivity protection for at least one form of the drug under the Federal Food, Drug, and Cosmetic Act; and

''(C) additional studies are needed to assess the safety and effectiveness of the use of the drug in the pediatric population.

''(2) WRITTEN REQUEST TO HOLDERS OF APPROVED APPLICATIONS FOR DRUGS LACKING EXCLUSIVITY.—The Commissioner of Food and Drugs, in consultation with the Director of the National Institutes of Health, may issue a written request based on the proposed pediatric study request for the indication or indications submitted pursuant to paragraph (1) (which shall include a timeframe for negotiations for an agreement) for pediatric studies concerning a drug identified under subsection (a) to all holders of an approved application for the drug under section 505 of the Federal Food, Drug, and Cosmetic Act. Such a written request shall be made in a manner equivalent to the manner in which a written request is made under subsection (b) or (c) of section 505A of such Act, including with respect to information provided on the pediatric studies to be conducted pursuant to the request and using appropriate formulations for each age group for which the study is requested.

''(3) REQUESTS FOR PROPOSALS.—If the Commissioner of Food and Drugs does not receive a response to a written request issued under paragraph (2) not later than 30 days after the date on which a request was issued, the Secretary, acting through the Director of the National Institutes of Health and in consultation with the Commissioner of Food and Drugs, shall publish a request for proposals to conduct the pediatric studies described in the written request in accordance with subsection (b).

''(4) DISQUALIFICATION.—A holder that receives a first right of refusal shall not be entitled to respond to a request for proposals under paragraph (3).

''(5) CONTRACTS, GRANTS, OR OTHER FUNDING MECHANISMS.—A contract, grant, or other funding may be awarded under this section only if a proposal is submitted to the Secretary in such form and manner, and containing such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

''(6) REPORTING OF STUDIES.—

''(A) IN GENERAL.—On completion of a pediatric study in accordance with an award under this section, a report concerning the study shall be submitted to the Director of the National Institutes of Health and the Commissioner of Food and Drugs. The report shall include all data generated in connection with the study, including a written request if issued.

''(B) AVAILABILITY OF REPORTS.—Each report submitted under subparagraph (A) shall be considered to be in the public domain (subject to section 505A(d)(4) of the Federal Food, Drug, and Cosmetic Act) and shall be assigned a docket number by the Commissioner of Food and Drugs. An interested person may submit written comments concerning such pediatric studies to the Commissioner of Food and Drugs, and the written comments shall become part of the docket file with respect to each of the drugs.

''(C) ACTION BY COMMISSIONER.—The Commissioner of Food and Drugs shall take appropriate action in response to the reports submitted under subparagraph (A) in accordance with paragraph (7).

''(7) REQUESTS FOR LABELING CHANGE.—During the 180-day period after the date on which a report is submitted under paragraph (6)(A), the Commissioner of Food and Drugs shall—

''(A) review the report and such other data as are available concerning the safe and effective use in the pediatric population of the drug studied;

''(B) negotiate with the holders of approved applications for the drug studied for any labeling changes that the Commissioner of Food and Drugs determines to be appropriate and requests the holders to make; and

''(C)(i) place in the public docket file a copy of the report and of any requested labeling changes; and

''(ii) publish in the Federal Register and through a posting on the Web site of the Food and Drug Administration a summary of the report and a copy of any requested labeling changes.

''(8) DISPUTE RESOLUTION.—

''(A) REFERRAL TO PEDIATRIC ADVISORY COMMITTEE.—If, not later than the end of the 180-day period specified in paragraph (7), the holder of an approved application for the drug involved does not agree to any labeling change requested by the Commissioner of Food and Drugs under that paragraph, the Commissioner of Food and Drugs shall refer the request to the Pediatric Advisory Committee.

''(B) ACTION BY THE PEDIATRIC ADVISORY COMMITTEE.—Not later than 90 days after receiving a referral under subparagraph (A), the Pediatric Advisory Committee shall—

''(i) review the available information on the safe and effective use of the drug in the pediatric population, including study reports submitted under this section; and

''(ii) make a recommendation to the Commissioner of Food and Drugs as to appropriate labeling changes, if any.

''(9) FDA DETERMINATION.—Not later than 30 days after receiving a recommendation from the Pediatric Advisory Committee under paragraph (8)(B)(ii) with respect to a drug, the Commissioner of Food and Drugs shall consider the recommendation and, if appropriate, make a request to the holders of approved applications for the drug to make any labeling change that the Commissioner of Food and Drugs determines to be appropriate.

''(10) FAILURE TO AGREE.—If a holder of an approved application for a drug, within 30 days after receiving a request to make a labeling change under paragraph (9), does not agree to make a requested labeling change, the Commissioner of Food and Drugs may deem the drug to be misbranded under the Federal Food, Drug, and Cosmetic Act.

''(11) NO EFFECT ON AUTHORITY.—Nothing in this subsection limits the authority of the United States to bring an enforcement action under the Federal Food, Drug, and Cosmetic Act when a drug lacks appropriate pediatric labeling. Neither course of action (the Pediatric Advisory Committee process or an enforcement action referred to in the preceding sentence) shall preclude, delay, or serve as the basis to stay the other course of action.

''(d) DISSEMINATION OF PEDIATRIC INFORMATION.—Not later than one year after the date of the enactment of the Best Pharmaceuticals for Children Act of 2007, the Secretary, acting through the Director of the National Institutes of Health, shall study the feasibility of establishing a compilation of information on pediatric drug use and report the findings to Congress.

''(e) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

''(A) $200,000,000 for fiscal year 2008; and

''(B) such sums as are necessary for each of the four succeeding fiscal years.

''(2) AVAILABILITY.—Any amount appropriated under paragraph (1) shall remain available to carry out this section until expended.''.

(c) FOUNDATION FOR THE NATIONAL INSTITUTES OF HEALTH.—Section 499(c)(1)(C) of the Public Health Service Act (42 U.S.C. 290b(c)(1)(C)) is amended by striking ''and studies listed by the Secretary pursuant to section 409I(a)(1)(A) of this Act and referred under section 505A(d)(4)(C) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 355(a)(d)(4)(C)'' and inserting ''and studies for which the Secretary issues a certification in the affirmative under section 505A(n)(1)(A) of the Federal Food, Drug, and Cosmetic Act''.

(d) CONTINUATION OF OPERATION OF COMMITTEE.—Section 14 of the Best Pharmaceuticals for Children Act (42 U.S.C. 284m note) is amended by adding at the end the following new subsection:

''(d) CONTINUATION OF OPERATION OF COMMITTEE.—Notwithstanding section 14 of the Federal Advisory Committee Act, the advisory committee shall continue to operate during the five-year period beginning on the date of the enactment of the Best Pharmaceuticals for Children Act of 2007.''.

(e) PEDIATRIC SUBCOMMITTEE OF THE ONCOLOGIC DRUGS ADVISORY COMMITTEE.—Section 15 of the Best Pharmaceuticals for Children Act (42 U.S.C. 284m note) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (B), by striking ''and'' after the semicolon;

(ii) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following new subparagraph:

''(D) provide recommendations to the internal review committee created under section 505B(f) of the Federal Food, Drug, and Cosmetic Act regarding the implementation of amendments to sections 505A and 505B of the Federal Food, Drug, and Cosmetic Act with respect to the treatment of pediatric cancers.''; and

(B) by adding at the end the following new paragraph:

''(3) CONTINUATION OF OPERATION OF SUBCOMMITTEE.—Notwithstanding section 14 of the Federal Advisory Committee Act, the Subcommittee shall continue to operate during the five-year period beginning on the date of the enactment of the Best Pharmaceuticals for Children Act of 2007.''; and

(2) in subsection (d), by striking ''2003'' and inserting ''2009''.

(f) EFFECTIVE DATE AND LIMITATION FOR RULE RELATING TO TOLL-FREE NUMBER FOR ADVERSE EVENTS ON LABELING FOR HUMAN DRUG PRODUCTS.—

(1) IN GENERAL.—Notwithstanding subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the ''Administrative Procedure Act'') and any other provision of law, the proposed rule issued by the Commissioner of Food and Drugs entitled ''Toll-Free Number for Reporting Adverse Events on Labeling for Human Drug Products,'' 69 Fed. Reg. 21778, (April 22, 2004) shall take effect on January 1, 2008, unless such Commissioner issues the final rule before such date.

(2) LIMITATION.—The proposed rule that takes effect under subsection (a), or the final rule described under subsection (a), shall, notwithstanding section 17(a) of the Best Pharmaceuticals for Children Act (21 U.S.C. 355b(a)), not apply to a drug—

(A) for which an application is approved under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355);

(B) that is not described under section 503(b)(1) of such Act (21 U.S.C. 353(b)(1)); and

(C) the packaging of which includes a toll-free number through which consumers can report complaints to the manufacturer or distributor of the drug.

SEC. 503. TRAINING OF PEDIATRIC PHARMACOLOGISTS.

(a) INVESTMENT IN TOMORROW'S PEDIATRIC RESEARCHERS.—Section 452G(2) of the Public Health Service Act (42 U.S.C. 285g–10(2)) is amended by adding before the period at the end the following: '', including pediatric pharmacological research''.

(b) PEDIATRIC RESEARCH LOAN REPAYMENT PROGRAM.—Section 487F(a)(1) of the Public Health Service Act (42 U.S.C. 288–6(a)(1)) is amended by inserting ''including pediatric pharmacological research,'' after ''pediatric research,''.

TITLE VI—REAGAN-UDALL FOUNDATION

SEC. 601. THE REAGAN-UDALL FOUNDATION FOR THE FOOD AND DRUG ADMINISTRATION.

(a) IN GENERAL.—Chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 et seq.) is amended by adding at the end the following:

''Subchapter I—Reagan-Udall Foundation for the Food and Drug Administration

''SEC. 770. ESTABLISHMENT AND FUNCTIONS OF THE FOUNDATION.

''(a) IN GENERAL.—A nonprofit corporation to be known as the Reagan-Udall Foundation for the Food and Drug Administration (referred to in this subchapter as the 'Foundation') shall be established in accordance with this section. The Foundation shall be headed by an Executive Director, appointed by the members of the Board of Directors under subsection (e). The Foundation shall not be an agency or instrumentality of the United States Government.

''(b) PURPOSE OF FOUNDATION.—The purpose of the Foundation is to advance the mission of the Food and Drug Administration to modernize medical, veterinary, food, food ingredient, and cosmetic product development, accelerate innovation, and enhance product safety.

''(c) DUTIES OF THE FOUNDATION.—The Foundation shall—

''(1) taking into consideration the Critical Path reports and priorities published by the Food and Drug Administration, identify

unmet needs in the development, manufacture, and evaluation of the safety and effectiveness, including postapproval, of devices, including diagnostics, biologics, and drugs, and the safety of food, food ingredients, and cosmetics, and including the incorporation of more sensitive and predictive tools and devices to measure safety;

''(2) establish goals and priorities in order to meet the unmet needs identified in paragraph (1);

''(3) in consultation with the Secretary, identify existing and proposed Federal intramural and extramural research and development programs relating to the goals and priorities established under paragraph (2), coordinate Foundation activities with such programs, and minimize Foundation duplication of existing efforts;

''(4) award grants to, or enter into contracts, memoranda of understanding, or cooperative agreements with, scientists and entities, which may include the Food and Drug Administration, university consortia, public-private partnerships, institutions of higher education, entities described in section 501(c)(3) of the Internal Revenue Code (and exempt from tax under section 501(a) of such Code), and industry, to efficiently and effectively advance the goals and priorities established under paragraph (2);

''(5) recruit meeting participants and hold or sponsor (in whole or in part) meetings as appropriate to further the goals and priorities established under paragraph (2);

''(6) release and publish information and data and, to the extent practicable, license, distribute, and release material, reagents, and techniques to maximize, promote, and coordinate the availability of such material, reagents, and techniques for use by the Food and Drug Administration, nonprofit organizations, and academic and industrial researchers to further the goals and priorities established under paragraph (2);

''(7) ensure that—

''(A) action is taken as necessary to obtain patents for inventions developed by the Foundation or with funds from the Foundation;

''(B) action is taken as necessary to enable the licensing of inventions developed by the Foundation or with funds from the Foundation; and

''(C) executed licenses, memoranda of understanding, material transfer agreements, contracts, and other such instruments, promote, to the maximum extent practicable, the broadest conversion to commercial and noncommercial applications of licensed and patented inventions of the Foundation to further the goals and priorities established under paragraph (2);

''(8) provide objective clinical and scientific information to the Food and Drug Administration and, upon request, to other Federal agencies to assist in agency determinations of how to ensure that regulatory policy accommodates scientific advances and meets the agency's public health mission;

''(9) conduct annual assessments of the unmet needs identified in paragraph (1); and

''(10) carry out such other activities consistent with the purposes of the Foundation as the Board determines appropriate.

''(d) BOARD OF DIRECTORS.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—The Foundation shall have a Board of Directors (referred to in this subchapter as the 'Board'), which shall be composed of ex officio and appointed members in accordance with this subsection. All appointed members of the Board shall be voting members.

''(B) EX OFFICIO MEMBERS.—The ex officio members of the Board shall be the following individuals or their designees:

''(i) The Commissioner.

''(ii) The Director of the National Institutes of Health.

''(iii) The Director of the Centers for Disease Control and Prevention.

''(iv) The Director of the Agency for Healthcare Research and Quality.

''(C) APPOINTED MEMBERS.—

''(i) IN GENERAL.—The ex officio members of the Board under subparagraph (B) shall, by majority vote, appoint to the Board 14 individuals, of which 9 shall be from a list of candidates to be provided by the National Academy of Sciences and 5 shall be from lists of candidates provided by patient and consumer advocacy groups, professional scientific and medical societies, and industry trade organizations. Of such appointed members—

''(I) 4 shall be representatives of the general pharmaceutical, device, food, cosmetic, and biotechnology industries;

''(II) 3 shall be representatives of academic research organizations;

''(III) 2 shall be representatives of patient or consumer advocacy organizations;

''(IV) 1 shall be a representative of health care providers; and

''(V) 4 shall be at-large members with expertise or experience relevant to the purpose of the Foundation.

''(ii) REQUIREMENTS.—

''(I) EXPERTISE.—The ex officio members shall ensure the Board membership includes individuals with expertise in areas including the sciences of developing, manufacturing, and evaluating the safety and effectiveness of devices, including diagnostics, biologics, and drugs, and the safety of food, food ingredients, and cosmetics.

''(II) FEDERAL EMPLOYEES.—No employee of the Federal Government shall be appointed as a member of the Board under this subparagraph or under paragraph (3)(B).

''(D) INITIAL MEETING.—

''(i) IN GENERAL.—Not later than 30 days after the date of the enactment of this subchapter, the Secretary shall convene a meeting of the ex officio members of the Board to—

''(I) incorporate the Foundation; and

''(II) appoint the members of the Board in accordance with subparagraph (C).

''(ii) SERVICE OF EX OFFICIO MEMBERS.—Upon the appointment of the members of the Board under clause (i)(II)—

''(I) the terms of service of the Director of the Centers for Disease Control and Prevention and of the Director of the Agency for Healthcare Research and Quality as ex officio members of the Board shall terminate; and

''(II) the Commissioner and the Director of the National Institutes of Health shall continue to serve as ex officio members of the Board, but shall be nonvoting members.

''(iii) CHAIR.—The ex officio members of the Board under subparagraph (B) shall designate an appointed member of the Board to serve as the Chair of the Board.

''(2) DUTIES OF BOARD.—The Board shall—

''(A) establish bylaws for the Foundation that—

''(i) are published in the Federal Register and available for public comment;

''(ii) establish policies for the selection of the officers, employees, agents, and contractors of the Foundation;

''(iii) establish policies, including ethical standards, for the acceptance, solicitation, and disposition of donations and grants to the Foundation and for the disposition of the assets of the Foundation, including appropriate limits on the ability of donors to designate, by stipulation or restriction, the use or recipient of donated funds;

''(iv) establish policies that would subject all employees, fellows, and trainees of the Foundation to the conflict of interest standards under section 208 of title 18, United States Code;

''(v) establish licensing, distribution, and publication policies that support the widest and least restrictive use by the public of information and inventions developed by the Foundation or with Foundation funds to carry out the duties described in paragraphs (6) and (7) of subsection (c), and may include charging cost-based fees for published material produced by the Foundation;

''(vi) specify principles for the review of proposals and awarding of grants and contracts that include peer review and that are consistent with those of the Foundation for the National Institutes of Health, to the extent determined practicable and appropriate by the Board;

''(vii) specify a cap on administrative expenses for recipients of a grant, contract, or cooperative agreement from the Foundation;

''(viii) establish policies for the execution of memoranda of understanding and cooperative agreements between the Foundation and other entities, including the Food and Drug Administration;

''(ix) establish policies for funding training fellowships, whether at the Foundation, academic or scientific institutions, or the Food and Drug Administration, for scientists, doctors, and other professionals who are not employees of regulated industry, to foster greater understanding of and expertise in new scientific tools, diagnostics, manufacturing techniques, and potential barriers to translating basic research into clinical and regulatory practice;

''(x) specify a process for annual Board review of the operations of the Foundation; and

''(xi) establish specific duties of the Executive Director;

''(B) prioritize and provide overall direction to the activities of the Foundation;

''(C) evaluate the performance of the Executive Director; and

''(D) carry out any other necessary activities regarding the functioning of the Foundation.

''(3) TERMS AND VACANCIES.—

''(A) TERM.—The term of office of each member of the Board appointed under paragraph (1)(C) shall be 4 years, except that the terms of offices for the initial appointed members of the Board shall expire on a staggered basis as determined by the ex officio members.

''(B) VACANCY.—Any vacancy in the membership of the Board—

''(i) shall not affect the power of the remaining members to execute the duties of the Board; and

''(ii) shall be filled by appointment by the appointed members described in paragraph (1)(C) by majority vote.

''(C) PARTIAL TERM.—If a member of the Board does not serve the full term applicable under subparagraph (A), the individual appointed under subparagraph (B) to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

''(D) SERVING PAST TERM.—A member of the Board may continue to serve after the expiration of the term of the member until a successor is appointed.

''(4) COMPENSATION.—Members of the Board may not receive compensation for service on the Board. Such members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Board, as set forth in the bylaws issued by the Board.

''(e) INCORPORATION.—The ex officio members of the Board shall serve as incorporators and shall take whatever actions necessary to incorporate the Foundation.

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

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

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

''(g) EXECUTIVE DIRECTOR.—

''(1) IN GENERAL.—The Board shall appoint an Executive Director who shall serve at the pleasure of the Board. The Executive Director shall be responsible for the day-to-day operations of the Foundation and shall have such specific duties and responsibilities as the Board shall prescribe.

''(2) COMPENSATION.—The compensation of the Executive Director shall be fixed by the Board but shall not be greater than the compensation of the Commissioner.

''(h) ADMINISTRATIVE POWERS.—In carrying out this subchapter, the Board, acting through the Executive Director, may—

''(1) adopt, alter, and use a corporate seal, which shall be judicially noticed;

''(2) hire, promote, compensate, and discharge 1 or more officers, employees, and agents, as may be necessary, and define their duties;

''(3) prescribe the manner in which—

''(A) real or personal property of the Foundation is acquired, held, and transferred;

''(B) general operations of the Foundation are to be conducted; and

''(C) the privileges granted to the Board by law are exercised and enjoyed;

''(4) with the consent of the applicable executive department or independent agency, use the information, services, and facilities of such department or agencies in carrying out this section;

''(5) enter into contracts with public and private organizations for the writing, editing, printing, and publishing of books and other material;

''(6) hold, administer, invest, and spend any gift, devise, or bequest of real or personal property made to the Foundation under subsection (i);

''(7) enter into such other contracts, leases, cooperative agreements, and other transactions as the Board considers appropriate to conduct the activities of the Foundation;

''(8) modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this subchapter;

''(9) take such action as may be necessary to obtain patents and licenses for devices and procedures developed by the Foundation and its employees;

''(10) sue and be sued in its corporate name, and complain and defend in courts of competent jurisdiction;

''(11) appoint other groups of advisors as may be determined necessary to carry out the functions of the Foundation; and

''(12) exercise other powers as set forth in this section, and such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with this subchapter.

''(i) ACCEPTANCE OF FUNDS FROM OTHER SOURCES.—The Executive Director may solicit and accept on behalf of the Foundation, any funds, gifts, grants, devises, or bequests of real or personal property made to the Foundation, including from private entities, for the purposes of carrying out the duties of the Foundation.

''(j) SERVICE OF FEDERAL EMPLOYEES.—Federal Government employees may serve on committees advisory to the Foundation and otherwise cooperate with and assist the Foundation in carrying out its functions, so long as such employees do not direct or control Foundation activities.

''(k) DETAIL OF GOVERNMENT EMPLOYEES; FELLOWSHIPS.—

''(1) DETAIL FROM FEDERAL AGENCIES.—Federal Government employees may be detailed from Federal agencies with or without reimbursement to those agencies to the Foundation at any time, and such detail shall be without interruption or loss of civil service status or privilege. Each such employee shall abide by the statutory, regulatory, ethical, and procedural standards applicable to the employees of the agency from which such employee is detailed and those of the Foundation.

''(2) VOLUNTARY SERVICE; ACCEPTANCE OF FEDERAL EMPLOYEES.—

''(A) FOUNDATION.—The Executive Director of the Foundation may accept the services of employees detailed from Federal agencies with or without reimbursement to those agencies.

''(B) FOOD AND DRUG ADMINISTRATION.—The Commissioner may accept the uncompensated services of Foundation fellows or trainees. Such services shall be considered to be undertaking an activity under contract with the Secretary as described in section 708.

''(l) ANNUAL REPORTS.—

''(1) REPORTS TO FOUNDATION.—Any recipient of a grant, contract, fellowship, memorandum of understanding, or cooperative agreement from the Foundation under this section shall submit to the Foundation a report on an annual basis for the duration of such grant, contract, fellowship, memorandum of understanding, or cooperative agreement, that describes the activities carried out under such grant, contract, fellowship, memorandum of understanding, or cooperative agreement.

''(2) REPORT TO CONGRESS AND THE FDA.—Beginning with fiscal year 2009, the Executive Director shall submit to Congress and the Commissioner an annual report that—

''(A) describes the activities of the Foundation and the progress of the Foundation in furthering the goals and priorities established under subsection (c)(2), including the practical impact of the Foundation on regulated product development;

''(B) provides a specific accounting of the source and use of all funds used by the Foundation to carry out such activities; and

''(C) provides information on how the results of Foundation activities could be incorporated into the regulatory and product review activities of the Food and Drug Administration.

''(m) SEPARATION OF FUNDS.—The Executive Director shall ensure that the funds received from the Treasury are held in separate accounts from funds received from entities under subsection (i).

''(n) FUNDING.—From amounts appropriated to the Food and Drug Administration for each fiscal year, the Commissioner shall transfer not less than $500,000 and not more than $1,250,000, to the Foundation to carry out subsections (a), (b), and (d) through (m).''.

(b) OTHER FOUNDATION PROVISIONS.—Chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 et seq.) (as amended by subsection (a)) is amended by adding at the end the following:

''SEC. 771. LOCATION OF FOUNDATION.

''The Foundation shall, if practicable, be located not more than 20 miles from the District of Columbia.

''SEC. 772. ACTIVITIES OF THE FOOD AND DRUG ADMINISTRATION.

''(a) IN GENERAL.—The Commissioner shall receive and assess the report submitted to the Commissioner by the Executive Director of the Foundation under section 770(l)(2).

''(b) REPORT TO CONGRESS.—Beginning with fiscal year 2009, the Commissioner shall submit to Congress an annual report summarizing the incorporation of the information provided by the Foundation in the report described under section 770(l)(2) and by other recipients of grants, contracts, memoranda of understanding, or cooperative agreements into regulatory and product review activities of the Food and Drug Administration.

''(c) EXTRAMURAL GRANTS.—The provisions of this subchapter and section 566 shall have no effect on any grant, contract, memorandum of understanding, or cooperative agreement between the Food and Drug Administration and any other entity entered into before, on, or after the date of the enactment of this subchapter.''.

(c) CONFORMING AMENDMENT.—Section 742(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379l(b)) is amended by adding at the end the following: ''Any such fellowships and training programs under this section or under section 770(d)(2)(A)(ix) may include provision by such scientists and physicians of services on a voluntary and uncompensated basis, as the Secretary determines appropriate. Such scientists and physicians shall be subject to all legal and ethical requirements otherwise applicable to officers or employees of the Department of Health and Human Services.''.

SEC. 602. OFFICE OF THE CHIEF SCIENTIST.

Chapter IX of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 391 et seq.) is amended by adding at the end the following:

''SEC. 910. OFFICE OF THE CHIEF SCIENTIST.

''(a) ESTABLISHMENT; APPOINTMENT.—The Secretary shall establish within the Office of the Commissioner an office to be known as the Office of the Chief Scientist. The Secretary shall appoint a Chief Scientist to lead such Office.

''(b) DUTIES OF THE OFFICE.—The Office of the Chief Scientist shall—

''(1) oversee, coordinate, and ensure quality and regulatory focus of the intramural research programs of the Food and Drug Administration;

''(2) track and, to the extent necessary, coordinate intramural research awards made by each center of the Administration or science-based office within the Office of the Commissioner, and ensure that there is no duplication of research efforts supported by the Reagan-Udall Foundation for the Food and Drug Administration;

''(3) develop and advocate for a budget to support intramural research;

''(4) develop a peer review process by which intramural research can be evaluated;

''(5) identify and solicit intramural research proposals from across the Food and Drug Administration through an advisory board composed of employees of the Administration that shall include—

''(A) representatives of each of the centers and the science-based offices within the Office of the Commissioner; and

''(B) experts on trial design, epidemiology, demographics, pharmacovigilance, basic science, and public health; and

''(6) develop postmarket safety performance measures that are as measurable and rigorous as the ones already developed for premarket review.''.

SEC. 603. CRITICAL PATH PUBLIC-PRIVATE PARTNERSHIPS.

Subchapter E of chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb et seq.) is amended by adding at the end the following:

''SEC. 566. CRITICAL PATH PUBLIC-PRIVATE PARTNERSHIPS.

''(a) ESTABLISHMENT.—The Secretary, acting through the Commissioner of Food and Drugs, may enter into collaborative agreements, to be known as Critical Path Public-

Private Partnerships, with one or more eligible entities to implement the Critical Path Initiative of the Food and Drug Administration by developing innovative, collaborative projects in research, education, and outreach for the purpose of fostering medical product innovation, enabling the acceleration of medical product development, manufacturing, and translational therapeutics, and enhancing medical product safety.

''(b) ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means an entity that meets each of the following:

''(1) The entity is—

''(A) an institution of higher education (as such term is defined in section 101 of the Higher Education Act of 1965) or a consortium of such institutions; or

''(B) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code.

''(2) The entity has experienced personnel and clinical and other technical expertise in the biomedical sciences, which may include graduate training programs in areas relevant to priorities of the Critical Path Initiative.

''(3) The entity demonstrates to the Secretary's satisfaction that the entity is capable of—

''(A) developing and critically evaluating tools, methods, and processes—

''(i) to increase efficiency, predictability, and productivity of medical product development; and

''(ii) to more accurately identify the benefits and risks of new and existing medical products;

''(B) establishing partnerships, consortia, and collaborations with health care practitioners and other providers of health care goods or services; pharmacists; pharmacy benefit managers and purchasers; health maintenance organizations and other managed health care organizations; health care insurers; government agencies; patients and consumers; manufacturers of prescription drugs, biological products, diagnostic technologies, and devices; and academic scientists; and

''(C) securing funding for the projects of a Critical Path Public-Private Partnership from Federal and nonfederal governmental sources, foundations, and private individuals.

''(c) FUNDING.—The Secretary may not enter into a collaborative agreement under subsection (a) unless the eligible entity involved provides an assurance that the entity will not accept funding for a Critical Path Public-Private Partnership project from any organization that manufactures or distributes products regulated by the Food and Drug Administration unless the entity provides assurances in its agreement with the Food and Drug Administration that the results of the Critical Path Public-Private Partnership project will not be influenced by any source of funding.

''(d) ANNUAL REPORT.—Not later than 18 months after the date of the enactment of this section, and annually thereafter, the Secretary, in collaboration with the parties to each Critical Path Public-Private Partnership, shall submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives—

''(1) reviewing the operations and activities of the Partnerships in the previous year; and

''(2) addressing such other issues relating to this section as the Secretary determines to be appropriate.

''(e) DEFINITION.—In this section, the term 'medical product' includes a drug, a biological product as defined in section 351 of the Public Health Service Act, a device, and any combination of such products.

''(f) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $5,000,000 for fiscal year 2008 and such sums as may be necessary for each of fiscal years 2009 through 2012.''.

TITLE VII—CONFLICTS OF INTEREST

SEC. 701. CONFLICTS OF INTEREST.

(a) IN GENERAL.—Subchapter A of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 et seq.) is amended by inserting at the end the following:

''SEC. 712. CONFLICTS OF INTEREST.

''(a) DEFINITIONS.—For purposes of this section:

''(1) ADVISORY COMMITTEE.—The term 'advisory committee' means an advisory committee under the Federal Advisory Committee Act that provides advice or recommendations to the Secretary regarding activities of the Food and Drug Administration.

''(2) FINANCIAL INTEREST.—The term 'financial interest' means a financial interest under section 208(a) of title 18, United States Code.

''(b) APPOINTMENTS TO ADVISORY COMMITTEES.—

''(1) RECRUITMENT.—

''(A) IN GENERAL.—The Secretary shall—

''(i) develop and implement strategies on effective outreach to potential members of advisory committees at universities, colleges, other academic research centers, professional and medical societies, and patient and consumer groups;

''(ii) seek input from professional medical and scientific societies to determine the most effective informational and recruitment activities; and

''(iii) take into account the advisory committees with the greatest number of vacancies.

''(B) RECRUITMENT ACTIVITIES.—The recruitment activities under subparagraph (A) may include—

''(i) advertising the process for becoming an advisory committee member at medical and scientific society conferences;

''(ii) making widely available, including by using existing electronic communications channels, the contact information for the Food and Drug Administration point of contact regarding advisory committee nominations; and

''(iii) developing a method through which an entity receiving funding from the National Institutes of Health, the Agency for Healthcare Research and Quality, the Centers for Disease Control and Prevention, or the Veterans Health Administration can identify a person who the Food and Drug Administration can contact regarding the nomination of individuals to serve on advisory committees.

''(2) EVALUATION AND CRITERIA.—When considering a term appointment to an advisory committee, the Secretary shall review the expertise of the individual and the financial disclosure report filed by the individual pursuant to the Ethics in Government Act of 1978 for each individual under consideration for the appointment, so as to reduce the likelihood that an appointed individual will later require a written determination as referred to in section 208(b)(1) of title 18, United States Code, a written certification as referred to in section 208(b)(3) of title 18, United States Code, or a waiver as referred to in subsection (c)(2) of this section for service on the committee at a meeting of the committee.

''(c) DISCLOSURES; PROHIBITIONS ON PARTICIPATION; WAIVERS.—

''(1) DISCLOSURE OF FINANCIAL INTEREST.—Prior to a meeting of an advisory committee regarding a 'particular matter' (as that term is used in section 208 of title 18, United States Code), each member of the committee who is a full-time Government employee or special Government employee shall disclose to the Secretary financial interests in accordance with subsection (b) of such section 208.

''(2) PROHIBITIONS AND WAIVERS ON PARTICIPATION.—

''(A) IN GENERAL.—Except as provided under subparagraph (B), a member of an advisory committee may not participate with respect to a particular matter considered in an advisory committee meeting if such member (or an immediate family member of such member) has a financial interest that could be affected by the advice given to the Secretary with respect to such matter, excluding interests exempted in regulations issued by the Director of the Office of Government Ethics as too remote or inconsequential to affect the integrity of the services of the Government officers or employees to which such regulations apply.

''(B) WAIVER.—If the Secretary determines it necessary to afford the advisory committee essential expertise, the Secretary may grant a waiver of the prohibition in subparagraph (A) to permit a member described in such subparagraph to—

''(i) participate as a non-voting member with respect to a particular matter considered in a committee meeting; or

''(ii) participate as a voting member with respect to a particular matter considered in a committee meeting.

''(C) LIMITATION ON WAIVERS AND OTHER EXCEPTIONS.—

''(i) DEFINITION.—For purposes of this subparagraph, the term 'exception' means each of the following with respect to members of advisory committees:

''(I) A waiver under section 505(n)(4) (as in effect on the day before the date of the enactment of the Food and Drug Administration Amendments Act of 2007).

''(II) A written determination under section 208(b) of title 18, United States Code.

''(III) A written certification under section 208(b)(3) of such title.

''(ii) DETERMINATION OF TOTAL NUMBER OF MEMBERS SLOTS AND MEMBER EXCEPTIONS DURING FISCAL YEAR 2007.—The Secretary shall determine—

''(I)(aa) for each meeting held by any advisory committee during fiscal year 2007, the number of members who participated in the meeting; and

''(bb) the sum of the respective numbers determined under item (aa) (referred to in this subparagraph as the ''total number of 2007 meeting slots''); and

''(II)(aa) for each meeting held by any advisory committee during fiscal year 2007, the number of members who received an exception for the meeting; and

''(bb) the sum of the respective numbers determined under item (aa) (referred to in this subparagraph as the ''total number of 2007 meeting exceptions'').

''(iii) DETERMINATION OF PERCENTAGE REGARDING EXCEPTIONS DURING FISCAL YEAR 2007.—The Secretary shall determine the percentage constituted by—

''(I) the total number of 2007 meeting exceptions; divided by

''(II) the total number of 2007 meeting slots.

''(iv) LIMITATION FOR FISCAL YEARS 2008 THROUGH 2012.—The number of exceptions at the Food and Drug Administration for members of advisory committees for a fiscal year may not exceed the following:

''(I) For fiscal year 2008, 95 percent of the percentage determined under clause (iii) (referred to in this clause as the ''base percentage'').

''(II) For fiscal year 2009, 90 percent of the base percentage.

''(III) For fiscal year 2010, 85 percent of the base percentage.

''(IV) For fiscal year 2011, 80 percent of the base percentage.

''(V) For fiscal year 2012, 75 percent of the base percentage.

''(v) ALLOCATION OF EXCEPTIONS.—The exceptions authorized under clause (iv) for a fiscal year may be allocated within the centers or other organizational units of the Food and Drug Administration as determined appropriate by the Secretary.

''(3) DISCLOSURE OF WAIVER.—Notwithstanding section 107(a)(2) of the Ethics in Government Act (5 U.S.C. App.), the following shall apply:

''(A) 15 OR MORE DAYS IN ADVANCE.—As soon as practicable, but (except as provided in subparagraph (B)) not later than 15 days prior to a meeting of an advisory committee to which a written determination as referred to in section 208(b)(1) of title 18, United States Code, a written certification as referred to in section 208(b)(3) of title 18, United States Code, or a waiver as referred to in paragraph (2)(B) applies, the Secretary shall disclose (other than information exempted from disclosure under section 552 of title 5, United States Code, and section 552a of title 5, United States Code (popularly known as the Freedom of Information Act and the Privacy Act of 1974, respectively)) on the Internet Web site of the Food and Drug Administration—

''(i) the type, nature, and magnitude of the financial interests of the advisory committee member to which such determination, certification, or waiver applies; and

''(ii) the reasons of the Secretary for such determination, certification, or waiver.

''(B) LESS THAN 30 DAYS IN ADVANCE.—In the case of a financial interest that becomes known to the Secretary less than 30 days prior to a meeting of an advisory committee to which a written determination as referred to in section 208(b)(1) of title 18, United States Code, a written certification as referred to in section 208(b)(3) of title 18, United States Code, or a waiver as referred to in paragraph (2)(B) applies, the Secretary shall disclose (other than information exempted from disclosure under section 552 of title 5, United States Code, and section 552a of title 5, United States Code) on the Internet Web site of the Food and Drug Administration, the information described in clauses (i) and (ii) of subparagraph (A) as soon as practicable after the Secretary makes such determination, certification, or waiver, but in no case later than the date of such meeting.

''(d) PUBLIC RECORD.—The Secretary shall ensure that the public record and transcript of each meeting of an advisory committee includes the disclosure required under subsection (c)(3) (other than information exempted from disclosure under section 552 of title 5, United States Code, and section 552a of title 5, United States Code).

''(e) ANNUAL REPORT.—Not later than February 1 of each year, the Secretary shall submit to the Committee on Appropriations and the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Appropriations and the Committee on Energy and Commerce of the House of Representatives a report that describes—

''(1) with respect to the fiscal year that ended on September 30 of the previous year, the number of vacancies on each advisory committee, the number of nominees received for each committee, and the number of such nominees willing to serve;

''(2) with respect to such year, the aggregate number of disclosures required under subsection (c)(3) for each meeting of each advisory committee and the percentage of individuals to whom such disclosures did not apply who served on such committee for each such meeting;

''(3) with respect to such year, the number of times the disclosures required under subsection (c)(3) occurred under subparagraph (B) of such subsection; and

''(4) how the Secretary plans to reduce the number of vacancies reported under paragraph (1) during the fiscal year following such year, and mechanisms to encourage the nomination of individuals for service on an advisory committee, including those who are classified by the Food and Drug Administration as academicians or practitioners.

''(f) PERIODIC REVIEW OF GUIDANCE.—Not less than once every 5 years, the Secretary shall review guidance of the Food and Drug Administration regarding conflict of interest waiver determinations with respect to advisory committees and update such guidance as necessary.''.

(b) CONFORMING AMENDMENTS.—Section 505(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(n)) is amended by—

(1) striking paragraph (4); and

(2) redesignating paragraphs (5), (6), (7), and (8) as paragraphs (4), (5), (6), and (7), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2007.

TITLE VIII—CLINICAL TRIAL DATABASES

SEC. 801. EXPANDED CLINICAL TRIAL REGISTRY DATA BANK.

(a) IN GENERAL.—Section 402 of the Public Health Service Act (42 U.S.C. 282) is amended by—

(1) redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(2) inserting after subsection (i) the following:

''(j) EXPANDED CLINICAL TRIAL REGISTRY DATA BANK.—

''(1) DEFINITIONS; REQUIREMENT.—

''(A) DEFINITIONS.—In this subsection:

''(i) APPLICABLE CLINICAL TRIAL.—The term 'applicable clinical trial' means an applicable device clinical trial or an applicable drug clinical trial.

''(ii) APPLICABLE DEVICE CLINICAL TRIAL.—The term 'applicable device clinical trial' means—

''(I) a prospective clinical study of health outcomes comparing an intervention with a device subject to section 510(k), 515, or 520(m) of the Federal Food, Drug, and Cosmetic Act against a control in human subjects (other than a small clinical trial to determine the feasibility of a device, or a clinical trial to test prototype devices where the primary outcome measure relates to feasibility and not to health outcomes); and

''(II) a pediatric postmarket surveillance as required under section 522 of the Federal Food, Drug, and Cosmetic Act.

''(iii) APPLICABLE DRUG CLINICAL TRIAL.—

''(I) IN GENERAL.—The term 'applicable drug clinical trial' means a controlled clinical investigation, other than a phase I clinical investigation, of a drug subject to section 505 of the Federal Food, Drug, and Cosmetic Act or to section 351 of this Act.

''(II) CLINICAL INVESTIGATION.—For purposes of subclause (I), the term 'clinical investigation' has the meaning given that term in section 312.3 of title 21, Code of Federal Regulations (or any successor regulation).

''(III) PHASE I.—For purposes of subclause (I), the term 'phase I' has the meaning given that term in section 312.21 of title 21, Code of Federal Regulations (or any successor regulation).

''(iv) CLINICAL TRIAL INFORMATION.—The term 'clinical trial information' means, with respect to an applicable clinical trial, those data elements that the responsible party is required to submit under paragraph (2) or under paragraph (3).

''(v) COMPLETION DATE.—The term 'completion date' means, with respect to an applicable clinical trial, the date that the final subject was examined or received an intervention for the purposes of final collection of data for the primary outcome, whether the clinical trial concluded according to the prespecified protocol or was terminated.

''(vi) DEVICE.—The term 'device' means a device as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act.

''(vii) DRUG.—The term 'drug' means a drug as defined in section 201(g) of the Federal Food, Drug, and Cosmetic Act or a biological product as defined in section 351 of this Act.

''(viii) ONGOING.—The term 'ongoing' means, with respect to a clinical trial of a drug or a device and to a date, that—

''(I) 1 or more patients is enrolled in the clinical trial; and

''(II) the date is before the completion date of the clinical trial.

''(ix) RESPONSIBLE PARTY.—The term 'responsible party', with respect to a clinical trial of a drug or device, means—

''(I) the sponsor of the clinical trial (as defined in section 50.3 of title 21, Code of Federal Regulations (or any successor regulation)); or

''(II) the principal investigator of such clinical trial if so designated by a sponsor, grantee, contractor, or awardee, so long as the principal investigator is responsible for conducting the trial, has access to and control over the data from the clinical trial, has the right to publish the results of the trial, and has the ability to meet all of the requirements under this subsection for the submission of clinical trial information.

''(B) REQUIREMENT.—The Secretary shall develop a mechanism by which the responsible party for each applicable clinical trial shall submit the identity and contact information of such responsible party to the Secretary at the time of submission of clinical trial information under paragraph (2).

''(2) EXPANSION OF CLINICAL TRIAL REGISTRY DATA BANK WITH RESPECT TO CLINICAL TRIAL INFORMATION.—

''(A) IN GENERAL.—

''(i) EXPANSION OF DATA BANK.—To enhance patient enrollment and provide a mechanism to track subsequent progress of clinical trials, the Secretary, acting through the Director of NIH, shall expand, in accordance with this subsection, the clinical trials registry of the data bank described under subsection (i)(1) (referred to in this subsection as the 'registry data bank'). The Director of NIH shall ensure that the registry data bank is made publicly available through the Internet.

''(ii) CONTENT.—The clinical trial information required to be submitted under this paragraph for an applicable clinical trial shall include—

''(I) descriptive information, including—

''(aa) a brief title, intended for the lay public;

''(bb) a brief summary, intended for the lay public;

''(cc) the primary purpose;

''(dd) the study design;

''(ee) for an applicable drug clinical trial, the study phase;

''(ff) study type;

''(gg) the primary disease or condition being studied, or the focus of the study;

''(hh) the intervention name and intervention type;

''(ii) the study start date;

''(jj) the expected completion date;

''(kk) the target number of subjects; and

''(ll) outcomes, including primary and secondary outcome measures;

''(II) recruitment information, including—

''(aa) eligibility criteria;

''(bb) gender;

''(cc) age limits;

''(dd) whether the trial accepts healthy volunteers;

''(ee) overall recruitment status;

''(ff) individual site status; and

''(gg) in the case of an applicable drug clinical trial, if the drug is not approved under section 505 of the Federal Food, Drug, and Cosmetic Act or licensed under section 351 of this Act, specify whether or not there is expanded access to the drug under section 561 of the Federal Food, Drug, and Cosmetic Act for those who do not qualify for enrollment in the clinical trial and how to obtain information about such access;

''(III) location and contact information, including—

''(aa) the name of the sponsor;

''(bb) the responsible party, by official title; and

''(cc) the facility name and facility contact information (including the city, State, and zip code for each clinical trial location, or a toll-free number through which such location information may be accessed); and

''(IV) administrative data (which the Secretary may make publicly available as necessary), including—

''(aa) the unique protocol identification number;

''(bb) other protocol identification numbers, if any; and

''(cc) the Food and Drug Administration IND/IDE protocol number and the record verification date.

''(iii) MODIFICATIONS.—The Secretary may by regulation modify the requirements for clinical trial information under this paragraph, if the Secretary provides a rationale for why such a modification improves and does not reduce such clinical trial information.

''(B) FORMAT AND STRUCTURE.—

''(i) SEARCHABLE CATEGORIES.—The Director of NIH shall ensure that the public may, in addition to keyword searching, search the entries in the registry data bank by 1 or more of the following criteria:

''(I) The disease or condition being studied in the clinical trial, using Medical Subject Headers (MeSH) descriptors.

''(II) The name of the intervention, including any drug or device being studied in the clinical trial.

''(III) The location of the clinical trial.

''(IV) The age group studied in the clinical trial, including pediatric subpopulations.

''(V) The study phase of the clinical trial.

''(VI) The sponsor of the clinical trial, which may be the National Institutes of Health or another Federal agency, a private industry source, or a university or other organization.

''(VII) The recruitment status of the clinical trial.

''(VIII) The National Clinical Trial number or other study identification for the clinical trial.

''(ii) ADDITIONAL SEARCHABLE CATEGORY.—Not later than 18 months after the date of the enactment of the Food and Drug Administration Amendments Act of 2007, the Director of NIH shall ensure that the public may search the entries of the registry data bank by the safety issue, if any, being studied in the clinical trial as a primary or secondary outcome.

''(iii) OTHER ELEMENTS.—The Director of NIH shall also ensure that the public may search the entries of the registry data bank by such other elements as the Director deems necessary on an ongoing basis.

''(iv) FORMAT.—The Director of the NIH shall ensure that the registry data bank is easily used by the public, and that entries are easily compared.

''(C) DATA SUBMISSION.—The responsible party for an applicable clinical trial, including an applicable drug clinical trial for a serious or life-threatening disease or condition, that is initiated after, or is ongoing on the date that is 90 days after, the date of the enactment of the Food and Drug Administration Amendments Act of 2007, shall submit to the Director of NIH for inclusion in the registry data bank the clinical trial information described in of subparagraph (A)(ii) not later than the later of—

''(i) 90 days after such date of enactment;

''(ii) 21 days after the first patient is enrolled in such clinical trial; or

''(iii) in the case of a clinical trial that is not for a serious or life-threatening disease or condition and that is ongoing on such date of enactment, 1 year after such date of enactment.

''(D) POSTING OF DATA.—

''(i) APPLICABLE DRUG CLINICAL TRIAL.—The Director of NIH shall ensure that clinical trial information for an applicable drug clinical trial submitted in accordance with this paragraph is posted in the registry data bank not later than 30 days after such submission.

''(ii) APPLICABLE DEVICE CLINICAL TRIAL.—The Director of NIH shall ensure that clinical trial information for an applicable device clinical trial submitted in accordance with this paragraph is posted publicly in the registry data bank—

''(I) not earlier than the date of clearance under section 510(k) of the Federal Food, Drug, and Cosmetic Act, or approval under section 515 or 520(m) of such Act, as applicable, for a device that was not previously cleared or approved, and not later than 30 days after such date; or

''(II) for a device that was previously cleared or approved, not later than 30 days after the clinical trial information under paragraph (3)(C) is required to be posted by the Secretary.

''(3) EXPANSION OF REGISTRY DATA BANK TO INCLUDE RESULTS OF CLINICAL TRIALS.—

''(A) LINKING REGISTRY DATA BANK TO EXISTING RESULTS.—

''(i) IN GENERAL.—Beginning not later than 90 days after the date of the enactment of the Food and Drug Administration Amendments Act of 2007, for those clinical trials that form the primary basis of an efficacy claim or are conducted after the drug involved is approved or after the device involved is cleared or approved, the Secretary shall ensure that the registry data bank includes links to results information as described in clause (ii) for such clinical trial—

''(I) not earlier than 30 days after the date of the approval of the drug involved or clearance or approval of the device involved; or

''(II) not later than 30 days after the results information described in clause (ii) becomes publicly available.

''(ii) REQUIRED INFORMATION.—

''(I) FDA INFORMATION.—The Secretary shall ensure that the registry data bank includes links to the following information:

''(aa) If an advisory committee considered at a meeting an applicable clinical trial, any posted Food and Drug Administration summary document regarding such applicable clinical trial.

''(bb) If an applicable drug clinical trial was conducted under section 505A or 505B of the Federal Food, Drug, and Cosmetic Act, a link to the posted Food and Drug Administration assessment of the results of such trial.

''(cc) Food and Drug Administration public health advisories regarding the drug or device that is the subject of the applicable clinical trial, if any.

''(dd) For an applicable drug clinical trial, the Food and Drug Administration action package for approval document required under section 505(l)(2) of the Federal Food, Drug, and Cosmetic Act.

''(ee) For an applicable device clinical trial, in the case of a premarket application under section 515 of the Federal Food, Drug, and Cosmetic Act, the detailed summary of information respecting the safety and effectiveness of the device required under section 520(h)(1) of such Act, or, in the case of a report under section 510(k) of such Act, the section 510(k) summary of the safety and effectiveness data required under section 807.95(d) of title 21, Code of Federal Regulations (or any successor regulation).

''(II) NIH INFORMATION.—The Secretary shall ensure that the registry data bank includes links to the following information:

''(aa) Medline citations to any publications focused on the results of an applicable clinical trial.

''(bb) The entry for the drug that is the subject of an applicable drug clinical trial in the National Library of Medicine database of structured product labels, if available.

''(iii) RESULTS FOR EXISTING DATA BANK ENTRIES.—The Secretary may include the links described in clause (ii) for data bank entries for clinical trials submitted to the data bank prior to enactment of the Food and Drug Administration Amendments Act of 2007, as available.

''(B) INCLUSION OF RESULTS.—The Secretary, acting through the Director of NIH, shall—

''(i) expand the registry data bank to include the results of applicable clinical trials (referred to in this subsection as the 'registry and results data bank');

''(ii) ensure that such results are made publicly available through the Internet;

''(iii) post publicly a glossary for the lay public explaining technical terms related to the results of clinical trials; and

''(iv) in consultation with experts on risk communication, provide information with the information included under subparagraph (C) in the registry and results data bank to help ensure that such information does not mislead the patients or the public.

''(C) BASIC RESULTS.—Not later than 1 year after the date of the enactment of the Food and Drug Administration Amendments Act of 2007, the Secretary shall include in the registry and results data bank the following elements for drugs that are approved under section 505 of the Federal Food, Drug, and Cosmetic Act or licensed under section 351 of this Act and devices that are cleared under section 510(k) of the Federal Food, Drug, and Cosmetic Act or approved under section 515 or 520(m) of such Act:

''(i) DEMOGRAPHIC AND BASELINE CHARACTERISTICS OF PATIENT SAMPLE.—A table of the demographic and baseline data collected overall and for each arm of the clinical trial to describe the patients who participated in the clinical trial, including the number of patients who dropped out of the clinical trial and the number of patients excluded from the analysis, if any.

''(ii) PRIMARY AND SECONDARY OUTCOMES.—The primary and secondary outcome measures as submitted under paragraph (2)(A)(ii)(I)(ll), and a table of values for each of the primary and secondary outcome measures for each arm of the clinical trial, including the results of scientifically appropriate tests of the statistical significance of such outcome measures.

''(iii) POINT OF CONTACT.—A point of contact for scientific information about the clinical trial results.

''(iv) CERTAIN AGREEMENTS.—Whether there exists an agreement (other than an agreement solely to comply with applicable provisions of law protecting the privacy of participants) between the sponsor or its agent and the principal investigator (unless the sponsor is an employer of the principal investigator) that restricts in any manner the ability of the principal investigator, after the completion date of the trial, to discuss the results of the trial at a scientific meeting or any other public or private forum, or to publish in a scientific or academic journal information concerning the results of the trial.

''(D) EXPANDED REGISTRY AND RESULTS DATA BANK.—

''(i) EXPANSION BY RULEMAKING.—To provide more complete results information and to enhance patient access to and understanding of the results of clinical trials, not later than 3 years after the date of the enactment of the Food and Drug Administration Amendments Act of 2007, the Secretary shall by regulation expand the registry and results data bank as provided under this subparagraph.

''(ii) CLINICAL TRIALS.—

''(I) APPROVED PRODUCTS.—The regulations under this subparagraph shall require the inclusion of the results information described in clause (iii) for—

''(aa) each applicable drug clinical trial for a drug that is approved under section 505 of the Federal Food, Drug, and Cosmetic Act or licensed under section 351 of this Act; and

''(bb) each applicable device clinical trial for a device that is cleared under section 510(k) of the Federal Food, Drug, and Cosmetic Act or approved under section 515 or 520(m) of such Act.

''(II) UNAPPROVED PRODUCTS.—The regulations under this subparagraph shall establish whether or not the results information described in clause (iii) shall be required for—

''(aa) an applicable drug clinical trial for a drug that is not approved under section 505 of the Federal Food, Drug, and Cosmetic Act and not licensed under section 351 of this Act (whether approval or licensure was sought or not); and

''(bb) an applicable device clinical trial for a device that is not cleared under section 510(k) of the Federal Food, Drug, and Cosmetic Act and not approved under section 515 or section 520(m) of such Act (whether clearance or approval was sought or not).

''(iii) REQUIRED ELEMENTS.—The regulations under this subparagraph shall require, in addition to the elements described in subparagraph (C), information within each of the following categories:

''(I) A summary of the clinical trial and its results that is written in non-technical, understandable language for patients, if the Secretary determines that such types of summary can be included without being misleading or promotional.

''(II) A summary of the clinical trial and its results that is technical in nature, if the Secretary determines that such types of summary can be included without being misleading or promotional.

''(III) The full protocol or such information on the protocol for the trial as may be necessary to help to evaluate the results of the trial.

''(IV) Such other categories as the Secretary determines appropriate.

''(iv) RESULTS SUBMISSION.—The results information described in clause (iii) shall be submitted to the Director of NIH for inclusion in the registry and results data bank as provided by subparagraph (E), except that the Secretary shall by regulation determine—

''(I) whether the 1-year period for submission of clinical trial information described in subparagraph (E)(i) should be increased from 1 year to a period not to exceed 18 months;

''(II) whether the clinical trial information described in clause (iii) should be required to be submitted for an applicable clinical trial for which the clinical trial information described in subparagraph (C) is submitted to the registry and results data bank before the effective date of the regulations issued under this subparagraph; and

''(III) in the case when the clinical trial information described in clause (iii) is required to be submitted for the applicable clinical trials described in clause (ii)(II), the date by which such clinical trial information shall be required to be submitted, taking into account—

''(aa) the certification process under subparagraph (E)(iii) when approval, licensure, or clearance is sought; and

''(bb) whether there should be a delay of submission when approval, licensure, or clearance will not be sought.

''(v) ADDITIONAL PROVISIONS.—The regulations under this subparagraph shall also establish—

''(I) a standard format for the submission of clinical trial information under this paragraph to the registry and results data bank;

''(II) additional information on clinical trials and results that is written in nontechnical, understandable language for patients;

''(III) considering the experience under the pilot quality control project described in paragraph (5)(C), procedures for quality control, including using representative samples, with respect to completeness and content of clinical trial information under this subsection, to help ensure that data elements are not false or misleading and are non-promotional;

''(IV) the appropriate timing and requirements for updates of clinical trial information, and whether and, if so, how such updates should be tracked;

''(V) a statement to accompany the entry for an applicable clinical trial when the primary and secondary outcome measures for such clinical trial are submitted under paragraph (4)(A) after the date specified for the submission of such information in paragraph (2)(C); and

''(VI) additions or modifications to the manner of reporting of the data elements established under subparagraph (C).

''(vi) CONSIDERATION OF WORLD HEALTH ORGANIZATION DATA SET.—The Secretary shall consider the status of the consensus data elements set for reporting clinical trial results of the World Health Organization when issuing the regulations under this subparagraph.

''(vii) PUBLIC MEETING.—The Secretary shall hold a public meeting no later than 18 months after the date of the enactment of the Food and Drug Administration Amendments Act of 2007 to provide an opportunity for input from interested parties with regard to the regulations to be issued under this subparagraph.

''(E) SUBMISSION OF RESULTS INFORMATION.—

''(i) IN GENERAL.—Except as provided in clause (iii), (iv), (v), and (vi) the responsible party for an applicable clinical trial that is described in clause (ii) shall submit to the Director of NIH for inclusion in the registry and results data bank the clinical trial information described in subparagraph (C) not later than 1 year, or such other period as may be provided by regulation under subparagraph (D), after the earlier of—

''(I) the estimated completion date of the trial as described in paragraph (2)(A)(ii)(I)(jj)); or

''(II) the actual date of completion.

''(ii) CLINICAL TRIALS DESCRIBED.—An applicable clinical trial described in this clause is an applicable clinical trial subject to—

''(I) paragraph (2)(C); and

''(II)(aa) subparagraph (C); or

''(bb) the regulations issued under subparagraph (D).

''(iii) DELAYED SUBMISSION OF RESULTS WITH CERTIFICATION.—If the responsible party for an applicable clinical trial submits a certification that clause (iv) or (v) applies to such clinical trial, the responsible party shall submit to the Director of NIH for inclusion in the registry and results data bank the clinical trial information described in subparagraphs (C) and (D) as required under the applicable clause.

''(iv) SEEKING INITIAL APPROVAL OF A DRUG OR DEVICE.—With respect to an applicable clinical trial that is completed before the drug is initially approved under section 505 of the Federal Food, Drug, and Cosmetic Act or initially licensed under section 351 of this Act, or the device is initially cleared under section 510(k) or initially approved under section 515 or 520(m) of the Federal Food, Drug, and Cosmetic Act, the responsible party shall submit to the Director of NIH for inclusion in the registry and results data bank the clinical trial information described in subparagraphs (C) and (D) not later than 30 days after the drug or device is approved under such section 505, licensed under such section 351, cleared under such section 510(k), or approved under such section 515 or 520(m), as applicable.

''(v) SEEKING APPROVAL OF A NEW USE FOR THE DRUG OR DEVICE.—

''(I) IN GENERAL.—With respect to an applicable clinical trial where the manufacturer of the drug or device is the sponsor of an applicable clinical trial, and such manufacturer has filed, or will file within 1 year, an application seeking approval under section 505 of the Federal Food, Drug, and Cosmetic Act, licensing under section 351 of this Act, or clearance under section 510(k), or approval under section 515 or 520(m), of the Federal Food, Drug, and Cosmetic Act for the use studied in such clinical trial (which use is not included in the labeling of the approved drug or device), then the responsible party shall submit to the Director of NIH for inclusion in the registry and results data bank the clinical trial information described in subparagraphs (C) and (D) on the earlier of the date that is 30 days after the date—

''(aa) the new use of the drug or device is approved under such section 505, licensed under such section 351, cleared under such section 510(k), or approved under such section 515 or 520(m);

''(bb) the Secretary issues a letter, such as a complete response letter, not approving the submission or not clearing the submission, a not approvable letter, or a not substantially equivalent letter for the new use of the drug or device under such section 505, 351, 510(k), 515, or 520(m); or

''(cc) except as provided in subclause (III), the application or premarket notification under such section 505, 351, 510(k), 515, or 520(m) is withdrawn without resubmission for no less than 210 days.

''(II) REQUIREMENT THAT EACH CLINICAL TRIAL IN APPLICATION BE TREATED THE SAME.—If a manufacturer makes a certification under clause (iii) that this clause applies with respect to a clinical trial, the manufacturer shall make such a certification with respect to each applicable clinical trial that is required to be submitted in an application or report for licensure, approval, or clearance (under section 351 of this Act or section 505, 510(k), 515, or 520(m) of the Federal Food, Drug, and Cosmetic Act, as applicable) of the use studied in the clinical trial.

''(III) TWO-YEAR LIMITATION.—The responsible party shall submit to the Director of NIH for inclusion in the registry and results data bank the clinical trial information subject to subclause (I) on the date that is 2 years after the date a certification under clause (iii) was made to the Director of NIH, if an action referred to in item (aa), (bb), or (cc) of subclause (I) has not occurred by such date.

''(vi) EXTENSIONS.—The Director of NIH may provide an extension of the deadline for submission of clinical trial information under clause (i) if the responsible party for the trial submits to the Director a written request that demonstrates good cause for the extension and provides an estimate of the date on which the information will be submitted. The Director of NIH may grant more than one such extension for a clinical trial.

''(F) NOTICE TO DIRECTOR OF NIH.—The Commissioner of Food and Drugs shall notify the Director of NIH when there is an action described in subparagraph (E)(iv) or item (aa), (bb), or (cc) of subparagraph (E)(v)(I) with respect to an application or a report that includes a certification required under paragraph (5)(B) of such action not later than 30 days after such action.

''(G) POSTING OF DATA.—The Director of NIH shall ensure that the clinical trial information described in subparagraphs (C) and (D) for an applicable clinical trial submitted in accordance with this paragraph is posted publicly in the registry and results database not later than 30 days after such submission.

''(H) WAIVERS REGARDING CERTAIN CLINICAL TRIAL RESULTS.—The Secretary may waive any applicable requirements of this paragraph for an applicable clinical trial, upon a written request from the responsible party, if the Secretary determines that extraordinary circumstances justify the waiver and that providing the waiver is consistent with the protection of public health, or in the interest of national security. Not later than 30 days after any part of a waiver is granted, the Secretary shall notify, in writing, the appropriate committees of Congress of the waiver and provide an explanation for why the waiver was granted.

''(I) ADVERSE EVENTS.—

''(i) REGULATIONS.—Not later than 18 months after the date of the enactment of the Food and Drug Administration Amendments Act of 2007, the Secretary shall by regulation determine the best method for including in the registry and results data bank appropriate results information on serious adverse and frequent adverse events for drugs described in subparagraph (C) in a manner and form that is useful and not misleading to patients, physicians, and scientists.

''(ii) DEFAULT.—If the Secretary fails to issue the regulation required by clause (i) by the date that is 24 months after the date of the enactment of the Food and Drug Administration Amendments Act of 2007, clause (iii) shall take effect.

''(iii) ADDITIONAL ELEMENTS.—Upon the application of clause (ii), the Secretary shall include in the registry and results data bank for drugs described in subparagraph (C), in addition to the clinical trial information described in subparagraph (C), the following elements:

''(I) SERIOUS ADVERSE EVENTS.—A table of anticipated and unanticipated serious adverse events grouped by organ system, with number and frequency of such event in each arm of the clinical trial.

''(II) FREQUENT ADVERSE EVENTS.—A table of anticipated and unanticipated adverse events that are not included in the table described in subclause (I) that exceed a frequency of 5 percent within any arm of the clinical trial, grouped by organ system, with number and frequency of such event in each arm of the clinical trial.

''(iv) POSTING OF OTHER INFORMATION.—In carrying out clause (iii), the Secretary shall, in consultation with experts in risk communication, post with the tables information to enhance patient understanding and to ensure such tables do not mislead patients or the lay public.

''(v) RELATION TO SUBPARAGRAPH (C).—Clinical trial information included in the registry and results data bank pursuant to this subparagraph is deemed to be clinical trial information included in such data bank pursuant to subparagraph (C).

''(4) ADDITIONAL SUBMISSIONS OF CLINICAL TRIAL INFORMATION.—

''(A) VOLUNTARY SUBMISSIONS.—A responsible party for a clinical trial that is not an applicable clinical trial, or that is an applicable clinical trial that is not subject to paragraph (2)(C), may submit complete clinical trial information described in paragraph (2) or paragraph (3) provided the responsible party submits clinical trial information for each applicable clinical trial that is required to be submitted under section 351 or under section 505, 510(k), 515, or 520(m) of the Federal Food, Drug, and Cosmetic Act in an application or report for licensure, approval, or clearance of the drug or device for the use studied in the clinical trial.

''(B) REQUIRED SUBMISSIONS.—

''(i) IN GENERAL.—Notwithstanding paragraphs (2) and (3) and subparagraph (A), in any case in which the Secretary determines for a specific clinical trial described in clause (ii) that posting in the registry and results data bank of clinical trial information for such clinical trial is necessary to protect the public health—

''(I) the Secretary may require by notification that such information be submitted to the Secretary in accordance with paragraphs (2) and (3) except with regard to timing of submission;

''(II) unless the responsible party submits a certification under paragraph (3)(E)(iii), such information shall be submitted not later than 30 days after the date specified by the Secretary in the notification; and

''(III) failure to comply with the requirements under subclauses (I) and (II) shall be treated as a violation of the corresponding requirement of such paragraphs.

''(ii) CLINICAL TRIALS DESCRIBED.—A clinical trial described in this clause is—

''(I) an applicable clinical trial for a drug that is approved under section 505 of the Federal Food, Drug, and Cosmetic Act or licensed under section 351 of this Act or for a device that is cleared under section 510(k) of the Federal Food, Drug, and Cosmetic Act or approved under section 515 or section 520(m) of such Act, whose completion date is on or after the date 10 years before the date of the enactment of the Food and Drug Administration Amendments Act of 2007; or

''(II) an applicable clinical trial that is described by both by paragraph (2)(C) and paragraph (3)(D)(ii)(II)).

''(C) UPDATES TO CLINICAL TRIAL DATA BANK.—

''(i) SUBMISSION OF UPDATES.—The responsible party for an applicable clinical trial shall submit to the Director of NIH for inclusion in the registry and results data bank updates to reflect changes to the clinical trial information submitted under paragraph (2). Such updates—

''(I) shall be provided not less than once every 12 months, unless there were no changes to the clinical trial information during the preceding 12-month period;

''(II) shall include identification of the dates of any such changes;

''(III) not later than 30 days after the recruitment status of such clinical trial changes, shall include an update of the recruitment status; and

''(IV) not later than 30 days after the completion date of the clinical trial, shall include notification to the Director that such clinical trial is complete.

''(ii) PUBLIC AVAILABILITY OF UPDATES.—The Director of NIH shall make updates submitted under clause (i) publicly available in the registry data bank. Except with regard to overall recruitment status, individual site status, location, and contact information, the Director of NIH shall ensure that updates to elements required under subclauses (I) to (V) of paragraph (2)(A)(ii) do not result in the removal of any information from the original submissions or any preceding updates, and information in such databases is presented in a manner that enables users to readily access each original element submission and to track the changes made by the updates. The Director of NIH shall provide a link from the table of primary and secondary outcomes required under paragraph (3)(C)(ii) to the tracked history required under this clause of the primary and secondary outcome measures submitted under paragraph (2)(A)(ii)(I)(ll).

''(5) COORDINATION AND COMPLIANCE.—

''(A) CLINICAL TRIALS SUPPORTED BY GRANTS FROM FEDERAL AGENCIES.—

''(i) GRANTS FROM CERTAIN FEDERAL AGENCIES.—If an applicable clinical trial is funded in whole or in part by a grant from any agency of the Department of Health and Human Services, including the Food and Drug Administration, the National Institutes of Health, or the Agency for Healthcare Research and Quality, any grant or progress report forms required under such grant shall include a certification that the responsible party has made all required submissions to the Director of NIH under paragraph (2) and (3).

''(ii) VERIFICATION BY FEDERAL AGENCIES.—The heads of the agencies referred to in clause (i), as applicable, shall verify that the clinical trial information for each applicable clinical trial for which a grantee is the responsible party has been submitted under paragraph (2) and (3) before releasing any remaining funding for a grant or funding for a future grant to such grantee.

''(iii) NOTICE AND OPPORTUNITY TO REMEDY.—If the head of an agency referred to in clause (i), as applicable, verifies that a grantee has not submitted clinical trial information as described in clause (ii), such agency head shall provide notice to such grantee of such non-compliance and allow such grantee 30 days to correct such noncompliance and submit the required clinical trial information.

''(iv) CONSULTATION WITH OTHER FEDERAL AGENCIES.—The Secretary shall—

''(I) consult with other agencies that conduct research involving human subjects in accordance with any section of part 46 of title 45, Code of Federal Regulations (or any successor regulations), to determine if any such research is an applicable clinical trial; and

''(II) develop with such agencies procedures comparable to those described in clauses (i), (ii), and (iii) to ensure that clinical trial information for such applicable clinical trial is submitted under paragraph (2) and (3).

''(B) CERTIFICATION TO ACCOMPANY DRUG, BIOLOGICAL PRODUCT, AND DEVICE SUBMISSIONS.—At the time of submission of an application under section 505 of the Federal Food, Drug, and Cosmetic Act, section 515 of such Act, section 520(m) of such Act, or section 351 of this Act, or submission of a report under section 510(k) of such Act, such application or submission shall be accompanied by a certification that all applicable requirements of this subsection have been met.

Where available, such certification shall include the appropriate National Clinical Trial control numbers.

''(C) QUALITY CONTROL.—

''(i) PILOT QUALITY CONTROL PROJECT.—Until the effective date of the regulations issued under paragraph (3)(D), the Secretary, acting through the Director of NIH and the Commissioner of Food and Drugs, shall conduct a pilot project to determine the optimal method of verification to help to ensure that the clinical trial information submitted under paragraph (3)(C) is non-promotional and is not false or misleading in any particular under subparagraph (D). The Secretary shall use the publicly available information described in paragraph (3)(A) and any other information available to the Secretary about applicable clinical trials to verify the accuracy of the clinical trial information submitted under paragraph (3)(C).

''(ii) NOTICE OF COMPLIANCE.—If the Secretary determines that any clinical trial information was not submitted as required under this subsection, or was submitted but is false or misleading in any particular, the Secretary shall notify the responsible party and give such party an opportunity to remedy such noncompliance by submitting the required revised clinical trial information not later than 30 days after such notification.

''(D) TRUTHFUL CLINICAL TRIAL INFORMATION.—

''(i) IN GENERAL.—The clinical trial information submitted by a responsible party under this subsection shall not be false or misleading in any particular.

''(ii) EFFECT.—Clause (i) shall not have the effect of—

''(I) requiring clinical trial information with respect to an applicable clinical trial to include information from any source other than such clinical trial involved; or

''(II) requiring clinical trial information described in paragraph (3)(D) to be submitted for purposes of paragraph (3)(C).

''(E) PUBLIC NOTICES.—

''(i) NOTICE OF VIOLATIONS.—If the responsible party for an applicable clinical trial fails to submit clinical trial information for such clinical trial as required under paragraphs (2) or (3), the Director of NIH shall include in the registry and results data bank entry for such clinical trial a notice—

''(I) that the responsible party is not in compliance with this Act by—

''(aa) failing to submit required clinical trial information; or

''(bb) submitting false or misleading clinical trial information;

''(II) of the penalties imposed for the violation, if any; and

''(III) whether the responsible party has corrected the clinical trial information in the registry and results data bank.

''(ii) NOTICE OF FAILURE TO SUBMIT PRIMARY AND SECONDARY OUTCOMES.—If the responsible party for an applicable clinical trial fails to submit the primary and secondary outcomes as required under section 2(A)(ii)(I)(ll), the Director of NIH shall include in the registry and results data bank entry for such clinical trial a notice that the responsible party is not in compliance by failing to register the primary and secondary outcomes in accordance with this act, and that the primary and secondary outcomes were not publicly disclosed in the database before conducting the clinical trial.

''(iii) FAILURE TO SUBMIT STATEMENT.—The notice under clause (i) for a violation described in clause (i)(I)(aa) shall include the following statement: 'The entry for this clinical trial was not complete at the time of submission, as required by law. This may or may not have any bearing on the accuracy of the information in the entry.'.

''(iv) SUBMISSION OF FALSE INFORMATION STATEMENT.—The notice under clause (i) for a violation described in clause (i)(I)(bb) shall include the following statement: 'The entry for this clinical trial was found to be false or misleading and therefore not in compliance with the law.'.

''(v) NON-SUBMISSION OF STATEMENT.—The notice under clause (ii) for a violation described in clause (ii) shall include the following statement: 'The entry for this clinical trial did not contain information on the primary and secondary outcomes at the time of submission, as required by law. This may or may not have any bearing on the accuracy of the information in the entry.'

''(vi) COMPLIANCE SEARCHES.—The Director of NIH shall provide that the public may easily search the registry and results data bank for entries that include notices required under this subparagraph.

''(6) LIMITATION ON DISCLOSURE OF CLINICAL TRIAL INFORMATION.—

''(A) IN GENERAL.—Nothing in this subsection (or under section 552 of title 5, United States Code) shall require the Secretary to publicly disclose, by any means other than the registry and results data bank, information described in subparagraph (B).

''(B) INFORMATION DESCRIBED.—Information described in this subparagraph is—

''(i) information submitted to the Director of NIH under this subsection, or information of the same general nature as (or integrally associated with) the information so submitted; and

''(ii) information not otherwise publicly available, including because it is protected from disclosure under section 552 of title 5, United States Code.

''(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $10,000,000 for each fiscal year.''.

(b) CONFORMING AMENDMENTS.—

(1) PROHIBITED ACTS.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following:

''(jj)(1) The failure to submit the certification required by section 402(j)(5)(B) of the Public Health Service Act, or knowingly submitting a false certification under such section.

''(2) The failure to submit clinical trial information required under subsection (j) of section 402 of the Public Health Service Act.

''(3) The submission of clinical trial information under subsection (j) of section 402 of the Public Health Service Act that is false or misleading in any particular under paragraph (5)(D) of such subsection (j).''.

(2) CIVIL MONEY PENALTIES.—Subsection (f) of section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333), as redesignated by section 226, is amended—

(A) by redesignating paragraphs (3), (4), and (5) as paragraphs (5), (6), and (7), respectively;

(B) by inserting after paragraph (2) the following:

''(3)(A) Any person who violates section 301(jj) shall be subject to a civil monetary penalty of not more than $10,000 for all violations adjudicated in a single proceeding.

''(B) If a violation of section 301(jj) is not corrected within the 30-day period following notification under section 402(j)(5)(C)(ii), the person shall, in addition to any penalty under subparagraph (A), be subject to a civil monetary penalty of not more than $10,000 for each day of the violation after such period until the violation is corrected.'';

(C) in paragraph (2)(C), by striking ''paragraph (3)(A)'' and inserting ''paragraph (5)(A)'';

(D) in paragraph (5), as so redesignated, by striking ''paragraph (1) or (2)'' each place it appears and inserting ''paragraph (1), (2),or (3)'';

(E) in paragraph (6), as so redesignated, by striking ''paragraph (3)(A)'' and inserting ''paragraph (5)(A)''; and

(F) in paragraph (7), as so redesignated, by striking ''paragraph (4)'' each place it appears and inserting ''paragraph (6)''.

(3) NEW DRUGS AND DEVICES.—

(A) INVESTIGATIONAL NEW DRUGS.—Section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) is amended in paragraph (4), by adding at the end the following: ''The Secretary shall update such regulations to require inclusion in the informed consent documents and process a statement that clinical trial information for such clinical investigation has been or will be submitted for inclusion in the registry data bank pursuant to subsection (j) of section 402 of the Public Health Service Act.''.

(B) NEW DRUG APPLICATIONS.—Section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)) is amended by adding at the end the following:

''(6) An application submitted under this subsection shall be accompanied by the certification required under section 402(j)(5)(B) of the Public Health Service Act. Such certification shall not be considered an element of such application.''.

(C) DEVICE REPORTS UNDER SECTION 510(k).—Section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) is amended by adding at the end the following:

''A notification submitted under this subsection that contains clinical trial data for an applicable device clinical trial (as defined in section 402(j)(1) of the Public Health Service Act) shall be accompanied by the certification required under section 402(j)(5)(B) of such Act. Such certification shall not be considered an element of such notification.''.

(D) DEVICE PREMARKET APPROVAL APPLICATION.—Section 515(c)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(c)(1)) is amended—

(i) in subparagraph (F), by striking ''; and'' and inserting a semicolon;

(ii) by redesignating subparagraph (G) as subparagraph (H); and

(iii) by inserting after subparagraph (F) the following:

''(G) the certification required under section 402(j)(5)(B) of the Public Health Service Act (which shall not be considered an element of such application); and''.

(E) HUMANITARIAN DEVICE EXEMPTION.—Section 520(m)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(c)) is amended in the first sentence in the matter following subparagraph (C), by inserting at the end before the period ''and such application shall include the certification required under section 402(j)(5)(B) of the Public Health Service Act (which shall not be considered an element of such application)''.

(c) SURVEILLANCES.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue guidance on how the requirements of section 402(j) of the Public Health Service Act, as added by this section, apply to a pediatric postmarket surveillance described in paragraph (1)(A)(ii)(II) of such section 402(j) that is not a clinical trial.

(d) PREEMPTION.—

(1) IN GENERAL.—Upon the expansion of the registry and results data bank under section 402(j)(3)(D) of the Public Health Service Act, as added by this section, no State or political subdivision of a State may establish or continue in effect any requirement for the registration of clinical trials or for the inclusion of information relating to the results of clinical trials in a database.

(2) RULE OF CONSTRUCTION.—The fact of submission of clinical trial information, if

submitted in compliance with subsection (j) of section 402 of the Public Health Service Act (as amended by this section), that relates to a use of a drug or device not included in the official labeling of the approved drug or device shall not be construed by the Secretary of Health and Human Services or in any administrative or judicial proceeding, as evidence of a new intended use of the drug or device that is different from the intended use of the drug or device set forth in the official labeling of the drug or device. The availability of clinical trial information through the registry and results data bank under such subsection (j), if submitted in compliance with such subsection, shall not be considered as labeling, adulteration, or misbranding of the drug or device under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

TITLE IX—ENHANCED AUTHORITIES REGARDING POSTMARKET SAFETY OF DRUGS

Subtitle A—Postmarket Studies and Surveillance

SEC. 901. POSTMARKET STUDIES AND CLINICAL TRIALS REGARDING HUMAN DRUGS; RISK EVALUATION AND MITIGATION STRATEGIES.

(a) IN GENERAL.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended by adding at the end the following subsections:

''(o) POSTMARKET STUDIES AND CLINICAL TRIALS; LABELING.—

''(1) IN GENERAL.—A responsible person may not introduce or deliver for introduction into interstate commerce the new drug involved if the person is in violation of a requirement established under paragraph (3) or (4) with respect to the drug.

''(2) DEFINITIONS.—For purposes of this subsection:

''(A) RESPONSIBLE PERSON.—The term 'responsible person' means a person who—

''(i) has submitted to the Secretary a covered application that is pending; or

''(ii) is the holder of an approved covered application.

''(B) COVERED APPLICATION.—The term 'covered application' means—

''(i) an application under subsection (b) for a drug that is subject to section 503(b); and

''(ii) an application under section 351 of the Public Health Service Act.

''(C) NEW SAFETY INFORMATION; SERIOUS RISK.—The terms 'new safety information', 'serious risk', and 'signal of a serious risk' have the meanings given such terms in section 505–1(b).

''(3) STUDIES AND CLINICAL TRIALS.—

''(A) IN GENERAL.—For any or all of the purposes specified in subparagraph (B), the Secretary may, subject to subparagraph (D), require a responsible person for a drug to conduct a postapproval study or studies of the drug, or a postapproval clinical trial or trials of the drug, on the basis of scientific data deemed appropriate by the Secretary, including information regarding chemically-related or pharmacologically-related drugs.

''(B) PURPOSES OF STUDY OR CLINICAL TRIAL.—The purposes referred to in this subparagraph with respect to a postapproval study or postapproval clinical trial are the following:

''(i) To assess a known serious risk related to the use of the drug involved.

''(ii) To assess signals of serious risk related to the use of the drug.

''(iii) To identify an unexpected serious risk when available data indicates the potential for a serious risk.

''(C) ESTABLISHMENT OF REQUIREMENT AFTER APPROVAL OF COVERED APPLICATION.—The Secretary may require a postapproval study or studies or postapproval clinical trial or trials for a drug for which an approved covered application is in effect as of the date on which the Secretary seeks to establish such requirement only if the Secretary becomes aware of new safety information.

''(D) DETERMINATION BY SECRETARY.—

''(i) POSTAPPROVAL STUDIES.—The Secretary may not require the responsible person to conduct a study under this paragraph, unless the Secretary makes a determination that the reports under subsection (k)(1) and the active postmarket risk identification and analysis system as available under subsection (k)(3) will not be sufficient to meet the purposes set forth in subparagraph (B).

''(ii) POSTAPPROVAL CLINICAL TRIALS.—The Secretary may not require the responsible person to conduct a clinical trial under this paragraph, unless the Secretary makes a determination that a postapproval study or studies will not be sufficient to meet the purposes set forth in subparagraph (B).

''(E) NOTIFICATION; TIMETABLES; PERIODIC REPORTS.—

''(i) NOTIFICATION.—The Secretary shall notify the responsible person regarding a requirement under this paragraph to conduct a postapproval study or clinical trial by the target dates for communication of feedback from the review team to the responsible person regarding proposed labeling and postmarketing study commitments as set forth in the letters described in section 101(c) of the Food and Drug Administration Amendments Act of 2007.

''(ii) TIMETABLE; PERIODIC REPORTS.—For each study or clinical trial required to be conducted under this paragraph, the Secretary shall require that the responsible person submit a timetable for completion of the study or clinical trial. With respect to each study required to be conducted under this paragraph or otherwise undertaken by the responsible person to investigate a safety issue, the Secretary shall require the responsible person to periodically report to the Secretary on the status of such study including whether any difficulties in completing the study have been encountered. With respect to each clinical trial required to be conducted under this paragraph or otherwise undertaken by the responsible person to investigate a safety issue, the Secretary shall require the responsible person to periodically report to the Secretary on the status of such clinical trial including whether enrollment has begun, the number of participants enrolled, the expected completion date, whether any difficulties completing the clinical trial have been encountered, and registration information with respect to the requirements under section 402(j) of the Public Health Service Act. If the responsible person fails to comply with such timetable or violates any other requirement of this subparagraph, the responsible person shall be considered in violation of this subsection, unless the responsible person demonstrates good cause for such noncompliance or such other violation. The Secretary shall determine what constitutes good cause under the preceding sentence.

''(F) DISPUTE RESOLUTION.—The responsible person may appeal a requirement to conduct a study or clinical trial under this paragraph using dispute resolution procedures established by the Secretary in regulation and guidance.

''(4) SAFETY LABELING CHANGES REQUESTED BY SECRETARY.—

''(A) NEW SAFETY INFORMATION.—If the Secretary becomes aware of new safety information that the Secretary believes should be included in the labeling of the drug, the Secretary shall promptly notify the responsible person or, if the same drug approved under section 505(b) is not currently marketed, the holder of an approved application under 505(j).

''(B) RESPONSE TO NOTIFICATION.—Following notification pursuant to subparagraph (A), the responsible person or the holder of the approved application under section 505(j) shall within 30 days—

''(i) submit a supplement proposing changes to the approved labeling to reflect the new safety information, including changes to boxed warnings, contraindications, warnings, precautions, or adverse reactions; or

''(ii) notify the Secretary that the responsible person or the holder of the approved application under section 505(j) does not believe a labeling change is warranted and submit a statement detailing the reasons why such a change is not warranted.

''(C) REVIEW.—Upon receipt of such supplement, the Secretary shall promptly review and act upon such supplement. If the Secretary disagrees with the proposed changes in the supplement or with the statement setting forth the reasons why no labeling change is necessary, the Secretary shall initiate discussions to reach agreement on whether the labeling for the drug should be modified to reflect the new safety information, and if so, the contents of such labeling changes.

''(D) DISCUSSIONS.—Such discussions shall not extend for more than 30 days after the response to the notification under subparagraph (B), unless the Secretary determines an extension of such discussion period is warranted.

''(E) ORDER.—Within 15 days of the conclusion of the discussions under subparagraph (D), the Secretary may issue an order directing the responsible person or the holder of the approved application under section 505(j) to make such a labeling change as the Secretary deems appropriate to address the new safety information. Within 15 days of such an order, the responsible person or the holder of the approved application under section 505(j) shall submit a supplement containing the labeling change.

''(F) DISPUTE RESOLUTION.—Within 5 days of receiving an order under subparagraph (E), the responsible person or the holder of the approved application under section 505(j) may appeal using dispute resolution procedures established by the Secretary in regulation and guidance.

''(G) VIOLATION.—If the responsible person or the holder of the approved application under section 505(j) has not submitted a supplement within 15 days of the date of such order under subparagraph (E), and there is no appeal or dispute resolution proceeding pending, the responsible person or holder shall be considered to be in violation of this subsection. If at the conclusion of any dispute resolution procedures the Secretary determines that a supplement must be submitted and such a supplement is not submitted within 15 days of the date of that determination, the responsible person or holder shall be in violation of this subsection.

''(H) PUBLIC HEALTH THREAT.—Notwithstanding subparagraphs (A) through (F), if the Secretary concludes that such a labeling change is necessary to protect the public health, the Secretary may accelerate the timelines in such subparagraphs.

''(I) RULE OF CONSTRUCTION.—This paragraph shall not be construed to affect the responsibility of the responsible person or the holder of the approved application under section 505(j) to maintain its label in accordance with existing requirements, including subpart B of part 201 and sections 314.70 and 601.12 of title 21, Code of Federal Regulations (or any successor regulations).

''(5) NON-DELEGATION.—Determinations by the Secretary under this subsection for a

drug shall be made by individuals at or above the level of individuals empowered to approve a drug (such as division directors within the Center for Drug Evaluation and Research).

''(p) RISK EVALUATION AND MITIGATION STRATEGY.—

''(1) IN GENERAL.—A person may not introduce or deliver for introduction into interstate commerce a new drug if—

''(A)(i) the application for such drug is approved under subsection (b) or (j) and is subject to section 503(b); or

''(ii) the application for such drug is approved under section 351 of the Public Health Service Act; and

''(B) a risk evaluation and mitigation strategy is required under section 505–1 with respect to the drug and the person fails to maintain compliance with the requirements of the approved strategy or with other requirements under section 505–1, including requirements regarding assessments of approved strategies.

''(2) CERTAIN POSTMARKET STUDIES.—The failure to conduct a postmarket study under section 506, subpart H of part 314, or subpart E of part 601 of title 21, Code of Federal Regulations (or any successor regulations), is deemed to be a violation of paragraph (1).''.

(b) REQUIREMENTS REGARDING STRATEGIES.—Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 505 the following section:

''SEC. 505–1. RISK EVALUATION AND MITIGATION STRATEGIES.

''(a) SUBMISSION OF PROPOSED STRATEGY.—

''(1) INITIAL APPROVAL.—If the Secretary, in consultation with the office responsible for reviewing the drug and the office responsible for postapproval safety with respect to the drug, determines that a risk evaluation and mitigation strategy is necessary to ensure that the benefits of the drug outweigh the risks of the drug, and informs the person who submits such application of such determination, then such person shall submit to the Secretary as part of such application a proposed risk evaluation and mitigation strategy. In making such a determination, the Secretary shall consider the following factors:

''(A) The estimated size of the population likely to use the drug involved.

''(B) The seriousness of the disease or condition that is to be treated with the drug.

''(C) The expected benefit of the drug with respect to such disease or condition.

''(D) The expected or actual duration of treatment with the drug.

''(E) The seriousness of any known or potential adverse events that may be related to the drug and the background incidence of such events in the population likely to use the drug.

''(F) Whether the drug is a new molecular entity.

''(2) POSTAPPROVAL REQUIREMENT.—

''(A) IN GENERAL.—If the Secretary has approved a covered application (including an application approved before the effective date of this section) and did not when approving the application require a risk evaluation and mitigation strategy under paragraph (1), the Secretary, in consultation with the offices described in paragraph (1), may subsequently require such a strategy for the drug involved (including when acting on a supplemental application seeking approval of a new indication for use of the drug) if the Secretary becomes aware of new safety information and makes a determination that such a strategy is necessary to ensure that the benefits of the drug outweigh the risks of the drug.

''(B) SUBMISSION OF PROPOSED STRATEGY.—Not later than 120 days after the Secretary notifies the holder of an approved covered application that the Secretary has made a determination under subparagraph (A) with respect to the drug involved, or within such other reasonable time as the Secretary requires to protect the public health, the holder shall submit to the Secretary a proposed risk evaluation and mitigation strategy.

''(3) ABBREVIATED NEW DRUG APPLICATIONS.—The applicability of this section to an application under section 505(j) is subject to subsection (i).

''(4) NON-DELEGATION.—Determinations by the Secretary under this subsection for a drug shall be made by individuals at or above the level of individuals empowered to approve a drug (such as division directors within the Center for Drug Evaluation and Research).

''(b) DEFINITIONS.—For purposes of this section:

''(1) ADVERSE DRUG EXPERIENCE.—The term 'adverse drug experience' means any adverse event associated with the use of a drug in humans, whether or not considered drug related, including—

''(A) an adverse event occurring in the course of the use of the drug in professional practice;

''(B) an adverse event occurring from an overdose of the drug, whether accidental or intentional;

''(C) an adverse event occurring from abuse of the drug;

''(D) an adverse event occurring from withdrawal of the drug; and

''(E) any failure of expected pharmacological action of the drug.

''(2) COVERED APPLICATION.—The term 'covered application' means an application referred to in section 505(p)(1)(A).

''(3) NEW SAFETY INFORMATION.—The term 'new safety information', with respect to a drug, means information derived from a clinical trial, an adverse event report, a postapproval study (including a study under section 505(o)(3)), or peer-reviewed biomedical literature; data derived from the postmarket risk identification and analysis system under section 505(k); or other scientific data deemed appropriate by the Secretary about—

''(A) a serious risk or an unexpected serious risk associated with use of the drug that the Secretary has become aware of (that may be based on a new analysis of existing information) since the drug was approved, since the risk evaluation and mitigation strategy was required, or since the last assessment of the approved risk evaluation and mitigation strategy for the drug; or

''(B) the effectiveness of the approved risk evaluation and mitigation strategy for the drug obtained since the last assessment of such strategy.

''(4) SERIOUS ADVERSE DRUG EXPERIENCE.—The term 'serious adverse drug experience' is an adverse drug experience that—

''(A) results in—

''(i) death;

''(ii) an adverse drug experience that places the patient at immediate risk of death from the adverse drug experience as it occurred (not including an adverse drug experience that might have caused death had it occurred in a more severe form);

''(iii) inpatient hospitalization or prolongation of existing hospitalization;

''(iv) a persistent or significant incapacity or substantial disruption of the ability to conduct normal life functions; or

''(v) a congenital anomaly or birth defect; or

''(B) based on appropriate medical judgment, may jeopardize the patient and may require a medical or surgical intervention to prevent an outcome described under subparagraph (A).

''(5) SERIOUS RISK.—The term 'serious risk' means a risk of a serious adverse drug experience.

''(6) SIGNAL OF A SERIOUS RISK.—The term 'signal of a serious risk' means information related to a serious adverse drug experience associated with use of a drug and derived from—

''(A) a clinical trial;

''(B) adverse event reports;

''(C) a postapproval study, including a study under section 505(o)(3);

''(D) peer-reviewed biomedical literature;

''(E) data derived from the postmarket risk identification and analysis system under section 505(k)(4); or

''(F) other scientific data deemed appropriate by the Secretary.

''(7) RESPONSIBLE PERSON.—The term 'responsible person' means the person submitting a covered application or the holder of the approved such application.

''(8) UNEXPECTED SERIOUS RISK.—The term 'unexpected serious risk' means a serious adverse drug experience that is not listed in the labeling of a drug, or that may be symptomatically and pathophysiologically related to an adverse drug experience identified in the labeling, but differs from such adverse drug experience because of greater severity, specificity, or prevalence.

''(c) CONTENTS.—A proposed risk evaluation and mitigation strategy under subsection (a) shall—

''(1) include the timetable required under subsection (d); and

''(2) to the extent required by the Secretary, in consultation with the office responsible for reviewing the drug and the office responsible for postapproval safety with respect to the drug, include additional elements described in subsections (e) and (f).

''(d) MINIMAL STRATEGY.—For purposes of subsection (c)(1), the risk evaluation and mitigation strategy for a drug shall require a timetable for submission of assessments of the strategy that—

''(1) includes an assessment, by the date that is 18 months after the strategy is initially approved;

''(2) includes an assessment by the date that is 3 years after the strategy is initially approved;

''(3) includes an assessment in the seventh year after the strategy is so approved; and

''(4) subject to paragraphs (1), (2), and (3)—

''(A) is at a frequency specified in the strategy;

''(B) is increased or reduced in frequency as necessary as provided for in subsection (g)(4)(A); and

''(C) is eliminated after the 3-year period described in paragraph (1) if the Secretary determines that serious risks of the drug have been adequately identified and assessed and are being adequately managed.

''(e) ADDITIONAL POTENTIAL ELEMENTS OF STRATEGY.—

''(1) IN GENERAL.—The Secretary, in consultation with the offices described in subsection (c)(2), may under such subsection require that the risk evaluation and mitigation strategy for a drug include 1 or more of the additional elements described in this subsection if the Secretary makes the determination required with respect to each element involved.

''(2) MEDICATION GUIDE; PATIENT PACKAGE INSERT.—The risk evaluation and mitigation strategy for a drug may require that, as applicable, the responsible person develop for distribution to each patient when the drug is dispensed—

''(A) a Medication Guide, as provided for under part 208 of title 21, Code of Federal Regulations (or any successor regulations); and

''(B) a patient package insert, if the Secretary determines that such insert may help mitigate a serious risk of the drug.

''(3) COMMUNICATION PLAN.—The risk evaluation and mitigation strategy for a drug may require that the responsible person conduct a communication plan to health care providers, if, with respect to such drug, the Secretary determines that such plan may support implementation of an element of the strategy (including under this paragraph). Such plan may include—

''(A) sending letters to health care providers;

''(B) disseminating information about the elements of the risk evaluation and mitigation strategy to encourage implementation by health care providers of components that apply to such health care providers, or to explain certain safety protocols (such as medical monitoring by periodic laboratory tests); or

''(C) disseminating information to health care providers through professional societies about any serious risks of the drug and any protocol to assure safe use.

''(f) PROVIDING SAFE ACCESS FOR PATIENTS TO DRUGS WITH KNOWN SERIOUS RISKS THAT WOULD OTHERWISE BE UNAVAILABLE.—

''(1) ALLOWING SAFE ACCESS TO DRUGS WITH KNOWN SERIOUS RISKS.—The Secretary, in consultation with the offices described in subsection (c)(2), may require that the risk evaluation and mitigation strategy for a drug include such elements as are necessary to assure safe use of the drug, because of its inherent toxicity or potential harmfulness, if the Secretary determines that—

''(A) the drug, which has been shown to be effective, but is associated with a serious adverse drug experience, can be approved only if, or would be withdrawn unless, such elements are required as part of such strategy to mitigate a specific serious risk listed in the labeling of the drug; and

''(B) for a drug initially approved without elements to assure safe use, other elements under subsections (c), (d), and (e) are not sufficient to mitigate such serious risk.

''(2) ASSURING ACCESS AND MINIMIZING BURDEN.—Such elements to assure safe use under paragraph (1) shall—

''(A) be commensurate with the specific serious risk listed in the labeling of the drug;

''(B) within 30 days of the date on which any element under paragraph (1) is imposed, be posted publicly by the Secretary with an explanation of how such elements will mitigate the observed safety risk;

''(C) considering such risk, not be unduly burdensome on patient access to the drug, considering in particular—

''(i) patients with serious or life-threatening diseases or conditions; and

''(ii) patients who have difficulty accessing health care (such as patients in rural or medically underserved areas); and

''(D) to the extent practicable, so as to minimize the burden on the health care delivery system—

''(i) conform with elements to assure safe use for other drugs with similar, serious risks; and

''(ii) be designed to be compatible with established distribution, procurement, and dispensing systems for drugs.

''(3) ELEMENTS TO ASSURE SAFE USE.—The elements to assure safe use under paragraph (1) shall include 1 or more goals to mitigate a specific serious risk listed in the labeling of the drug and, to mitigate such risk, may require that—

''(A) health care providers who prescribe the drug have particular training or experience, or are specially certified (the opportunity to obtain such training or certification with respect to the drug shall be available to any willing provider from a frontier area in a widely available training or certification method (including an on-line course or via mail) as approved by the Secretary at reasonable cost to the provider);

''(B) pharmacies, practitioners, or health care settings that dispense the drug are specially certified (the opportunity to obtain such certification shall be available to any willing provider from a frontier area);

''(C) the drug be dispensed to patients only in certain health care settings, such as hospitals;

''(D) the drug be dispensed to patients with evidence or other documentation of safe-use conditions, such as laboratory test results;

''(E) each patient using the drug be subject to certain monitoring; or

''(F) each patient using the drug be enrolled in a registry.

''(4) IMPLEMENTATION SYSTEM.—The elements to assure safe use under paragraph (1) that are described in subparagraphs (B), (C), and (D) of paragraph (3) may include a system through which the applicant is able to take reasonable steps to—

''(A) monitor and evaluate implementation of such elements by health care providers, pharmacists, and other parties in the health care system who are responsible for implementing such elements; and

''(B) work to improve implementation of such elements by such persons.

''(5) EVALUATION OF ELEMENTS TO ASSURE SAFE USE.—The Secretary, through the Drug Safety and Risk Management Advisory Committee (or successor committee) of the Food and Drug Administration, shall—

''(A) seek input from patients, physicians, pharmacists, and other health care providers about how elements to assure safe use under this subsection for 1 or more drugs may be standardized so as not to be—

''(i) unduly burdensome on patient access to the drug; and

''(ii) to the extent practicable, minimize the burden on the health care delivery system;

''(B) at least annually, evaluate, for 1 or more drugs, the elements to assure safe use of such drug to assess whether the elements—

''(i) assure safe use of the drug;

''(ii) are not unduly burdensome on patient access to the drug; and

''(iii) to the extent practicable, minimize the burden on the health care delivery system; and

''(C) considering such input and evaluations—

''(i) issue or modify agency guidance about how to implement the requirements of this subsection; and

''(ii) modify elements under this subsection for 1 or more drugs as appropriate.

''(6) ADDITIONAL MECHANISMS TO ASSURE ACCESS.—The mechanisms under section 561 to provide for expanded access for patients with serious or life-threatening diseases or conditions may be used to provide access for patients with a serious or life-threatening disease or condition, the treatment of which is not an approved use for the drug, to a drug that is subject to elements to assure safe use under this subsection. The Secretary shall promulgate regulations for how a physician may provide the drug under the mechanisms of section 561.

''(7) WAIVER IN PUBLIC HEALTH EMERGENCIES.—The Secretary may waive any requirement of this subsection during the period described in section 319(a) of the Public Health Service Act with respect to a qualified countermeasure described under section 319F–1(a)(2) of such Act, to which a requirement under this subsection has been applied, if the Secretary has—

''(A) declared a public health emergency under such section 319; and

''(B) determined that such waiver is required to mitigate the effects of, or reduce the severity of, such public health emergency.

''(8) LIMITATION.—No holder of an approved covered application shall use any element to assure safe use required by the Secretary under this subsection to block or delay approval of an application under section 505(b)(2) or (j) or to prevent application of such element under subsection (i)(1)(B) to a drug that is the subject of an abbreviated new drug application.

''(g) ASSESSMENT AND MODIFICATION OF APPROVED STRATEGY.—

''(1) VOLUNTARY ASSESSMENTS.—After the approval of a risk evaluation and mitigation strategy under subsection (a), the responsible person involved may, subject to paragraph (2), submit to the Secretary an assessment of, and propose a modification to, the approved strategy for the drug involved at any time.

''(2) REQUIRED ASSESSMENTS.—A responsible person shall, subject to paragraph (5), submit an assessment of, and may propose a modification to, the approved risk evaluation and mitigation strategy for a drug—

''(A) when submitting a supplemental application for a new indication for use under section 505(b) or under section 351 of the Public Health Service Act, unless the drug is not subject to section 503(b) and the risk evaluation and mitigation strategy for the drug includes only the timetable under subsection (d);

''(B) when required by the strategy, as provided for in such timetable under subsection (d);

''(C) within a time period to be determined by the Secretary, if the Secretary, in consultation with the offices described in subsection (c)(2), determines that new safety or effectiveness information indicates that—

''(i) an element under subsection (d) or (e) should be modified or included in the strategy; or

''(ii) an element under subsection (f) should be modified or included in the strategy; or

''(D) within 15 days when ordered by the Secretary, in consultation with the offices described in subsection (c)(2), if the Secretary determines that there may be a cause for action by the Secretary under section 505(e).

''(3) REQUIREMENTS FOR ASSESSMENTS.—An assessment under paragraph (1) or (2) of an approved risk evaluation and mitigation strategy for a drug shall include—

''(A) with respect to any goal under subsection (f), an assessment of the extent to which the elements to assure safe use are meeting the goal or whether the goal or such elements should be modified;

''(B) with respect to any postapproval study required under section 505(o) or otherwise undertaken by the responsible person to investigate a safety issue, the status of such study, including whether any difficulties completing the study have been encountered; and

''(C) with respect to any postapproval clinical trial required under section 505(o) or otherwise undertaken by the responsible party to investigate a safety issue, the status of such clinical trial, including whether enrollment has begun, the number of participants enrolled, the expected completion date, whether any difficulties completing the clinical trial have been encountered, and registration information with respect to requirements under subsections (i) and (j) of section 402 of the Public Health Service Act.

''(4) MODIFICATION.—A modification (whether an enhancement or a reduction) to the approved risk evaluation and mitigation strategy for a drug may include the addition

or modification of any element under subsection (d) or the addition, modification, or removal of any element under subsection (e) or (f), such as—

''(A) modifying the timetable for assessments of the strategy as provided in subsection (d)(3), including to eliminate assessments; or

''(B) adding, modifying, or removing an element to assure safe use under subsection (f).

''(h) REVIEW OF PROPOSED STRATEGIES; REVIEW OF ASSESSMENTS OF APPROVED STRATEGIES.—

''(1) IN GENERAL.—The Secretary, in consultation with the offices described in subsection (c)(2), shall promptly review each proposed risk evaluation and mitigation strategy for a drug submitted under subsection (a) and each assessment of an approved risk evaluation and mitigation strategy for a drug submitted under subsection (g).

''(2) DISCUSSION.—The Secretary, in consultation with the offices described in subsection (c)(2), shall initiate discussions with the responsible person for purposes of this subsection to determine a strategy not later than 60 days after any such assessment is submitted or, in the case of an assessment submitted under subsection (g)(2)(D), not later than 30 days after such assessment is submitted.

''(3) ACTION.—

''(A) IN GENERAL.—Unless the dispute resolution process described under paragraph (4) or (5) applies, the Secretary, in consultation with the offices described in subsection (c)(2), shall describe any required risk evaluation and mitigation strategy for a drug, or any modification to any required strategy—

''(i) as part of the action letter on the application, when a proposed strategy is submitted under subsection (a) or a modification to the strategy is proposed as part of an assessment of the strategy submitted under subsection (g)(1); or

''(ii) in an order issued not later than 90 days after the date discussions of such modification begin under paragraph (2), when a modification to the strategy is proposed as part of an assessment of the strategy submitted under subsection (g)(1) or under any of subparagraphs (B) through (D) of subsection (g)(2).

''(B) INACTION.—An approved risk evaluation and mitigation strategy shall remain in effect until the Secretary acts, if the Secretary fails to act as provided under subparagraph (A).

''(C) PUBLIC AVAILABILITY.—Any action letter described in subparagraph (A)(i) or order described in subparagraph (A)(ii) shall be made publicly available.

''(4) DISPUTE RESOLUTION AT INITIAL APPROVAL.—If a proposed risk evaluation and mitigation strategy is submitted under subsection (a)(1) in an application for initial approval of a drug and there is a dispute about the strategy, the responsible person shall use the major dispute resolution procedures as set forth in the letters described in section 101(c) of the Food and Drug Administration Amendments Act of 2007.

''(5) DISPUTE RESOLUTION IN ALL OTHER CASES.—

''(A) REQUEST FOR REVIEW.—

''(i) IN GENERAL.—Not earlier than 15 days, and not later than 35 days, after discussions under paragraph (2) have begun, the responsible person may request in writing that a dispute about the strategy be reviewed by the Drug Safety Oversight Board under subsection (j), except that the determination of the Secretary to require a risk evaluation and mitigation strategy is not subject to review under this paragraph. The preceding sentence does not prohibit review under this paragraph of the particular elements of such a strategy.

''(ii) SCHEDULING.—Upon receipt of a request under clause (i), the Secretary shall schedule the dispute involved for review under subparagraph (B) and, not later than 5 business days of scheduling the dispute for review, shall publish by posting on the Internet or otherwise a notice that the dispute will be reviewed by the Drug Safety Oversight Board.

''(B) SCHEDULING REVIEW.—If a responsible person requests review under subparagraph (A), the Secretary—

''(i) shall schedule the dispute for review at 1 of the next 2 regular meetings of the Drug Safety Oversight Board, whichever meeting date is more practicable; or

''(ii) may convene a special meeting of the Drug Safety Oversight Board to review the matter more promptly, including to meet an action deadline on an application (including a supplemental application).

''(C) AGREEMENT AFTER DISCUSSION OR ADMINISTRATIVE APPEALS.—

''(i) FURTHER DISCUSSION OR ADMINISTRATIVE APPEALS.—A request for review under subparagraph (A) shall not preclude further discussions to reach agreement on the risk evaluation and mitigation strategy, and such a request shall not preclude the use of administrative appeals within the Food and Drug Administration to reach agreement on the strategy, including appeals as described in the letters described in section 101(c) of the Food and Drug Administration Amendments Act of 2007 for procedural or scientific matters involving the review of human drug applications and supplemental applications that cannot be resolved at the divisional level. At the time a review has been scheduled under subparagraph (B) and notice of such review has been posted, the responsible person shall either withdraw the request under subparagraph (A) or terminate the use of such administrative appeals.

''(ii) AGREEMENT TERMINATES DISPUTE RESOLUTION.—At any time before a decision and order is issued under subparagraph (G) , the Secretary (in consultation with the offices described in subsection (c)(2)) and the responsible person may reach an agreement on the risk evaluation and mitigation strategy through further discussion or administrative appeals, terminating the dispute resolution process, and the Secretary shall issue an action letter or order, as appropriate, that describes the strategy.

''(D) MEETING OF THE BOARD.—At a meeting of the Drug Safety Oversight Board described in subparagraph (B), the Board shall—

''(i) hear from both parties via written or oral presentation; and

''(ii) review the dispute.

''(E) RECORD OF PROCEEDINGS.—The Secretary shall ensure that the proceedings of any such meeting are recorded, transcribed, and made public within 90 days of the meeting. The Secretary shall redact the transcript to protect any trade secrets and other information that is exempted from disclosure under section 552 of title 5, United States Code, or section 552a of title 5, United States Code.

''(F) RECOMMENDATION OF THE BOARD.—Not later than 5 days after any such meeting, the Drug Safety Oversight Board shall provide a written recommendation on resolving the dispute to the Secretary. Not later than 5 days after the Board provides such written recommendation to the Secretary, the Secretary shall make the recommendation available to the public.

''(G) ACTION BY THE SECRETARY.—

''(i) ACTION LETTER.—With respect to a proposal or assessment referred to in paragraph (1), the Secretary shall issue an action letter that resolves the dispute not later than the later of—

''(I) the action deadline for the action letter on the application; or

''(II) 7 days after receiving the recommendation of the Drug Safety Oversight Board.

''(ii) ORDER.—With respect to an assessment of an approved risk evaluation and mitigation strategy under subsection (g)(1) or under any of subparagraphs (B) through (D) of subsection (g)(2), the Secretary shall issue an order, which shall be made public, that resolves the dispute not later than 7 days after receiving the recommendation of the Drug Safety Oversight Board.

''(H) INACTION.—An approved risk evaluation and mitigation strategy shall remain in effect until the Secretary acts, if the Secretary fails to act as provided for under subparagraph (G).

''(I) EFFECT ON ACTION DEADLINE.—With respect to a proposal or assessment referred to in paragraph (1), the Secretary shall be considered to have met the action deadline for the action letter on the application if the responsible person requests the dispute resolution process described in this paragraph and if the Secretary—

''(i) has initiated the discussions described under paragraph (2) not less than 60 days before such action deadline; and

''(ii) has complied with the timing requirements of scheduling review by the Drug Safety Oversight Board, providing a written recommendation, and issuing an action letter under subparagraphs (B), (F), and (G), respectively.

''(J) DISQUALIFICATION.—No individual who is an employee of the Food and Drug Administration and who reviews a drug or who participated in an administrative appeal under subparagraph (C)(i) with respect to such drug may serve on the Drug Safety Oversight Board at a meeting under subparagraph (D) to review a dispute about the risk evaluation and mitigation strategy for such drug.

''(K) ADDITIONAL EXPERTISE.—The Drug Safety Oversight Board may add members with relevant expertise from the Food and Drug Administration, including the Office of Pediatrics, the Office of Women's Health, or the Office of Rare Diseases, or from other Federal public health or health care agencies, for a meeting under subparagraph (D) of the Drug Safety Oversight Board.

''(6) USE OF ADVISORY COMMITTEES.—The Secretary may convene a meeting of 1 or more advisory committees of the Food and Drug Administration to—

''(A) review a concern about the safety of a drug or class of drugs, including before an assessment of the risk evaluation and mitigation strategy or strategies of such drug or drugs is required to be submitted under any of subparagraphs (B) through (D) of subsection (g)(2);

''(B) review the risk evaluation and mitigation strategy or strategies of a drug or group of drugs; or

''(C) review a dispute under paragraph (4) or (5).

''(7) PROCESS FOR ADDRESSING DRUG CLASS EFFECTS.—

''(A) IN GENERAL.—When a concern about a serious risk of a drug may be related to the pharmacological class of the drug, the Secretary, in consultation with the offices described in subsection (c)(2), may defer assessments of the approved risk evaluation and mitigation strategies for such drugs until the Secretary has convened 1 or more public meetings to consider possible responses to such concern.

''(B) NOTICE.—If the Secretary defers an assessment under subparagraph (A), the Secretary shall—

''(i) give notice of the deferral to the holder of the approved covered application not later than 5 days after the deferral;

''(ii) publish the deferral in the Federal Register; and

''(iii) give notice to the public of any public meetings to be convened under subparagraph (A), including a description of the deferral.

''(C) PUBLIC MEETINGS.—Such public meetings may include—

''(i) 1 or more meetings of the responsible person for such drugs;

''(ii) 1 or more meetings of 1 or more advisory committees of the Food and Drug Administration, as provided for under paragraph (6); or

''(iii) 1 or more workshops of scientific experts and other stakeholders.

''(D) ACTION.—After considering the discussions from any meetings under subparagraph (A), the Secretary may—

''(i) announce in the Federal Register a planned regulatory action, including a modification to each risk evaluation and mitigation strategy, for drugs in the pharmacological class;

''(ii) seek public comment about such action; and

''(iii) after seeking such comment, issue an order addressing such regulatory action.

''(8) INTERNATIONAL COORDINATION.—The Secretary, in consultation with the offices described in subsection (c)(2), may coordinate the timetable for submission of assessments under subsection (d), or a study or clinical trial under section 505(o)(3), with efforts to identify and assess the serious risks of such drug by the marketing authorities of other countries whose drug approval and risk management processes the Secretary deems comparable to the drug approval and risk management processes of the United States. If the Secretary takes action to coordinate such timetable, the Secretary shall give notice to the responsible person.

''(9) EFFECT.—Use of the processes described in paragraphs (7) and (8) shall not be the sole source of delay of action on an application or a supplement to an application for a drug.

''(i) ABBREVIATED NEW DRUG APPLICATIONS.—

''(1) IN GENERAL.—A drug that is the subject of an abbreviated new drug application under section 505(j) is subject to only the following elements of the risk evaluation and mitigation strategy required under subsection (a) for the applicable listed drug:

''(A) A Medication Guide or patient package insert, if required under subsection (e) for the applicable listed drug.

''(B) Elements to assure safe use, if required under subsection (f) for the listed drug. A drug that is the subject of an abbreviated new drug application and the listed drug shall use a single, shared system under subsection (f). The Secretary may waive the requirement under the preceding sentence for a drug that is the subject of an abbreviated new drug application, and permit the applicant to use a different, comparable aspect of the elements to assure safe use, if the Secretary determines that—

''(i) the burden of creating a single, shared system outweighs the benefit of a single, system, taking into consideration the impact on health care providers, patients, the applicant for the abbreviated new drug application, and the holder of the reference drug product; or

''(ii) an aspect of the elements to assure safe use for the applicable listed drug is claimed by a patent that has not expired or is a method or process that, as a trade secret, is entitled to protection, and the applicant for the abbreviated new drug application certifies that it has sought a license for use of an aspect of the elements to assure safe use for the applicable listed drug and that it was unable to obtain a license.

A certification under clause (ii) shall include a description of the efforts made by the applicant for the abbreviated new drug application to obtain a license. In a case described in clause (ii), the Secretary may seek to negotiate a voluntary agreement with the owner of the patent, method, or process for a license under which the applicant for such abbreviated new drug application may use an aspect of the elements to assure safe use, if required under subsection (f) for the applicable listed drug, that is claimed by a patent that has not expired or is a method or process that as a trade secret is entitled to protection.

''(2) ACTION BY SECRETARY.—For an applicable listed drug for which a drug is approved under section 505(j), the Secretary—

''(A) shall undertake any communication plan to health care providers required under subsection (e)(3) for the applicable listed drug; and

''(B) shall inform the responsible person for the drug that is so approved if the risk evaluation and mitigation strategy for the applicable listed drug is modified.

''(j) DRUG SAFETY OVERSIGHT BOARD.—

''(1) IN GENERAL.—There is established a Drug Safety Oversight Board.

''(2) COMPOSITION; MEETINGS.—The Drug Safety Oversight Board shall—

''(A) be composed of scientists and health care practitioners appointed by the Secretary, each of whom is an employee of the Federal Government;

''(B) include representatives from offices throughout the Food and Drug Administration, including the offices responsible for postapproval safety of drugs;

''(C) include at least 1 representative each from the National Institutes of Health and the Department of Health and Human Services (other than the Food and Drug Administration);

''(D) include such representatives as the Secretary shall designate from other appropriate agencies that wish to provide representatives; and

''(E) meet at least monthly to provide oversight and advice to the Secretary on the management of important drug safety issues.''.

(c) REGULATION OF BIOLOGICAL PRODUCTS.—Section 351 of the Public Health Service Act (42 U.S.C. 262) is amended—

(1) in subsection (a)(2), by adding at the end the following:

''(D) POSTMARKET STUDIES AND CLINICAL TRIALS; LABELING; RISK EVALUATION AND MITIGATION STRATEGY.—A person that submits an application for a license under this paragraph is subject to sections 505(o), 505(p), and 505–1 of the Federal Food, Drug, and Cosmetic Act.''; and

(2) in subsection (j), by inserting '', including the requirements under sections 505(o), 505(p), and 505–1 of such Act,'' after '', and Cosmetic Act''.

(d) ADVERTISEMENTS OF DRUGS.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), as amended by section 801(b), is amended—

(1) in section 301 (21 U.S.C. 331), by adding at the end the following:

''(kk) The dissemination of a television advertisement without complying with section 503B.''; and

(2) by inserting after section 503A the following:

''SEC. 503B. PREREVIEW OF TELEVISION ADVERTISEMENTS.

''(a) IN GENERAL.—The Secretary may require the submission of any television advertisement for a drug (including any script, story board, rough, or a completed video production of the television advertisement) to the Secretary for review under this section not later than 45 days before dissemination of the television advertisement.

''(b) REVIEW.—In conducting a review of a television advertisement under this section, the Secretary may make recommendations with respect to information included in the label of the drug—

''(1) on changes that are—

''(A) necessary to protect the consumer good and well-being; or

''(B) consistent with prescribing information for the product under review; and

''(2) if appropriate and if information exists, on statements for inclusion in the advertisement to address the specific efficacy of the drug as it relates to specific population groups, including elderly populations, children, and racial and ethnic minorities.

''(c) NO AUTHORITY TO REQUIRE CHANGES.—Except as provided by subsection (e), this section does not authorize the Secretary to make or direct changes in any material submitted pursuant to subsection (a).

''(d) ELDERLY POPULATIONS, CHILDREN, RACIALLY AND ETHNICALLY DIVERSE COMMUNITIES.—In formulating recommendations under subsection (b), the Secretary shall take into consideration the impact of the advertised drug on elderly populations, children, and racially and ethnically diverse communities.

''(e) SPECIFIC DISCLOSURES.—

''(1) SERIOUS RISK; SAFETY PROTOCOL.—In conducting a review of a television advertisement under this section, if the Secretary determines that the advertisement would be false or misleading without a specific disclosure about a serious risk listed in the labeling of the drug involved, the Secretary may require inclusion of such disclosure in the advertisement.

''(2) DATE OF APPROVAL.—In conducting a review of a television advertisement under this section, the Secretary may require the advertisement to include, for a period not to exceed 2 years from the date of the approval of the drug under section 505 or section 351 of the Public Health Service Act, a specific disclosure of such date of approval if the Secretary determines that the advertisement would otherwise be false or misleading.

''(f) RULE OF CONSTRUCTION.—Nothing in this section may be construed as having any effect on requirements under section 502(n) or on the authority of the Secretary under section 314.550, 314.640, 601.45, or 601.94 of title 21, Code of Federal Regulations (or successor regulations).''.

(3) DIRECT-TO-CONSUMER ADVERTISEMENTS.—

(A) IN GENERAL.—Section 502(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(n)) is amended by adding at the end the following: ''In the case of an advertisement for a drug subject to section 503(b)(1) presented directly to consumers in television or radio format and stating the name of the drug and its conditions of use, the major statement relating to side effects and contraindications shall be presented in a clear, conspicuous, and neutral manner.''.

(B) REGULATIONS TO DETERMINE CLEAR, CONSPICUOUS, AND NEUTRAL MANNER.—Not later than 30 months after the date of the enactment of the Food and Drug Administration Amendments Act of 2007, the Secretary of Health and Human Services shall by regulation establish standards for determining whether a major statement relating to side effects and contraindications of a drug, described in section 502(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(n)) (as amended by subparagraph (A)) is presented in the manner required under such section.

(4) CIVIL PENALTIES.—Section 303 of the Federal Food, Drug, and Cosmetic Act (21

U.S.C. 333), as amended by section 801(b), is amended by adding at the end the following:

''(g)(1) With respect to a person who is a holder of an approved application under section 505 for a drug subject to section 503(b) or under section 351 of the Public Health Service Act, any such person who disseminates or causes another party to disseminate a direct-to-consumer advertisement that is false or misleading shall be liable to the United States for a civil penalty in an amount not to exceed $250,000 for the first such violation in any 3-year period, and not to exceed $500,000 for each subsequent violation in any 3-year period. No other civil monetary penalties in this Act (including the civil penalty in section 303(f)(4)) shall apply to a violation regarding direct-to-consumer advertising. For purposes of this paragraph: (A) Repeated dissemination of the same or similar advertisement prior to the receipt of the written notice referred to in paragraph (2) for such advertisements shall be considered one violation. (B) On and after the date of the receipt of such a notice, all violations under this paragraph occurring in a single day shall be considered one violation. With respect to advertisements that appear in magazines or other publications that are published less frequently than daily, each issue date (whether weekly or monthly) shall be treated as a single day for the purpose of calculating the number of violations under this paragraph.

''(2) A civil penalty under paragraph (1) shall be assessed by the Secretary by an order made on the record after providing written notice to the person to be assessed a civil penalty and an opportunity for a hearing in accordance with this paragraph and section 554 of title 5, United States Code. If upon receipt of the written notice, the person to be assessed a civil penalty objects and requests a hearing, then in the course of any investigation related to such hearing, the Secretary may issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence that relates to the matter under investigation, including information pertaining to the factors described in paragraph (3).

''(3) The Secretary, in determining the amount of the civil penalty under paragraph (1), shall take into account the nature, circumstances, extent, and gravity of the violation or violations, including the following factors:

''(A) Whether the person submitted the advertisement or a similar advertisement for review under section 736A.

''(B) Whether the person submitted the advertisement for review if required under section 503B.

''(C) Whether, after submission of the advertisement as described in subparagraph (A) or (B), the person disseminated or caused another party to disseminate the advertisement before the end of the 45-day comment period.

''(D) Whether the person incorporated any comments made by the Secretary with regard to the advertisement into the advertisement prior to its dissemination.

''(E) Whether the person ceased distribution of the advertisement upon receipt of the written notice referred to in paragraph (2) for such advertisement.

''(F) Whether the person had the advertisement reviewed by qualified medical, regulatory, and legal reviewers prior to its dissemination.

''(G) Whether the violations were material.

''(H) Whether the person who created the advertisement or caused the advertisement to be created acted in good faith.

''(I) Whether the person who created the advertisement or caused the advertisement to be created has been assessed a civil penalty under this provision within the previous 1-year period.

''(J) The scope and extent of any voluntary, subsequent remedial action by the person.

''(K) Such other matters, as justice may require.

''(4)(A) Subject to subparagraph (B), no person shall be required to pay a civil penalty under paragraph (1) if the person submitted the advertisement to the Secretary and disseminated or caused another party to disseminate such advertisement after incorporating each comment received from the Secretary.

''(B) The Secretary may retract or modify any prior comments the Secretary has provided to an advertisement submitted to the Secretary based on new information or changed circumstances, so long as the Secretary provides written notice to the person of the new views of the Secretary on the advertisement and provides a reasonable time for modification or correction of the advertisement prior to seeking any civil penalty under paragraph (1).

''(5) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which may be assessed under paragraph (1). The amount of such penalty, when finally determined, or the amount charged upon in compromise, may be deducted from any sums owed by the United States to the person charged.

''(6) Any person who requested, in accordance with paragraph (2), a hearing with respect to the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty, may file a petition for de novo judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 60-day period beginning on the date the order making such assessments was issued.

''(7) If any person fails to pay an assessment of a civil penalty under paragraph (1)—

''(A) after the order making the assessment becomes final, and if such person does not file a petition for judicial review of the order in accordance with paragraph (6), or

''(B) after a court in an action brought under paragraph (6) has entered a final judgment in favor of the Secretary,

the Attorney General of the United States shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 60-day period referred to in paragraph (6) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.''.

(5) REPORT ON DIRECT-TO-CONSUMER ADVERTISING.—Not later than 24 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall report to the Congress on direct-to-consumer advertising and its ability to communicate to subsets of the general population, including elderly populations, children, and racial and ethnic minority communities. The Secretary shall utilize the Advisory Committee on Risk Communication established under this Act to advise the Secretary with respect to such report. The Advisory Committee shall study direct-to-consumer advertising as it relates to increased access to health information and decreased health disparities for these populations. The report required by this paragraph shall recommend effective ways to present and disseminate information to these populations. Such report shall also make recommendations regarding impediments to the participation of elderly populations, children, racially and ethnically diverse communities, and medically underserved populations in clinical drug trials and shall recommend best practice approaches for increasing the inclusion of such subsets of the general population. The Secretary of Health and Human Services shall submit the report under this paragraph to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives.

(6) RULEMAKING.—Section 502(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(n)) is amended by striking ''the procedure specified in section 701(e) of this Act'' and inserting ''section 701(a)''.

(e) RULE OF CONSTRUCTION REGARDING PEDIATRIC STUDIES.—This title and the amendments made by this title may not be construed as affecting the authority of the Secretary of Health and Human Services to request pediatric studies under section 505A of the Federal Food, Drug, and Cosmetic Act or to require such studies under section 505B of such Act.

SEC. 902. ENFORCEMENT.

(a) MISBRANDING.—Section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352) is amended by adding at the end the following:

''(y) If it is a drug subject to an approved risk evaluation and mitigation strategy pursuant to section 505(p) and the responsible person (as such term is used in section 505–1) fails to comply with a requirement of such strategy provided for under subsection (d), (e), or (f) of section 505–1.

''(z) If it is a drug, and the responsible person (as such term is used in section 505(o)) is in violation of a requirement established under paragraph (3) (relating to postmarket studies and clinical trials) or paragraph (4) (relating to labeling) of section 505(o) with respect to such drug.''.

(b) CIVIL PENALTIES.—Section 303(f) of the Federal Food, Drug, and Cosmetic Act, as amended by section 801(b), is amended—

(1) by inserting after paragraph (3), as added by section 801(b)(2), the following:

''(4)(A) Any responsible person (as such term is used in section 505–1) that violates a requirement of section 505(o), 505(p), or 505–1 shall be subject to a civil monetary penalty of—

''(i) not more than $250,000 per violation, and not to exceed $1,000,000 for all such violations adjudicated in a single proceeding; or

''(ii) in the case of a violation that continues after the Secretary provides written notice to the responsible person, the responsible person shall be subject to a civil monetary penalty of $250,000 for the first 30-day period (or any portion thereof) that the responsible person continues to be in violation, and such amount shall double for every 30-day period thereafter that the violation continues, not to exceed $1,000,000 for any 30-day period, and not to exceed $10,000,000 for all such violations adjudicated in a single proceeding.

''(B) In determining the amount of a civil penalty under subparagraph (A)(ii), the Secretary shall take into consideration whether the responsible person is making efforts toward correcting the violation of the requirement of section 505(o), 505(p), or 505–1 for which the responsible person is subject to such civil penalty.''; and

(2) in paragraph (5), as redesignated by section 801(b)(2)(A), by striking ''paragraph (1), (2), or (3)'' each place it appears and inserting ''paragraph (1), (2), (3), or (4)''.

SEC. 903. NO EFFECT ON WITHDRAWAL OR SUSPENSION OF APPROVAL.

Section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) is amended by adding at the end the following: ''The

Secretary may withdraw the approval of an application submitted under this section, or suspend the approval of such an application, as provided under this subsection, without first ordering the applicant to submit an assessment of the approved risk evaluation and mitigation strategy for the drug under section 505–1(g)(2)(D).''.

SEC. 904. BENEFIT-RISK ASSESSMENTS.

Not later than 1 year after the date of the enactment of this Act, the Commissioner of Food and Drugs shall submit to the Congress a report on how best to communicate to the public the risks and benefits of new drugs and the role of the risk evaluation and mitigation strategy in assessing such risks and benefits. As part of such study, the Commissioner may consider the possibility of including in the labeling and any direct-to-consumer advertisements of a newly approved drug or indication a unique symbol indicating the newly approved status of the drug or indication for a period after approval.

SEC. 905. ACTIVE POSTMARKET RISK IDENTIFICATION AND ANALYSIS.

(a) IN GENERAL.—Subsection (k) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended by adding at the end the following:

''(3) ACTIVE POSTMARKET RISK IDENTIFICATION.—

''(A) DEFINITION.—In this paragraph, the term 'data' refers to information with respect to a drug approved under this section or under section 351 of the Public Health Service Act, including claims data, patient survey data, standardized analytic files that allow for the pooling and analysis of data from disparate data environments, and any other data deemed appropriate by the Secretary.

''(B) DEVELOPMENT OF POSTMARKET RISK IDENTIFICATION AND ANALYSIS METHODS.—The Secretary shall, not later than 2 years after the date of the enactment of the Food and Drug Administration Amendments Act of 2007, in collaboration with public, academic, and private entities—

''(i) develop methods to obtain access to disparate data sources including the data sources specified in subparagraph (C);

''(ii) develop validated methods for the establishment of a postmarket risk identification and analysis system to link and analyze safety data from multiple sources, with the goals of including, in aggregate—

''(I) at least 25,000,000 patients by July 1, 2010; and

''(II) at least 100,000,000 patients by July 1, 2012; and

''(iii) convene a committee of experts, including individuals who are recognized in the field of protecting data privacy and security, to make recommendations to the Secretary on the development of tools and methods for the ethical and scientific uses for, and communication of, postmarketing data specified under subparagraph (C), including recommendations on the development of effective research methods for the study of drug safety questions.

''(C) ESTABLISHMENT OF THE POSTMARKET RISK IDENTIFICATION AND ANALYSIS SYSTEM.—

''(i) IN GENERAL.—The Secretary shall, not later than 1 year after the development of the risk identification and analysis methods under subparagraph (B), establish and maintain procedures—

''(I) for risk identification and analysis based on electronic health data, in compliance with the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996, and in a manner that does not disclose individually identifiable health information in violation of paragraph (4)(B);

''(II) for the reporting (in a standardized form) of data on all serious adverse drug experiences (as defined in section 505–1(b)) submitted to the Secretary under paragraph (1), and those adverse events submitted by patients, providers, and drug sponsors, when appropriate;

''(III) to provide for active adverse event surveillance using the following data sources, as available:

''(aa) Federal health-related electronic data (such as data from the Medicare program and the health systems of the Department of Veterans Affairs);

''(bb) private sector health-related electronic data (such as pharmaceutical purchase data and health insurance claims data); and

''(cc) other data as the Secretary deems necessary to create a robust system to identify adverse events and potential drug safety signals;

''(IV) to identify certain trends and patterns with respect to data accessed by the system;

''(V) to provide regular reports to the Secretary concerning adverse event trends, adverse event patterns, incidence and prevalence of adverse events, and other information the Secretary determines appropriate, which may include data on comparative national adverse event trends; and

''(VI) to enable the program to export data in a form appropriate for further aggregation, statistical analysis, and reporting.

''(ii) TIMELINESS OF REPORTING.—The procedures established under clause (i) shall ensure that such data are accessed, analyzed, and reported in a timely, routine, and systematic manner, taking into consideration the need for data completeness, coding, cleansing, and standardized analysis and transmission.

''(iii) PRIVATE SECTOR RESOURCES.—To ensure the establishment of the active postmarket risk identification and analysis system under this subsection not later than 1 year after the development of the risk identification and analysis methods under subparagraph (B), as required under clause (i), the Secretary may, on a temporary or permanent basis, implement systems or products developed by private entities.

''(iv) COMPLEMENTARY APPROACHES.—To the extent the active postmarket risk identification and analysis system under this subsection is not sufficient to gather data and information relevant to a priority drug safety question, the Secretary shall develop, support, and participate in complementary approaches to gather and analyze such data and information, including—

''(I) approaches that are complementary with respect to assessing the safety of use of a drug in domestic populations not included, or underrepresented, in the trials used to approve the drug (such as older people, people with comorbidities, pregnant women, or children); and

''(II) existing approaches such as the Vaccine Adverse Event Reporting System and the Vaccine Safety Datalink or successor databases.

''(v) AUTHORITY FOR CONTRACTS.—The Secretary may enter into contracts with public and private entities to fulfill the requirements of this subparagraph.

''(4) ADVANCED ANALYSIS OF DRUG SAFETY DATA.—

''(A) PURPOSE.—The Secretary shall establish collaborations with public, academic, and private entities, which may include the Centers for Education and Research on Therapeutics under section 912 of the Public Health Service Act, to provide for advanced analysis of drug safety data described in paragraph (3)(C) and other information that is publicly available or is provided by the Secretary, in order to—

''(i) improve the quality and efficiency of postmarket drug safety risk-benefit analysis;

''(ii) provide the Secretary with routine access to outside expertise to study advanced drug safety questions; and

''(iii) enhance the ability of the Secretary to make timely assessments based on drug safety data.

''(B) PRIVACY.—Such analysis shall not disclose individually identifiable health information when presenting such drug safety signals and trends or when responding to inquiries regarding such drug safety signals and trends.

''(C) PUBLIC PROCESS FOR PRIORITY QUESTIONS.—At least biannually, the Secretary shall seek recommendations from the Drug Safety and Risk Management Advisory Committee (or any successor committee) and from other advisory committees, as appropriate, to the Food and Drug Administration on—

''(i) priority drug safety questions; and

''(ii) mechanisms for answering such questions, including through—

''(I) active risk identification under paragraph (3); and

''(II) when such risk identification is not sufficient, postapproval studies and clinical trials under subsection (o)(3).

''(D) PROCEDURES FOR THE DEVELOPMENT OF DRUG SAFETY COLLABORATIONS.—

''(i) IN GENERAL.—Not later than 180 days after the date of the establishment of the active postmarket risk identification and analysis system under this subsection, the Secretary shall establish and implement procedures under which the Secretary may routinely contract with one or more qualified entities to—

''(I) classify, analyze, or aggregate data described in paragraph (3)(C) and information that is publicly available or is provided by the Secretary;

''(II) allow for prompt investigation of priority drug safety questions, including—

''(aa) unresolved safety questions for drugs or classes of drugs; and

''(bb) for a newly-approved drugs, safety signals from clinical trials used to approve the drug and other preapproval trials; rare, serious drug side effects; and the safety of use in domestic populations not included, or underrepresented, in the trials used to approve the drug (such as older people, people with comorbidities, pregnant women, or children);

''(III) perform advanced research and analysis on identified drug safety risks;

''(IV) focus postapproval studies and clinical trials under subsection (o)(3) more effectively on cases for which reports under paragraph (1) and other safety signal detection is not sufficient to resolve whether there is an elevated risk of a serious adverse event associated with the use of a drug; and

''(V) carry out other activities as the Secretary deems necessary to carry out the purposes of this paragraph.

''(ii) REQUEST FOR SPECIFIC METHODOLOGY.—The procedures described in clause (i) shall permit the Secretary to request that a specific methodology be used by the qualified entity. The qualified entity shall work with the Secretary to finalize the methodology to be used.

''(E) USE OF ANALYSES.—The Secretary shall provide the analyses described in this paragraph, including the methods and results of such analyses, about a drug to the sponsor or sponsors of such drug.

''(F) QUALIFIED ENTITIES.—

''(i) IN GENERAL.—The Secretary shall enter into contracts with a sufficient number of qualified entities to develop and provide information to the Secretary in a timely manner.

''(ii) QUALIFICATION.—The Secretary shall enter into a contract with an entity under clause (i) only if the Secretary determines that the entity has a significant presence in the United States and has one or more of the following qualifications:

''(I) The research, statistical, epidemiologic, or clinical capability and expertise to conduct and complete the activities under this paragraph, including the capability and expertise to provide the Secretary de-identified data consistent with the requirements of this subsection.

''(II) An information technology infrastructure in place to support electronic data and operational standards to provide security for such data.

''(III) Experience with, and expertise on, the development of drug safety and effectiveness research using electronic population data.

''(IV) An understanding of drug development or risk/benefit balancing in a clinical setting.

''(V) Other expertise which the Secretary deems necessary to fulfill the activities under this paragraph.

''(G) CONTRACT REQUIREMENTS.—Each contract with a qualified entity under subparagraph (F)(i) shall contain the following requirements:

''(i) ENSURING PRIVACY.—The qualified entity shall ensure that the entity will not use data under this subsection in a manner that—

''(I) violates the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996;

''(II) violates sections 552 or 552a of title 5, United States Code, with regard to the privacy of individually-identifiable beneficiary health information; or

''(III) discloses individually identifiable health information when presenting drug safety signals and trends or when responding to inquiries regarding drug safety signals and trends.

Nothing in this clause prohibits lawful disclosure for other purposes.

''(ii) COMPONENT OF ANOTHER ORGANIZATION.—If a qualified entity is a component of another organization—

''(I) the qualified entity shall establish appropriate security measures to maintain the confidentiality and privacy of such data; and

''(II) the entity shall not make an unauthorized disclosure of such data to the other components of the organization in breach of such confidentiality and privacy requirement.

''(iii) TERMINATION OR NONRENEWAL.—If a contract with a qualified entity under this subparagraph is terminated or not renewed, the following requirements shall apply:

''(I) CONFIDENTIALITY AND PRIVACY PROTECTIONS.—The entity shall continue to comply with the confidentiality and privacy requirements under this paragraph with respect to all data disclosed to the entity.

''(II) DISPOSITION OF DATA.—The entity shall return any data disclosed to such entity under this subsection to which it would not otherwise have access or, if returning the data is not practicable, destroy the data.

''(H) COMPETITIVE PROCEDURES.—The Secretary shall use competitive procedures (as defined in section 4(5) of the Federal Procurement Policy Act) to enter into contracts under subparagraph (G).

''(I) REVIEW OF CONTRACT IN THE EVENT OF A MERGER OR ACQUISITION.—The Secretary shall review the contract with a qualified entity under this paragraph in the event of a merger or acquisition of the entity in order to ensure that the requirements under this paragraph will continue to be met.

''(J) COORDINATION.—In carrying out this paragraph, the Secretary shall provide for appropriate communications to the public, scientific, public health, and medical communities, and other key stakeholders, and to the extent practicable shall coordinate with the activities of private entities, professional associations, or other entities that may have sources of drug safety data.''.

(b) RULE OF CONSTRUCTION.—Nothing in this section or the amendment made by this section shall be construed to prohibit the lawful disclosure or use of data or information by an entity other than as described in paragraph (4)(B) or (4)(G) of section 505(k) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a).

(c) REPORT TO CONGRESS.—Not later than 4 years after the date of the enactment of this Act, the Secretary shall report to the Congress on the ways in which the Secretary has used the active postmarket risk identification and analysis system described in paragraphs (3) and (4) of section 505(k) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), to identify specific drug safety signals and to better understand the outcomes associated with drugs marketed in the United States.

(d) AUTHORIZATION OF APPROPRIATIONS.—To carry out activities under the amendment made by this section for which funds are made available under section 736 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h), there are authorized to be appropriated to carry out the amendment made by this section, in addition to such funds, $25,000,000 for each of fiscal years 2008 through 2012.

(e) GAO REPORT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall evaluate data privacy, confidentiality, and security issues relating to accessing, transmitting, and maintaining data for the active postmarket risk identification and analysis system described in paragraphs (3) and (4) of section 505(k) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), and make recommendations to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate, and any other congressional committees of relevant jurisdiction, regarding the need for any additional legislative or regulatory actions to ensure privacy, confidentiality, and security of this data or otherwise address privacy, confidentiality, and security issues to ensure the effective operation of such active postmarket identification and analysis system.

SEC. 906. STATEMENT FOR INCLUSION IN DIRECT-TO-CONSUMER ADVERTISEMENTS OF DRUGS.

(a) PUBLISHED DIRECT-TO-CONSUMER ADVERTISEMENTS.—Section 502(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352), as amended by section 901(d)(6), is further amended by inserting ''and in the case of published direct-to-consumer advertisements the following statement printed in conspicuous text: 'You are encouraged to report negative side effects of prescription drugs to the FDA. Visit www.fda.gov/medwatch, or call 1–800-FDA-1088.','' after ''section 701(a),''.

(b) STUDY.—

(1) IN GENERAL.—In the case of direct-to-consumer television advertisements, the Secretary of Health and Human Services, in consultation with the Advisory Committee on Risk Communication under section 567 of the Federal Food, Drug, and Cosmetic Act (as added by section 917), shall, not later than 6 months after the date of the enactment of this Act, conduct a study to determine if the statement in section 502(n) of such Act (as added by subsection (a)) required with respect to published direct-to-consumer advertisements is appropriate for inclusion in such television advertisements.

(2) CONTENT.—As part of the study under paragraph (1), such Secretary shall consider whether the information in the statement described in paragraph (1) would detract from the presentation of risk information in a direct-to-consumer television advertisement. If such Secretary determines the inclusion of such statement is appropriate in direct-to-consumer television advertisements, such Secretary shall issue regulations requiring the implementation of such statement in direct-to-consumer television advertisements, including determining a reasonable length of time for displaying the statement in such advertisements. The Secretary shall report to the appropriate committees of Congress the findings of such study and any plans to issue regulations under this paragraph.

SEC. 907. NO EFFECT ON VETERINARY MEDICINE.

This subtitle, and the amendments made by this subtitle, shall have no effect on the use of drugs approved under section 505 of the Federal Food, Drug, and Cosmetic Act by, or on the lawful written or oral order of, a licensed veterinarian within the context of a veterinarian-client-patient relationship, as provided for under section 512(a)(5) of such Act.

SEC. 908. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—For carrying out this subtitle and the amendments made by this subtitle, there is authorized to be appropriated $25,000,000 for each of fiscal years 2008 through 2012.

(b) RELATION TO OTHER FUNDING.—The authorization of appropriations under subsection (a) is in addition to any other funds available for carrying out this subtitle and the amendments made by this subtitle.

SEC. 909. EFFECTIVE DATE AND APPLICABILITY.

(a) EFFECTIVE DATE.—This subtitle takes effect 180 days after the date of the enactment of this Act.

(b) DRUGS DEEMED TO HAVE RISK EVALUATION AND MITIGATION STRATEGIES.—

(1) IN GENERAL.—A drug that was approved before the effective date of this Act is, in accordance with paragraph (2), deemed to have in effect an approved risk evaluation and mitigation strategy under section 505–1 of the Federal Food, Drug, and Cosmetic Act (as added by section 901) (referred to in this section as the ''Act'') if there are in effect on the effective date of this Act elements to assure safe use—

(A) required under section 314.520 or section 601.42 of title 21, Code of Federal Regulations; or

(B) otherwise agreed to by the applicant and the Secretary for such drug.

(2) ELEMENTS OF STRATEGY; ENFORCEMENT.—The approved risk evaluation and mitigation strategy in effect for a drug under paragraph (1)—

(A) is deemed to consist of the timetable required under section 505–1(d) and any additional elements under subsections (e) and (f) of such section in effect for such drug on the effective date of this Act; and

(B) is subject to enforcement by the Secretary to the same extent as any other risk evaluation and mitigation strategy under section 505–1 of the Act, except that sections 303(f)(4) and 502(y) and (z) of the Act (as added by section 902) shall not apply to such strategy before the Secretary has completed review of, and acted on, the first assessment of such strategy under such section 505–1.

(3) SUBMISSION.—Not later than 180 days after the effective date of this Act, the holder of an approved application for which a risk evaluation and mitigation strategy is deemed to be in effect under paragraph (1) shall submit to the Secretary a proposed risk

evaluation and mitigation strategy. Such proposed strategy is subject to section 505–1 of the Act as if included in such application at the time of submission of the application to the Secretary.

Subtitle B—Other Provisions to Ensure Drug Safety and Surveillance

SEC. 911. CLINICAL TRIAL GUIDANCE FOR ANTIBIOTIC DRUGS.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 510 the following:

''SEC. 511. CLINICAL TRIAL GUIDANCE FOR ANTIBIOTIC DRUGS.

''(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this section, the Secretary shall issue guidance for the conduct of clinical trials with respect to antibiotic drugs, including antimicrobials to treat acute bacterial sinusitis, acute bacterial otitis media, and acute bacterial exacerbation of chronic bronchitis. Such guidance shall indicate the appropriate models and valid surrogate markers.

''(b) REVIEW.—Not later than 5 years after the date of the enactment of this section, the Secretary shall review and update the guidance described under subsection (a) to reflect developments in scientific and medical information and technology.''.

SEC. 912. PROHIBITION AGAINST FOOD TO WHICH DRUGS OR BIOLOGICAL PRODUCTS HAVE BEEN ADDED.

(a) PROHIBITION.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331), as amended by section 901(d), is amended by adding at the end the following:

''(ll) The introduction or delivery for introduction into interstate commerce of any food to which has been added a drug approved under section 505, a biological product licensed under section 351 of the Public Health Service Act, or a drug or a biological product for which substantial clinical investigations have been instituted and for which the existence of such investigations has been made public, unless—

''(1) such drug or such biological product was marketed in food before any approval of the drug under section 505, before licensure of the biological product under such section 351, and before any substantial clinical investigations involving the drug or the biological product have been instituted;

''(2) the Secretary, in the Secretary's discretion, has issued a regulation, after notice and comment, approving the use of such drug or such biological product in the food;

''(3) the use of the drug or the biological product in the food is to enhance the safety of the food to which the drug or the biological product is added or applied and not to have independent biological or therapeutic effects on humans, and the use is in conformity with—

''(A) a regulation issued under section 409 prescribing conditions of safe use in food;

''(B) a regulation listing or affirming conditions under which the use of the drug or the biological product in food is generally recognized as safe;

''(C) the conditions of use identified in a notification to the Secretary of a claim of exemption from the premarket approval requirements for food additives based on the notifier's determination that the use of the drug or the biological product in food is generally recognized as safe, provided that the Secretary has not questioned the general recognition of safety determination in a letter to the notifier;

''(D) a food contact substance notification that is effective under section 409(h); or

''(E) such drug or biological product had been marketed for smoking cessation prior to the date of the enactment of the Food and Drug Administration Amendments Act of 2007; or

''(4) the drug is a new animal drug whose use is not unsafe under section 512.''.

(b) CONFORMING CHANGES.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is amended—

(1) in section 304(a)(1), by striking ''section 404 or 505'' and inserting ''section 301(ll), 404, or 505''; and

(2) in section 801(a), by striking ''is adulterated, misbranded, or in violation of section 505,'' and inserting ''is adulterated, misbranded, or in violation of section 505, or prohibited from introduction or delivery for introduction into interstate commerce under section 301(ll),''.

SEC. 913. ASSURING PHARMACEUTICAL SAFETY.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.), as amended in section 403, is amended by inserting after section 505C the following:

''SEC. 505D. PHARMACEUTICAL SECURITY.

''(a) IN GENERAL.—The Secretary shall develop standards and identify and validate effective technologies for the purpose of securing the drug supply chain against counterfeit, diverted, subpotent, substandard, adulterated, misbranded, or expired drugs.

''(b) STANDARDS DEVELOPMENT.—

''(1) IN GENERAL.—The Secretary shall, in consultation with the agencies specified in paragraph (4), manufacturers, distributors, pharmacies, and other supply chain stakeholders, prioritize and develop standards for the identification, validation, authentication, and tracking and tracing of prescription drugs.

''(2) STANDARDIZED NUMERAL IDENTIFIER.—Not later than 30 months after the date of the enactment of the Food and Drug Administration Amendments Act of 2007, the Secretary shall develop a standardized numerical identifier (which, to the extent practicable, shall be harmonized with international consensus standards for such an identifier) to be applied to a prescription drug at the point of manufacturing and repackaging (in which case the numerical identifier shall be linked to the numerical identifier applied at the point of manufacturing) at the package or pallet level, sufficient to facilitate the identification, validation, authentication, and tracking and tracing of the prescription drug.

''(3) PROMISING TECHNOLOGIES.—The standards developed under this subsection shall address promising technologies, which may include—

''(A) radio frequency identification technology;

''(B) nanotechnology;

''(C) encryption technologies; and

''(D) other track-and-trace or authentication technologies.

''(4) INTERAGENCY COLLABORATION.—In carrying out this subsection, the Secretary shall consult with Federal health and security agencies, including—

''(A) the Department of Justice;

''(B) the Department of Homeland Security;

''(C) the Department of Commerce; and

''(D) other appropriate Federal and State agencies.

''(c) INSPECTION AND ENFORCEMENT.—

''(1) IN GENERAL.—The Secretary shall expand and enhance the resources and facilities of agency components of the Food and Drug Administration involved with regulatory and criminal enforcement of this Act to secure the drug supply chain against counterfeit, diverted, subpotent, substandard, adulterated, misbranded, or expired drugs including biological products and active pharmaceutical ingredients from domestic and foreign sources.

''(2) ACTIVITIES.—The Secretary shall undertake enhanced and joint enforcement activities with other Federal and State agencies, and establish regional capacities for the validation of prescription drugs and the inspection of the prescription drug supply chain.

''(d) DEFINITION.—In this section, the term 'prescription drug' means a drug subject to section 503(b)(1).''.

SEC. 914. CITIZEN PETITIONS AND PETITIONS FOR STAY OF AGENCY ACTION.

(a) IN GENERAL.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), as amended by section 901(a), is amended by adding at the end the following:

''(q) PETITIONS AND CIVIL ACTIONS REGARDING APPROVAL OF CERTAIN APPLICATIONS.—

''(1) IN GENERAL.—

''(A) DETERMINATION.—The Secretary shall not delay approval of a pending application submitted under subsection (b)(2) or (j) because of any request to take any form of action relating to the application, either before or during consideration of the request, unless—

''(i) the request is in writing and is a petition submitted to the Secretary pursuant to section 10.30 or 10.35 of title 21, Code of Federal Regulations (or any successor regulations); and

''(ii) the Secretary determines, upon reviewing the petition, that a delay is necessary to protect the public health.

''(B) NOTIFICATION.—If the Secretary determines under subparagraph (A) that a delay is necessary with respect to an application, the Secretary shall provide to the applicant, not later than 30 days after making such determination, the following information:

''(i) Notification of the fact that a determination under subparagraph (A) has been made.

''(ii) If applicable, any clarification or additional data that the applicant should submit to the docket on the petition to allow the Secretary to review the petition promptly.

''(iii) A brief summary of the specific substantive issues raised in the petition which form the basis of the determination.

''(C) FORMAT.—The information described in subparagraph (B) shall be conveyed via either, at the discretion of the Secretary—

''(i) a document; or

''(ii) a meeting with the applicant involved.

''(D) PUBLIC DISCLOSURE.—Any information conveyed by the Secretary under subparagraph (C) shall be considered part of the application and shall be subject to the disclosure requirements applicable to information in such application.

''(E) DENIAL BASED ON INTENT TO DELAY.—If the Secretary determines that a petition or a supplement to the petition was submitted with the primary purpose of delaying the approval of an application and the petition does not on its face raise valid scientific or regulatory issues, the Secretary may deny the petition at any point based on such determination. The Secretary may issue guidance to describe the factors that will be used to determine under this subparagraph whether a petition is submitted with the primary purpose of delaying the approval of an application.

''(F) FINAL AGENCY ACTION.—The Secretary shall take final agency action on a petition not later than 180 days after the date on which the petition is submitted. The Secretary shall not extend such period for any reason, including—

''(i) any determination made under subparagraph (A);

''(ii) the submission of comments relating to the petition or supplemental information supplied by the petitioner; or

''(iii) the consent of the petitioner.

''(G) EXTENSION OF 30-MONTH PERIOD.—If the filing of an application resulted in first-applicant status under subsection (j)(5)(D)(i)(IV) and approval of the application was delayed because of a petition, the 30-month period under such subsection is deemed to be extended by a period of time equal to the period beginning on the date on which the Secretary received the petition and ending on the date of final agency action on the petition (inclusive of such beginning and ending dates), without regard to whether the Secretary grants, in whole or in part, or denies, in whole or in part, the petition.

''(H) CERTIFICATION.—The Secretary shall not consider a petition for review unless the party submitting such petition does so in written form and the subject document is signed and contains the following certification: 'I certify that, to my best knowledge and belief: (a) this petition includes all information and views upon which the petition relies; (b) this petition includes representative data and/or information known to the petitioner which are unfavorable to the petition; and (c) I have taken reasonable steps to ensure that any representative data and/or information which are unfavorable to the petition were disclosed to me. I further certify that the information upon which I have based the action requested herein first became known to the party on whose behalf this petition is submitted on or about the following date: _____. If I received or expect to receive payments, including cash and other forms of consideration, to file this information or its contents, I received or expect to receive those payments from the following persons or organizations: _____. I verify under penalty of perjury that the foregoing is true and correct as of the date of the submission of this petition.', with the date on which such information first became known to such party and the names of such persons or organizations inserted in the first and second blank space, respectively.

''(I) VERIFICATION.—The Secretary shall not accept for review any supplemental information or comments on a petition unless the party submitting such information or comments does so in written form and the subject document is signed and contains the following verification: 'I certify that, to my best knowledge and belief: (a) I have not intentionally delayed submission of this document or its contents; and (b) the information upon which I have based the action requested herein first became known to me on or about _____. If I received or expect to receive payments, including cash and other forms of consideration, to file this information or its contents, I received or expect to receive those payments from the following persons or organizations: _____. I verify under penalty of perjury that the foregoing is true and correct as of the date of the submission of this petition.', with the date on which such information first became known to the party and the names of such persons or organizations inserted in the first and second blank space, respectively.

''(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—

''(A) FINAL AGENCY ACTION WITHIN 180 DAYS.—The Secretary shall be considered to have taken final agency action on a petition if—

''(i) during the 180-day period referred to in paragraph (1)(F), the Secretary makes a final decision within the meaning of section 10.45(d) of title 21, Code of Federal Regulations (or any successor regulation); or

''(ii) such period expires without the Secretary having made such a final decision.

''(B) DISMISSAL OF CERTAIN CIVIL ACTIONS.—If a civil action is filed against the Secretary with respect to any issue raised in the petition before the Secretary has taken final agency action on the petition within the meaning of subparagraph (A), the court shall dismiss without prejudice the action for failure to exhaust administrative remedies.

''(C) ADMINISTRATIVE RECORD.—For purposes of judicial review related to the approval of an application for which a petition under paragraph (1) was submitted, the administrative record regarding any issue raised by the petition shall include—

''(i) the petition filed under paragraph (1) and any supplements and comments thereto;

''(ii) the Secretary's response to such petition, if issued; and

''(iii) other information, as designated by the Secretary, related to the Secretary's determinations regarding the issues raised in such petition, as long as the information was considered by the agency no later than the date of final agency action as defined under subparagraph (2)(A), and regardless of whether the Secretary responded to the petition at or before the approval of the application at issue in the petition.

''(3) ANNUAL REPORT ON DELAYS IN APPROVALS PER PETITIONS.—The Secretary shall annually submit to the Congress a report that specifies—

''(A) the number of applications that were approved during the preceding 12-month period;

''(B) the number of such applications whose effective dates were delayed by petitions referred to in paragraph (1) during such period;

''(C) the number of days by which such applications were so delayed; and

''(D) the number of such petitions that were submitted during such period.

''(4) EXCEPTIONS.—This subsection does not apply to—

''(A) a petition that relates solely to the timing of the approval of an application pursuant to subsection (j)(5)(B)(iv); or

''(B) a petition that is made by the sponsor of an application and that seeks only to have the Secretary take or refrain from taking any form of action with respect to that application.

''(5) DEFINITIONS.—

''(A) APPLICATION.—For purposes of this subsection, the term 'application' means an application submitted under subsection (b)(2) or (j).

''(B) PETITION.—For purposes of this subsection, other than paragraph (1)(A)(i), the term 'petition' means a request described in paragraph (1)(A)(i).''.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Congress on ways to encourage the early submission of petitions under section 505(q), as added by subsection (a).

SEC. 915. POSTMARKET DRUG SAFETY INFORMATION FOR PATIENTS AND PROVIDERS.

Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), as amended by section 914(a), is amended by adding at the end the following:

''(r) POSTMARKET DRUG SAFETY INFORMATION FOR PATIENTS AND PROVIDERS.—

''(1) ESTABLISHMENT.—Not later than 1 year after the date of the enactment of the Food and Drug Administration Amendments Act of 2007, the Secretary shall improve the transparency of information about drugs and allow patients and health care providers better access to information about drugs by developing and maintaining an Internet Web site that—

''(A) provides links to drug safety information listed in paragraph (2) for prescription drugs that are approved under this section or licensed under section 351 of the Public Health Service Act; and

''(B) improves communication of drug safety information to patients and providers.

''(2) INTERNET WEB SITE.—The Secretary shall carry out paragraph (1) by—

''(A) developing and maintaining an accessible, consolidated Internet Web site with easily searchable drug safety information, including the information found on United States Government Internet Web sites, such as the United States National Library of Medicine's Daily Med and Medline Plus Web sites, in addition to other such Web sites maintained by the Secretary;

''(B) ensuring that the information provided on the Internet Web site is comprehensive and includes, when available and appropriate—

''(i) patient labeling and patient packaging inserts;

''(ii) a link to a list of each drug, whether approved under this section or licensed under such section 351, for which a Medication Guide, as provided for under part 208 of title 21, Code of Federal Regulations (or any successor regulations), is required;

''(iii) a link to the registry and results data bank provided for under subsections (i) and (j) of section 402 of the Public Health Service Act;

''(iv) the most recent safety information and alerts issued by the Food and Drug Administration for drugs approved by the Secretary under this section, such as product recalls, warning letters, and import alerts;

''(v) publicly available information about implemented RiskMAPs and risk evaluation and mitigation strategies under subsection (o);

''(vi) guidance documents and regulations related to drug safety; and

''(vii) other material determined appropriate by the Secretary;

''(C) providing access to summaries of the assessed and aggregated data collected from the active surveillance infrastructure under subsection (k)(3) to provide information of known and serious side-effects for drugs approved under this section or licensed under such section 351;

''(D) preparing, by 18 months after approval of a drug or after use of the drug by 10,000 individuals, whichever is later, a summary analysis of the adverse drug reaction reports received for the drug, including identification of any new risks not previously identified, potential new risks, or known risks reported in unusual number;

''(E) enabling patients, providers, and drug sponsors to submit adverse event reports through the Internet Web site;

''(F) providing educational materials for patients and providers about the appropriate means of disposing of expired, damaged, or unusable medications; and

''(G) supporting initiatives that the Secretary determines to be useful to fulfill the purposes of the Internet Web site.

''(3) POSTING OF DRUG LABELING.—The Secretary shall post on the Internet Web site established under paragraph (1) the approved professional labeling and any required patient labeling of a drug approved under this section or licensed under such section 351 not later than 21 days after the date the drug is approved or licensed, including in a supplemental application with respect to a labeling change.

''(4) PRIVATE SECTOR RESOURCES.—To ensure development of the Internet Web site by the date described in paragraph (1), the Secretary may, on a temporary or permanent basis, implement systems or products developed by private entities.

''(5) AUTHORITY FOR CONTRACTS.—The Secretary may enter into contracts with public

and private entities to fulfill the requirements of this subsection.

''(6) REVIEW.—The Advisory Committee on Risk Communication under section 567 shall, on a regular basis, perform a comprehensive review and evaluation of the types of risk communication information provided on the Internet Web site established under paragraph (1) and, through other means, shall identify, clarify, and define the purposes and types of information available to facilitate the efficient flow of information to patients and providers, and shall recommend ways for the Food and Drug Administration to work with outside entities to help facilitate the dispensing of risk communication information to patients and providers.''.

SEC. 916. ACTION PACKAGE FOR APPROVAL.

Section 505(l) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(l)) is amended by—

(1) redesignating paragraphs (1), (2), (3), (4), and (5) as subparagraphs (A), (B), (C), (D), and (E), respectively;

(2) striking ''(l) Safety and'' and inserting ''(l)(1) Safety and''; and

(3) adding at the end the following:

''(2) ACTION PACKAGE FOR APPROVAL.—

''(A) ACTION PACKAGE.—The Secretary shall publish the action package for approval of an application under subsection (b) or section 351 of the Public Health Service Act on the Internet Web site of the Food and Drug Administration—

''(i) not later than 30 days after the date of approval of such application for a drug no active ingredient (including any ester or salt of the active ingredient) of which has been approved in any other application under this section or section 351 of the Public Health Service Act; and

''(ii) not later than 30 days after the third request for such action package for approval received under section 552 of title 5, United States Code, for any other drug.

''(B) IMMEDIATE PUBLICATION OF SUMMARY REVIEW.—Notwithstanding subparagraph (A), the Secretary shall publish, on the Internet Web site of the Food and Drug Administration, the materials described in subparagraph (C)(iv) not later than 48 hours after the date of approval of the drug, except where such materials require redaction by the Secretary.

''(C) CONTENTS.—An action package for approval of an application under subparagraph (A) shall be dated and shall include the following:

''(i) Documents generated by the Food and Drug Administration related to review of the application.

''(ii) Documents pertaining to the format and content of the application generated during drug development.

''(iii) Labeling submitted by the applicant.

''(iv) A summary review that documents conclusions from all reviewing disciplines about the drug, noting any critical issues and disagreements with the applicant and within the review team and how they were resolved, recommendations for action, and an explanation of any nonconcurrence with review conclusions.

''(v) The Division Director and Office Director's decision document which includes—

''(I) a brief statement of concurrence with the summary review;

''(II) a separate review or addendum to the review if disagreeing with the summary review; and

''(III) a separate review or addendum to the review to add further analysis.

''(vi) Identification by name of each officer or employee of the Food and Drug Administration who—

''(I) participated in the decision to approve the application; and

''(II) consents to have his or her name included in the package.

''(D) REVIEW.—A scientific review of an application is considered the work of the reviewer and shall not be altered by management or the reviewer once final.

''(E) CONFIDENTIAL INFORMATION.—This paragraph does not authorize the disclosure of any trade secret, confidential commercial or financial information, or other matter listed in section 552(b) of title 5, United States Code.''.

SEC. 917. RISK COMMUNICATION.

Subchapter E of chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb et seq.), as amended by section 603, is amended by adding at the end the following:

''SEC. 567. RISK COMMUNICATION.

''(a) ADVISORY COMMITTEE ON RISK COMMUNICATION.—

''(1) IN GENERAL.—The Secretary shall establish an advisory committee to be known as the 'Advisory Committee on Risk Communication' (referred to in this section as the 'Committee').

''(2) DUTIES OF COMMITTEE.—The Committee shall advise the Commissioner on methods to effectively communicate risks associated with the products regulated by the Food and Drug Administration.

''(3) MEMBERS.—The Secretary shall ensure that the Committee is composed of experts on risk communication, experts on the risks described in subsection (b), and representatives of patient, consumer, and health professional organizations.

''(4) PERMANENCE OF COMMITTEE.—Section 14 of the Federal Advisory Committee Act shall not apply to the Committee established under this subsection.

''(b) PARTNERSHIPS FOR RISK COMMUNICATION.—

''(1) IN GENERAL.—The Secretary shall partner with professional medical societies, medical schools, academic medical centers, and other stakeholders to develop robust and multi-faceted systems for communication to health care providers about emerging postmarket drug risks.

''(2) PARTNERSHIPS.—The systems developed under paragraph (1) shall—

''(A) account for the diversity among physicians in terms of practice, willingness to adopt technology, and medical specialty; and

''(B) include the use of existing communication channels, including electronic communications, in place at the Food and Drug Administration.''.

SEC. 918. REFERRAL TO ADVISORY COMMITTEE.

Section 505 of the Federal Food, Drug, and Cosmetic Act, as amended by section 915, is further amended by adding at the end the following:

''(s) REFERRAL TO ADVISORY COMMITTEE.—Prior to the approval of a drug no active ingredient (including any ester or salt of the active ingredient) of which has been approved in any other application under this section or section 351 of the Public Health Service Act, the Secretary shall—

''(1) refer such drug to a Food and Drug Administration advisory committee for review at a meeting of such advisory committee; or

''(2) if the Secretary does not refer such a drug to a Food and Drug Administration advisory committee prior to the approval of the drug, provide in the action letter on the application for the drug a summary of the reasons why the Secretary did not refer the drug to an advisory committee prior to approval.''.

SEC. 919. RESPONSE TO THE INSTITUTE OF MEDICINE.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this title, the Secretary shall issue a report responding to the 2006 report of the Institute of Medicine entitled ''The Future of Drug Safety—Promoting and Protecting the Health of the Public''.

(b) CONTENT OF REPORT.—The report issued by the Secretary under subsection (a) shall include—

(1) an update on the implementation by the Food and Drug Administration of its plan to respond to the Institute of Medicine report described under such subsection; and

(2) an assessment of how the Food and Drug Administration has implemented—

(A) the recommendations described in such Institute of Medicine report; and

(B) the requirement under section 505–1(c)(2) of the Federal Food, Drug, and Cosmetic Act (as added by this title), that the appropriate office responsible for reviewing a drug and the office responsible for post-approval safety with respect to the drug work together to assess, implement, and ensure compliance with the requirements of such section 505–1.

SEC. 920. DATABASE FOR AUTHORIZED GENERIC DRUGS.

Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), as amended by section 918, is further amended by adding at the end the following:

''(t) DATABASE FOR AUTHORIZED GENERIC DRUGS.—

''(1) IN GENERAL.—

''(A) PUBLICATION.—The Commissioner shall—

''(i) not later than 9 months after the date of the enactment of the Food and Drug Administration Amendments Act of 2007, publish a complete list on the Internet Web site of the Food and Drug Administration of all authorized generic drugs (including drug trade name, brand company manufacturer, and the date the authorized generic drug entered the market); and

''(ii) update the list quarterly to include each authorized generic drug included in an annual report submitted to the Secretary by the sponsor of a listed drug during the preceding 3-month period.

''(B) NOTIFICATION.—The Commissioner shall notify relevant Federal agencies, including the Centers for Medicare & Medicaid Services and the Federal Trade Commission, when the Commissioner first publishes the information described in subparagraph (A) that the information has been published and that the information will be updated quarterly.

''(2) INCLUSION.—The Commissioner shall include in the list described in paragraph (1) each authorized generic drug included in an annual report submitted to the Secretary by the sponsor of a listed drug after January 1, 1999.

''(3) AUTHORIZED GENERIC DRUG.—In this section, the term 'authorized generic drug' means a listed drug (as that term is used in subsection (j)) that—

''(A) has been approved under subsection (c); and

''(B) is marketed, sold, or distributed directly or indirectly to retail class of trade under a different labeling, packaging (other than repackaging as the listed drug in blister packs, unit doses, or similar packaging for use in institutions), product code, labeler code, trade name, or trade mark than the listed drug.''.

SEC. 921. ADVERSE DRUG REACTION REPORTS AND POSTMARKET SAFETY.

Subsection (k) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), as amended by section 905, is amended by adding at the end the following:

''(5) The Secretary shall—

''(A) conduct regular, bi-weekly screening of the Adverse Event Reporting System database and post a quarterly report on the

Adverse Event Reporting System Web site of any new safety information or potential signal of a serious risk identified by Adverse Event Reporting System within the last quarter;

''(B) report to Congress not later than 2 year after the date of the enactment of the Food and Drug Administration Amendments Act of 2007 on procedures and processes of the Food and Drug Administration for addressing ongoing post market safety issues identified by the Office of Surveillance and Epidemiology and how recommendations of the Office of Surveillance and Epidemiology are handled within the agency; and

''(C) on an annual basis, review the entire backlog of postmarket safety commitments to determine which commitments require revision or should be eliminated, report to the Congress on these determinations, and assign start dates and estimated completion dates for such commitments.''.

TITLE X—FOOD SAFETY

SEC. 1001. FINDINGS.

Congress finds that—

(1) the safety and integrity of the United States food supply are vital to public health, to public confidence in the food supply, and to the success of the food sector of the Nation's economy;

(2) illnesses and deaths of individuals and companion animals caused by contaminated food—

(A) have contributed to a loss of public confidence in food safety; and

(B) have caused significant economic losses to manufacturers and producers not responsible for contaminated food items;

(3) the task of preserving the safety of the food supply of the United States faces tremendous pressures with regard to—

(A) emerging pathogens and other contaminants and the ability to detect all forms of contamination;

(B) an increasing volume of imported food from a wide variety of countries; and

(C) a shortage of adequate resources for monitoring and inspection;

(4) according to the Economic Research Service of the Department of Agriculture, the United States is increasing the amount of food that it imports such that—

(A) from 2003 to 2007, the value of food imports has increased from $45,600,000,000 to $64,000,000,000; and

(B) imported food accounts for 13 percent of the average American diet including 31 percent of fruits, juices, and nuts, 9.5 percent of red meat, and 78.6 percent of fish and shellfish; and

(5) the number of full-time equivalent Food and Drug Administration employees conducting inspections has decreased from 2003 to 2007.

SEC. 1002. ENSURING THE SAFETY OF PET FOOD.

(a) PROCESSING AND INGREDIENT STANDARDS.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services (referred to in this title as the ''Secretary''), in consultation with the Association of American Feed Control Officials and other relevant stakeholder groups, including veterinary medical associations, animal health organizations, and pet food manufacturers, shall by regulation establish—

(1) ingredient standards and definitions with respect to pet food;

(2) processing standards for pet food; and

(3) updated standards for the labeling of pet food that include nutritional and ingredient information.

(b) EARLY WARNING SURVEILLANCE SYSTEMS AND NOTIFICATION DURING PET FOOD RECALLS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish an early warning and surveillance system to identify adulteration of the pet food supply and outbreaks of illness associated with pet food. In establishing such system, the Secretary shall—

(1) consider using surveillance and monitoring mechanisms similar to, or in coordination with, those used to monitor human or animal health, such as the Foodborne Diseases Active Surveillance Network (FoodNet) and PulseNet of the Centers for Disease Control and Prevention, the Food Emergency Response Network of the Food and Drug Administration and the Department of Agriculture, and the National Animal Health Laboratory Network of the Department of Agriculture;

(2) consult with relevant professional associations and private sector veterinary hospitals;

(3) work with the National Companion Animal Surveillance Program, the Health Alert Network, or other notification networks as appropriate to inform veterinarians and relevant stakeholders during any recall of pet food; and

(4) use such information and conduct such other activities as the Secretary deems appropriate.

SEC. 1003. ENSURING EFFICIENT AND EFFECTIVE COMMUNICATIONS DURING A RECALL.

The Secretary shall, during an ongoing recall of human or pet food regulated by the Secretary—

(1) work with companies, relevant professional associations, and other organizations to collect and aggregate information pertaining to the recall;

(2) use existing networks of communication, including electronic forms of information dissemination, to enhance the quality and speed of communication with the public; and

(3) post information regarding recalled human and pet foods on the Internet Web site of the Food and Drug Administration in a single location, which shall include a searchable database of recalled human foods and a searchable database of recalled pet foods, that is easily accessed and understood by the public.

SEC. 1004. STATE AND FEDERAL COOPERATION.

(a) IN GENERAL.—The Secretary shall work with the States in undertaking activities and programs that assist in improving the safety of food, including fresh and processed produce, so that State food safety programs and activities conducted by the Secretary function in a coordinated and cost-effective manner. With the assistance provided under subsection (b), the Secretary shall encourage States to—

(1) establish, continue, or strengthen State food safety programs, especially with respect to the regulation of retail commercial food establishments; and

(2) establish procedures and requirements for ensuring that processed produce under the jurisdiction of State food safety programs is not unsafe for human consumption.

(b) ASSISTANCE.—The Secretary may provide to a State, for planning, developing, and implementing such a food safety program—

(1) advisory assistance;

(2) technical assistance, training, and laboratory assistance (including necessary materials and equipment); and

(3) financial and other assistance.

(c) SERVICE AGREEMENTS.—The Secretary may, under an agreement entered into with a Federal, State, or local agency, use, on a reimbursable basis or otherwise, the personnel, services, and facilities of the agency to carry out the responsibilities of the agency under this section. An agreement entered into with a State agency under this subsection may provide for training of State employees.

SEC. 1005. REPORTABLE FOOD REGISTRY.

(a) FINDINGS.—Congress makes the following findings:

(1) In 1994, Congress passed the Dietary Supplement Health and Education Act of 1994 (Public Law 103–417) to provide the Food and Drug Administration the legal framework which is intended to ensure that dietary supplements are safe and properly labeled foods.

(2) In 2006, Congress passed the Dietary Supplement and Nonprescription Drug Consumer Protection Act (Public Law 109–462) to establish a mandatory reporting system of serious adverse events for nonprescription drugs and dietary supplements sold and consumed in the United States.

(3) The adverse event reporting system created under the Dietary Supplement and Nonprescription Drug Consumer Protection Act is intended to serve as an early warning system for potential public health issues associated with the use of these products.

(4) A reliable mechanism to track patterns of adulteration in food would support efforts by the Food and Drug Administration to target limited inspection resources to protect the public health.

(b) IN GENERAL.—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by adding at the end the following:

''SEC. 417. REPORTABLE FOOD REGISTRY.

''(a) DEFINITIONS.—In this section:

''(1) RESPONSIBLE PARTY.—The term 'responsible party', with respect to an article of food, means a person that submits the registration under section 415(a) for a food facility that is required to register under section 415(a), at which such article of food is manufactured, processed, packed, or held.

''(2) REPORTABLE FOOD.—The term 'reportable food' means an article of food (other than infant formula) for which there is a reasonable probability that the use of, or exposure to, such article of food will cause serious adverse health consequences or death to humans or animals.

''(b) ESTABLISHMENT.—

''(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this section, the Secretary shall establish within the Food and Drug Administration a Reportable Food Registry to which instances of reportable food may be submitted by the Food and Drug Administration after receipt of reports under subsection (d), via an electronic portal, from—

''(A) Federal, State, and local public health officials; or

''(B) responsible parties.

''(2) REVIEW BY SECRETARY.—The Secretary shall promptly review and assess the information submitted under paragraph (1) for the purposes of identifying reportable food, submitting entries to the Reportable Food Registry, acting under subsection (c), and exercising other existing food safety authorities under this Act to protect the public health.

''(c) ISSUANCE OF AN ALERT BY THE SECRETARY.—

''(1) IN GENERAL.—The Secretary shall issue, or cause to be issued, an alert or a notification with respect to a reportable food using information from the Reportable Food Registry as the Secretary deems necessary to protect the public health.

''(2) EFFECT.—Paragraph (1) shall not affect the authority of the Secretary to issue an alert or a notification under any other provision of this Act.

''(d) REPORTING AND NOTIFICATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), as soon as practicable, but in no case later than 24 hours after a responsible party determines that an article of food

is a reportable food, the responsible party shall—

''(A) submit a report to the Food and Drug Administration through the electronic portal established under subsection (b) that includes the data elements described in subsection (e) (except the elements described in paragraphs (8), (9), and (10) of such subsection); and

''(B) investigate the cause of the adulteration if the adulteration of the article of food may have originated with the responsible party.

''(2) NO REPORT REQUIRED.—A responsible party is not required to submit a report under paragraph (1) if—

''(A) the adulteration originated with the responsible party;

''(B) the responsible party detected the adulteration prior to any transfer to another person of such article of food; and

''(C) the responsible party—

''(i) corrected such adulteration; or

''(ii) destroyed or caused the destruction of such article of food.

''(3) REPORTS BY PUBLIC HEALTH OFFICIALS.—A Federal, State, or local public health official may submit a report about a reportable food to the Food and Drug Administration through the electronic portal established under subsection (b) that includes the data elements described in subsection (e) that the official is able to provide.

''(4) REPORT NUMBER.—The Secretary shall ensure that, upon submission of a report under paragraph (1) or (3), a unique number is issued through the electronic portal established under subsection (b) to the person submitting such report, by which the Secretary is able to link reports about the reportable food submitted and amended under this subsection and identify the supply chain for such reportable food.

''(5) REVIEW.—The Secretary shall promptly review a report submitted under paragraph (1) or (3).

''(6) RESPONSE TO REPORT SUBMITTED BY A RESPONSIBLE PARTY.—After consultation with the responsible party that submitted a report under paragraph (1), the Secretary may require such responsible party to perform, as soon as practicable, but in no case later than a time specified by the Secretary, 1 or more of the following:

''(A) Amend the report submitted by the responsible party under paragraph (1) to include the data element described in subsection (e)(9).

''(B) Provide a notification—

''(i) to the immediate previous source of the article of food, if the Secretary deems necessary;

''(ii) to the immediate subsequent recipient of the article of food, if the Secretary deems necessary; and

''(iii) that includes—

''(I) the data elements described in subsection (e) that the Secretary deems necessary;

''(II) the actions described under paragraph (7) that the recipient of the notification shall perform, as required by the Secretary; and

''(III) any other information that the Secretary may require.

''(7) SUBSEQUENT REPORTS AND NOTIFICATIONS.—Except as provided in paragraph (8), the Secretary may require a responsible party to perform, as soon as practicable, but in no case later than a time specified by the Secretary, after the responsible party receives a notification under subparagraph (C) or paragraph (6)(B), 1 or more of the following:

''(A) Submit a report to the Food and Drug Administration through the electronic portal established under subsection (b) that includes those data elements described in subsection (e) and other information that the Secretary deems necessary.

''(B) Investigate the cause of the adulteration if the adulteration of the article of food may have originated with the responsible party.

''(C) Provide a notification—

''(i) to the immediate previous source of the article of food, if the Secretary deems necessary;

''(ii) to the immediate subsequent recipient of the article of food, if the Secretary deems necessary; and

''(iii) that includes—

''(I) the data elements described in subsection (e) that the Secretary deems necessary;

''(II) the actions described under this paragraph that the recipient of the notification shall perform, as required by the Secretary; and

''(III) any other information that the Secretary may require.

''(8) AMENDED REPORT.—If a responsible party receives a notification under paragraph (6)(B) or paragraph (7)(C) with respect to an article of food after the responsible party has submitted a report to the Food and Drug Administration under paragraph (1) with respect to such article of food—

''(A) the responsible party is not required to submit an additional report or make a notification under paragraph (7); and

''(B) the responsible party shall amend the report submitted by the responsible party under paragraph (1) to include the data elements described in paragraph (9), and, with respect to both such notification and such report, paragraph (11) of subsection (e).

''(e) DATA ELEMENTS.—The data elements described in this subsection are the following:

''(1) The registration numbers of the responsible party under section 415(a)(3).

''(2) The date on which an article of food was determined to be a reportable food.

''(3) A description of the article of food including the quantity or amount.

''(4) The extent and nature of the adulteration.

''(5) If the adulteration of the article of food may have originated with the responsible party, the results of the investigation required under paragraph (1)(B) or (7)(B) of subsection (d), as applicable and when known.

''(6) The disposition of the article of food, when known.

''(7) Product information typically found on packaging including product codes, use-by dates, and names of manufacturers, packers, or distributors sufficient to identify the article of food.

''(8) Contact information for the responsible party.

''(9) The contact information for parties directly linked in the supply chain and notified under paragraph (6)(B) or (7)(C) of subsection (d), as applicable.

''(10) The information required by the Secretary to be included in a notification provided by the responsible party involved under paragraph (6)(B) or (7)(C) of subsection (d) or required in a report under subsection (d)(7)(A).

''(11) The unique number described in subsection (d)(4).

''(f) COORDINATION OF FEDERAL, STATE, AND LOCAL EFFORTS.—

''(1) DEPARTMENT OF AGRICULTURE.—In implementing this section, the Secretary shall—

''(A) share information and coordinate regulatory efforts with the Department of Agriculture; and

''(B) if the Secretary receives a report submitted about a food within the jurisdiction of the Department of Agriculture, promptly provide such report to the Department of Agriculture.

''(2) STATES AND LOCALITIES.—In implementing this section, the Secretary shall work with the State and local public health officials to share information and coordinate regulatory efforts, in order to—

''(A) help to ensure coverage of the safety of the food supply chain, including those food establishments regulated by the States and localities that are not required to register under section 415; and

''(B) reduce duplicative regulatory efforts.

''(g) MAINTENANCE AND INSPECTION OF RECORDS.—The responsible party shall maintain records related to each report received, notification made, and report submitted to the Food and Drug Administration under this section for 2 years. A responsible party shall, at the request of the Secretary, permit inspection of such records as provided for section 414.

''(h) REQUEST FOR INFORMATION.—Except as provided by section 415(a)(4), section 552 of title 5, United States Code, shall apply to any request for information regarding a record in the Reportable Food Registry.

''(i) SAFETY REPORT.—A report or notification under subsection (d) shall be considered to be a safety report under section 756 and may be accompanied by a statement, which shall be part of any report released for public disclosure, that denies that the report or the notification constitutes an admission that the product involved caused or contributed to a death, serious injury, or serious illness.

''(j) ADMISSION.—A report or notification under this section shall not be considered an admission that the article of food involved is adulterated or caused or contributed to a death, serious injury, or serious illness.

''(k) HOMELAND SECURITY NOTIFICATION.—If, after receiving a report under subsection (d), the Secretary believes such food may have been deliberately adulterated, the Secretary shall immediately notify the Secretary of Homeland Security. The Secretary shall make relevant information from the Reportable Food Registry available to the Secretary of Homeland Security.''.

(c) DEFINITION.—Section 201(ff) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(ff)) is amended by striking ''section 201(g)'' and inserting ''sections 201(g) and 417''.

(d) PROHIBITED ACTS.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331), as amended by section 912, is further amended—

(1) in subsection (e), by—

(A) striking ''414,'' and inserting ''414, 417(g),''; and

(B) striking ''414(b)'' and inserting ''414(b), 417''; and

(2) by adding at the end the following:

''(mm) The failure to submit a report or provide a notification required under section 417(d).

''(nn) The falsification of a report or notification required under section 417(d).''.

(e) EFFECTIVE DATE.—The requirements of section 417(d) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), shall become effective 1 year after the date of the enactment of this Act.

(f) GUIDANCE.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall issue a guidance to industry about submitting reports to the electronic portal established under section 417 of the Federal Food, Drug, and Cosmetic Act (as added by this section) and providing notifications to other persons in the supply chain of an article of food under such section 417.

(g) EFFECT.—Nothing in this title, or an amendment made by this title, shall be construed to alter the jurisdiction between the

Secretaries of Agriculture and of Health and Human Services, under applicable statutes and regulations.

SEC. 1006. ENHANCED AQUACULTURE AND SEAFOOD INSPECTION.

(a) FINDINGS.—Congress finds the following:

(1) In 2007, there has been an overwhelming increase in the volume of aquaculture and seafood that has been found to contain substances that are not approved for use in food in the United States.

(2) As of May 2007, inspection programs are not able to satisfactorily accomplish the goals of ensuring the food safety of the United States.

(3) To protect the health and safety of consumers in the United States, the ability of the Secretary to perform inspection functions must be enhanced.

(b) HEIGHTENED INSPECTIONS.—The Secretary is authorized to enhance, as necessary, the inspection regime of the Food and Drug Administration for aquaculture and seafood, consistent with obligations of the United States under international agreements and United States law.

(c) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report that—

(1) describes the specifics of the aquaculture and seafood inspection program;

(2) describes the feasibility of developing a traceability system for all catfish and seafood products, both domestic and imported, for the purpose of identifying the processing plant of origin of such products; and

(3) provides for an assessment of the risks associated with particular contaminants and banned substances.

(d) PARTNERSHIPS WITH STATES.—Upon the request by any State, the Secretary may enter into partnership agreements, as soon as practicable after the request is made, to implement inspection programs to Federal standards regarding the importation of aquaculture and seafood.

SEC. 1007. CONSULTATION REGARDING GENETICALLY ENGINEERED SEAFOOD PRODUCTS.

The Commissioner of Food and Drugs shall consult with the Assistant Administrator of the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration to produce a report on any environmental risks associated with genetically engineered seafood products, including the impact on wild fish stocks.

SEC. 1008. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) it is vital for Congress to provide the Food and Drug Administration with additional resources, authorities, and direction with respect to ensuring the safety of the food supply of the United States;

(2) additional inspectors are required to improve the Food and Drug Administration's ability to safeguard the food supply of the United States;

(3) because of the increasing volume of international trade in food products the Secretary should make it a priority to enter into agreements with the trading partners of the United States with respect to food safety; and

(4) Congress should work to develop a comprehensive response to the issue of food safety.

SEC. 1009. ANNUAL REPORT TO CONGRESS.

The Secretary shall, on an annual basis, submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate and the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives a report that includes, with respect to the preceding 1-year period—

(1) the number and amount of food products regulated by the Food and Drug Administration imported into the United States, aggregated by country and type of food;

(2) a listing of the number of Food and Drug Administration inspectors of imported food products referenced in paragraph (1) and the number of Food and Drug Administration inspections performed on such products; and

(3) aggregated data on the findings of such inspections, including data related to violations of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 201 et seq.), and enforcement actions used to follow-up on such findings and violations.

SEC. 1010. PUBLICATION OF ANNUAL REPORTS.

(a) IN GENERAL.—The Commissioner of Food and Drugs shall annually submit to Congress and publish on the Internet Web site of the Food and Drug Administration, a report concerning the results of the Administration's pesticide residue monitoring program, that includes—

(1) information and analysis similar to that contained in the report entitled ''Food and Drug Administration Pesticide Program Residue Monitoring 2003'' as released in June of 2005;

(2) based on an analysis of previous samples, an identification of products or countries (for imports) that require special attention and additional study based on a comparison with equivalent products manufactured, distributed, or sold in the United States (including details on the plans for such additional studies), including in the initial report (and subsequent reports as determined necessary) the results and analysis of the Ginseng Dietary Supplements Special Survey as described on page 13 of the report entitled ''Food and Drug Administration Pesticide Program Residue Monitoring 2003'';

(3) information on the relative number of interstate and imported shipments of each tested commodity that were sampled, including recommendations on whether sampling is statistically significant, provides confidence intervals or other related statistical information, and whether the number of samples should be increased and the details of any plans to provide for such increase; and

(4) a description of whether certain commodities are being improperly imported as another commodity, including a description of additional steps that are being planned to prevent such smuggling.

(b) INITIAL REPORTS.—Annual reports under subsection (a) for fiscal years 2004 through 2006 may be combined into a single report, by not later than June 1, 2008, for purposes of publication under subsection (a). Thereafter such reports shall be completed by June 1 of each year for the data collected for the year that was 2-years prior to the year in which the report is published.

(c) MEMORANDUM OF UNDERSTANDING.—The Commissioner of Food and Drugs, the Administrator of the Food Safety and Inspection Service, the Department of Commerce, and the head of the Agricultural Marketing Service shall enter into a memorandum of understanding to permit inclusion of data in the reports under subsection (a) relating to testing carried out by the Food Safety and Inspection Service and the Agricultural Marketing Service on meat, poultry, eggs, and certain raw agricultural products, respectively.

SEC. 1011. RULE OF CONSTRUCTION.

Nothing in this title (or an amendment made by this title) shall be construed to affect—

(1) the regulation of dietary supplements under the Dietary Supplement Health and Education Act of 1994 (Public Law 103–417); or

(2) the adverse event reporting system for dietary supplements created under the Dietary Supplement and Nonprescription Drug Consumer Protection Act (Public Law 109–462).

TITLE XI—OTHER PROVISIONS

Subtitle A—In General

SEC. 1101. POLICY ON THE REVIEW AND CLEARANCE OF SCIENTIFIC ARTICLES PUBLISHED BY FDA EMPLOYEES.

Subchapter A of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 et seq.), as amended by section 701, is further amended by adding at the end the following:

''SEC. 713. POLICY ON THE REVIEW AND CLEARANCE OF SCIENTIFIC ARTICLES PUBLISHED BY FDA EMPLOYEES.

''(a) DEFINITION.—In this section, the term 'article' means a paper, poster, abstract, book, book chapter, or other published writing.

''(b) POLICIES.—The Secretary, through the Commissioner of Food and Drugs, shall establish and make publicly available clear written policies to implement this section and govern the timely submission, review, clearance, and disclaimer requirements for articles.

''(c) TIMING OF SUBMISSION FOR REVIEW.—If an officer or employee, including a Staff Fellow and a contractor who performs staff work, of the Food and Drug Administration is directed by the policies established under subsection (b) to submit an article to the supervisor of such officer or employee, or to some other official of the Food and Drug Administration, for review and clearance before such officer or employee may seek to publish or present such an article at a conference, such officer or employee shall submit such article for such review and clearance not less than 30 days before submitting the article for publication or presentation.

''(d) TIMING FOR REVIEW AND CLEARANCE.—The supervisor or other reviewing official shall review such article and provide written clearance, or written clearance on the condition of specified changes being made, to such officer or employee not later than 30 days after such officer or employee submitted such article for review.

''(e) NON-TIMELY REVIEW.—If, 31 days after such submission under subsection (c), the supervisor or other reviewing official has not cleared or has not reviewed such article and provided written clearance, such officer or employee may consider such article not to have been cleared and may submit the article for publication or presentation with an appropriate disclaimer as specified in the policies established under subsection (b).

''(f) EFFECT.—Nothing in this section shall be construed as affecting any restrictions on such publication or presentation provided by other provisions of law.''.

SEC. 1102. PRIORITY REVIEW TO ENCOURAGE TREATMENTS FOR TROPICAL DISEASES.

Subchapter A of chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by adding at the end the following:

''SEC. 524. PRIORITY REVIEW TO ENCOURAGE TREATMENTS FOR TROPICAL DISEASES.

''(a) DEFINITIONS.—In this section:

''(1) PRIORITY REVIEW.—The term 'priority review', with respect to a human drug application as defined in section 735(1), means review and action by the Secretary on such application not later than 6 months after receipt by the Secretary of such application, as described in the Manual of Policies and Procedures of the Food and Drug Administration and goals identified in the letters described in section 101(c) of the Food and Drug Administration Amendments Act of 2007.

''(2) PRIORITY REVIEW VOUCHER.—The term 'priority review voucher' means a voucher issued by the Secretary to the sponsor of a tropical disease product application that entitles the holder of such voucher to priority review of a single human drug application submitted under section 505(b)(1) or section 351 of the Public Health Service Act after the date of approval of the tropical disease product application.

''(3) TROPICAL DISEASE.—The term 'tropical disease' means any of the following:

''(A) Tuberculosis.

''(B) Malaria.

''(C) Blinding trachoma.

''(D) Buruli Ulcer.

''(E) Cholera.

''(F) Dengue/dengue haemorrhagic fever.

''(G) Dracunculiasis (guinea-worm disease).

''(H) Fascioliasis.

''(I) Human African trypanosomiasis.

''(J) Leishmaniasis.

''(K) Leprosy.

''(L) Lymphatic filariasis.

''(M) Onchocerciasis.

''(N) Schistosomiasis.

''(O) Soil transmitted helmithiasis.

''(P) Yaws.

''(Q) Any other infectious disease for which there is no significant market in developed nations and that disproportionately affects poor and marginalized populations, designated by regulation by the Secretary.

''(4) TROPICAL DISEASE PRODUCT APPLICATION.—The term 'tropical disease product application' means an application that—

''(A) is a human drug application as defined in section 735(1)—

''(i) for prevention or treatment of a tropical disease; and

''(ii) the Secretary deems eligible for priority review;

''(B) is approved after the date of the enactment of the Food and Drug Administration Amendments Act of 2007, by the Secretary for use in the prevention, detection, or treatment of a tropical disease; and

''(C) is for a human drug, no active ingredient (including any ester or salt of the active ingredient) of which has been approved in any other application under section 505(b)(1) or section 351 of the Public Health Service Act.

''(b) PRIORITY REVIEW VOUCHER.—

''(1) IN GENERAL.—The Secretary shall award a priority review voucher to the sponsor of a tropical disease product application upon approval by the Secretary of such tropical disease product application.

''(2) TRANSFERABILITY.—The sponsor of a tropical disease product that receives a priority review voucher under this section may transfer (including by sale) the entitlement to such voucher to a sponsor of a human drug for which an application under section 505(b)(1) or section 351 of the Public Health Service Act will be submitted after the date of the approval of the tropical disease product application.

''(3) LIMITATION.—

''(A) NO AWARD FOR PRIOR APPROVED APPLICATION.—A sponsor of a tropical disease product may not receive a priority review voucher under this section if the tropical disease product application was submitted to the Secretary prior to the date of the enactment of this section.

''(B) ONE-YEAR WAITING PERIOD.—The Secretary shall issue a priority review voucher to the sponsor of a tropical disease product no earlier than the date that is 1 year after the date of the enactment of the Food and Drug Administration Amendments Act of 2007.

''(4) NOTIFICATION.—The sponsor of a human drug application shall notify the Secretary not later than 365 days prior to submission of the human drug application that is the subject of a priority review voucher of an intent to submit the human drug application, including the date on which the sponsor intends to submit the application. Such notification shall be a legally binding commitment to pay for the user fee to be assessed in accordance with this section.

''(c) PRIORITY REVIEW USER FEE.—

''(1) IN GENERAL.—The Secretary shall establish a user fee program under which a sponsor of a human drug application that is the subject of a priority review voucher shall pay to the Secretary a fee determined under paragraph (2). Such fee shall be in addition to any fee required to be submitted by the sponsor under chapter VII.

''(2) FEE AMOUNT.—The amount of the priority review user fee shall be determined each fiscal year by the Secretary and based on the average cost incurred by the agency in the review of a human drug application subject to priority review in the previous fiscal year.

''(3) ANNUAL FEE SETTING.—The Secretary shall establish, before the beginning of each fiscal year beginning after September 30, 2007, for that fiscal year, the amount of the priority review user fee.

''(4) PAYMENT.—

''(A) IN GENERAL.—The priority review user fee required by this subsection shall be due upon the submission of a human drug application under section 505(b)(1) or section 351 of the Public Health Services Act for which the priority review voucher is used.

''(B) COMPLETE APPLICATION.—An application described under subparagraph (A) for which the sponsor requests the use of a priority review voucher shall be considered incomplete if the fee required by this subsection and all other applicable user fees are not paid in accordance with the Secretary's procedures for paying such fees.

''(C) NO WAIVERS, EXEMPTIONS, REDUCTIONS, OR REFUNDS.—The Secretary may not grant a waiver, exemption, reduction, or refund of any fees due and payable under this section.

''(5) OFFSETTING COLLECTIONS.—Fees collected pursuant to this subsection for any fiscal year—

''(A) shall be deposited and credited as offsetting collections to the account providing appropriations to the Food and Drug Administration; and

''(B) shall not be collected for any fiscal year except to the extent provided in advance in appropriation Acts.''.

SEC. 1103. IMPROVING GENETIC TEST SAFETY AND QUALITY.

(a) REPORT.—If the Secretary's Advisory Committee on Genetics, Health, and Society does not complete and submit the Regulatory Oversight of Genetic/Genomic Testing Report & Action Recommendations to the Secretary of Health and Human Services (referred to in this section as the ''Secretary'') by July of 2008, the Secretary shall enter into a contract with the Institute of Medicine to conduct a study to assess the overall safety and quality of genetic tests and prepare a report that includes recommendations to improve Federal oversight and regulation of genetic tests. Such study shall take into consideration relevant reports by the Secretary's Advisory Committee on Genetics, Health, and Society and other groups and shall be completed not later than 1 year after the date on which the Secretary entered into such contract.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as requiring Federal efforts with respect to regulatory oversight of genetic tests to cease or be limited or delayed pending completion of the report by the Secretary's Advisory Committee on Genetics, Health, and Society or the Institute of Medicine.

SEC. 1104. NIH TECHNICAL AMENDMENTS.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) in section 319C–2(j)(3)(B), by striking ''section 319C–1(h)'' and inserting ''section 319C–1(i)'';

(2) in section 402(b)(4), by inserting ''minority and other'' after ''reducing'';

(3) in section 403(a)(4)(C)(iv)(III), by inserting ''and postdoctoral training funded through research grants'' before the semicolon;

(4) by designating the second section 403C (relating to the drug diethylstilbestrol) as section 403D; and

(5) in section 403C(a)—

(A) in the matter preceding paragraph (1)—

(i) by inserting ''graduate students supported by the National Institutes of Health'' after ''with respect to''; and

(ii) by deleting ''each degree-granting program'';

(B) in paragraph (1), by inserting ''such'' after ''percentage of''; and

(C) in paragraph (2), by inserting ''(not including any leaves of absence)'' after ''average time''.

SEC. 1105. SEVERABILITY CLAUSE.

If any provision of this Act, an amendment made this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstances shall not be affected thereby.

Subtitle B—Antibiotic Access and Innovation

SEC. 1111. IDENTIFICATION OF CLINICALLY SUSCEPTIBLE CONCENTRATIONS OF ANTIMICROBIALS.

(a) DEFINITION.—In this section, the term ''clinically susceptible concentrations'' means specific values which characterize bacteria as clinically susceptible, intermediate, or resistant to the drug (or drugs) tested.

(b) IDENTIFICATION.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary''), through the Commissioner of Food and Drugs, shall identify (where such information is reasonably available) and periodically update clinically susceptible concentrations.

(c) PUBLIC AVAILABILITY.—The Secretary, through the Commissioner of Food and Drugs, shall make such clinically susceptible concentrations publicly available, such as by posting on the Internet, not later than 30 days after the date of identification and any update under this section.

(d) EFFECT.—Nothing in this section shall be construed to restrict, in any manner, the prescribing of antibiotics by physicians, or to limit the practice of medicine, including for diseases such as Lyme and tick-borne diseases.

SEC. 1112. ORPHAN ANTIBIOTIC DRUGS.

(a) PUBLIC MEETING.—The Commissioner of Food and Drugs shall convene a public meeting regarding which serious and life threatening infectious diseases, such as diseases due to gram-negative bacteria and other diseases due to antibiotic-resistant bacteria, potentially qualify for available grants and contracts under section 5(a) of the Orphan Drug Act (21 U.S.C. 360ee(a)) or other incentives for development.

(b) GRANTS AND CONTRACTS FOR THE DEVELOPMENT OF ORPHAN DRUGS.—Section 5(c) of the Orphan Drug Act (21 U.S.C. 360ee(c)) is amended to read as follows:

''(c) For grants and contracts under subsection (a), there is authorized to be appropriated $30,000,000 for each of fiscal years 2008 through 2012.''.

SEC. 1113. EXCLUSIVITY OF CERTAIN DRUGS CONTAINING SINGLE ENANTIOMERS.

Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), as amended by

section 920, is further amended by adding at the end the following:

''(u) CERTAIN DRUGS CONTAINING SINGLE ENANTIOMERS.—

''(1) IN GENERAL.—For purposes of subsections (c)(3)(E)(ii) and (j)(5)(F)(ii), if an application is submitted under subsection (b) for a non-racemic drug containing as an active ingredient (including any ester or salt of the active ingredient) a single enantiomer that is contained in a racemic drug approved in another application under subsection (b), the applicant may, in the application for such non-racemic drug, elect to have the single enantiomer not be considered the same active ingredient as that contained in the approved racemic drug, if—

''(A)(i) the single enantiomer has not been previously approved except in the approved racemic drug; and

''(ii) the application submitted under subsection (b) for such non-racemic drug—

''(I) includes full reports of new clinical investigations (other than bioavailability studies)—

''(aa) necessary for the approval of the application under subsections (c) and (d); and

''(bb) conducted or sponsored by the applicant; and

''(II) does not rely on any investigations that are part of an application submitted under subsection (b) for approval of the approved racemic drug; and

''(B) the application submitted under subsection (b) for such non-racemic drug is not submitted for approval of a condition of use—

''(i) in a therapeutic category in which the approved racemic drug has been approved; or

''(ii) for which any other enantiomer of the racemic drug has been approved.

''(2) LIMITATION.—

''(A) NO APPROVAL IN CERTAIN THERAPEUTIC CATEGORIES.—Until the date that is 10 years after the date of approval of a non-racemic drug described in paragraph (1) and with respect to which the applicant has made the election provided for by such paragraph, the Secretary shall not approve such non-racemic drug for any condition of use in the therapeutic category in which the racemic drug has been approved.

''(B) LABELING.—If applicable, the labeling of a non-racemic drug described in paragraph (1) and with respect to which the applicant has made the election provided for by such paragraph shall include a statement that the non-racemic drug is not approved, and has not been shown to be safe and effective, for any condition of use of the racemic drug.

''(3) DEFINITION.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'therapeutic category' means a therapeutic category identified in the list developed by the United States Pharmacopeia pursuant to section 1860D–4(b)(3)(C)(ii) of the Social Security Act and as in effect on the date of the enactment of this subsection.

''(B) PUBLICATION BY SECRETARY.—The Secretary shall publish the list described in subparagraph (A) and may amend such list by regulation.

''(4) AVAILABILITY.—The election referred to in paragraph (1) may be made only in an application that is submitted to the Secretary after the date of the enactment of this subsection and before October 1, 2012.''.

SEC. 1114. REPORT.

Not later than January 1, 2012, the Comptroller General of the United States shall submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives that examines whether and how this subtitle has—

(1) encouraged the development of new antibiotics and other drugs; and

(2) prevented or delayed timely generic drug entry into the market.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Texas (Mr. BARTON) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

GENERAL LEAVE

Mr. DINGELL. 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 matter on the bill under consideration.

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

There was no objection.

Mr. DINGELL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise today to express strong support for H.R. 3580, the Food and Drug Administration Amendments Act of 2007. This is excellent legislation. It contains needed reforms to strengthen the safety of our Nation's drug, device, and food supply.

I want to pay a word of compliment to my Republican colleagues and say that we have come to a compromise which I believe is satisfactory in the broad public interest and is an excellent piece of legislation. And I want to commend my friend Mr. BARTON and our Republican colleagues for having worked with us well on this matter.

On July 11, 2007, the House passed H.R. 2900, the Food and Drug Administration Amendments, by a bipartisan vote of 403–16. The bill was hailed by all as a strong bill that would improve the lives of Americans by ensuring that drugs and devices are reviewed in a competent and in a timely fashion.

Earlier this year the Senate passed a similar bill. Since July, bipartisan meetings have been held frequently between the House Energy and Commerce Committee and the Senate Committee on Health, Education, Labor, and Pensions to reconcile the differences between the two bills.

This bill includes two very different user-fee programs, both vital to the timely approval of lifesaving drugs and devices. The legislation would significantly improve our postmarket safety programs, thereby preventing many of the drug and device injuries and deaths that occur today. It fills an important gap in therapies available to one of our most vulnerable and important patient groups: our children. Finally, I note that the period of market exclusivity in the pediatric studies remains 6 months, as in current law.

I want to thank all the members of the committee who have worked hard on this bill. They have endured long hours to ensure that this bill would be completed before the expiration of the two user-fee programs at the end of this month. And I want to pay particular tribute to the staff on both sides for their outstanding labors.

Mr. Speaker, I want to point out that if this bill does not pass in the time limits which are imposed upon us by the September 30 expiration of this statute, we will have significant problems here that we may not be able to address because, I would point out, that failure to do so will leave us with a situation where we are going to find that RIF notices will be going out at Food and Drug and the ability to approve new drugs will all of a sudden come to a screeching and unfortunate halt.

□ 1500

I urge my friends and colleagues to support this legislation; it is a good piece of legislation, it has the support of all who have worked with it, and I would commend it to the attention and the kindness of my colleagues.

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

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, most of us are too young to remember, but in the early days of the movies there was a series of movies based on the ''Perils of Pauline.'' Pauline was a heroine who always got tied to the railroad track, and just as the train was bearing down on her the hero would come out and rescue her for another adventure in the next movie reel.

Well, this bill before us has kind of experienced the Perils of Pauline. It started out in a tremendous positive bipartisan spirit here in the House. Chairman DINGELL and Subcommittee Chairman PALLONE on the majority and Mr. DEAL and myself on the minority side and our colleagues in the rank-and-file worked together. We reported a bill, and I don't remember how many votes it got on the House floor, but I believe it was over 400. It got over to the other body, and they modified it in some ways that were somewhat different than the House bill. The negotiations broke down, and it looked for a while this week that the Food and Drug Administration was going to have to send out reduction in force notices to over 2,000 employees at the Food and Drug Administration. But thanks to the tremendous leadership of Chairman DINGELL and Subcommittee Chairman PALLONE and the help of people like Congressman WAXMAN and others on the majority side, we've been able to come back together and create a unified House position and work with our friends in the other body. And they've accepted the compromise that's before us to say that here, at 3 o'clock on Wednesday afternoon, we're going to rescue Pauline and pass the PDUFA, I hope by unanimous consent on the suspension calendar, the PDUFA reauthorization bill, and lots of good things are going to happen.

I am honored to be the ranking member on the Energy and Commerce Committee, along with Subcommittee

Ranking Member DEAL, who has worked with the majority to put this compromise together.

I want to stress the sensitivity of completing the reauthorization of the Prescription Drug User Fee Program and the Medical Device User Fee Program right now. As I said earlier, if we were not to have done that by the end of this week, over 2,000 employees at the FDA would probably have received a reduction in force notice sometime next week or the week after. These are dedicated experts who are responsible for reviewing and approving new drugs, biologics and medical devices. If we were to lose those individuals, we would probably never get them back. That would have severe negative repercussions for everybody in this country.

The legislation before us will promote advancement in pediatric therapies both for pharmaceuticals and for medical devices. The Pediatric Rule and the Best Pharmaceuticals for Children Act have helped to fill a void in pediatric medicine. Prior to these acts, many children were not getting the best treatment because the information was simply not available to determine how a drug would act on them. Drugs do perform differently in different patients, which is especially true when that patient is a child. These acts have begun to provide physicians the information they need to make the best decisions for their pediatric patients. These two acts work together to ensure that accurate, timely pediatric use information is developed to ensure the best medical outcomes for the Nation's children.

The bill preserves the 6-month incentive that companies receive to do additional testing in pediatric populations. I want to emphasize that. The bill before us preserves the 6-month pediatric exclusivity provision in current law, and I think that's a real accomplishment. Chairman DINGELL should be commended for his leadership on that effort. I was glad to support him in that insistence on that particular provision. I would also like to thank Congresswoman ANNA ESHOO for her work on that provision.

Finally, the legislation addresses the issue of drug safety. No drug is completely safe. All drugs have some risk. The goal of the Food and Drug Administration is to ensure that the benefits of the drug outweigh any potential risks and ensure that patients have access to life-saving and life-improving medications.

The legislation before us today strives to ensure that the FDA has the authority to monitor drugs to ensure that the balance between the benefit and the risk remains in equilibrium. The FDA will now have the authority to require that drug sponsors conduct postmarket clinical trials. The FDA will now have the authority to require that a drug make a label change. The FDA will also now have the authority to impose additional requirements on a drug in the form of a risk evaluation and mitigation strategy when it is needed to ensure that a drug's benefits outweigh its risk.

Mr. Speaker, this bill is a bipartisan compromise that does strengthen the FDA, it will improve children's health, and it will reauthorize programs that are essential to ensuring that patients have timely access to drugs and medical devices.

Before I reserve the balance of my time, I again want to thank Chairman DINGELL, Subcommittee Chairman PALLONE, Ranking Member DEAL, and all the rank-and-file members. I also want to especially thank Ryan Long on the minority staff, the gentleman that is sitting to my left. He stayed up all last night working on these final nuances. I shouldn't say this, but I'm told that he has the same clothes on today that he had on yesterday because he has worked so hard on this bill. We do want to give him special commendation. And I would urge that he take the appropriate hygienic provisions as soon as possible.

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

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that I be permitted to yield the remainder of my time to the distinguished gentleman from New Jersey (Mr. PALLONE), the chairman of the subcommittee, and that he be permitted to control the time.

The SPEAKER pro tempore. Without objection, the gentleman from New Jersey is recognized.

There was no objection.

Mr. PALLONE. Thank you, Mr. Speaker, and I yield myself such time as I may consume.

Mr. Speaker, this is an important day for American consumers. Thanks to the legislation the House is about to pass, the Food and Drug Administration will have the financial resources and authorities necessary to ensure patients have timely access to safe and effective therapies.

First and foremost, this bill is about drug safety. In order to empower the FDA to protect the public from harmful drugs, we are giving the agency new authority to compel important labeling changes. This is a significant improvement over current policy, where FDA must haggle with drug companies and protracted negotiations that put patients and consumers at risk.

Under this bill, FDA will also be better equipped to force drug manufacturers to fulfill their responsibility to the American public and complete postmarket study commitments which are critical to ensuring a drug is safe.

In addition to these important new authorities, this bill authorizes the collection of $225 million in new user fees, a significant increase in the amount of funds dedicated for the use of drug safety activities.

The FDA Revitalization Act also provides for commonsense improvements to our Nation's food safety system, such as more stringent ingredient and labeling standards, establishment of an adulterated food registry, and improvements in public notifications.

Patients will be happy to know that the bill before us also requires greater transparency of drug makers by calling for clinical trials to be registered in a database monitored by the National Institutes of Health, along with basic results data. As we saw with the case of Avandia, making this information available to patients, providers and researchers is critical to uncovering potential harmful effects of a drug. And under this legislation, the public will also have greater access to internal documents that FDA used in its review of a drug application.

We also secure FDA scientists' right to publish by requiring the Secretary to establish clear policies on the timely clearance of articles written by FDA employees.

And finally, Mr. Speaker, this bill would make significant progress in reducing the number of conflicted experts who serve on advisory committees.

Mr. Speaker, I'm proud to say that this bill reauthorizes two very important programs for our Nation's children, the Best Pharmaceuticals for Children Act and the Pediatric Research and Equity Act. These programs have been crucial in the successful cultivation of important research used by doctors and parents to better determine what kinds of drug therapy is safest and most appropriate for a child patient.

In addition to the two existing programs, we're creating a new program that would help provide device manufacturers with greater incentives to conduct research and development of pediatric devices. Combined, these three bills will strengthen the research being done on pediatric uses of drugs and devices, and will make sure that our Nation's children have access to the medicines and therapies they need to grow up healthy and strong.

And finally, this bill reauthorizes two critically important user fee agreements with respect to prescription drugs and medical devices. These programs provide FDA with the necessary resources to review applications in a timely manner so patients who rely on new and improved drugs and devices don't have to go without. In addition to reauthorizing these existing user fee programs, this bill would establish a new user fee for the specific purpose of reviewing direct-to-consumer advertising.

I just want to commend Mr. DINGELL, our ranking member Mr. BARTON, Mr. DEAL, and all of the members here, Mr. WAXMAN, Ms. ESHOO, Mr. MARKEY. Their leadership on these issues has been unwavering. It is to their credit that we have a bill on the floor today.

This is a great victory for American consumers that will make tremendous strides in empowering the FDA and restoring public confidence in its ability to protect the public health, and I would urge my colleagues to vigorously support it.

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

Mr. BARTON of Texas. Mr. Speaker, I would ask unanimous consent that the balance of the time on the minority side be yielded to Mr. NATHAN DEAL, the ranking member of the Health Subcommittee, for him to use and control as he sees fit.

The SPEAKER pro tempore. Without objection, the gentleman from Georgia is recognized.

There was no objection.

Mr. DEAL of Georgia. Thank you, Mr. Speaker.

I want to, first of all, thank Chairman DINGELL and Chairman PALLONE for working in a bipartisan fashion on this very important piece of legislation.

As we all know, the work of the FDA is vital to the health and safety of the citizens of this country, and especially legislation such as this that enhances their ability to deal with the questions of drug safety and the monitoring capabilities and the continuing programs that are so vital both to the drugs and to medical devices which require review and approval by the FDA.

The user fee programs that are being reauthorized by this legislation are very important to fulfilling their role in meeting their personnel needs to achieve a timely review of drugs and medical devices, and I believe that Congress should not and cannot afford to delay further action on this package. Certainly to do so would require FDA to begin to scale back their personnel, and none of us want to see that happen.

Moreover, patients demand and deserve to know that the medications they are taking are safe and effective, and that the FDA has adequate resources, both pre- and postmarket, in order to ensure that the safety of the Nation's drug supply is intact.

This legislation makes sensible bipartisan strides in that direction and balances the need to bring new life-saving medications to market, and at the same time provide the necessary protections for patient safety.

Like all compromises, there was a necessary give-and-take from all sides to bring this bill to the floor today. I think it is through the responsible work of the leadership of our committee of Energy and Commerce and through the processes that the committee has followed that we were able to accomplish that on this very significant piece of legislation.

I would urge my colleagues to vote in favor of the bill and hope that our colleagues across the rotunda would do likewise so that we can present a bill to the desk of the President for his signature which will keep this vital program and functions of FDA going forward and will not allow it to expire.

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

Mr. PALLONE. Mr. Speaker, I yield 3 minutes to the gentleman from California who has been a leader on this issue for so many years.

Mr. WAXMAN. Mr. Speaker, the legislation we are considering provides FDA with critical tools the agency has been desperately lacking in its efforts to protect the American public from unsafe drugs. This legislation will provide FDA with the ability to require companies to update their drug label with new information, and FDA won't have to haggle with companies to get them to make those changes.

It also says, in giving FDA this labeling change authority, Congress is making it clear that we do not intend to impact a drug company's responsibility to promptly update its label with safety information on its own accord.

The legislation also gives FDA the authority to require companies to conduct postmarket studies and clinical trials of drugs. And it creates a mandatory clinical trial registry and results database to increase the transparency of those trials.

□ 1515

Mr. Speaker, before we break our arms trying to pat ourselves on the back, I want to express my deep disappointment that today we are walking away from a critical opportunity to make some reasonable adjustments to the windfall profits that drug companies receive for conducting pediatric studies under the Best Pharmaceuticals for Children Act. This is not about whether those pediatric studies should be done. We all agree about that. They are being done now. There is no question they will continue to be done. But if we were to cut back slightly on the term of exclusivity for only the blockbuster drugs, that would make a great deal of difference to people who are paying the high cost for pharmaceuticals.

In my view, we lost that opportunity, and it is going to hurt a lot of our consumers. In my view, there is simply no justification for rewarding companies with incentives that are so far in excess of the actual cost of doing the studies themselves.

I am also deeply disturbed the legislation fails to remove the sunset on FDA's authority to require pediatric studies under the Pediatric Research and Equity Act. There is absolutely no reason Congress needs to keep revisiting this commonsense measure that allows FDA to get essential information about whether new therapies are safe and effective for children.

So although I am pleased that today will provide FDA with important new authorities and resources, I must express my deep regret that we fail to take this opportunity to help individuals, businesses, State governments and insurers who pay the bill for the higher prices that result when generic competition is delayed for these expensive blockbuster drugs. I think it is a shame. We are talking about drugs of $5 billion in sales a year. If they spend a couple million dollars for their studies, they are being overreimbursed at the consumer's expense.

Mr. DEAL of Georgia. Mr. Speaker, I have no other requested time and would be prepared to close whenever the gentleman from New Jersey is prepared.

Mr. PALLONE. Mr. Speaker, I yield 2½ minutes to the gentleman from Massachusetts who, again, had quite a bit to do with this legislation, particularly on the safety provisions.

Mr. MARKEY. First of all, I want to commend you, Mr. Chairman, and Chairman DINGELL, your staffs, Mr. WAXMAN, Ranking Member BARTON and Mr. DEAL, all the Members on the Republican side for the product that is here, all of the staff which has worked on it for so long. My own staff, Kate Bazinsky, who is sitting right here, just was married 2 months ago, this has definitely affected those first 2 months of marriage, the incredible negotiations that have taken place to reach this point, along with Mark Bayer who was working on the privacy parts of this legislation with your staffs. I congratulate everyone.

I am pleased that the final bill before us today retains the core drug safety and clinical trial provisions from the bill that Congressman WAXMAN and I introduced in March, which will improve transparency at the FDA and make drugs safer. Although I had hoped the sunset would be removed from the pediatric rule and less exclusivity given to blockbuster products under the pediatric incentive program, this bill is a historic achievement which will make drugs and medical devices safer for consumers around the world.

The past several years have been marked by drug scandal after drug scandal, Vioxx, Ketek, Paxil and Avandia. These drugs have harmed families across the country and come to symbolize the urgent need for reform at the FDA. Taking drugs should not be a game of RX roulette, and yet the FDA's current system is broken, and thousands of American families have been harmed by drugs with dangerous side effects.

Today, the House is responding to those failures. The bill is a victory for consumers and for patients. The bill will empower the FDA with important new authorities to mandate label changes and require postmarket studies. However, these new FDA authorities do not change the responsibility of companies to maintain drug labels and warn the public about risk.

For the first time ever, the FDA will have the power to impose civil monetary penalties on companies that fail to conduct required postmarket studies. It will also establish a new postmarket risk identification and analysis system to identify harmful side effects without compromising patient privacy.

Since 2004, I have been fighting for a mandatory clinical trial registry and results database which will ensure that the public has accurate and complete information about drugs and devices.

This bill will create that mandatory clinical trials database.

I am also extremely pleased that the FDA package includes language from the Markey-Rogers pediatric devices bill which is a major step forward for getting better and better devices for kids.

Mr. Speaker, again, I thank the chairman from New Jersey for all his great work.

Mr. PALLONE. Mr. Speaker, I would yield 3 minutes to the gentlewoman from California (Ms. ESHOO) and point out, again, her leadership on this issue, particularly with regard to children and the pediatric issues.

Ms. ESHOO. Mr. Speaker, I thank the distinguished chairman of the Health Subcommittee as well as all of my colleagues that have worked so hard to bring this bill forward. So I rise, obviously, in support of it because I think the bill is going to make an enormous difference in the safety and the effectiveness of drugs and medical devices used to treat adults and children.

I think the bill also strengthens the FDA. I think the American people want the FDA to be an agency that is strong in its protection of consumers around the country. We know that there have been shortcomings that have had terrible effects on many families in our country. So, I think this bill is a victory in that arena.

I am also pleased that the bill adopts much of my legislation relative to children and pharmaceutical drugs for children. The American Academy of Pediatrics has instructed us that only about 25 percent of drugs administered to children have been appropriately tested and labeled for use in kids. Pediatricians often had to prescribe adult pharmaceuticals for children by telling parents, ''cut the pill in half, cut it in thirds, cut it in quarters.'' We understood that we had to do better. By every measurement, the reauthorization of this legislation, previous legislation, was supported because it was very, very successful. We know that children are not small adults, and the legislation recognizes that. We have reauthorized, and we are doing the right thing.

I am pleased that the blockbuster provision is not a part of this legislation. The other body supported that. I didn't. This bill doesn't. In all negotiations, there is always give-and-take. There are items I supported that didn't make it into the package, including the permanent extension of the Pediatric Research Equity Act, which I championed, obviously, as part of my legislation in the original House bill. I hope that we can get to this at some point. I am sorry it is not in this bill.

Overall, I want to thank all of my colleagues that made this possible and that we are here today; certainly, Chairman DINGELL, Ranking Member BARTON, most especially the professional staff, because they do so much work, no one more than John Ford of our staff, and Virgil Miller. I would like to also thank Jennifer Nieto Carey, formerly of my staff, who worked so hard and extensively to help bring us to this point.

So this is a good bill. I think the whole House should support it. I think it is a tribute to the substance of it, that it is coming up under suspension. I salute everyone that made the effort a winning one. Most importantly, I think the bill is a winner for the people of our country, both children and adults.

Mr. PALLONE. Mr. Speaker, I yield 2 minutes to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY. Mr. Speaker, I would like to thank my colleague from New Jersey who has done a fabulous job of chairing the subcommittee.

Mr. Speaker, I rise today in strong support of H.R. 3580. Patients and consumers are the clear winners in this legislation today. This legislation will save lives by promoting the safe and quick approval of lifesaving medications and providing the FDA with vital new authority to protect consumers after a drug is on the market. This bill collects an additional $225 million over 5 years to enhance drug safety reviews and also promotes testing of pharmaceuticals and medical devices to ensure that they are safe for children.

Revisions I crafted with my colleague, Mr. DOYLE, the FDA and others require the creation of a unique device identification, or a UDI, system for medical devices that will help take important strides to improve the public health. Medical devices cannot easily be tracked or identified in any systemic fashion with current tools. A UDI system will enable the FDA to detect warning signs of a defective device earlier and quickly respond to recalls. Every person with an artificial knee, hip, pacemaker or any one of the thousands of other medical devices will benefit once this UDI system is in place.

Mr. Speaker, I urge my colleagues to support this bipartisan and comprehensive drug and device safety bill.

Mr. PALLONE. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, I want to thank Chairman DINGELL and Chairman PALLONE, Mr. WAXMAN and Mr. MARKEY and Congresswoman ESHOO and all my colleagues on both sides of the aisle and their hardworking staffs for bringing this landmark bill to the floor today.

This bill strikes to the heart of some of FDA's most troubling issues by granting additional authorities to the Food and Drug Administration that are critical to enhancing drug safety. This bill gives consumers a larger role in deciding how user fees are spent to enhance drug safety, a huge victory for consumer protection. It will take steps to enhance the kind of information that will be available to patients and their families as they make personal decisions regarding their health care.

I am particularly pleased by the inclusion of an amendment I offered that will improve consumer's awareness of the MedWatch program, one of FDA's best but least known ways of monitoring adverse drug events once a product has been approved. Consumer reports of bad effects signal to FDA when prescription drugs pose a threat. The success of this program is crucial to postmarketing surveillance. Unfortunately, 9 out of 10 Americans are unaware that the MedWatch program exists, yet adverse drug and device reactions account for as many as 100,000 deaths every year.

My amendment requires that printed prescription drug ads include information on how to report side effects to the FDA's MedWatch program, both on the Internet and through a 1–800 number. It also requires the FDA to do a study on how we can best include this important information on the TV ads that have become so pervasive and influential in our society. So, again, I thank the chairman and staff for working with me to include this language.

This bill makes a strong statement about the importance of protecting people who rely on prescription medications to get through their day and remain active members of society. I am encouraged by the steps it takes toward a safer, more transparent Food and Drug Administration.

Mr. Speaker, I urge all my colleagues to support it.

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

Mr. Speaker, I thank our staff and urge the adoption of this bill and I yield back the balance of our time.

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

Mr. Speaker, I just want to thank everyone, particularly the staff that were involved in putting this legislation together and all the negotiations. I want to thank our legislative counsel, Warren Burke, Energy and Commerce Republicans, Ryan Long and Nandan Kenkeremath; Mr. DEAL's staff, John Little; our Energy and Commerce Democrats, John Ford, Pete Goodloe, Virgil Miller, Bobby Clark; and Mr. WAXMAN's staff, Karen Nelson, Rachel Sher, Stephen Cha, Anne Witt; and also Mr. MARKEY's staffperson, Kate Bazinsky.

Needless to say, this bill is a product of a lot of hard work here in the House on both sides of the aisle, and, of course, we are also expecting, since this is going to be a consensus bill passed on the suspension list today, that it will pass easily in the Senate hopefully tonight or tomorrow. And it really addresses the problems and the safety issues that have come to light in the last few years.

□ 1530

I think many of us know there has been a lot of media attention to the fact that oftentimes drugs in the postmarketing situation have been problems. People have died. People have gotten sick. This bill I think effectively addresses those issues. I hope

and expect that it will be noticed, because it will make a difference in people's lives.

Mr. WAXMAN. Mr. Speaker, the legislation are poised to pass today provides FDA, for the first time, critical tools that the Agency has been desperately lacking in its efforts to protect the American public from unsafe drugs.

This legislation will provide FDA with the ability to require companies to update their drug label with new safety information. Our goal here is to address tragic situations like Vioxx. In that case, because FDA could not compel the company to promptly make a labeling change, the Agency haggled with the company for 14 months before consumers were finally warned about serious cardiac risks in the drug label. This is simply unacceptable.

However, this legislation will make clear that, in giving FDA this labeling change authority, Congress does not intend to impact, in any way, a drug company's responsibility to promptly update its label with safety information on its own accord. Under FDA's current regulations, companies are required to add new warnings to their labels as soon as they learn of new dangers, even if FDA has not yet required the change.

In promulgating those regulations, FDA made a sensible policy choice. FDA recognized that the companies themselves are in the best position to know about risks associated with their own drugs. Logically, then, the companies should also be charged with the duty to make consumers aware of a drug's risk at the earliest possible moment. FDA recognized that drug safety is first and foremost a shared responsibility between the Agency and the company. And, today, Congress is making it clear that we do not mean to disrupt that balance.

This legislation will also give FDA for the first time the authority to require companies to conduct post-market studies and clinical trials of drugs. Another section of the bill creates a mandatory clinical trial registry and results database to increase the transparency of those trials. Both of these provisions will make a critical contribution towards increasing the safety of our drugs once they are on the market.

But I want to express my deep disappointment that this legislation failed to adopt a compromise that would have provided consumers with much-needed relief from the ever-increasing cost of drugs. Today, we are walking away from a critical and very rare opportunity to make some reasonable adjustments to the windfall profits drug companies receive for conducting pediatric studies under the Best Pharmaceuticals for Children Act.

This is not about whether these pediatric studies should be done. We all agree about that. They are being done now. And there is no question that they would continue to be done if we were to cut back slightly on the term of exclusivity for just the blockbuster drugs that are realizing profits many times over the cost of doing pediatric studies. The Senate did this in its bill and I regret that the compromise agreement we are considering today did not reflect anything from the Senate approach on this issue.

In my view, there simply is no justification for rewarding companies with incentives that are far in excess of the actual costs of the studies themselves—often hundreds of times over.

I also am deeply disturbed that this legislation fails to remove what is an unprecedented sunset on FDA's statutory authority to require pediatric studies under the Pediatric Research and Equity Act. There is no reason Congress needs to keep revisiting this common sense measure that allows FDA to get critical information about whether new therapies are safe and effective for children—FDA quite obviously needs to have the ability to require that new treatments be tested in children. And there need not be any further discussion about that.

So, although I am pleased that we will provide FDA with critical new authorities and resources in this bill today, I must express my deep regret that we failed to take this opportunity to help individuals, businesses, State governments, and insurers who pay the bill for the higher prices that result when generic competition is delayed for these expensive, blockbuster drugs.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise in strong support of this conference agreement to reauthorize important user fee programs at the Food and Drug Administration and enact critical drug safety reforms at the agency.

This legislation is the result of intense negotiations between the House and Senate, whose negotiators have worked tirelessly to reach consensus on this legislation. They did so with a looming deadline of September 31, after which the user fee program would expire and many hard-working FDA scientists would likely lose their jobs. To reach a compromise, all parties to the negotiation had to give and take, but I am pleased that the product before us represents something we can all support. I would like to congratulate the negotiators on their success.

The FDA Amendments Act of 2007 makes important changes at the FDA to place a greater emphasis on post-market surveillance within the agency. The Risk, Evaluation, and Mitigation Strategy established by this bill would give the agency the authority to monitor drugs throughout their life-cycle for adverse events or other signs of safety concerns. A critical aspect of this strategy is the additional authority this bill gives the Secretary of HHS to mandate that drug manufacturers conduct post-market studies.

Under this bill, the additional post-market activities extend to the user fee programs that help fund the drug approval process. Specifically, this bill directs drug manufacturers utilizing the FDA's drug approval process to dedicate an additional $225 million over 5 years for postmarket surveillance activities at the FDA. This additional funding represents an important investment by the pharmaceutical industry in the FDA's post-market safety activities, while also ensuring that pre-market user fees are adequate to bring potentially life-saving medicines to market in a reasonable time.

There is no question that the labeling and liability language prompted a great deal of debate during conference negotiations, but one thing is clear: the Congress in no way intends to limit the ability of a patient injured by a drug to seek redress from our Nation's justice system. FDA should have the ability to require labeling changes, but that additional authority does not absolve the drug manufacturer of any duty to initiate labeling changes on their own when new data bears out the need for a change. The implementation of stronger drug safety authorities does not mean that drug companies get a free pass when their products harm consumers. I am pleased that the conference agreement makes this point perfectly clear.

This legislation also reauthorizes the Medical Device User Fee Act, as well as the Best Pharmaceuticals For Children Act and the Pediatric Research Equity Act, which help ensure that pharmaceuticals are tested for their effect on children. After all, we know that children are not simply smaller adults, and part of protecting America's children is knowing how best to treat them when they face health concerns.

I would like to thank our Chairman, Mr. DINGELL, and our Health Subcommittee Chairman, Mr. PALLONE, for their work on this important legislation, and encourage my colleagues to support this important bill. These necessary changes at the FDA will go a long way toward restoring the American public's confidence in the agency and its ability to ensure the safety of the Nation's drug supply.

Ms. ESHOO. Mr. Speaker, I rise in support of H.R. 3580, the Food and Drug Administration Amendments Act.

This bill will make an enormous difference in the safety and effectiveness of drugs and medical devices used to treat adults and children.

I'm pleased that the bill adopts much of my legislation (H.R. 2589, Improving Pharmaceuticals for Children Act) to renew the Best Pharmaceuticals for Children Act (BPCA) and the Pediatric Research Equity Act (PREA). Together, BPCA and PREA represent two halves of a comprehensive effort to make sure that prescription drugs are appropriately tested and labeled for children.

According to the American Academy of Pediatrics, about 25 percent of drugs administered to children have been appropriately tested and labeled for use in kids. Pediatricians often have to prescribe drugs for ''off-label'' use, because the drug has not been studied in appropriate FDA-approved pediatric clinical trials. Children are not small adults; they have specific medical needs that have to be considered when drugs are used. Children have died or suffered serious side effects after taking drugs that were shown safe for use in adults but had different results in children.

The bill helps improve drug safety for children in two ways. First, under BPCA, the bill provides an incentive, an extra 6 months of marketing exclusivity, for a drug if the innovator company agrees to undertake comprehensive pediatric studies requested by the FDA. Second, under PREA, FDA is granted authority to require studies when there is a demonstrated need and drug companies are required to submit a pediatric assessment each time they apply to market a new drug or change an existing drug's indication.

I'm pleased this bill continues the BPCA incentive without the so-called ''blockbuster provision'' adopted by the Senate. The Senate's proposal would have reduced the incentive for drugs with annual sales of $1 billion, and, I believe the Senate language had the potential to kill ''the goose that laid the golden egg.'' The 6-month incentive has worked. According to GAO, 81 percent of the time FDA has offered this incentive for a drug, drug companies have accepted, undertaking studies that have generated pediatric data that would otherwise not have been available. Scaling back the incentive for ''blockbusters'' would risk that proven record of success. That is a gamble on the

health of children, and I'm pleased it's not in the bill.

In all negotiations there is give and take. There are items I supported that didn't make it into this package, including the permanent extension of PREA which I championed as part of my legislation and the original House bill. I hope we'll have a chance to revisit the issue in the next reauthorization, if not sooner.

On balance, this bill will make a huge improvement in the safety of drugs and devices. We should pass it and send it to the President today.

I want to commend Chairman DINGELL, Ranking Member BARTON and the professional staff of the House Energy and Commerce Committee, especially John Ford and Virgil Miller, as well as Jennifer Nieto Carey formerly of my staff, who worked extensively on this bill.

Mr. PALLONE. Mr. Speaker, I want to thank everyone again, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. DINGELL) that the House suspend the rules and pass the bill, H.R. 3580.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

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

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 405, nays 7, not voting 20, as follows:

[Roll No. 885]

YEAS—405

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Altmire
Arcuri
Baca
Bachmann
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Blackburn
Blumenauer
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd (FL)
Boyda (KS)
Brady (PA)
Brady (TX)
Braley (IA)
Broun (GA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Capito
Capps
Capuano
Cardoza
Carnahan
Carson
Castle
Castor
Chabot
Chandler
Clarke
Clay
Cleaver
Clyburn
Coble
Cohen
Conaway
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis, David
Davis, Lincoln
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doggett
Donnelly
Doolittle
Doyle
Drake
Dreier
Edwards
Ehlers
Ellison
Ellsworth
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Everett
Fallin
Farr
Fattah
Feeney
Ferguson
Filner
Forbes
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gilchrest
Gillibrand
Gingrey
Gohmert
Gonzalez
Goodlatte
Gordon
Graves
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hall (TX)
Hare
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Hinojosa
Hirono
Hobson
Hodes
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Hunter
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Jordan
Kagen
Kanjorski
Kaptur
Keller
Kennedy
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Klein (FL)
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Mahoney (FL)
Maloney (NY)
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul (TX)
McCollum (MN)
McCrery
McDermott
McGovern
McHenry
McIntyre
McKeon
McMorris Rodgers
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Nunes
Oberstar
Obey
Olver
Pallone
Pascrell
Pastor
Payne
Pearce
Pence
Perlmutter
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Richardson
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sali
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Saxton
Schakowsky
Schiff
Schmidt
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shays
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Space
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tancredo
Tanner
Tauscher
Taylor
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walberg
Walden (OR)
Walsh (NY)
Walz (MN)
Wamp
Wasserman Schultz
Watson
Watt
Waxman
Weiner
Welch (VT)
Weldon (FL)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (OH)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Yarmuth
Young (AK)
Young (FL)

NAYS—7

Duncan
Emerson
Flake
Goode
Hinchey
Kucinich
Paul

NOT VOTING—20

Allen
Andrews
Bishop (UT)
Blunt
Boehner
Cantor
Carney
Carter
Cole (OK)
Cubin
Davis, Jo Ann
Dicks
Granger
Jindal
Johnson (GA)
McCotter
McHugh
Ortiz
Putnam
Waters

□ 1555

Mr. GOODE changed his vote from ''yea'' to ''nay.''

Mr. PRICE of North Carolina changed his vote from ''nay'' to ''yea.''

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table

Stated for:

Mr. COLE of Oklahoma. Mr. Speaker, on Wednesday, September 19, 2007, I was unavoidably detained due to a prior obligation.

Had I been present and voting, I would have voted ''yea'' on rollcall No. 885.

INSURANCE CRISIS FACING HOMEOWNERS

(Ms. GINNY BROWN-WAITE of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, after terrorists attacked New York City and Washington, DC on September 11, 2001, our Nation came together. Without a study commission or partisanship, Congress quickly passed the Terrorism Risk Insurance Act to help business owners, and acted swiftly again by passing an extension in 2005. Now again, less than 2 years later, we just considered another TRIA extension.

If Congress can come together and help businesses after a terrorist attack, we should be able to come together to help homeowners who cannot afford the skyrocketing costs of insurance. For over 3 years, Congress has forgotten about homeowners around the country who are grappling with ever-increasing insurance rates.

For these reasons, Mr. BUCHANAN and I offered an amendment in the Rules Committee that would have added homeowners' reinsurance as losses covered under TRIA. This measure would have helped new families, parents, and grandparents who are homeowners. Sadly, the Rules Committee did not allow this amendment to be part of the rule and so Members did not have the opportunity to help their constituents.

Although I voted for TRIA, we should be saddened that the majority chose only to help business owners today and to ignore the insurance crisis facing homeowners.

INJUSTICE IN JENA

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, tomorrow in Jena, Louisiana will be the culmination of the frustration and the outrage felt by so many

across America as relates to the Jena 6.

The Jena 6 is not about a few boys misbehaving, because we understand that when young people need correcting, we do so, but it is about the systemic discrimination, if you will, of African American males and Hispanic males as relates to the juvenile justice system. This young man should have been tried in the juvenile justice system, but he was tried in a system that gave him a sentence that was clearly, clearly without merit.

Tomorrow we go to ask for justice not just for this young man and the other five that are there, but for young men across America who have been discriminated against, not given a second chance, and using the justice system to punish on the basis of race or ethnic background.

Enough is enough. Where is the Department of Justice Civil Rights Division? Obviously, the lights are out. They need to turn their lights on.

□ 1600

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. COURTNEY). Under the Speaker's announced policy of January 18, 2007, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

GREEN BERET AND MEDAL OF HONOR HERO ROY BENAVIDEZ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE. Mr. Speaker, America is about people. Who we are and what we are is because of the people who have come to America. They are individuals who have lived and died and influenced the rest of us because of their tenacious spirit and determination.

Mr. Speaker, I am a history fan. I love American history especially, and Texas history, not the history of dates and movements, but the history of the lives of individual Americans who made a difference.

Roy Benavidez was one of those Americans. Roy Benavidez was born in South Texas in a small town called Cuero, August 5, 1935. He was the son of a sharecropper. He was an orphan and he had mixed blood of Yaqui Indian and Hispanic. He was raised by his uncle after he lost his family and he dropped out of school in the seventh grade. He didn't see the need for an education at that time.

He was a migrant farm worker. He worked all over Texas and as far as Colorado in the sugar beet fields and the cotton fields. He decided to join the United States Army in 1955, and he joined in Houston, Texas. He was in love with his hometown sweetheart, Lala Coy. So while he was away in Germany on active duty, he asked a local priest, his grandfather and his uncle if they would go to Lala's father and ask permission for Roy to marry her, and he agreed. Mr. Speaker, you have to appreciate that old school that marry this way.

While he was in the Army, however, he was in a lot of trouble, even though he was a member of the Military Police. So he finally joined the Special Forces training at Fort Bragg and reached the rank of staff sergeant and went to Vietnam as a Green Beret.

But on May 2, 1962, his life changed and the lives of many Americans changed. It is a story that is almost unbelievable. On the morning of May 2, 1968, a 12-man Special Forces team was inserted in Cambodia to observe a large-scale North Vietnamese troop movement, and they were discovered by the enemy.

Most of the team members were close friends of Roy Benavidez, who was the forward operating officer in Loc Ninh, Vietnam. Three helicopters were sent to rescue this 12-man team, but they were unable to land because of the heavy enemy concentration. When a second attempt was made to reach the stranded team, Benavidez jumped onboard one of the helicopters, armed only with a Bowie knife.

As the helicopters reached the landing zone, Benavidez realized the team members were likely too severely wounded to move to the helicopters. So by himself he ran through heavy small arms fire to the wounded soldiers. He was wounded himself in the leg, the face, and the head in the process.

He reorganized the team and signaled the helicopters to land. But despite his injuries, Benavidez was able to carry off half of the wounded men to the helicopters. He then collected the classified documents held by the now dead team leader. As he completed this task, he was wounded by an exploding grenade in the back and shot in the stomach. At that moment, the waiting helicopter's pilot was also mortally wounded, and that helicopter crashed.

He ran to collect the stunned crash survivors and form a perimeter. He directed air support, ordered another extraction attempt and was wounded again when shot in the thigh. At this point he was losing so much blood from his face wounds that his vision became blocked. Finally, another helicopter landed and as Benavidez carried a wounded friend to it, he was clubbed in the head with a rifle butt by an enemy soldier. That soldier bayonetted Benavidez twice.

Mr. Speaker, Benavidez was wounded in that one battle 37 times; seven gunshot wounds, he had mortar in his back, and two bayonet wounds. He was taken for dead and left for dead and zipped up in a body bag, but right before they zipped the bag up, he spit in the doctor's face, letting the doctor know he was yet alive.

He later recovered. He received the Distinguished Service Cross and then many years later Ronald Reagan presented him with the Congressional Medal of Honor. President Reagan stated that if this were a movie, no one would believe it because of the heroic deed of Roy Benavidez.

Mr. Speaker, after he retired from the military, Roy Benavidez went around America talking about the importance of an education, since he only went to the seventh grade. He talked to young gang members, he talked to youth, telling them to stay in school and get an education.

He was a remarkable individual. A Navy ship has been named after him, several elementary schools in Texas have been named after Roy Benavidez, and even a toy company has issued a Roy Benavidez GI Joe action figure.

Mr. Speaker, as we celebrate and honor Hispanic Heritage Month, one of those great Hispanic Americans was Roy Benavidez, a Texas hero, an American hero, a war hero that loved America and, as he said, got to live the American Dream the way that he wanted.

And that's just the way it is.

The SPEAKER pro tempore (Mr. SIRES). Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

(Mr. CUMMINGS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

IRAQI CIVILIAN DEATH TOLL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, we now know that the President intends to keep U.S. forces in Iraq throughout the remainder of his term and that he intends for the U.S. to perpetually occupy Iraq via massive and permanent military bases he has ordered built. We have just learned of the staggering loss of life as a result of this war.

According to a new and incredible study, the number of civilians killed in Iraq since the war began now exceeds 1 million Iraqi people. The Iraqi civilian death toll exceeds the death toll from the genocide in Rwanda. For years, we and others said we didn't know how bad it was in Rwanda. With this report, that excuse is no longer valid in Iraq.

The official death toll in Iraq, fewer than 100,000 is what the official number is, has long been considered fictitious by humanitarian and other international organizations. Now we are forced to confront evidence that puts the death toll above 1 million Iraqis.

Opinion Research Business, a respected and mainstream London-based research company that works for major corporations and government clients, including the U.K.'s Conservative Party, conducted the survey in August. I point this out to inoculate my colleagues, the media and the American

people from the venom that will spew from this for those who want to keep the real cost of this war in human lives as far from public view as possible, because no one who knows the truth could stand and let it go on.

Joshua Holland, a journalist at AlterNet, broke the news online the other day. I enter his story into the RECORD, which includes a link directly to the Opinion Research site where people can read the entire research survey online. It was conducted in 15 out of Iraq's 18 provinces during mid August.

In his speech last week, the President referred to Anbar Province as a model of success. The research company did not even visit Anbar or Karbala for security reasons. And they were not allowed to conduct their field research in Irbil.

While the President is willing to stand up and say that he sees signs of success, the survey found that in Baghdad alone, almost half the houses say they have lost at least one member of their family. That's the reality in the largest Iraqi city, which has the largest concentration of U.S. military forces. Baghdad may have a fortified green zone for U.S. diplomats and Iraqi government officials, but the rest of the people live in a bloody red zone, where the killing has claimed someone from 50 percent of the households.

The President cannot claim signs of success in Iraq when his stubborn determination to remain is dissolving Baghdad into a dead zone. The civilian carnage is not isolated in Baghdad. Other major cities also registered dramatic civilian murder rates that would make the world weep at the staggering loss of humanity occurring in Iraq.

For a long time, I and other Members have spoken out about the number of U.S. soldiers killed or gravely wounded in Iraq, and we must never forget the sacrifices made by American soldiers and the painful losses suffered by American families across this country. But Congress must not ignore the overwhelming loss of life in Iraq. News that 1 million Iraqi civilians have been killed should compel us to get the U.S. forces out of Iraq immediately.

I know and respect many of my Republican colleagues. Our politics may differ, but our principle to protect innocent people does not. How many more Iraqis must die? The carnage will continue as long as Republicans in Congress wear the blinders that the President hands out to enforce allegiance to his blind and bloody armed occupation in Iraq.

For the sake of humanity, remove the blinders and speak the truth to power. The Iraq war is a humanitarian catastrophe on a scale that exceeds the genocide in Rwanda. We claimed we didn't know about Rwanda. We can't claim that any more about Iraq

[From AlterNet, Sept. 17, 2007]

IRAQ DEATH TOLL RIVALS RWANDA GENOCIDE, CAMBODIAN KILLING FIELDS

(By Joshua Holland)

A new study estimates that 1.2 million Iraqis have met violent deaths since Bush and Cheney chose to invade.

According to a new study, 1.2 million Iraqis have met violent deaths since the 2003 invasion, the highest estimate of war-related fatalities yet. The study was done by the British polling firm ORB, which conducted face-to-face interviews with a sample of over 1,700 Iraqi adults in 15 of Iraq's 18 provinces. Two provinces—al-Anbar and Karbala—were too dangerous to canvas, and officials in a third, Irbil, didn't give the researchers a permit to do their work. The study's margin of error was plus-minus 2.4 percent. Field workers asked residents how many members of their own household had been killed since the invasion. More than one in five respondents said that at least one person in their home had been murdered since March of 2003. One in three Iraqis also said that at least some neighbors ''actually living on [their] street'' had fled the carnage, with around half of those having left the country.

In Baghdad, almost half of those interviewed reported at least one violent death in their household.

Before the study's release, the highest estimate of Iraqi deaths had been around 650,000 in the landmark Johns Hopkins' study published in the Lancet, a highly respected and peer-reviewed British medical journal. Unlike that study, which measured the difference in deaths from all causes during the first three years of the occupation with the mortality rate that existed prior to the invasion, the ORB poll looked only at deaths due to violence.

The poll's findings are in line with the rolling estimate maintained on the Just Foreign Policy website, based on the Johns Hopkins' data, that stands at just over 1 million Iraqis killed as of this writing.

These numbers suggest that the invasion and occupation of Iraq rivals the great crimes of the last century—the human toll exceeds the 800,000 to 900,000 believed killed in the Rwandan genocide in 1994, and is approaching the number (1.7 million) who died in Cambodia's infamous ''Killing Fields'' during the Khmer Rouge era of the 1970s.

While the stunning figures should play a major role in the debate over continuing the occupation, they probably won't. That's because there are three distinct versions of events in Iraq—the bloody criminal nightmare that the ''reality-based community'' has to grapple with, the picture the commercial media portrays and the war that the occupation's last supporters have conjured up out of thin air. Similarly, American discourse has also developed three different levels of Iraqi casualties. There's the approximately 1 million killed according to the best epidemiological research conducted by one of the world's most prestigious scientific institutions, there's the 75,000–80,000 (based on news reports) the Washington Post and other commercial media allow, and there's the clean and antiseptic blood-free war the administration claims to have fought (recall that they dismissed the Lancet findings out of hand and yet offered no numbers of their own). Here's the troubling thing, and one reason why opposition to the war isn't even more intense than it is: Americans were asked in an AP poll conducted earlier this year how many Iraqi civilians they thought had been killed as a result of the invasion and occupation, and the median answer they gave was 9,890. That's less than a third of the number of civilian deaths confirmed by U.N. monitors in 2006 alone.

Most of that disconnect is probably a result of American exceptionalism—the United States is, by definition, the good guy, and good guys don't launch wars of choice that result in over a million people being massacred. Never mind that that's exactly what the data show; acknowledging as much creates intolerable cognitive dissonance for most Americans, so as a nation, we won't.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Persons in the gallery must refrain from displays of approval or disapproval of the proceedings.

SHOULD WE BE SURPRISED? NOT REALLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. SHIMKUS) is recognized for 5 minutes.

Mr. SHIMKUS. Mr. Speaker, it is 4:10 and we have finished the work of today. Should I be surprised? I wish I wouldn't be surprised. I was going to give the new majority a chance to get their sea legs in about 6 months to manage the floor so that we would work throughout the day, but I continue to get disappointed at our early departure hours from the floor.

I have got numerous dates from throughout the year where we have stopped work: January 11 at 3:26 p.m.; 17 January, 5:52 p.m.; 23 January, 2:40 p.m.; 4:23 p.m., 2:44 p.m., 2:28 p.m., 4:58 p.m., 3:01 p.m., 2:51 p.m., 3:21, 3:46. Yesterday I think we left work at 3:30. Today we leave work at 4.

The problem, Mr. Speaker, is that just because we are here more days a week doesn't mean we are doing any more work. Many of us who would like to be home to visit with our constituents or be home to visit with our families would say let's work in the evening, let's work at 6 p.m., let's work at 7 p.m., let's go to 10 p.m. By golly, let's go to 11 o'clock at night. Let's be brave. Let's be courageous.

We know there are many issues that the American public want us to address. We heard the concern from my colleague just before. But where are we? We're done for the day. No more business. Now it is just Members coming to the floor and speaking what is on their mind. What is on my mind is we ought to be about the business that we are sent here to do.

I understand the new majority, and I wanted to cut them some slack on the first 6 months. Five days a week. Let's work. That's fine. But now we're past that time. Now we should be able to say: The days we are here in Washington, let's work. Let's start at 10, let's go to 6, let's go to 8, let's go to 10. Let's get our work done and then allow 435 Members to go back to their districts to do their town hall meetings, to visit with their constituents, to take care of the business.

Not only that, but most of us live at home. Most of our families live in the

districts we represent. We can't be good fathers, good mothers, good parents when we are stuck here at 4 p.m., 4:10, nothing else to do, just wait for the next workday to begin.

So, Mr. Speaker, my simple point is, if we are going to work here in Washington, can't we please go back to working in the evening? I don't think that is too much to ask for.

□ 1615

IN RECOGNITION OF ALAN KRUTCHKOFF AND THE ADOPT-A-SOLDIER PLATOON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. ROTHMAN) is recognized for 5 minutes.

Mr. ROTHMAN. Mr. Speaker, I rise to recognize the Adopt-A-Soldier Platoon, Incorporated, their partners, Unilever and DHL, and in particular Mr. Alan Krutchkoff, the president and founder of the Adopt-A-Soldier Platoon and fellow resident of Fair Lawn, New Jersey.

Alan Krutchkoff started the Adopt-A-Soldier Platoon with one simple act of charity in April of 2003, when he discovered that the son of one of his wife's colleagues was being sent to Iraq as part of Operation Iraqi Freedom. Alan took the initiative to pair this young man with his friend and cofounder of the Adopt-A-Soldier Platoon, Mr. Holmes Brady, who had been a reservist with Special Forces. Alan and Holmes went shopping for supplies and sent a care package to the young man stationed in Iraq.

News of this act of kindness spread, and it wasn't long before Alan discovered that many of his coworkers at Unilever had relatives or friends serving overseas. And, thus, the idea of the Adopt-A-Soldier Platoon was born.

The people of the Adopt-A-Soldier Platoon have made many outstanding donations to our brave troops serving overseas. Their contributions include numerous care packages consisting of snack foods, soft drinks, books, movies and clothes, a custom-built giant video screen for a Super Bowl party, personal care items for female soldiers and 25,000 blank DVDs and camcorders which enable tens of thousands of our troops to make personal videos to send to their families during the holidays.

In their efforts to support our troops, the Adopt-A-Soldier Platoon has also gone well beyond simply sending care packages. In 2006, they worked with the chief information officer of the 10th Combat Support Hospital, which is the largest American military hospital in Iraq, to provide wireless Internet access for all of our soldiers. This provided the servicemen and women at the 10th CHS a closer connection to friends and family members and helped keep their morale high. The adoptee units of this exceptional volunteer group also includes the 412th Civil Affairs Battalion in Iraq, the 28th Combat Support Hospital in Baghdad, Logistics Support Area Anaconda where 25,000 Americans troops live, the 324th Integrated Theater Signal Battalion, and the 449th and 209th Aviation Support Battalions.

In addition to these activities, the extraordinary people of the Adopt-A-Soldier Platoon are supporting our soldiers in their mission to rebuild Iraq. They have partnered with Charlie Company, 412 Civil Affairs Battalion, in the al Anbar province to implement what is called Operation Hearts and Minds. This operation is aimed at helping Iraqi residents build schools and work on local infrastructure.

Supporters of the Adopt-A-Soldier Platoon at Unilever have also raised money to send soccer balls to local Iraqi children and to provide additional security equipment to strengthen military checkpoints.

I also want to draw particular attention to this group for their compassion. On June 6 this year, the Adopt-A-Soldier Platoon received a call from their contact at Charlie Company asking if they could help a sick Iraqi child get an operation in Jordan. Mariam, who was 1 year old, had a hole in her mouth and could not eat without getting sick. In one day, the people at the Adopt-A-Soldier Platoon raised $1,800 for Mariam's family to offset the costly medical and travel expenses she required.

Acts like this demonstrate the inherent kindness and generosity of Americans and, hopefully, generate much needed goodwill in Iraq.

Mr. Speaker, today it is my great honor to recognize the exceptional work of the Adopt-A-Soldier Platoon in supporting our troops; Unilever for their generous donations of products, money, and time; DHL for generously shipping care packages to Iraq; and, especially my friend and constituent, my fellow Fair Lawn resident, Alan Krutchkoff, for his tireless efforts and inspiring dedication to provide our men and women serving in the Middle East with a connection to their homes and families.

The organizations and individuals involved in this effort have greatly lifted the morale of tens of thousands of our troops who are putting their lives in harm's way tens of thousands of miles away from home, away from their families and friends.

This group of people, Mr. Speaker, is well deserved of every bit of recognition and praise we can impart upon them. I commend each and every person involved in this honorable effort, and hope that every Member of Congress will join me in recognizing the outstanding work of the Adopt-A-Soldier Platoon.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES of North Carolina addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HENSARLING) is recognized for 5 minutes.

(Mr. HENSARLING addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

CONGRESSIONAL PROGRESSIVE CAUCUS AND THE OUT OF IRAQ CAUCUS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, the Congressional Progressive Caucus and the Out of Iraq Caucus sponsored a very important meeting this morning to review the dire situation in Iraq and to explore ways to end the occupation. At this event, we heard from Dr. William Polk, one of America's leading experts on the Middle East.

Dr. Polk taught Middle Eastern history, politics, and Arabic at Harvard before joining the U.S. State Department's Policy Planning Council responsible for the Middle East and responsible for North Africa. Later, he became professor of history and founding director of the Center for Middle Eastern Studies at the University of Chicago.

Dr. Polk is the author of many books, including the recently published book entitled, ''Violent Politics, a History of Insurgency, Terrorism, and Guerilla Warfare from the American Revolution to Iraq.'' To write the book, Dr. Polk studied insurgent movements throughout world history. He found that they were motivated by many different causes, including race, religion, culture, economics, and language, but he found that they all had one thing in common, an opposition to foreign occupation.

Dr. Polk's research has clear implications for our policy in Iraq. It tells us that the American occupation of Iraq can never solve the country's problems. Only the Iraqis can solve Iraqi problems. And it tells us that the only policy that now makes sense is to withdraw our troops in an orderly but rapid way, and couple that action with a carefully constructed program that will help the Iraqis to pick up the pieces and to rebuild their country with the help of the regional international community.

The lesson of history is clear, Mr. Speaker; yet, our leaders in the White House continue to follow a disastrous course of foreign occupation. Their blindness has put our Nation on a very dangerous course. The administration has called for an enduring relationship with Iraq, meaning many years, perhaps even decades, of American military involvement.

If the administration has its way, babies now in diapers will grow up and march off to Baghdad while the neocons who crafted our Iraq policy play golf in their retirement communities.

The administration's policy of endless occupation will cost us trillions of dollars and countless casualties. It will lead to the deaths of countless Iraqi civilians and surely force millions more to become refugees. Meanwhile, al Qaeda will continue to hatch its plots against the United States in their safe havens far from Iraq.

It is clear that Iraq will never stabilize and find peace while we are present. Our occupation of Iraq prevents Iraqis from finding solutions to their own problems, and it prevents the regional and international diplomacy that is absolutely needed to help them reconcile and to rebuild.

The timely withdrawal of American troops is the essential first step in solving the Iraqi problem. So long as our troops and military contractors are there, the situation can only and will only get worse.

In the days ahead, I and others will urge Congress to move to end the occupation. Congress has the power of the purse. We must pass a bill requiring that all spending related to Iraq be used for only one purpose, and that is to fully fund the safe, orderly, and responsible withdrawal of all American troops and military contractors.

If we fail to do this, we will have failed the American people, who sent us to Congress last November with a clear message: End the occupation of Iraq. And we will have failed our country morally, we will have failed our country politically, and certainly we will have failed it economically.

It is time, Mr. Speaker, to do what we know is right and what is best for our country: bring our troops home.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. ETHERIDGE) is recognized for 5 minutes.

(Mr. ETHERIDGE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

(Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.

MAJORITY MAKERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, the gentlewoman from Ohio (Ms. SUTTON) is recognized for 60 minutes as the designee of the majority leader.

Ms. SUTTON. Mr. Speaker, I would like to begin this hour by talking about a subject that has become one of the most significant issues of our time. I am going to be joined by members of the freshman class or the Majority Makers throughout this hour to talk about Iraq.

We have heard in recent days about what the President's idea of our way forward is. He has called for more money and more patience and a renewed commitment to U.S. troops in Iraq for the foreseeable future, another stay-the-course strategy that puts us on a path toward a $1 trillion, at least 10-year presence war in Iraq. On top of that, we have no convincing evidence that the political reconciliation necessary will be achieved even after so much sacrifice on the part of our brave troops will be realized.

I believe that the President's plan for Iraq amounts to an open-ended and dangerous commitment of American troops in Iraq and an open wallet from the American people to pay for it.

The question should not be whether we keep our troops in Iraq for 10 years. The question should be: How do we responsibly redeploy our troops? And how do we develop that plan that will do so while we continue to protect our homeland and fight against terrorists?

On August 19, we saw in the New York Times an editorial that was written by seven brave U.S. soldiers. I bring this to the attention, Mr. Speaker, of you and all those who may be tuned in because I think it is important that we listen to their vantage point. And while I won't be reading the entire article, I will read excerpts from it. Again, it is August 19, the New York Times, and I would suggest that everybody who can take a look at the complete editorial. It is entitled, ''The War As We Saw It.'' And it begins:

''Viewed from Iraq at the tail end of a 15-month deployment, the political debate in Washington is indeed surreal. Counterinsurgency is, by definition, a competition between insurgents and counterinsurgents for the control and support of a population.

□ 1630

To believe that Americans, with an occupying force that long ago outlived its reluctant welcome, can win over a recalcitrant local population and win this counterinsurgency is farfetched. As responsible infantrymen and noncommissioned officers with the 82nd Airborne Division soon heading back home, we are skeptical of recent press coverage portraying the conflict as increasingly manageable and feel it has neglected the mounting civil, political and social unrest we see every day.''

And then they say, in parentheses, ''Obviously these are our personal views and should not be seen as official within our chain of command.''

They continue:

''The claim that we are increasingly in control of the battlefields in Iraq is an assessment arrived at through a flawed, American-centered framework. Yes, we are militarily superior, but our successes are offset by some failures elsewhere. What soldiers call the 'battle space' remains the same, with changes only at the margins. It is crowded with actors who do not fit neatly into boxes: Sunni extremists, al Qaeda terrorists, Shiite militiamen, criminals and armed tribes. This situation is made more complex by the questionable loyalties and Janus-faced role of the Iraqi police and Iraqi army, which have been trained and armed at United States taxpayers' expense.''

And then they continue:

''Reports that a majority of Iraqi army commanders are now reliable partners can be considered only misleading rhetoric. The truth is that battalion commanders, even if well meaning, have little or no influence over the thousands of obstinate men under them in an incoherent chain of command who are really loyal only to their militias.''

They continue in this article, and they state, ''Political reconciliation in Iraq will occur, but not at our insistence or in ways that meet our benchmarks. It will happen on Iraqi terms when the reality on the battlefield is congruent with that in the political sphere. There will be no magnanimous solutions that please every party the way we expect, and there will be winners and losers. The choice that we have left is to decide which side we will take. Trying to please every party to this conflict, as we do now, will only ensure we are hated by all in the long run.''

These brave soldiers conclude this op-ed with the following:

''It would be prudent for us to increasingly let Iraqis take center stage in all matters, to come up with a nuanced policy in which we assist them from the margins but let them resolve their differences as they see fit. This suggestion is not meant to be defeatist, but rather to highlight our pursuit of incompatible policies to absurd ends without recognizing the incongruities.''

They say, ''We need not talk about our morale. As committed soldiers, we will see this mission through.''

I share that because I think it's worth having out there for our consideration and our contemplation to add to the wealth of information that is being presented to the American people.

I'm sad to report that since this oped began, they started writing this, during the course of writing it, one of these brave soldiers was shot in the head, and he is recovering. But on September 13, the headline in the same New York Times sadly stated, ''Skeptical But Loyal Soldiers Die in a Truck Crash in Iraq.'' And two of these soldiers who had the courage not only to go and fight for our Nation but to do everything they were asked to do were killed in Iraq.

We are here today to talk about this pressing, pressing issue. The light that

has been shed on this by these soldiers should be part of the discussion. I am joined here on the floor right now by a couple of my colleagues, leaders on this issue, I know, who feel it deeply. The gentleman from Florida, RON KLEIN, a tremendous new Member, at this point I am going to just yield to him for his remarks.

Mr. KLEIN of Florida. Thank you, Congresswoman SUTTON.

It's a pleasure to serve with you and the other 54 Members of our class. They call us freshmen. Some people call us freshmen. Some people call us majority makers. But clearly we're new Members, and I think that as new Members we probably have heard through some very active campaigns a very clear message from our communities and, that is, what's going on in Iraq, this is back in November, but continues to today, as your point is, is not working. And it's not working on a number of levels.

The way I sort of focus on this is the notion that all this should be about the national security of the American people. This is about what makes us safe in our homes, our communities, our States, our country. And yes, we obviously have interests around the world in other places as well. But first and foremost, what's important to us is at home, that we know our families and that we are protected.

The problem as I see it, and I think it has now been confirmed, and I'm on the Foreign Affairs Committee, so I've had the opportunity, as many of the Members of Congress have had, to get the briefings of a number of people, including members of the State Department and others, and we've all had the chance to go over and speak to the Joint Chiefs of Staff over at the Pentagon to get a firsthand question-and-answer about what the assumptions were in the surge and what the assumptions were in adding or subtracting military personnel and how our commitments were affecting the rest of our military and the rest of the commitments that we as Americans have internally. National Guard. I come from Florida. We have hurricane season, and are we at risk in terms of being able to respond, or anywhere in the world where our military is needed.

I think it's very clear, and I think most Americans understand this, that al Qaeda, Osama bin Laden, the people that perpetrated 9/11, it wasn't Iraq, it was Osama bin Laden and al Qaeda. Al Qaeda was not in Iraq at the time of September 11.

The bottom line is Osama bin Laden is still operating. Al Qaeda is still operating. And it's not operating in Baghdad. Sure there are cells in places in Iraq, and it's up to our military, and our military understands its responsibilities to root them out. Those are specific engagements and we should find those cells and root them out.

But al Qaeda is not limited to Iraq. They're operating in different parts of the world. Afghanistan is at a tipping point, as we understand it. Nobody, no Democrat or Republican, seems to be contesting that issue. Americans understand that the Taliban and al Qaeda are re-emerging in Afghanistan. Yet, our assets, our men, our women, our military hardware and equipment are saddled and stuck in Iraq. That's not to say that there's not a terrible situation in Iraq. It is a terrible situation.

But as Americans, we have to put ourselves first and say, what's in the best interest for America? Both here at home, and dealing with Afghanistan, dealing if there's a problem in Pakistan, dealing with Iran, dealing with North Korea. These are the potential hot spots around the world, where there are potential nuclear issues and things like that.

My biggest concern all along, and I know I share this with certainly all Members of our Democratic side, and I know many Republicans. This is not a Democrat-Republican issue. This is an American issue. It's what is the right thing to do. I think it's very clear, based on everything we've seen so far, is that this is not going to get resolved now, 6 months from now, a year from now, 5, 10 years from now, with just a military solution.

Senator LINDSAY GRAHAM, a Republican from the Carolinas, was before our Foreign Affairs Committee today, and he said he was there. He also specifically said, listen, our generals are generals. He comes from a military background. He did work in the legal corps of our military. He said, but, you know, generals are not always necessarily right. Ask them the tough questions. I know when General Petraeus came before our committee and many of us listened very carefully as to what he had to say, many of us were not quite fully satisfied that the answers were consistent. On the one hand he said, yeah, we're going to draw down. On the other hand he's saying, we need power, we need troops, we need, you know, the power to make sure that everything is there. It didn't all sound consistent to me.

But the bottom line is I think we need to be strategic and smart. And redeployment is not a question of getting everybody out immediately. Nobody is suggesting that among our group here today. What we are saying is be smart. Secure the borders. Do some things to make sure this doesn't spill out. Really double and triple our efforts to retrain the military, and there are other ideas not limited to anybody in this room. There are lots of generals out there, retired and active, that are coming up with good suggestions.

But repackaging the stay-the-course approach, which is what is going on right now, is not the answer. We need to have a better answer to protect our men and women in the field, and protect America most significantly, at home and abroad.

Ms. SUTTON. Thank you, Congressman KLEIN.

I couldn't agree more that we need to have that kind of a plan. And unfortunately, a plan for responsibly redeploying and a plan for dealing with the broad scope of protecting America and what's in America's best interest is not being offered up. In fact, it's not even being discussed, because we're having the same discussion that we've been having for years now about staying the course in Iraq.

I would like to shift it over to my colleague from New Hampshire, Representative CAROL SHEA-PORTER, who I know can shed a great deal of light on this as well as a member of the Armed Services Committee.

Ms. SHEA-PORTER. Thank you, Congresswoman.

I am on the Armed Services Committee and we've had many, many hearings on this issue. It has become very clear to me that we need a plan to redeploy responsibly and to start it immediately.

First, let's go over some of the facts once again because it is a national security issue here. There were no Iraqis on the plane that day. 9/11, there were no Iraqis. But we were attacked by people who had been trained in Afghanistan in Osama bin Laden's group, and we needed to go there. We needed to go to Afghanistan. We still need to win in Afghanistan. But somehow or another we got diverted to Iraq, and we have paid the price, and the Iraqis have paid the price as well.

We are now spending $10 billion a month, that we acknowledge, in Iraq. We really don't know the cost. We borrow money from Communist China to pay for this.

I was a military spouse and so I'm feeling particularly protective of our troops. Our soldiers are exhausted. We send the same team in over and over again. This is an American problem, not a Republican problem or a Democratic problem. It's an American problem, and it calls for an American solution.

Let us talk about what it looks like in Iraq right now. And I have been there. What it looks like right now, and it was the independent Jones report that verified this, and I appreciated the report very much, retired General Jones and his commission. What they talked about was 2.2 million Iraqis displaced within the borders of Iraq. Every single month for the past 6 months, 100,000 Iraqis have moved. They've left their homes, their communities, their jobs, if they had jobs, and they have moved.

Now, why would 100,000 people move? Because it's not safe. It's as simple as that. We've had ethnic cleansing there. If you look at the maps that was in the Jones Commission, 2005, you could see in the neighborhoods in Baghdad that they were mixed, Sunni and Shiia living side by side. By 2007, the mixed neighborhoods are virtually gone. They've had ethnic cleansing. They have militias.

People say, well, you know, take a look at this. The Sunnis have joined with the United States to defeat al

Qaeda. No, not really. What it is is an enemy of my enemy is a friend. What has happened here is that the Sunnis have joined with the U.S. right now so they can rid themselves of their enemies.

We estimate that al Qaeda is maybe 7 to 10 percent of the violence there. But the reality is that most of this violence is still a civil war. It comes from within and it has not gotten better.

We know that 95 percent of the children are showing terrible signs of posttraumatic stress syndrome disorder. We know that they have dirty water. We know that they have 2 hours of electricity if they're lucky.

We know that in every way to measure standard of life, it has declined. Why are we still there? That's the question that all of us are asking. Why are we still in Iraq? And why does the President have a plan that says, stay. Stay for how long? Just stay. That is not acceptable to the American public anymore.

I yield back to you and I thank you very much for bringing this to the floor today so that we can tell the American people what has really happened, what we have heard from independent commissions, and what the reality is for the people of Iraq and the people of the United States.

I would like to add one more point which is important. Let's look at the American benchmarks and let's ask where America is now. Where are we on education? Where are we on health care? Where are we on jobs? Where are we on infrastructure? We have poured so much money into Iraq. What about American benchmarks?

Ms. SUTTON. I thank the gentlewoman for her excellent remarks. I guess the question that comes to mind when you ask where are we on these domestic items, where are we going to be in 10 years on these domestic items?

At this point I would just like to shift it over to my great colleague, a new freshman Member, a majority maker who has brought a lot of valuable insight and knowledge to this body and on this subject, the Honorable JOE COURTNEY.

□ 1645

Mr. COURTNEY. Thank you, Congressman SUTTON, for yielding.

And I just want to follow up with my friend from the Armed Services Committee about the lack of strategic balance that presently is occurring right now in Iraq and Afghanistan. In late August, German authorities arrested three terrorists who were plotting a major attack on an American military installation in Germany. Where were they trained? Well, we know the answer. They were trained in northern Pakistan, in that region of the world where our own military and intelligence officials have identified the real threat to Europe and the U.S. in terms of where future hits are going to take place.

As a member of the Armed Services Committee, I was in Afghanistan in May. We had briefings from military commanders over there who have said that training camps are in full level of activity, and they made a flat prediction that we are going to see attempted attacks emanating from that region of the world.

Let's step back. We have 26,000 troops in Afghanistan; 165,000 troops in Iraq. Is this a strategy that is really aimed at what is in the national interest of this country? I mean obviously if we look at just recent events in terms of where arrests are taking place, where the real training is taking place to hit Europe and the U.S., the fact of the matter is it is in the northern part of Pakistan, which is an area that the Taliban is now pretty much able to move and operate unimpeded because we have a dysfunctional relationship with the Pakistani Government and the Afghan Government is too weak to basically police those borders.

And I think a lot of the debate that is taking place right now after the Petraeus-Crocker report, which is appropriately focused on whether or not the benchmarks that the Iraq Government set forth have been met and what is the level of wear and tear in terms of our Armed Forces, they are clearly important to discuss, but we also need to have an overall strategic vision about what is in the national interest of this country. And the fact is being involved at the level that we are at right now in a civil war in Iraq is not in America's national interest, and for the sake of our military families, as Congresswoman SHEA-PORTER indicated, and certainly for a safer, smarter foreign policy, we need to have a change in course and a redeployment.

Over the summer the New York Times did a study on the situation right now in terms of the mid-level officer corps of our Armed Services, our ground forces. In the 2001 graduating class from West Point, which just completed their 5-year tour of duty, 44 percent of the class have left the Armed Forces. That is the highest number in three decades. People need to think about that in terms of what is happening to the best and the brightest in our military. They are voting with their feet. They are leaving the armed services. And many commanders from the Vietnam era, General Shinseki being one of them, the Army chief of staff who had the wisdom and vision to predict that we would need hundreds of thousands of troops if we were going to truly police Iraq after Afghanistan, have spoken all across the country about the fact that what's happening in Iraq today is having the same effect, same negative effect, on our Armed Forces that the war in Vietnam had, which is a hollowed-out mid-level officer corps of our armed services. It took a generation to recover from that, and we are now seeing, with the exodus that is happening right now with, again, the best and brightest of our West Point graduates leaving our armed services, that we, for the sake of our own future, ground forces and military readiness, need to have a change of course in Iraq.

And Senator WEBB has an amendment that's coming up, the Dwell Time Amendment, which will require the Armed Forces by law to make sure that our Armed Forces have the same amount of dwell time as they do deployment. I think that is an important step. I am very excited that it looks like we are going to get to the 60-vote number in the Senate and overcome a cloture, that we are going to start bringing some sanity back into our military and defense policy so that we don't destroy the greatest warfighting machine in the world.

And I know Congressman WELCH from Vermont, my neighbor to the north and a good Red Sox fan, is also someone who has talked a lot about this issue in terms of the impact on our military families, and I would be happy to hear from Congressman WELCH from Vermont.

Mr. WELCH of Vermont. Thank you, Mr. COURTNEY.

Mr. Speaker, I don't think any of us want to be here talking about the war because it's a tragedy, and I believe the American people have come to that conclusion. Whether they supported going into the war or they opposed going into the war, they figured out that at this point our military men and women have done all they can do. They toppled Saddam. They reported back truthfully that there were no weapons of mass destruction, and they allowed stability in Iraq so that Iraq had three democratic elections. At a certain point, it is up to the Iraqis to step up and build their own institutions and their own democracy. We obviously can help and we have some responsibility. But the American people, those who supported the war, those who opposed going into the war initially, have come to a pretty commonsense conclusion: We have done our job, the military has performed ably, and it is time for the Iraqis to take our place.

The fundamental question that the President has put to this Congress and to the American people is this: Is it the proper role of the United States military to be refereeing a civil war? That's the question. Now, Republicans and Democrats in the past have been united that our military has a primary responsibility for defending us in fighting wars, not for refereeing civil wars.

A couple of things. One, there has never been an example in the history of the world where a third-party military has actually refereed a civil war to a peaceful political and economic conclusion. There are examples of third-party militaries, outside militaries, coming in on one side and, through force of arms, imposing an outcome. But that is not the policy even of the Bush administration.

Is this a civil war? Here's what is going on in Iraq right now: There are several different civil wars that are underway. In the south in the Basra region where our ally Great Britain has

basically taken its 44,000 troops down to 5,000 troops and redeployed them to a base, there are three different Shia wars going on. They're not fighting about democracy. They're not fighting pro- or anti-Iran primarily. They're not fighting about the future of Iraq as a united country. They are fighting about oil. It is about who is going to be in control of that port and that refinery in Basra.

You then go to Kurdistan. Kurdistan has been, in effect, independent since 1991, Mr. Speaker, after the first Gulf War. And they have actually built an economy. They have outside investment coming in. They will not even allow the Iraqi flag to be flown in Kurdistan and are bent on achieving their own independence. But they want oil as well and are threatening, and they have an independent military, the Peshmurga, to take significant forceful action if they don't, from their perspective, get their share of oil in the Kirkuk region.

Then you have Baghdad. Baghdad has been the site of the most extreme ethnic cleansing. Before the fall of Saddam, Baghdad had 65 percent population that was Sunni. That was the seat of Saddam's power. Now it is 75 percent Shia.

A neighborhood that I visited, Mr. COURTNEY, when I was with a delegation to Iraq, the Dora neighborhood, had previously been Sunni and was now Shia, and peace came about basically by displacing the people who used to be there and putting new people in.

And the overall dislocation in Iraq is astonishing, as you mentioned, my friend from New Hampshire: 2 million Iraqis displaced internally, 2 million exiled; 4 million people already, about 60,000 a month, are affected by this. And that is the equivalent in the United States, 20 percent of our population or about 50 million people. Think about it if 50 million people were displaced, either thrown out of the country or fleeing the country or had to move from Texas to Vermont or Vermont to New York because of force and fear.

Then you have the provinces around Baghdad. The Sunni Triangle, Anbar, Diyala, a couple of provinces where General Petraeus was arguing that there was, quote, ''progress.'' Well, again, no one is going to quibble about a military person's estimation of whether there is military progress, but what has happened there largely is that there has been dislocation. The Sunni tribal leaders have done what most analysts expected they would do: They would turn against al Qaeda because they are nationalists. They are much more concerned about Iraq than they are accommodating this radical ideology and they would, quote, ''work with the United States.''

But what's the price that we are paying? What is the tactical decision that was made? The decision was made to arm tribal chiefs. Now, that can work in the short run. It gives them arms to fight alongside American soldiers in some particular circumstances. But what is the overall policy of the Bush administration? It is a strong central Iraqi Government centered in Baghdad. So what you have now is a United States policy that arms factions in the provinces, which is a momentary truce of convenience, that has no loyalty to the central government in Baghdad. And down the road, as what happened in Afghanistan when the United States, to pursue its interest against the Soviet invasion of Afghanistan, armed the Taliban, and that Taliban then became the monster that produced an Osama bin Laden. But we have our policy where we are literally doing two things against the middle: arming factions who are hostile to a central government even as we say our goal is to have a strong central government.

So none of us know what all the details are, but what you have is an incredibly internal complexity: a Shia south where there is Shia factional fighting, a Sunni Triangle where there is a temporary alliance of convenience, you have ethnic cleansing in Baghdad, and you have a Kurdistan that is insisting upon being independent.

Incidentally, on this question of being independent, even the President's friends who have business interests are getting it. You read the report last week about Hunt Oil. Hunt Oil is owned by Mr. Hunt, a very good friend of the President, a big contributor and a member of the Foreign Policy Advisory Committee that the President pays deference to, listens to. Mr. Hunt bypassed the central government in Iraq and is entering into a direct oil agreement with Kurdistan. So he not only has made his bet that the President's policy is going to fail, he is making arrangements to profit by that failure.

So why is it that we are asking the American military, the American taxpayer to continue pursuing a dead-end policy? There is one reason that the President now offers to defend a policy that is bankrupt, that is a dead end, that has a history of failure. That argument that the administration is making is this: If we leave, there will be chaos.

Now, think about it. Those who oppose the war, those who voted against it argue that if we invaded Iraq, in all likelihood the outcome would be the quick toppling of Saddam and the long-term chaos and violence that would follow. The argument that the President rejected then he is embracing now.

All of us who oppose the war really do so with a heavy heart because we know that the choices that are available to this country and to the people of Iraq are very constrained and there is going to be untold suffering that lies ahead. We don't have good choices, but the question is what is the right choice that is going to mitigate the suffering? And that right choice has to be to redeploy our troops because the continued presence of the United States through the military emphasizes a military approach to a political problem. And that's why all of us are here doing everything we can to change our direction in Iraq.

And I thank you for my opportunity to participate with my wonderful colleagues.

Ms. SUTTON. Thank you, Congressman WELCH.

And we have been joined by another great new Member of the class and a great help on issues related to Iraq and so many more things, my colleague from the Rules Committee, the esteemed MIKE ARCURI.

I yield to Mr. ARCURI.

Mr. ARCURI. Mr. Speaker, I thank my friend and colleague from the great State of Ohio for organizing this and bringing us all together here, and I thank all of you for being here.

Like so many other Members of Congress, I have had an opportunity to go to Iraq. And recently I came back from there, about 3 weeks ago, and I couldn't help but be so impressed with the incredible job that our troops are doing there. The men and women that are there are doing everything that is asked of them and much more in an incredibly hostile environment.

□ 1700

And they're doing it not just as a job, but they're doing it with intensity and passion. And they're doing a great job at what they do in just incredibly hostile circumstances. I am convinced, after seeing the job that they did, that our military, in a just cause, could accomplish anything we ask of them, anything in the world. And I was just very impressed with how hard they're working.

But you can't help but be troubled by the fact that the mission there continues to change. I can't help but think about, the old example that they use in football is every time that the team sets up to kick a field goal they move the goalpost back. It just seems like that's what we're doing. First, as my friend from Vermont just said, we were told we were going to Iraq for weapons of mass destruction. That didn't pan out. We were told we had to remove a dictator in Saddam Hussein. Our soldiers did that, and they did it magnificently. Then we were told we had to stay until there were free elections. We had free elections. Then we were told that we had to stay there; in fact, we not only had to stay there, we had to increase our numbers there, we had to have a surge so that we could reduce the violence so that the government would have an opportunity, would have a chance to come together. And that's exactly what our soldiers did. And despite that fact, we are still told that we will continue to be there. This is just unimaginable.

Our soldiers have done everything that we have asked of them, and much more, in an incredibly hostile environment, and yet they continue to be told that they have to stay in Iraq. And for what?

I am convinced, after meeting with Dr. Salam al-Zubaie, the Deputy Prime Minister, that the factions in Iraq will continue to fight, they will continue to use America as a crutch for as long as they possibly can. We gave them time. We did exactly what we said we would do. And what did they do? They squandered that time. They continued to posture for a better position, and they continue to do that today. Blood is spilling, Iraqi blood, American blood, and they continue to posture. Violence increases, and they continue to posture. They refuse to come together. It is high time for us to allow Iraq to take over, to stand up for itself. They will stand up when we stand down.

The other thing that was very amazing, when you see it, and we talk about how much money we're spending there, we talk about the $16 million an hour, the $2 billion a week. And they sound like numbers until you actually go there and you see the amount of equipment and you see the amount of investment we are making there. And obviously that is something that we have been doing and we will continue to do. But when you think about the fights that we have here right on this floor, the debates that we have on this floor about things like SCHIP, about things like improving our infrastructure that's crumbling, about things that are good domestically for our economy, and we don't do them. And we discuss and continue to debate about the money, and yet we spend billions and billions of dollars in Iraq.

I think while we do that, countries like China continue to take money and they invest it in their economy. We need to make our investment in our domestic economy, in our bridges, in our infrastructure, in our economy, in our health care system, in education. Those are the things that the American people want. Those are the things that we ran on last year. Those are the things that we promised the American people. And those are the things that we need to continue to work on.

I thank you thank you very much, my colleagues from the freshman class, for being here today. And, Ms. SUTTON, thank you very much for bringing us here.

Ms. SUTTON. Thank you, Representative ARCURI. That firsthand account and your observations are very enlightening. We appreciate you bringing them forward and, again, highlighting the fact that as we make this choice and as the President opts to try and keep us in Iraq for 10 years, or beyond, it means there are other consequences. Beyond all of those other consequences we talked about militarily and the effects on our military, there are those domestic issues, Representative SHEA-PORTER, that you point out and Mr. ARCURI points out that we will continue to fall behind on. I think that the picture is becoming a little bit more clear down here tonight that we need some comprehensive thinking that is smart and effective. And the question of a responsible redeployment and what that plan should look like is really the one that we need to be working on.

With that, I want to pass it over to another great Member of the new Congress, a freshman from Minnesota who I think is going to shed some light on the Blackwater situation.

Mr. ELLISON. Mr. Speaker, I am really honored to join my members of this freshman class. I am so proud to be a Member of the 110th Congress.

I just wanted to point out that this week as we contemplate and as we've seen the three reports, the GAO report, the report from General Petraeus, the report from General Jones, we are at a point where we have to make a big decision. The people of America and Iraq want our troops to have a safe but clear end point to this conflict. The surge has not been successful, as we see 11 of 18 legislative security and economic benchmarks set down have not been met.

But I just wanted to talk about a very interesting and curious development in this whole conflict, which is that part of the story of the Iraq conflict is the contractors. Blackwater is the most well known of them, but that's not the only one. There's DynCorp, there's Titan, there's Casey, there's many of them. As a matter of fact, what we have seen is a privatization of this conflict. We've seen the privatization of this conflict as literally estimated at upwards of 150,000 contractors have been in Iraq. And the question is, since we've never privatized a war, since we've always kept an essential governmental function, which is defense of the Nation, within the firm hands of the government and we've never really privatized a military conflict before, what does all of this mean? Interestingly and sadly, we've seen this privatization situation devolve into a very dangerous situation which I believe has in many ways compromised national security and has damaged the reputation of the United States and has led, in my view, to a situation where the Iraqi Government, even though it is a government under occupation, under U.S. military occupation, has had to make a statement to throw Blackwater out of its country.

Now, think about that. This is a government that is not in full control of its own country but has mustered itself and said, Look, in order to go forward, this institution, Blackwater, must leave our country. I just want to talk about this a little bit because I think that it's an important part of the story and it needs to be told even from the floor of Congress.

The recent incident that I'm talking about has caused the Iraqi Government to revoke the license of Blackwater. This is the result of a situation, of a killing of Iraqi citizens that happened on September 11, 2007 and the wounding of 14 others by a Blackwater USA security company. Ostensibly, this private security company guards U.S. Embassy personnel in Iraq. Blackwater USA is based in North Carolina and is one of the largest of at least 28 different private security firms that have received governmental contracts to work in Iraq, paid for by at least $4 billion in taxpayer dollars.

This group, funded by American taxpayer dollars through their contract, seems to hold very few American values, it seems to me, except for making money, by some accounts as much as five times the amount that our brave soldiers make. Five times the amount the average soldier is making is what one of these contractors can make, particularly one that was in Blackwater. According to one source, in February 2004, Blackwater started training former Chilean commandos, some of whom were serving during the Pinochet years in Chile, for duty in Iraq. People who know the Pinochet regime know that this regime was known for people disappearing in the country. Torture was routine. Other news reports indicate that four of the guards killed in January while working for a subcontractor had served in South Africa's security forces during the apartheid era, and one of them had applied for amnesty for crimes that he committed while operating under the apartheid regime. Not good news.

Press reports further indicate that this latest incident was not isolated, with Iraqi Interior Minister spokesman Abdul-Karim Khalaf calling the episode the ''last and biggest mistake'' committed by Blackwater.

Khalaf went on to say, ''Security contracts do not allow them to shoot people randomly. They are here to protect personnel, not to shoot people without reason.''

Mr. Speaker, we are not in a position to win the hearts and minds of the Iraqi people if we have cowboy mercenary vigilantes. Blackwater seems to be accountable neither to the Iraqi Government, and there are serious questions as to whether they're even accountable to the U.S. Government. They are not subject to the Geneva Convention, which our soldiers are. If accounts of this and other incidents prove to be accurate, and of course due process is critically important, then the Iraqi Government's actions to expel Blackwater from Iraq could indicate the first concrete sign that a real government may exist in Baghdad. Who knows. We'll see.

Mr. Speaker, I think it is very critical that we continue to look into this issue of private contractors. It is an important part of the story of Iraq. It is a critical and fundamental part of this dialogue that we're having. We can't privatize our Nation's national defense. When we do, we lose control of these people.

Mercenary actions are not deemed sanctioned by U.N. charter. And to hire a private mercenary army is something that we should not be associated with. They call themselves security contractors, and yet they have been involved

in major military actions in Najaf. Everybody remembers the horrific incident that occurred in Fallujah that was succeeded by a major action against that city. At this point I think it's important for us to pay much closer attention to this situation and put some real accountability on this situation.

I yield back at this time, but I do ask that we raise these important issues and focus on exactly what this means for our country and our national security.

Ms. SUTTON. I thank Representative ELLISON for that addition to this debate this evening. It's important that all of this be exposed to the light of day so that we can make the inquiries that are appropriate as well as the policies that make sense from this Chamber.

At this point, I would like to throw it back over to Representative CAROL SHEA-PORTER from New Hampshire. I think, Representative SHEA-PORTER, you were going to share with us some statistics and information from a report.

Ms. SHEA-PORTER. Thank you, Congresswoman.

I am holding in my hands a report to Congress from September 6, 2007 called ''The Independent Commission Security Forces of Iraq.'' This is retired General Jones. They did an absolutely wonderful job, nonpartisan, and I'm very pleased to say that it seems incredibly accurate and fair in all respects.

Here is a concern, or one of the many concerns that I have, and I just want to read a couple of lines and talk about it. It says, Iraq's central government in Baghdad, and this is page 39, does not have national reach in terms of security, nor does it have a monopoly on use of force, a defining characteristic of a functioning nation state. Militias continue to play a prominent role and are seen by American and Iraqi officials alike as posing almost as significant a threat to Iraqi stability and security as al Qaeda in Iraq.

Now, isn't that fascinating? We hear them talk about al Qaeda, al Qaeda, al Qaeda in Iraq. Al Qaeda was not in Iraq on 9/11, 2001, and yet we have militias roaming around and there is very little talk about that.

Now, as this report states, if you have militias, it means that the Iraqi Central Government is not in control of their streets. This is where we have our soldiers, in the middle of a civil war. And this is the reason that we've had ethnic cleansing and the other problems that we're having.

I want to talk about the Iraqi political establishment for a moment. Our troops have done everything they've been asked to do. They are guarding the streets. And yes, violence has gone down where our troops are, and it's a great credit to our troops, but I can tell you right now that if you put 50 policemen and women on a corner of any major city in America, or anywhere, crime would go down because these forces do a terrific job, but it doesn't mean that you've changed the hearts and minds of the people, the criminals. What we have here is an Iraqi Government that has not stepped forward. And so we are relying on our troops to not only control the violence in Baghdad, but also to run everything.

The Iraqi Government, the Parliament, wanted to take 2 months off this summer in the middle of this crisis. When the White House, Tony Snow, was asked about the 2-month vacation, he said, well, it's 140 degrees there. And somebody said, well, aren't our troops in 140 degrees as well?

The Iraqi Parliament also, more than half of them, signed a petition asking the United States to leave Iraq. Now, this is not leadership. Our troops have waited for years for Iraqi leadership to step forward and run their country.

□ 1715

We cannot ask our troops to not only be the police there, be the cop on the beat there, but also to be the politicians there. If the Iraqi Government will not, cannot, step up, we have to finally say we have to step down. It has been just too long.

So picture that, what it is like, and you will understand why 100,000 Iraqis have been leaving every month and why there is more than 2 million people who are now out of the Iraqi borders. They have lost their middle class. They have lost anybody who could help the society. They have fled. And you understand why, when you think about militias and you think about the lack of Iraqi political leadership. You didn't hear very much about that coming out of the White House. Ask them to name the Iraqi politicians, the leaders, who are going to take over, and ask when. Because they can't say when. They can't name who is going to take over. We cannot leave our troops there indefinitely until the Iraqis decide to find political reconciliation.

That is the problem. As long as we have our troops there, yes, we can tamp down the violence where our troops are. But we must have a government. That report shows that they have militia wandering around and that the Iraqi Government has not stepped up to the task. We are in our fifth year, Americans know that, our fifth year of our treasure and our blood of our people. It is time to stop.

Ms. SUTTON. Well, I thank the gentlewoman from New Hampshire. It is a sad state of affairs, but it goes back to the point that we have heard here tonight, and that is that unity in Iraq, really, at the end of the day, is going to be determined by the people of Iraq. We all know that our military has performed valiantly and selflessly and that they are true American heroes. But as you point out, it is not fair to keep them trapped in the middle of a civil war and refuse to acknowledge that all that has been discussed here tonight is going on. That is not a prudent plan. I think it is time. We have heard the call when we go home and talk to our constituents. It is time for a plan to responsibly redeploy. That is what the American people need from our President.

I will share just a few statistics with you that sort of buttress this need. We know that there was a great rollout when we had this so-called surge introduced as a new way forward. But let me just shed some light on some of the results. In June, July and August of 2007, it marked the bloodiest summer so far U.S. troops in Iraq have had, with 264 soldiers killed. U.S. casualties in Iraq are 56 percent higher this year than they were at this time in 2006. Since January of this year, we have lost 761 brave servicemen and women to the war in Iraq.

By the way, I should say that these statistics are as of September 10. I have fear they have grown since then. As of September 10, 3,759 U.S. troops have been killed and more than 27,770 have been wounded in Iraq since it began in March 2003. Think about that. Think about the cost in lives. Think about the cost in the casualties and the injuries that our soldiers are facing for the rest of their lives in many cases, the costs to them, which is unfathomable and enormous, and the cost to the American people as we do what we must do, and that is provide them with the health care and the resources they need and to fulfill the promise that we make to them when we send them into harm's way. We must take care of our veterans.

We also learn that, and you pointed this out, Representative SHEA-PORTER, that in Iraq, opinions are also that they would like our troops to be responsibly deploying. Just to share some information from a new poll that was jointly conducted and released by ABC News, BBC News and Japan's NHK, 47 percent of Iraqis want American forces and their coalition allies to leave the country immediately. That is a 12 percent increase over March. Remember, our soldiers are there in that environment. The polls showed that every person interviewed in Baghdad and Anbar province, a Sunni-dominated area where Bush recently visited and cited progress, said the troop increase has worsened security. Seventy percent believe security has deteriorated in the areas where the U.S. surge troops were located. Between 67 and 70 percent say that the surge has hampered conditions for political dialogue, reconstruction and economic development. Fifty-seven percent of Iraqis say that attacking coalition forces is ''acceptable,'' more than three times higher than when polled in February of 2004. That is the environment we are keeping our troops in. The President's plan is to do so for the very foreseeable future.

It is time for a plan of responsible redeployment. Our military should not be asked to try to control a civil war, a sectarian civil war. We have heard all

the components of all the factions and all the dynamics that are going on in Iraq. Just think about our troops sitting in the middle of that and doing everything they are asked to do. We know from the report that Representative SHEA-PORTER referenced, and we know from the GAO reports. They confirm that our strategy is not working and that this conflict begs for a political solution, not a military one; though the United States can play a constructive role, and we will, and we have done so by providing, through high cost and blood and money, an opportunity to embrace a different way to the Iraqi people. We also know the toll that that country has, along the way, encountered.

Seventy-eight percent of Americans say they believe that the U.S. should withdraw some or all troops from Iraq. Sixty percent of Americans say the U.S. should set a timetable to withdraw our forces from Iraq and should ''stick to that timetable regardless of what is going on in Iraq.'' That is not because we don't care. That is because we are looking at the evidence, and we are trying to make the responsible decision for our troops, for the safety of this country and for domestic policy.

At this point, I would like to turn it over to Representative SHEA-PORTER, and we will be wrapping up here in a few moments.

Ms. SHEA-PORTER. I would also like to point out that this really is a national security issue for the United States of America. General Peter Pace was asked if he was comfortable with the ability of our Nation to respond to an emerging world threat. He paused and he said, ''No, I am not comfortable.''

We have our troops bogged down in Iraq. We do have enemies around the world, no question about it, but our military is strained. We know that the troops could not stay at this pace past March anyway, so it is natural that the President would call to bring back some of the troops in March. It is not really progress. It is just acknowledging that we have to have them back. But here is the issue: If you know there is a burglar in your neighborhood, the first thing you do is you lock your own door. We didn't do that. We went to Iraq instead of locking our own door. We didn't even pass the 9/11 recommendations. The 110th Congress had to take care of that business. So, finally, we are going to be inspecting cargo from airplanes, and we are going to be inspecting cargo that comes from overseas, and we are going to inspect 100 percent of it after a period of time. That should have been done immediately. We should have beefed up homeland security, locked our doors, so to speak, and then worked with other nations to catch terrorists. They were ready.

On 9/12/01, we had the world's sympathy and empathy. They were ready to work with us to catch these horrible terrorists. Instead, we went to Iraq, and now our brave troops are bogged down there. The Iraqis have suffered enough. It is time to bring them home responsibly and to start looking at building up our troop strength again so that we can respond to anyplace around the world that we might need to be.

Ms. SUTTON. Well said, Representative SHEA-PORTER.

Mr. Speaker, we are going to close and yield back the balance of our time.

REPUBLICAN FRESHMEN THIRD QUARTERLY REPORT TO THE 110TH CONGRESS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, the gentleman from California (Mr. MCCARTHY) is recognized for 60 minutes as the designee of the minority leader.

Mr. MCCARTHY of California. Mr. Speaker, tonight we are having our third quarterly report to the 110th Congress. This is a quarterly report for the newly elected republican freshmen. We came here to solve problems. We came here to find partnerships. We came here to really, what we listened about during the campaign, to make America better. Tonight, I have a few freshmen joining with me.

The idea tonight is about accountability. What has gone on here in Congress? I think every time we do this quarterly report, I go and I check the Web sites. Again, today is a new record. Congress has the lowest approval rating, at 11 percent, that it has in the history of its taking a poll; lower than in the years of Watergate, lower than during the years when we were rationing and being held hostage in Iran, lower than the time of 1994 when the last time the parties switched powers here. Tonight is the night we talk about what has gone on, the accountability of what has happened here, and what has taken place.

To start us out tonight is a congresswoman from Minnesota, from St. Cloud, MICHELE BACHMANN. I yield to Mrs. BACHMANN.

Mrs. BACHMANN. Mr. Speaker, I thank my colleague from the great State of California, Congressman MCCARTHY. What a wonderful leadership role he is playing with our freshmen class.

It is true, Mr. Speaker, we are so grateful, as freshmen Members, to be here with new ideas and a new perspective. Part of that perspective is a positive outlook on life and a positive outlook on our country. One thing about Americans, Mr. Speaker, is we tend to be happy people, go-getter people, people that have ideas, innovation. We are entrepreneurs. We always look over the next hill. We always look for the next goal. We are forward-looking people.

One thing that I have been a little dismayed about in my time here in the Congress is I have heard so much negativity on the floor. As a matter of fact, in the previous Special Order, I was amazed at the level of negativity that I heard. That is not representative of the American people. It certainly is not representative of the people of the Sixth District of the State of Minnesota. They are positive people that are looking, as we Republican freshmen are looking, at new ideas, at fresh perspectives.

I was so intrigued this weekend when I was home in my district, I had the chance to read the Sunday paper. I found an article in that paper that talked about the incredible progress we have made in recent years. So much of that has to do, Mr. Speaker, with a lot of the very good decisions that were made in the previous Congresses, particularly, Mr. Speaker, the tax cuts that were passed in 2001, 2003. I say that because I am a Federal tax litigation attorney. I hate high taxation. If you speak with most Americans, they also detest high levels of taxation. One thing that the Congress did so well was to reduce that level in 2001 and in 2003. The one thing we don't want to see happen is to have the country take a dramatic turn now under the Democrat controlled House of Representatives and embrace tax increases. This really concerns us because what we have seen so far is the Democrats are now embracing what, you know, the argument is, will it be the largest or the second largest tax increase in American history? Whatever, it is a very large tax increase. But what the other formula for success has brought about, Mr. Speaker, is prosperity.

□ 1730

Prosperity not just for those who are the high income earners, not even just the middle income earners. We have seen tremendous levels of prosperity, even for those who we would consider the poor among us, who government considers the poor among us, and if there is anyone who deserves help up, a hand up, it is the poorest among us.

In this article I read this weekend, it is really a scorecard of sorts on the Republicans and the great tax cuts that they put through this Congress, and it is very good news.

If you dig into the numbers, as this author writes, his name is Jason Lewis, he is a writer from the Twin Cities, and I want to quote from this article, he writes, ''We now have a record number of Americans with health insurance.''

I will tell you what. You would never know that, listening to people speak on the floor of this House. You would think everyone is destitute and no one has health insurance. We are at an all-time high in this country with the number of people that have health insurance.

The doom-and-gloom focus says that most of those people who do not have health insurance currently live in households with incomes that are in excess of $50,000 a year. So even the people who don't have health insurance in the United States are making over $50,000 a year. In fact, many of them

today are eligible for government healthcare programs. They have just simply decided or elected not to enroll in those programs.

The median household income, more good news is that adjusted for inflation, the median household income today has risen in 2006 to over $48,451 nationwide, and in the Twin Cities in Minnesota, median household income today is at a robust $62,223.

This is great news. We should be talking about this great news. And how did we get to this level of prosperity? It is because of the tax cuts that came in 2001 and 2003, and that great investment is now paying off.

Surprisingly, in August, the figures show the first significant drop in poverty in a decade. This is great news. Shout it from the housetop, which we are. This is the ''big House.'' We are shouting it. The official rate declined from 12.6 percent in 2005 down to 12.3 percent. That is great. We want to reduce the level of poverty in the United States.

The Federal tax cuts of 2003 gave us an economy that added $1.3 trillion in real output. We have grown more than 3 percent annually, according to Investors Business Daily.

Business spending, way up, adding 8 million new jobs to this economy. Real labor compensation per hour has rebounded, because now wages have advanced 3.9 percent from a year ago.

Those are statistics. But it really means things for American families. As a woman, as a wife, as a mother of five children, we have raised over 23 foster children, I will tell you what: When your wage goes up, that means you can afford to pay the light bill at the end of the month. You can afford to have groceries. You can take your kids and buy them the clothes that they need for school. You can pay for the field trips they have to go on. And you can pay for all the sports activities that they love to do after school.

These are real benefits, when government doesn't have that money, when normal real people have this money. That is what we want, to have all households have that money, and the poorest families are the ones that need to benefit even the most.

Mr. Speaker, even with the slight decline in job creation in August, the Nation's unemployment rate remained in record low territory of 4.6 percent. Great news. Great news for today.

Robert Rector also just came out for the Heritage Foundation, and he told us among the households considered poor in our country, of those households that we call poor, 46 percent of those households in America, almost half actually own their own home. That is something that we don't always understand, that almost half of all poor people in this country own a home. If you own a home, Mr. Speaker, that is your greatest down payment on the next generation and on wealth creation.

Most people that are considered poor by our government own a car. In fact, of people considered poor, 31 percent of poor households own two or more cars. That is great, and we want to keep prosperity going for the poor.

Seventy-eight percent of those who are considered poor by the government have a DVD player or have a VCR player. In fact, 62 percent have cable or satellite TV. One-third of poor households have both cell phones and land line phones. And a stunning 80 percent have air conditioning. This is really good news, significant, because as recently as 1970, and I remember this, only 36 percent of all American households had air conditioning. My family wasn't one of those. So I am grateful that today 80 percent of the people that even the government considers poor today have air conditioning. This is great news that we have.

In fact, the study said that 89 percent of poor families themselves, and this is very important, say that they have enough food. Boy, if there is any measure of poor, it is, are you hungry? No one wants to see one child, one older person, anyone go hungry in this country. Eight-nine percent of people who themselves are categorized as poor say that that they have enough food. Only 2 percent of that category say that they don't.

That isn't to say, Mr. Speaker, that there are not serious problems for those who live below the poverty line. Trust me. The foster children that we took into our home, they were categorized in this category. There are needs aplenty for those who are below the poverty line. We need to address those needs.

That being said, there is good news out there. Let's celebrate the fact that Census Bureau figures don't even include when they categorize people that are poor the value of non-cash benefits. So if you are poor, the government doesn't even include the fact of the amount of money you receive in food stamps. They don't include the amount you receive in housing subsidies, in Medicaid, or even the Earned Income Tax Credit. That is to say, and this again is good news, that the gap between the poor and average households is even smaller than sometimes what it is stated to be.

That being said, we are now at a juncture, Mr. Speaker, when we are looking at a turn. I know my colleagues that are also going to be speaking in the freshman class are going to be talking about this turn.

I will end on this note, because I gave a lot of great news. The negative news that we are looking at is that so far in this Congress, the Democrat majority in the House has passed their budget, and their budget included, again, the largest, or however you want to parse it, the second largest tax increase in American history. I just want to say that for the people of my district and the people for your district, they will probably have to be paying an additional $3,000 a year for every average American family, and that will negatively impact the poorest among us the most.

So we have two choices in front of us: Do we want to continue with lower taxes and prosperity, where the poorest among us have seen actually tangible benefits? Or do we want to take the route that the Democrats have proposed, and increase taxes knowingly $3,000 a year on my family, on your family, on families in our districts? I can't abide by that, especially for the low-income families in my district.

With that, I say let's do what our founders would want us to do, and that is to embrace hope, prosperity, new ideas and a fresh perspective.

Mr. Speaker, with that, I yield back to the kind gentleman from California, Congressman MCCARTHY.

Mr. MCCARTHY of California. Mr. Speaker, I thank Congresswoman BACHMANN for her talk. You can see from her enthusiasm, you can see from being a mother of 23 foster children, that she brings hope, not only to America, but to Congress. She brings a problem-solving idea, trying to find some commonsense ways actually to make change here. We are so proud to have you here.

As I said, this is the third quarterly report put on by the freshmen Republicans on accountability of what has gone on here in Congress. We want to bring it back to your house, Mr. Speaker, to let people know what has gone on on this floor.

There is a reason why America has lost faith in their Congress. The approval rating is now at 11 percent, the lowest in the history of any poll on the approval rating of what has gone on in Congress. So tonight we want to talk about what has happened here. But we want to also talk about our future and how we can make things better, how we can find common ground, how we can actually bring hope back to America and have real change.

Tonight I have the honor of introducing one of the superstars in the freshman class. He comes from the Sixth District of Illinois, Congressman PETER ROSKAM from Wheaton, Illinois. I yield to the gentleman.

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

Mr. Speaker, I really appreciate Congressman MCCARTHY's leadership this afternoon and this evening, this opportunity to have a conversation and really to reflect on what it is that we have been sent here to do. I know that I and my colleagues that join me here on the floor, Mr. Speaker, are people that came here as problem solvers. We didn't come here to fight partisan fights. We didn't come here to have sharp elbows. We didn't come here to call people names. But we came here to try to get something done.

We represent districts that are really commonsense districts, that have a high expectation of this process. I know that all of us who are on the floor today, we don't celebrate in the very low view that the American public has

of the Congress under this current leadership. We don't celebrate in that at all. In fact, we mourn that in many ways, because there has been a real lack of leadership and a lack of an opportunity.

I think whenever you have conversations about how you are doing so far, and this is our third quarterly report that the Republican freshmen are participating in, it is always in the context of looking at what the expectations were as the 2006 elections came about. What was it that people said, that the American people trusted in, that the American people believed in, that the American people cast their votes for? What was it, that rhetoric that called people forth?

I think we don't have to go very far to really look at the rhetoric from the 2006 campaign and look at the comparison to the accomplishments in 2007, and you can see why 89 percent of the American public says, ''that's not what I voted for.'' So let's kind of refresh our memories.

First off was that we were going to be a very hard-working Congress. The 109th Congress, we were told, was essentially lazy and wasn't accomplishing anything. That was the characterization of the previous Congress under the previous leadership. In fact, we were told that during the next year, Members of the House will be expected in the Capitol for votes each week by 6:30 p.m., and will finish their business by about 2 p.m. on Fridays, we were told by then Minority Whip HOYER.

Well, as it has come into fruition, here we are, it is 5:40 p.m. in Washington, D.C. There is plenty of time for us to be doing substantive work, amending bills, debating bills, considering things. We could all be in committees. And yet the House is quiet today, and here we have this time to be reflecting on what the performance has been.

I regret that. My sense is that we are here to work, and we are willing to work, and we are anxious to work. Yet the way that the majority has structured the calendar, there is simply too much time. Of the 21 weeks in session, only six have included five full days of work. That is according to the official website of the Clerk of the House of Representatives.

Or, we were told that the Members of the House would have at least 24 hours to examine a bill and a conference report text prior to floor consideration. That is what the gentlewoman from California, Ms. PELOSI, said in her publication, ''A New Direction For America.'' She also said, and it was reported in the Washington Post, that she would insist that bills be made available to the public at least 24 hours before they would be voted on by the full House. Yet the reality, Mr. Speaker, is far different than that.

You know, it is one thing to not make a big deal about something in a campaign and then follow through and you keep things the way they are. But it is an entirely different situation to create this overarching sense of expectation, to create this sort of nirvana invitation, to come to this new 110th Congress where everything is fantastic, and you are just going to love serving here.

Yet the harsh reality is this: The following bills did not enjoy that generous 24 hours notice: The following bills are H.R. 1, the very first bill of this new Congress. H.R. 1 did not enjoy a 24 hour notice period.

Now, let's think about it. Is 24 hour notice the biggest deal in the world? No, frankly, it is not. It is not the biggest deal in the world. There is a little bit of process argument to it and there is a little bit of inside baseball feel to it.

□ 1745

But the point is the current majority leadership created the expectation that 24-hour notice was going to be the standard. So here are just a few things: H.R. 1, H.R. 2, H.R. 3, H.R. 4, all of the first bills, no 24-hour notice. H. Res. 35, the intelligence oversight authority, not the ability to have 24-hour notice. H. Res. 296, H. Con. Res. 63, and on and on and on, no 24-hour notice.

Or we were told by Mrs. PELOSI in the last election cycle, she is quoted as saying, ''Rules governing floor debate must be reported before 10 p.m. for a bill to be considered the following day.'' That sounds great. But the problem, you see, is that the Democrat majority leadership hasn't followed through on that.

According to this report which was put together fairly quickly, nine bills with the twinkling of an aye haven't enjoyed that notice.

As we are moving forward and considering this, my district is sort of interested in the process, Mr. Speaker, but they are really interested in the substance of this Congress. This is a group that is now in the leadership and now in the majority that made very clear promises about what, fiscal discipline and fiscal responsibility. And those are things that deeply resonate in the district I represent.

This is what Mrs. PELOSI said. She said, ''Democrats are committed to ending years of irresponsible budget policies that have produced historic benefits.''

Additionally, she said, ''We will work to lead the House of Representatives with a commitment to integrity, to civility, and to fiscal responsibility.'' That sounds fantastic.

You go door to door in the Sixth Congressional District in Illinois, you go door to door in Mrs. BACHMANN's district, you go door to door in Mr. MCCARTHY's district in California, and you say I am going to stand for fiscal responsibility, and they say, hip hip hurray, go to Congress. You go do the right thing.

But where the breakdown has happened or the disconnect has happened is when people say, hey, I voted for fiscal responsibility. I voted for fiscal discipline. That's how I cast my vote last November. And now they come into the third quarter of this year and all of a sudden they realize that is not happening. That is not even close to happening. Oh, they are spending money like there is no tomorrow. That is how this majority has approached the budget situation.

Do you remember the conversation we had on the earmark process on this House floor, Mr. Speaker? Earmarks are those abilities to sort of put a little Post-it note in an appropriations bill, and the note says this money is going to be spent on this particular program in this particular way.

There are some people who say all earmarks are bad. I don't necessarily think that is true, but I think all earmarks should be transparent. People should have the ability to look at the Federal budget, people should have the ability to look at the appropriations bills and look at the work of Congress and say, who is behind that spending item, what is motivating that person, and where is it going.

Well, what we were told is that these earmarks would be transparent. In fact, we were told throughout the course of the 2006 campaign what the Democratic leadership wanted to do was completely transcend the earmark process and open it up to sunshine and goodness and light. But the reality was much different than that.

The reality was it was the Republican minority in this Chamber that had to fight tooth and nail on this floor to drive the appropriations process open so that earmarks were transparent because the way it was originally set up was that we were told that all we could do was simply write a letter if we had an objection to an earmark to the chairman of the Appropriations Committee. That is simply not good enough.

So as we are reflecting today and looking about at what is it, how is it that an institution that is to be celebrated, an institution that is to be admired, an institution that is to be respected, is now down at an approval rating at an all-time low? I regret that. I am sad about that. I don't celebrate in that.

I think what has happened is the American people have come to the conclusion that the rhetoric of the Democrat majority, the rhetoric of the leadership of the Democratic Party, the rhetoric of the last campaign simply doesn't match with the reality of what they are seeing in Congress. And so the promise to make this the most ethical group in history hasn't come to fruition. The promise to be fiscally disciplined has not come to fruition. The promise to make this process open and accessible to all hasn't come to fruition.

I think that, Mr. Speaker, in large part is why we are now at this historic low of 11 percent. I think we can do better. I think there are some of us

who are on the floor this afternoon and evening who want to be problem solvers. There are some of us who want to get things done. There are some of us who understand that living within our means means making fundamental choices and decisions.

We were elected as leaders, and yet sometimes there is a temptation, which I sense on the majority side that they simply want to kick the can down the lane and have another Congress make the tough decisions.

Mr. Speaker, I was sent here to make tough choices and I stand ready with these good colleagues. We are here calling balls and strikes. We don't come in as harsh critics of everything. We are not simply here about donkeys and elephants necessarily, but we are here talking about those things that ought to bring us together as Americans, and that is the ability to work together towards solutions, to make the tough choices now and not defer them to future generations.

Mr. MCCARTHY of California. Mr. Speaker, I thank Congressman PETER ROSKAM. He makes a good point that you may campaign as a Republican or a Democrat, but when you come here, you should come to the issues as Americans. That is how we come to you tonight, looking for common ground, and the place where we can actually solve problems. That is what we campaigned on and made a promise to do, and that is why we are before you.

Just as when you are back home sitting at your table with your children, and I have mine, Connor, 13, and Megan, 11. I look for their report cards. I look at their grades. Tonight we are going to talk about Congress's grades.

The next speaker we have tonight is an individual from Ohio. He was a State senator, kind of a star there as well as on match, a wrestler, an NCAA champion. And currently, he is serving on Judiciary, Oversight and Government Reform, and Small Business. He is also looking out after us when it comes to the budget.

Mr. JORDAN of Ohio. Let me thank the gentleman from California for putting this together. I appreciate the chance to be with you and some of my colleagues from the freshman class.

I particularly want to reference the tone that the gentlewoman from Minnesota brought to the discussion this evening. She talked about the optimistic can-do spirit that has always been a part of this country and that is alive and well today. Frankly, we are going to need that spirit when we confront the challenges that we face.

I call it the David attitude. You may remember the old story from Scripture. When the Israelites were camped against the Philistines, and every day the Philistine giant would walk out and issue the challenge. He would ask: Who will fight Goliath?

The Israelites' response was: He is so big, we can never defeat him. But David's response was: He is so big, I can't miss.

That is the attitude we need to confront the challenges we face. You think about the challenges that America faces today, unprecedented in our Nation's history.

First, we have the terrorist threat as real and serious as it gets. We have this debate in our culture over whose set of values are going to win. There is a core set of principles, a traditional set of American values that made this Nation special. We should not be afraid to defend and protect and promote those principles and values.

But the challenge I want to focus on tonight is fiscal discipline. This is so, so important. Many of us have been back home over the last 6 weeks talking to all kinds of folks across our congressional districts. Many times what I do when I am speaking in front of a group, I say, you all may find this a surprise, but the Federal Government spends a lot of money. Everyone starts to laugh. And I say, they spend a heck of a lot of money.

The Federal Government spends $23,000 per household per year. We have an $8 trillion national debt. We have spending that is out of control. If we don't get a handle on that, what we are going to do to future generations is going to be difficult and it is going to make it tough for us as a Nation to continue to be number one economically.

I like to remind folks that the way the world works today, the economic superpower is also the leader in the military area. The economic superpower is the military superpower. Right now that is the United States of America, and I believe the world is safer because of that fact. We want America to lead diplomatically, we want America to lead militarily, and we want America to lead economically. It is important we do that. When America leads, the world is a safer and better place. And we want to make sure that continues.

In order for that to continue, we have to get spending under control. Over the course of the budget process, the budget that the majority party brought forward would in essence raise taxes over the next several years over $200 billion. When they look at scaling back the good tax cuts that were put in place back in 2001 and 2003, that have helped our economy respond to some of the hardships we faced after the 9/11 attacks and the recession that followed, we need to make sure that we get spending under control.

We always hear about tax-and-spend elected officials, tax-and-spend politicians. In fact, I would argue it is the opposite. It is spend and tax. Spending always drives the equation. We have to get spending under control.

In the appropriations process that we went through this summer, 12 different spending bills that finance the government over the course of the fiscal year, of those 12 bills, nine are nondefense. To those nine bills we offered a series of amendments that would have held spending at last year's level. It wouldn't have been a cut. It would have simply said to the government, the government that already spends $23,000 per household, it would have simply said: We want the government to spend what we spent last year. After all, all kinds of families have to do that, and all kinds of taxpayers have to do that, and all kinds of businesses have to do it from time to time. Why can't the Federal Government do the same thing?

Yet we heard from the majority party we can't do that. If we would simply spend what we spent last year, the sky would fall. The world would end. We have to have more of the taxpayers' money. That is the argument we heard. But it was not a cut; it was simply level spending. If we would have been able to do that, we would have saved taxpayers $20 billion and helped to begin to put us on a path to deal with the financial problems that will come if we continue to deficit spend.

Don't take my word for it. A former governor on the Federal Reserve Board, Dr. Edward Gramlich, said this: ''Budget deficits lead to less economic growth and a lower level of economic activity than would otherwise be the case.''

Mr. Walker, the comptroller general said, ''Today, we are failing in one of our most important stewardship duties: our duty to pass on a country better positioned to deal with the challenges of the future than the one we were given.''

One of our fundamental challenges as people elected to public office is to make sure that the next generation has it better than we did. If you think about what has really allowed America to grow and prosper, we are the greatest country in the world for all kinds of reasons and all kinds of policies that we have, but in the end it is that parents have been willing to sacrifice so that their kids can have life a little better than they did. That kind of philosophy should be present in how we run the United States Congress and how we run government and how we spend taxpayer dollars.

Unfortunately, those amendments weren't passed and we were not able to save over $20 billion to help to begin to put us on a path towards greater fiscal responsibility. It is important that we do that, and it is important that we do it for the future of Americans. But we are going to get there.

The gentlewoman from Minnesota is right; Americans always figure out a way to address the obstacles and hurdles that are in front of us, and we will figure out a way to do this. We just need to keep talking about it and stay diligent. If we do that, we will put our country on the path that it needs to be fiscally so we continue to be that leader economically, militarily and diplomatically.

I appreciate what the gentleman from California is doing in helping to lead our freshman class and thank him for a chance to be a part of this hour this evening.

□ 1800

I want to thank the gentleman from Ohio because he is right. Many people talk about the tax and spend, but really it is the spending that drives it. Just from last year, with the bills that were passed on this floor with the largest tax increase in American history, they increased spending by 9 percent. A lot of people ask out there: What was the spending on? How did you go about doing it? I think that is what we are going to talk about tonight.

Before I get to our next speaker, I just want to show a couple of little slides here about where we are going. First, you see the promise that was made, that the gentleman from Illinois talked about, what Speaker PELOSI had said: ''Democrats are ready to lead, prepared to govern, and determined to make you proud.''

Today, we sit at an 11 percent approval rating of this new majority. That is the lowest in the history that they have ever taken the poll. Lower than in the years of Watergate. Lower than when we had to ration gasoline during the years of President Jimmy Carter. Lower than in 1994 when the public decided after 40 years they wanted to change the majority here and put the Republicans in charge. It is now at the lowest level.

Why? And why is that spending taking place? I want to tell you an example, and I actually saw this on the news the other day, and I credit the news, Mr. Speaker, and CBS doing a story on this. What are we spending our money on? You sit around that table and you decide where you put your money away and where you go to save. Let me tell you a little story. It happened right here on this floor.

I was sitting down here and I was watching, and one of those spending bills, the Health and Human Services, there was $2 million put in. You say was it put in for education? Was it put in to make America greater? It was put in by a Member, Mr. Speaker, to name a library after himself. Two million dollars was spent. What did it say within here that it needed to be? You needed $2 million for the new Rangel Conference Center, a well-furnished office for CHARLES RANGEL and the Charles Rangel Library. In the brochure, when you look at this library for a college that the library is not even there yet, it will say it will be as nice as President Clinton and as nice as President Jimmy Carter. Well, those libraries were funded by private funds. Those people were Presidents.

Now, what do you say? Maybe this is something that every chairman of Ways and Means would do. It just so happens the Member that served and represented Kern County, where I represent, was chairman of Ways and Means just a year ago. What did he do with his papers? He didn't name a library after himself. He took his papers to the junior college, Bakersfield Junior College, and gave them to them, where the kids can go and look and read.

Well, you know what happened? Just like Mr. JORDAN had said, there were many amendments on this floor, many amendments by this freshman Republican class that said we want to get spending under control. There was an amendment by a Congressman from California, JOHN CAMPBELL, Mr. Speaker, that wanted to take that $2 million out. He thought that wasn't the best way to go about it. Much as the Congressman from Illinois said, earmarks. This is what an earmark is all about.

Well, just behold, the Congressman that had put this in, Mr. Speaker, Mr. RANGEL, came to this floor. He said he was proud of this. One of the Congressmen asked him: ''Well, if it's going to name it after yourself, should we name one after ourselves?'' He said: ''No, they don't deserve it. They haven't been here long enough.''

Mr. Speaker, this is the monument to me, but it is the monument to me paid by taxpayers. It is a monument to me, where not even the college asked to name it after him. He asked to name it after himself.

I am proud to tell you that all 13 freshmen Republicans voted for the amendment to strike out this earmark, to stop this type of activity. This is why we ran, this is what we said we would do, and this is not what the Democrats in the majority party said they would do when they were in control.

This is what has got to stop. This is why spending is 9.3 percent higher, and it's paid by taxpayers' money. I don't think the Members across this country wanted this to take place, I don't believe this person was the President of the United States, and I think individuals that are chairmen of Ways and Means ought to look for the path of what Congressman Bill Thomas did when he was chairman of Ways and Means, he gave his papers to a junior college. He didn't put $2 millions in to have nice furniture and an office and a librarian, to be as nice as the presidential libraries are.

Having said that, Mr. Speaker, we have some more Members with us tonight. We have an individual from Tennessee, the First District of Tennessee. He served in the legislature back there. You may recognize him. He is on the floor quite often talking about bringing America back, finding solutions here.

I yield to Congressman DAVID DAVIS.

Mr. DAVID DAVIS of Tennessee. I thank my friend from California. Thank you for your leadership tonight. Thank you for pointing out some of our spending and taxing waste. I would like to thank my colleagues that have spoken before me tonight.

I have been absolutely pleased with the group of freshmen Republicans that I came in with, a group of men and women that are very honorable, willing to work hard and do the right things. Thank you so much for serving with me in Washington.

I look back at one of my favorite Presidents, a President that was enjoyed by Republicans, conservative Democrats, independents, and that President was Ronald Reagan. Ronald Reagan once said, ''We don't have a trillion dollar debt because we haven't taxed enough. We have a trillion dollar debt because we spend too much.'' It goes right back to what we have been saying, spending then taxing.

There are many people sitting around their kitchen tables around America tonight trying to decide just how they are going to put their budget together, how they are going to make their car payment, how they are going to send Junior to school, Sissy to school, how they are going to pay for their health insurance. Those families are having to make hard decisions. The Government, this Congress could learn from those Americans sitting around kitchen tables.

I did come from the mountains of east Tennessee. Those people back in the mountains of east Tennessee have a lot of common sense. They have enough common sense to know that you can't spend more than you take in, and you can't tax people to death and expect success. That is exactly what this Congress is doing.

According to the Congressional Research Service, the President's program of comprehensive tax reforms, President Bush's tax reforms and the congressional Republicans when they were in charge, those tax reliefs were well-timed to respond to a weak economy. My colleagues have spoken about it. We had terrorist attacks. We have had natural disasters.

That tax relief enacted in 2001 granted immediate tax rebates, reduced marginal tax rates, and lowered the marriage tax penalty. It actually allowed Americans to keep more of their money in their pocket so moms and dads can take care of their families.

My wife and I have two children. We fundamentally believe that we can take care of our children better than some bureaucrat in Washington, D.C. I think it's just common sense. I think there are many people across America, it doesn't matter what party you're part of, it doesn't matter if you're Republican, Democrat or independent, I have just got to feel that you believe you can spend your money better than Washington can as well.

Then, to go on, the tax relief of 2003 accelerated the much-anticipated and successful tax cuts of 2001. Those tax cuts of 2001 and 2003 actually strengthened our economy. The Republican tax relief has seen nearly 4 straight years of economic growth, while adding 7.5 million new jobs into our economy. That is the success that MICHELE BACHMANN spoke about.

Things are going very well, and I am glad to see that. The Congressional Budget Office confirmed that the tax cuts of 2003 helped boost Federal revenues by 68 percent. Again, it's not partisan. It works every time. When Democrat John F. Kennedy cut taxes, the tax increase into the Federal Government increased. The economy got

stronger. It happened when Reagan did it, and it happened when Bush did it. It is not partisan, it is just fact.

We must make the successful tax cuts of 2001 and 2003 permanent. If they are not made permanent, which I am convinced that this new hold-on-to-your-wallet Congress is not interested in doing, here's what will happen: 84 million women will see their taxes increase by $1,970. If you're female and you're listening to me, this Congress is going to raise your taxes by $1,970. Forty-eight million married couples will see their taxes increase by $2,726. Forty-two million families with children would see their tax bill go up $2,084. Twenty-six million small business owners would see a devastating $3,637 tax increase, the very small businesses that are creating the jobs in the economy. Five million low-income individuals and couples will no longer be exempt from individual income taxes.

We must make the 2001 and 2003 tax cuts permanent. Unfortunately, I am convinced that we will not see those tax cuts made permanent under the spending I see going on on the floor of this House. When we see those tax cuts start to be repealed, we are going to start to see the economic growth actually come to an end.

Washington Democrats have passed a fiscal blueprint that raises taxes by almost $400 billion on millions of Americans in one fell swoop. As part of their ill-gotten budget, taxpayers in Tennessee will not be allowed to deduct their sales tax from their Federal income tax. Taxes on small businesses, as I said earlier, will go up. The child tax credit will decrease from $1,000 to $500. The marriage penalty is coming back.

Residents of the First Congressional District in Tennessee's average tax expense is going up over $2,000. The definition of a small business will decrease from $400,000 to $200,000. Dividends will no longer be taxed at the personal gains rate, thereby increasing the double taxation on dividends by as much as 62 percent.

People all across America voted for change, but they are not getting the change that they wanted in the last election. Over the last quarter there were a couple of bills we have talked about and passed on this floor without my vote, and one of them was the energy bill. The energy bill that we passed had plenty of taxes, very little energy.

The Democrat majority in the energy bill actually decided to tax American oil producers at the level of 16 billion extra dollars. American oil producers. If we take the ability for American oil producers to produce oil, it makes us more dependent on foreign oil, on countries that hate us and hate our freedoms. I think that is the wrong direction for America. I don't think that is the change that the American people voted for.

Then we had the SCHIP bill. It sounds good, giving poor children health care. We all certainly want to do that. I am for continuing the program at its current level. But at the level that passed on this floor, the Heritage Institute said it will take 22 million new smokers to pay for the bill. Now, is there anyone in America that wants to see 22 million new children have to take up the habit of smoking to pay for a health care bill?

In addition to that, they decided that wouldn't be enough to pay for it so they actually added a tax on your health insurance premiums. So if you buy your own health insurance, your taxes will go up.

We have a choice between a bigger economy or bigger government. The majority party has made a choice. They are for bigger government. Congress has an approval rating down now to 11 percent, and I can certainly understand why we have such a low rating. We need to hold the line on spending, reduce earmarks, pass a line-item veto and crack down on worthless pork-barrel projects and be good stewards of the taxpayer.

Remember, Ronald Reagan once said: ''We don't have a trillion dollar debt because we haven't taxed enough. We have a trillion dollar debt because we spend too much.'' I think we need to start running Congress like the American family has to run their household budget.

Mr. MCCARTHY of California. I want to thank the Congressman from Tennessee, Congressman DAVID DAVIS. I appreciate your talk directed to the people back home, telling them we should run Congress much like you run your house. It is not being done today.

As we heard earlier from the Congressman from Ohio about the spending, we heard from Congresswoman MICHELE BACHMANN from Minnesota, we have found that we are not talking about hope here, we are talking about the largest tax increase in American history, because that is what has gone on on this floor, and we want to make a real change about it.

I now have another freshman who is joining us. He comes from Colorado, Colorado Springs, the home of the Air Force Academy, Congressman DOUG LAMBORN.

Mr. LAMBORN. I thank the gentleman from California.

It's a pleasure to be here with my fellow Republican colleagues as we talk about fiscal responsibility. I rise today with new poll numbers in hand regarding the performance in Congress under the Democratic majority. According to a Reuter's/Zobgy poll released earlier today, a measly 11 percent of Americans approve of the job Congress is doing. The American public is disappointed with their government, and understandably so.

When the Democrats took charge in January, they promised to usher in an age of fiscal responsibility. Instead, they propose to hit 115 million American families with new tax increases totaling $392.5 billion. That is almost $400 billion.

In addition, the Democratic Congress has also fallen short on their promise to enact serious earmark reform. As a result, wasteful earmark spending continues to be a problem. This is evident by Democrat Congressman CHARLIE RANGEL's $2 million earmark to pay for a building to be named in his honor. You heard some about that earlier. Ninety-seven percent of Democrats, who only a year ago told the American people they would restore responsibility to government, voted in favor of this self-glorifying measure at the taxpayers' expense.

In a time, Mr. Speaker, when the Federal Government faces an $8.8 trillion national debt, this Congress must demonstrate to the American people that we can be fiscally disciplined and that we can spend their hard-earned tax dollars responsibly.

I am proud to say that Republicans have been leading the fight for this in the 110th Congress. Increasing the size of the budget and allowing earmarks to go unchecked will not reduce the deficit. I look forward to continuing my work on this effort with my Republican colleagues as we attempt to restore sanity upon the out-of-control spending practices of the Democratic majority.

□ 1815

At this point, Mr. Speaker, I would yield back to the gentleman from California.

Mr. MCCARTHY of California. I thank the gentleman from Colorado, and I appreciate his opportunity to come down and talk with us.

As I said earlier, as we talked about the accountability of what has gone on on this floor and we said, why has spending increased by 9.3 percent from last year? And we talked about the majority here and how they have had the ''Monument to Me,'' where they put $2 million in to name a library after themselves.

When you talk about earmarks, when you talk about transparency, this is what we are talking about. We can find ways that we can eliminate waste, fraud and abuse. That is what the American people want to have happen here. I don't believe the taxpayers of America think Members of Congress deserve $2 million libraries with well-furnished offices and a library for your papers and memorabilia, that taxpayers should be spending their money on that. I think we should be spending their money in the classroom teaching our kids to read and write English. That is what we should be spending our money on.

But I will tell you, we have another Member, a brand new Member of the freshman class. Unfortunately, there was a death after the election by Congressman Charlie Norwood in Georgia, and that special election has taken place and we have a new Member to join with us tonight. He actually has some late-breaking news that he wants to share with us, so I would like to introduce and yield what time he desires

to Congressman PAUL BROUN, representing Augusta and Athens.

Mr. BROUN of Georgia. I would like to thank Congressman MCCARTHY for yielding me time to speak on the floor this afternoon.

This afternoon, it was reported that Iranian President Mahmoud Ahmadinejad sought permission from the City of New York and the United States Secret Service to visit Ground Zero, the site of the September 11 attacks. This is an outrage, that this person would request to go to the place that he and his terrorist brethren have caused such destruction in this country.

President Ahmadinejad is coming to the United Nations as the representative of a country, Iran, that the State Department has declared the ''world's most active state sponsor of terrorism.'' His presence at Ground Zero would represent a slap in the face not only to those who were lost in the attacks on September 11, 2001, and to their families, but to all Americans.

Make no mistake about it, Iran is a rogue nation that views America and the Americans as their enemy. General Petraeus and Ambassador Crocker just spent a significant amount of their time recently here on the Hill detailing the Iranian efforts to come against our troops and kill our boys and ladies in Iraq. To allow Ahmadinejad to abuse his status as a diplomat to visit this site would send a signal that we fail to take the threat that he and his country bring to this Nation and to our people in a serious manner.

What kind of man is Ahmadinejad? Please let me read you some of the public policy positions as compiled by the Jerusalem Post.

He denies the Holocaust. ''We ask the West to remove what they created 60 years ago; and if they do not listen to our recommendations, then the Palestinian nation and other nations will eventually do this for them.''

''The real Holocaust is what is happening in Palestine, where the Zionists avail themselves of the fairy tale of Holocaust as blackmail and justification for killing children and women and making innocent people homeless.''

''The West claims that more than 6 million Jews were killed in World War II, and to compensate for that they established and support Israel. If it is true that the Jews were killed in Europe, why should Israel be established in the East, in Palestine?''

''If you have burned the Jews, why don't you give a piece of Europe, the United States, Canada, or Alaska to Israel? My question is, if you have committed this huge crime, why should the innocent nation of Palestine pay for this crime?''

His quotes about threats against Israel: ''Anybody who recognizes Israel will burn in the fire of the Islamic nation's fury.''

''Remove Israel before it is too late, and save yourself from the fury of regional nations.''

''The skirmishes in the occupied land are part of a war of destiny. The outcome of hundreds of years of war will be defined in Palestinian land. As the Imam said, Israel must be wiped off the map.''

''If the West does not support Israel, this regime will be toppled. As it has lost its raison d'etre, Israel will be annihilated.''

''Israel is a tyrannical regime that will one day be destroyed.''

''Israel is a rotten, dried tree that will be annihilated in one storm.''

Late this afternoon, this very afternoon, the New York Police Department indicated that they would not issue a permit to Ahmadinejad. I hope they stand firm on this decision, and I applaud that decision. However, we should go one step further. This despotic, Holocaust denying madman should not be allowed in this country. I call upon the State Department and the President to do the right thing; refuse Ahmadinejad an entry visa.

Mr. MCCARTHY of California. I thank the Congressman from Georgia bringing forward exactly what is going on right now in America.

I would like to, as we have a few moments left, turn back to Congressman PETER ROSKAM from Illinois and yield him the time that he desires.

Mr. ROSKAM. I thank the gentleman for yielding.

I think one of the things that is upon us is this time, Mr. Speaker, that we are in as a country right now and we are really in, essentially, a time of choosing. And there are great weighty issues that are before us as a Nation. There are great challenges that we face today, and yet this Congress is not taking up those challenges. Let me give you an example.

Today, we have the free market. That is something to be celebrated and something to be heralded and something to be defended, because the free market has brought about more prosperity for this country, for more people than the world has ever known. Yet, in many ways, the free market is under attack. And so this Congress, if it chose to, could stand up and defend the free market and celebrate the free market and say we are going to stand by the free market. But, no, actually there has been an attitude that has crept into this Congress that says, no, no, no, the free market is something that brings people down. The free market is something that is to bring suspicion on people and ought not to be celebrated.

Or, that other thing that we are dealing with, and that is that notion of energy independence. This Congress, if it chose to, could come together in a bipartisan way and create the environment where we strive towards energy independence, where we are not dependent on a complicated and difficult part of the world, Mr. Speaker, and that is the Middle East; where we are not dependent on them for our economic vitality and, ironically, for our national security; where we are not funding in many ways indirectly the very people that do us harm. This is the time of choosing.

I think that the reason that we are seeing that this leadership is at an 11 percent figure, and that is almost hard to do if you think about it, to have almost 9 out of 10 people disapproving of you, is because they have squandered this opportunity to deal seriously with these issues.

Mr. MCCARTHY of California. I thank the Congressman from Illinois, Mr. PETER ROSKAM, and all those who have joined with us tonight.

Mr. BILIRAKIS. Mr. Speaker, before I begin, some of you may have noticed that I have a different haircut. This past August, I kept a promise to my local American Cancer Society chapter that I would shave my head if they met their fundraising goal.

My promise was grounded in an effort to bring greater awareness to the American Cancer Society's work on finding a cure for a disease that some estimates show will claim more than 559,000 lives in 2007.

The statistics on cancer are mind numbing. Cancer strikes one out of two men and one out of three women, killing 1,500 people every day.

Having been at the front lines of cancer research and services for more than half a century, the American Cancer Society remains a pillar of hope for millions of Americans facing this dreadful disease.

I encourage my colleagues to get out there and support the work of organizations like the American Cancer Society. The war against cancer is a war we must, and can win—but only together.

Well, it has been more than 9 months since the 110th Congress convened under the leadership of Democrats who promised the American people many things, but have since failed to deliver on many of their commitments. This is most evident in recent approval ratings of this Democrat-run Congress, which have reached historic lows.

These numbers say everything about the failed promises of this majority. During the 2006 campaign, the Democrats pledged to rein in spending, yet their budget proposal contains more than $217 billion in tax increases, representing the second largest tax increase in American history, and proposes spending $23 billion above the amount proposed in the President's budget blueprint.

This is not the kind of reform promised by the new Democrat majority; rather, it is very reminiscent of the old Democrat majority that took more money out of the American taxpayers' wallets, while creating new wasteful spending and sprawling government programs.

Now, if the numbers are too much to bear, perhaps we can look at a particular issue of great concern to my constituents, my fellow Floridians, and residents of disaster-prone regions throughout the United States. That is the outrageous cost of homeowners' insurance.

Our national economy, and the quality of life for many Americans is severely burdened by the fact that disaster-prone areas, like Florida, continue to suffer from an insurance market that has overblown its rates and refused to take the necessary risk to ensure that every homeowner has access to affordable, quality homeowners' insurance.

Earlier this week, my Democrat colleagues took to the House floor to proclaim their outrage over the troubles homeowners are currently facing throughout the United States as a result of the tanking subprime mortgage market.

I want you to know that the concern of this body should focus on these same homeowners, in addition to the millions of homeowners who can pay their mortgage, yet are not adequately insured. This disparity is a tragedy of equal or greater measure.

You see, faced with increasingly expensive and limited insurance options, Florida embodies the kinds of problems plaguing homeowners in high-risk areas across the country.

Owning a home is fundamental to the ''American Dream.'' It should not be an insurmountable burden. Sadly though, such a possibility is slowly eroding under unbelievably high homeowners' insurance.

As we speak this week about improving the opportunities for existing and future homeowners, we must not forget the next catastrophe is just around the corner for millions of American homeowners. This catastrophe is not limited to the prospect of home foreclosures, but also hurricanes, flooding and other disasters both man-made and natural.

If the American homeowner cannot adequately protect themselves from these dangers, then they are just as vulnerable to losing their homes as those who are facing the subprime credit debacle.

I recently introduced legislation that would allow Gulf Coast States to pool their resources and jointly coordinate responses and preparation for major disasters. The Gulf Coast All-Hazard Readiness Act would allow the Gulf Coast States to form an interstate compact to mitigate, respond to and recover from major natural disasters.

Additionally, I have cosigned important legislation that would remedy the skyrocketing cost of homeowners' insurance in disaster-prone regions of the country. These bills, H.R. 91 and H.R. 330, will go a long way to addressing a problem that is only getting worse.

I implore this body to act, and for this Democrat-led majority to make good on their promise to protect American families. They can start by allowing a vote on legislation that will help families adequately protect their homes from future and almost certain disasters.

GENERAL LEAVE

Mr. MCCARTHY of California. 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 materials therein.

The SPEAKER pro tempore (Mr. WALZ of Minnesota). Is there objection to the request of the gentleman from California?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2881, FAA REAUTHORIZATION ACT OF 2007

Ms. SUTTON (during the Special Order of Mr. MCCARTHY of California), from the Committee on Rules, submitted a privileged report (Rept. No. 110–335) on the resolution (H. Res. 664) providing for consideration of the bill (H.R. 2881) to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes, which was referred to the House Calendar and ordered to be printed.

IMMIGRATION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes.

Mr. KING of Iowa. Mr. Speaker, it is a privilege to be recognized to speak here on the floor of the United States Congress and have the opportunity to address you—while I understand that there are—many of our Members overhear this conversation that we are having and so do the American people. That is the important part about this; it is the people's House and the people need to be heard.

And I would take us back to, Mr. Speaker, the people were heard. They were heard on the immigration issue. They were heard on that issue twice in this year, in this legislative year, Mr. Speaker. And that is, even though we had a great number of immigration hearings before the Immigration Subcommittee here in the House of Representatives, and where I am ranking member on the Immigration Subcommittee we listened to dozens and dozens of witnesses that testified across the breadth of this issue of immigration that has been on the front of the minds of the American people. It has been in the front of our minds for the last about 2 years, and it becomes part of debate in every conversation that has to do with American policy.

Certainly, being a Member of Congress from the State of Iowa where we are the first in the Nation caucus, we have a number of presidential candidates, both Democrats and Republicans, that are in that State much of the time. It is a rare night that the shades aren't closed and there isn't at least one presidential candidate that is spending the night in Iowa after having spent the day and will spend the next day there. In fact, just at the Iowa State game last Saturday, I ran into two presidential candidates just random, not planned, just by the fact of the circumstances. They hear about the immigration issue on a daily basis, wherever they might go across the State of Iowa, New Hampshire, South Carolina, and beyond. The Presidential candidates are getting an earful from the American people. And the reason is, the American people understand that they are going to have to defend this central pillar of American exceptionalism called the rule of law. They rose up to defend it when, I call it, the comprehensive amnesty bill was brought before the Senate this year. We didn't bring a large bill before the House. I don't know if we are actually going to bring one. But twice it was brought before the Senate, and each time the American people rose up and they sent e-mails and they sent faxes and they made phone calls and they stopped in and visited their Senators in their district offices back in their States and also came out here to Washington to go into the Senate offices on the other side of the Capitol dome.

The presence of the American people, the intensity of the message that they delivered to our Senators said, we don't want amnesty. And however you define amnesty, the American people know what it is. And so what I have done is, Mr. Speaker, is I have brought the definition of ''amnesty'' to the floor of the House of Representatives so we can be talking about the same thing, because what I hear from the American people is the same thing that I believe, and I believe this:

The rule of law is sacrosanct and must be protected. We can't suspend the rule of law because it creates an inconvenience for an individual or a family or a class of people.

It is kind of like the Constitution itself in a way. The Constitution defines and protects our rights, and it is a unique document and it is the oldest document of its kind in the world. The oldest continuously functioning, surviving, effective Constitution in the world is ours, ratified in 1789. And that Constitution sets out parameters, guarantees individual rights, establishes the rule of law, determines where those laws are actually passed, here in this Congress or those responsibilities that are left to the States or to the people.

□ 1830

And yet when we disagree with the results of a constitutional decision, if the American people decide that we like our Constitution, we revere our Constitution and the parameters that are established in this Constitution, Mr. Speaker, if we want to change it, there are provisions in this Constitution to amend it.

We respect this Constitution as being sacrosanct; that it means what it says, and it means what the text of the Constitution said as understood at the time of ratification. And when we amend this Constitution, it's a pretty high bar, but the provision is in here because we are going to hold that standard and adhere to the language that's here because we understand that that's what holds this civilization and this society together. And if we want to amend it, then we go through the process of amending, and it has been done a number of times. It's a high bar.

But that standard of respect for that profound rule of the Constitution is the same standard that we need to have with respect for the profound viability of the rule of law. When we ignore laws, they're undermined. If we ignored the Constitution, if we simply decided I

don't like the results of the language that's here, I'm going to disregard this Constitution and cast it asunder and operate in a fashion that we see fit, if we do that, the Constitution is systemically destroyed. It would be destroyed by our failure to respect it. It would be destroyed by a Supreme Court that didn't respect the text of the Constitution. It actually has been undermined, in my opinion, by a number of the decisions of the Supreme Court when they didn't respect the text of the Constitution, its original intent and its original understanding.

And if the administration, the Department of Justice, if the people in this Congress, if the people in America don't have respect for the rule of law in the same fashion we must have respect for the Constitution itself, then the disrespect for the rule of law, the ignoring of the law, the failure to enforce the law, the turning a blind eye, the whisper, that's okay, the people that break the law because it's inconvenient to them, all of you, Mr. Speaker, all Americans who ignore the rule of law undermine it, erode it and erode that central pillar of American exceptionalism, the rule of law.

Think of this as a huge pillar that's been established by our founders. Think of building a large office building or a shining city on a hill or a castle. What would you put it on? You'd put it on a foundation. You would drill down to bedrock and you would build your foundation for a shining city on the hill or a castle or a large office building. You would build that foundation down to bedrock. And if you had to hold it together with a central pillar, build it all on the strength of one pillar, it would be a large pillar drilled to bedrock, and that pillar would be the rule of law.

There are other pillars, too, that you'd use to hold up the corners. Our Christian faith, the Judeo-Christian values, our family values, marriage, free enterprise, free enterprise capitalism, property rights, those things all are corner pillars that hold up the outside.

But the central pillar is the rule of law. And the things that we do in this country that disrespect that central pillar of American exceptionalism, the rule of law, erode it like it would erode a concrete or a marble pillar of a bridge, for example.

And all of us that might chip away by disregarding the law, by disrespecting the law, by failing to enforce the law, by turning a blind eye, by allowing entire classes of people to ignore and defy the law, those things become a corrosive agent that erodes that central pillar of American exceptionalism, that rule of law.

That's why it's so important that we adhere to the law. And if we don't like the law, then we need to come, Mr. Speaker, to the floor of this House of Representatives, offer legislation, offer amendments to the legislation, perfect that legislation in a full debate process here, and amend the law. Not ignore it.

And now I'm hearing from the administration that to not pass comprehensive immigration reform, which I refer to as a comprehensive amnesty plan, brings about de facto amnesty, in fact, amnesty, amnesty in reality. That's the language that's coming out of our administration and has been for the last couple of months since the people last rose up and drove another stake in the heart of the comprehensive amnesty plan.

Well, to not pass comprehensive immigration reform does not mean that there has to be a de facto amnesty. First we need to define what amnesty is. I have put this poster out here and this poster defines amnesty.

We've had many debates with the American people on what amnesty actually is. Presidential candidate after presidential candidate, politician after politician, Senator after Senator, Congressman after Congressman will tell you, I'm opposed to amnesty. And they will say that because they know the American people are opposed to amnesty. And in some of their cases they have a strong conviction that they're opposed to amnesty, Mr. Speaker. But that's not in all cases.

But in most cases they want to avoid the criticism of being a proponent for amnesty. And so to do that they say, I'm opposed to amnesty. The thing that they don't do is define amnesty. If you can't get them to define amnesty, then you have a pretty good suspicion that maybe they're not really against amnesty in all of its shapes and forms.

And so I've put up here the definition, after a careful study, of amnesty itself. Amnesty, to grant amnesty, Mr. Speaker, is to pardon immigration lawbreakers and reward them with the objective of their crime.

Now, a pardon for immigration lawbreakers, and generally an amnesty is a pardon to a class of people, a group of people. Whereas the President might pardon an individual, he has powers to do that, and that happens. Often it happened at the end of Bill Clinton's second term when he pardoned a large number of people for a variety of reasons.

Well, this is a pardon for a class of people. To define that pardon a little bit, class of people, would be the immigration law-breakers. All those people that came to the United States, both illegally, and those who came here legally and overstayed their visas, found themselves unlawfully present in the United States, or misrepresented their status here in the United States, maybe as a lawful immigrant without the right to work in the United States but misrepresented themselves in order to work and earn money. For whatever reason, they have broken immigration law. If they allowed their visa to expire and stayed in the United States, they've broken immigration law. If they came into the United States illegally, if they came here with contraband, if they came here and misrepresented themselves, if they worked when they didn't have a permit to work, if they came on a student visa and took a job, if they came on a visitor's visa and took a job, they've broken immigration law. To give them amnesty is to pardon them, those people who broke our immigration law. And that's really enough for that amnesty definition, but I thought I'd be a little more generous because this defines then what the Senate tried to do, what the majority in this House of Representatives seems to be seeking to do, and that is, not only grant them a pardon, not only grant them amnesty, the people that have broken our immigration laws, but also reward them with the objective of their crime or crimes. Pardon immigration lawbreakers, reward them with the objective of their crimes.

Now, I define that that way because some will say, well, reward them with a job. Some came here for a job. All did not. And, in fact, of the 12 million that the government admits are here, about 7 million of them are working. About 5 million of them are not. So it's clear that 42 percent of them who come here, even for a job, are not working. And some are keeping house, some are not in the work force in one fashion or another.

But I want to point out, Mr. Speaker, that we don't get one worker per illegal immigrant, one who comes across that border just for a job. Seven out of 12 are working. Five out of 12 are not. Fifty-eight percent are working, 42 percent are not. That's how it breaks down out of those that come into the United States.

What was their objective? Some was to get a better job, coming here for a better life. Some came in here with illegal drugs on them with the willful intent to smuggle those drugs into the United States, take them to the next level of the distribution chain, sell them, pocket the money. Some came in here illegally, dropped off their contraband and went back to get another load. And that goes on and on and on. Every single day, Mr. Speaker, there are people coming into the United States illegally carrying illegal drugs to the tune of $65 billion a year in illegal drugs coming across our southern border. That's 90 percent of the illegal drugs, $65 billion worth. And I'll perhaps come back to that.

But I wanted to drive this point in, Mr. Speaker. What is amnesty? And when a presidential candidate takes a position and says, I'm opposed to amnesty, I believe, Mr. Speaker, that the public should ask them, do you agree with STEVE KING's definition of amnesty? If not, what is your definition of amnesty? Do you agree that amnesty is to pardon immigration law-breakers and reward them with the objective of their crime? Or do you have another definition that allows you to grant amnesty and say that it's not amnesty? For example, if you require them to leave the United States and go, touch back to their home country, or go to

their embassy and sign up and then go into the work force, wouldn't you consider that to be amnesty? Do you think that you're waived from the responsibility of declaring it amnesty if you ask someone to pay a fine?

That's the Flake/Gutierrez bill, the bill that we held a hearing on. It will be 2 weeks ago tomorrow, Mr. Speaker, a large hearing on the largest amnesty bill that this Congress has seriously considered. We had witness after witness come forward, and they wanted to testify that this wasn't amnesty in that bill. It wasn't amnesty because it was going to require them to pay a fine. And I think in that bill it's a $2,500 fine.

Well, the going rate for a coyote to bring someone into the United States, and the report that comes back to me is, I'm sure it works cheaper but someplace in that $1,500 to $2,500 category is in the main of the going rate to be illegally brought into the United States and pay a coyote to do so. So the fine they'd ask to pay is equivalent to the freight that you would pay a coyote to bring you in illegally. That's what they would sell citizenship for, a path to citizenship. Not guaranteed. I'll concede that point to the other side. But it's not guaranteed because if you commit a crime, if you get in trouble with the law, if you're not on good behavior, if you don't at least sit through some English classes, then they don't want to give you citizenship.

But those provisions that are written in there are not provisions that are a higher standard that we'd ask of someone who came into the United States legally, someone who came here with a visa, someone who acquired a legal green card, someone who, in that 5-year program, could find themselves taking the oath of citizenship.

Another one of the allegations that's made is, well, if you're against this comprehensive immigration reform, they don't dare call it amnesty, and they wouldn't call someone who is here illegally a criminal, or they would not call them an illegal immigrant or an illegal alien. All of those terms, however accurate they are, are anathema to the people who want to pass their comprehensive immigration reform, which is comprehensive amnesty.

No, Mr. Speaker, they won't use those terms. They say undocumented immigrant who simply is here looking for a better life. True for some of them, Mr. Speaker, but certainly not true for all of them.

So we face the systemic devolution of the rule of law here in the United States, the rule of law that's founded upon this Constitution, that's written in the U.S. Code, and something that is established there as a majority of the House of Representatives and a majority of the Senate, and then signed by the President of the United States, and then the American people shut down the switchboards in the United States Senate because they oppose amnesty.

The American people, Mr. Speaker, are with me on this definition of amnesty, to pardon immigration lawbreakers and reward them with the objective of their crime.

And so today, we're involved in a political dynamic, and the political dynamic is this, that the people over on the majority side of the aisle, for the most part, see a political leverage gain if they can grant amnesty to the 12 to 20 or more million people that are in these United States illegally.

The people on the other side of the aisle, some of them, see an economic advantage and maybe a political advantage working with those who have gained an economic advantage by hiring the cheap labor. And so they say, this economy will collapse if we don't have the cheap labor that comes from, they will say, immigration, immigration, immigration.

When I ask them to define the difference between legal and illegal immigration they have a little trouble there, too, Mr. Speaker, because they have constantly, for the last 2 to 3 and more years, sought to blur the distinctions between legal and illegal.

And they will say that those of us that want to secure our borders and reestablish the rule of law and end automatic citizenship for babies that happen to be born to illegal mothers on U.S. soil, they will accuse us of all being against legal immigration.

□ 1845

But truthfully, those who undermine the rule of law, those who are for the open borders have brought about this debate that has tried to blur the two together, and because they are blurred together, we can't get at the real subject matter of how to establish a good, sound legal immigration policy because of 12 to 20 million illegals in the country. It's kind of like when you apply for a college education and there are only so many desks available in the classrooms, only so many slots available. Let's just say 20 million slots for immigration are filled up by people that broke American law to get here. That's 20 million slots that we can't give out of this Congress to somebody that respects our law. And that is not just a policy of American immigration that should be set by Congress, and the Constitution defines immigration as a responsibility for Congress to set. It's not just that. And it's not just that the people of America are denied the opportunity to establish immigration policy, because they are. But it's that 12 to 20 million or more people who have elected to break American laws are now sitting in those desks, taking up those slots, filling up the available space that we might have to bring a legal immigration policy.

So this immigration policy is out of our control. It is out of control here on the floor of the United States Congress, Mr. Speaker. It is out of control in the United States Senate. It's not within the control of the President of the United States or administration. It's out of our control. It's out of the control, out of the hands of the people of America. They shut down amnesty in the Senate by shutting down the phones, but another reason it is out of control is because people from other countries have broken our laws and have come here and every one that did so took away a piece of our ability to set our own policy here on the floor of the United States Congress.

So I will submit, Mr. Speaker, that the people I know, the people that align themselves with me, those who will stand up and speak for border enforcement and the rule of law and shutting off illegal immigration coming into this country, are not opposed to immigration. I don't know anyone that is opposed to legal immigration, smart immigration, and one day I will put this up on a poster too, Mr. Speaker, but an immigration policy that is designed to enhance the economic, the social, and the cultural well-being of the United States of America. That's the policy that we have a responsibility to deliver to the American people. And we do not have a policy to a foreign country that reflects a responsibility to them to relieve the poverty, the pain, the suffering that goes on in other countries in the world. We can reach out with some of our compassion, but we simply do not have an obligation to absorb the poverty in the world. In fact, we don't have the ability to do that.

What we do know is that this lifeboat, America, this wonderful Nation that God has gifted us with the responsibility to do the best we can within the parameters of the Declaration, the Constitution, the rule of law and those pillars that I mentioned, all of those things, we have a responsibility to preserve and protect this American way of life.

Think of America as a huge lifeboat. This lifeboat has got to have a captain. It has got to have a course chartered. It has to be steered. There have to be people pulling on the oars. And there have to be people that are unfurling the sails and swabbing the decks and down in the engine room and making this entire lifeboat of ours function and function properly. And if we go sailing off on a zig-zag course or drift with the winds up onto the shoals, eventually we will have so many passengers aboard this lifeboat that we will sink the lifeboat. At some point we can't function. The engine room doesn't work. We can't chart our course any longer because the load of humanity has gotten so great, and the process of training them and bringing them on board with our crew has gotten so far behind that we can't get it up to speed.

How many can we bring into America and still function? How many can we bring into America and maintain this overall greater American culture that we are?

The thing that binds us all together, this common sense of history, common sense of struggle, common sense of destiny, a common language. The language that binds us all together that

happens to be the most powerful unifying force known throughout history, throughout all mankind, is a common language. We start breaking that apart, and we find out that there are something like 37.5 million immigrants here in the United States, the largest number ever to be here, and in the highest percentages they speak foreign languages in their households. The American culture is being undermined and diminished, Mr. Speaker, by the illegal immigration that comes in.

And the legal immigration that we have, it's our job to set the valve down on that to allow an appropriate amount of legal immigration so that those that arrive here can do a number of things. The most important is that they assimilate into this civilization, into this American culture. That means they have to adapt to this broader American culture. It doesn't mean that you have to give up all of the culture of the foreign country. Those things that come from those countries that we adapt into this society, we would want to pick and choose the ones that are good. All things that come from other cultures are not good. There is a reason why people leave the countries that they leave. There is a reason why they come here.

I would like to say, Mr. Speaker, that this America is not just a giant ATM. It's not just some big machine that anyone can sneak across the border and punch that ATM and get some cash to come spitting out of it. This country is more than a cash transaction. This country is more than cheap labor for big business. This country is more than opening up our borders so that you can gain a political margin that's here and advance this cause of socialism on the left side and advance the cause of capitalism on the right side.

If you give either side the destination of their argument, if you give unlimited political power to those folks on the liberal side of the aisle, Mr. Speaker, and if you give unlimited economic advantage to the employers of cheap labor on not just the right side of the aisle, but I am finding out more and more on both sides of the aisle even more equally, turn those two forces loose with this policy on immigration, then big business will say ''I want more cheap labor'' and big politics will say ''I want more political power.''

So they bring in 2 million, 5 million, 10 million, 20 million more and pour those into the equation, and business comes out with their cheap labor and left-wing politics comes out with their political power. But what happens to the middle, Mr. Speaker? What happens to the American people? What happens to blue-collar America? What happens to the union worker who has trained, has skills, and has organized his ability to be able to collectively bargain and sell his skills as a unit with his other union members? How difficult is it to sell your skills as a unit and collectively bargain when you're watching 11,000 people a night pour across our southern border that come in that are low skilled or unskilled? How difficult is it to market yourself as a labor unit, a blue-collar labor unit, into an economy that is bringing more people in that will work cheaper than you want to work? How difficult is it to strike a labor agreement in a factory when there are tens of thousands, in fact, maybe even tens of millions of people outside that factory that will take those jobs at a cut rate from what you are getting today? How do you negotiate for a raise if there are thousands of people sitting outside the gates of your plant and those thousands of people are saying, I know, you're making $22 an hour and you're having trouble making ends meet with taxes as high as they are and having to make your copayment on your health insurance and on your retirement plan?

I know that $22 an hour squeezes you down a little tight and you would like to get a raise, maybe 5 percent, 6 percent raise. You are willing to turn up a little more production, add a little more professionalism, to be able to work better with management to produce a product that is going to be more competitive. That is how things work between management and labor when it's working right. But what kind of leverage do you think you have, blue-collar America, when there are tens of thousands of people outside the gates of the factory that say, $22 an hour? I will work for $10 an hour. I will work for $9. I will work for $8. And if you give them their $10-an-hour job, they will go to work for that, of course, and they won't press for a raise. And if you bring in another 1 or 2 or 5 or 10 million people, that $10-an-hour job is being pressured by the people who want to work for $5 or $6 an hour.

You have to understand that labor is a commodity. It is a commodity like corn or beans or gold or oil. The value of labor is determined by supply and demand in the marketplace. Labor is a commodity. That's why labor unions throughout history have always wanted to see a tight labor market so that they can negotiate for a good return on the labor. And business can operate in that kind of environment, too, because they want a high level of professionalism. They want job safety. They want skilled employees, people that are proud of what they do, people that can come in as a unit. And that is the bargaining power that is there.

Now, I want to emphasize also that I support merit shop employees. You don't have to be organized to market your skills. If you have a skill and you bring that flexibility to the job and the employer looks at that and determines, here is someone that doesn't come out of a labor shop or a labor union but I can use him in four, five, or six different areas here and he is flexible enough that he can jump from machine to machine for me on the factory floor or out on the construction job. Someone that you want to make sure that you can provide health insurance for them as an employer and retirement benefits for them and vacation benefits for them. Those things all come because labor has value, and it is the hardest commodity to deal with if you're in business. The rest becomes fairly predictable, and that is what business wants also is predictability. But labor today, the blue-collar labor today, organized labor today, confounds my sense of rationale. And I would think that if you are a rank-and-file labor member that your rationale would be confounded too, because the people who do the negotiations for the unions in America should be pressing for a tight labor market and a higher wage and a higher benefit and better retirement plan and vacation time. That has got to be the push. And the trade-off is more skills, more training, more efficiency, more professionalism, let me say the symbiotic relationship between labor and management.

But what is happening is the leaderships within the union are going the other way. I think the union bosses have written off the rank-and-file union members. I think they have forgotten about the tight labor supply. I think they have decided that they will not have the political power here in America if they stake their future on smaller numbers of workers. So they must have made one of those calculuses back in the smoke-filled room that decided, let's just write off this group of people and let's bring in as many as we can. Let's go for an open borders policy. Let's adopt the people that are today illegal into our side of this argument, and if we can get them legalized, we can get them to vote and we will get political power, and eventually we will get what we want with higher wages and better benefits for our workers, which, by the way, translates into more power, more cash for union bosses.

Mr. Speaker, if we have blue-collar rank-and-file people out there, I do believe that they ought to take a very good look at the rationale behind the leadership within the unions that are filing a lawsuit against the Department of Homeland Security, because they are enforcing current immigration law, and they would go to court to get an injunction to stop just sending the no-match Social Security letters and asking them to take action to clean up the no-match Social Security numbers in America, whether or not there is a legal argument. And, Mr. Speaker, I don't believe there is a legal argument. I believe from the legal perspective it is a specious argument, but in any case, it is not a moral position that they have taken. It is not a moral position to say you shall not enforce the law and I'm going to go to the court with my ACLU and AFL–CIO lawyers and we're going to ball up this system and prove to you that we can shut down government enforcement of the laws. That, Mr. Speaker, is an active and willful assault on the central pillar of American exceptionalism called the rule of law.

□ 1900

That's taking a concrete stone and a concrete saw and cutting notches into that pillar of American exceptionalism, the rule of law, which eventually will topple the rule of law. Where do you get a job then, Mr. Speaker? Where does business do their business then? What is the future for the rest of the world if the American civilization capitulates to those kind of assaults? These are some of the things that are on my mind, Mr. Speaker, as I read the news and watch the things that are happening and engage in the debate in the Judiciary Committee, where we've had some hearings now on the massive amnesty plan called Flake-Gutierrez.

When I hear the constant statements being made that the U.S. economy would collapse if we didn't have the people that are doing the work in this country that are defined by them as ''undocumented,'' and those that I will call illegals, to address that subject matter, Mr. Speaker, first the American people need to understand that we are not hostage to any threat of running out of cheap labor in America. As I've read through history, I've yet to identify a single sovereign state throughout history that ever failed because of too low a supply, not enough cheap labor.

But in America today, you will see that the unemployment rates are the highest in the skills that are the lowest. That tells you that those jobs are being taken by people who have come across the border illegally or overstayed their visa, illegal aliens taking low-skilled jobs, many of them are illiterate in their own language and uneducated in their own language, and so they will take the lowest of skilled jobs because, whatever it is, it's better than where they came from. And unskilled Americans are missing out.

Now, we have something like a 13 percent high school dropout rate that would reflect my area, the region of the country that I'm in. The numbers go higher in different parts of the country. The numbers go up to 30 percent and more in inner cities. What's there for opportunities, Mr. Speaker, for those low-skilled Americans, American born or naturalized American citizens who are low skilled? What is there for them when the highest unemployment are in the lowest skilled jobs?

And so the question is, can we accept at face value the statement that an American economy can't function without the illegal labor that's here, without undocumented workers, to use their vernacular, Mr. Speaker? And I will argue that the American economy would function better if it had 100 percent legal workers that are here. Some immigrants, many naturalized, many naturally born American citizens, all of that put together, legal people in America working, are going to make this economy function better than opening up our borders for tens of millions of people who come in here without skills, without language, without the first indicators that they will be able to assimilate.

Here are some of the statistics that tell us why: We have 300 million people in America. That's a lot more than I thought we would have at this stage in my life. The administration won't answer the question of how many are too many; what do you think the population of America should be by the year 2050, or 2100 for that matter?

Three hundred million people in America, about 142 million people that are in the workforce. Now, if you look at that and you realize that those that are working in America, that are working unlawfully here, are about 6.9 million and, in fact, the testimony on the Flake-Gutierrez bill of the Judiciary Committee a couple of weeks ago, they said 7 million. So we're in there real close. We don't disagree. But let's just say my number, 6.9 million, I think they rounded their number up, 6.9 million working illegals in America. Well, that's a lot of folks. That's twice the population of the State of Iowa, for example. But as a percentage of the workforce, it amounts to about 4.7 percent of the overall workforce. And so 6.9 million people working, and that's out of their number of about 12 million altogether, and you can extrapolate that up to the 20 million or more that I think it is, but 6.9 million people working representing 4.7 percent of the workforce. But here's the catch, Mr. Speaker. They're doing 2.2 percent of the work. And they're working awfully hard to do that. I don't diminish the effort and the work ethic that's there. But we measure our gross domestic product by the overall production of the individuals that we have. Highly skilled, highly trained professional individuals command a high price, Mr. Speaker. The reason they do is because they're worth a lot, and they're worth a lot more. I have to pay a lawyer more than I get paid most of the time. We pay doctors more than we pay carpenters. We pay carpenters sometimes more than we pay taxi drivers. The list goes on because the value of the skills are also established in this society by supply and demand in the marketplace. That's the spectrum of the commodity that I defined as labor a little bit earlier, Mr. Speaker.

So 6.9 million illegals working out of the workforce here of 142 million, representing 4.7 percent of the workforce, producing 2.2 percent of the gross domestic product. Now, we're not going to pull the plug on that overnight. That's another one of those red herrings that get drug across the path of this debate. I don't know anyone who says we're going to go out here and in a single day round up 12 or 20 million people and put them on some transportation units and take them back where they came from. In fact, the Representative from Minnesota (Mr. ELLISON) in the Judiciary Committee asked this question of a witness, how many trains and boats and planes would it take to send them all back? I quite enjoyed the answer of the witness who said, Well, they got here somehow. They can get back somehow. They can take their own transportation and go back for the most part.

It's not the question of whether we're going to round everybody up and deport them. No one that is debating this policy is advocating that we actually do that. But let me just say, suppose, Mr. Speaker, suppose a magic wand were waved and the fairy dust came and sprinkled across all 50 States in America, and the sun went down, and tomorrow morning when it came up everyone who was here in this country illegally woke up in their home country magically, without angst, without trauma. Just suppose hypothetically everyone woke up tomorrow morning in a country that they were lawfully present, where they could lawfully work and lawfully contribute to the society and reform the countries that need it, we would be out, well, the 12 to 20 million people that are here today. The workforce, though, the point that is being argued, there would be 6.9 million jobs out there tomorrow morning at 8 o'clock, if everybody is going to clock in at the same time, 6.9 million jobs. Let's just say all those people worked on the same shift, 8 to 5, with an hour off for lunch, and they're all gone, and they represented 2.2 percent of your production and you had a factory that had a delivery deadline that said you're going to have to get your quota out that door and loaded on trucks and gone, and that day between 8 and 5, you've got to produce your daily quota. You get the notice at 7:30 in the morning that the fairy dust has been sprinkled and you're going to be missing 2.2 percent of your production that day. Well, as a CEO, that isn't a very tough question. If we're all a factory here, if I were the CEO, I would put out a memo, and it would take me about 5 minutes to figure out what to do, and that would be a memo that went out to everyone. When they punched in that day, there would be a little notice above the time clock: Punch in, you're coming to work at 8 o'clock, and your 15-minute coffee break, I'm sorry for this inconvenience, has to be ratcheted back to 9½ minutes this morning. It's got to be ratcheted back to 9½ minutes this afternoon because we've got 11 minutes of our 8-hour day here that will be lost in our production because 2.2 percent of the production didn't show up for work today. That's the magnitude on the American economy that we're dependent upon right now. The magnitude of 11 minutes out of an 8-hour day is the production that's being done by illegal work in America. Now, would anybody actually argue that we couldn't get by with 7 hours and 49 minutes of production instead of a full 8 hours of production?

There are a lot of other ways to solve the problem or skin the cat. You can shorten the lunch hour by 11 minutes. You could work 11 minutes past 5

o'clock. You could do any combination of those things. You could skip a coffee break and actually pick up production that day. It's not the equivalent even of one single coffee break on an 8-hour day if we did all of the American GDP in one-third of our 24 hours. But, of course, we know it's spread across all 24 hours and 24/7. That's the reality of it.

So 6.9 million people out of a workforce of 142 million, representing 4.7 percent of the workforce, doing 2.2 percent of work, representing 11 minutes out of an 8-hour day, and you could divide that by three if you wanted to spread it around. So it would be 3⅔ minutes, 3 minutes and 40 seconds out of each 8-hour shift, if you wanted to take it down that way, Mr. Speaker. Hardly something that this country can't adjust to or couldn't deal with, even if it were abrupt, let alone something that will only be incremental in its scope.

This is a red herring that has been drug across the path by the people on the other side. They have their reasons and their motivations, but a rational approach to an economic situation in America isn't something that they bring to the table, Mr. Speaker.

As a matter of fairness, I would also make the point that there are significant industries in this country that have become ever more dependent on illegal labor. That exists in the packing plant industry. It exists in the agriculture industry. It exists where there is a requirement for very low skills or trainable skills, and people that aren't required to have language skills often fit into that category as well.

But the lower skilled environments that have become more dependent upon illegal labor have done so incrementally. It's been an evolutionary process. In speaking, Mr. Speaker, to the organized blue collar workers in America, in some cases management has come in and broken the union and replaced the union with illegal labor, or let's say a mix of illegal labor. And as this flow began, the recruitment in foreign countries also opened up. While that was going on, the Federal Government was turning a blind eye to enforcement of immigration. And the people living in the communities didn't actually see it in its broader magnitude. And the resentment came a little bit at a time and the realization came a little bit at a time.

I have spoken at significant length here, Mr. Speaker, about the responsibility of what happens when foreign countries set our immigration policy, when illegal immigrants from foreign countries come in here and take a slot that a legal immigrant could have, that takes away our ability to set an immigration policy.

But the largest responsibility has been and the first blame has been on the administration's lack of enforcement. This takes us back to 1986, to that amnesty bill that at least President Reagan had enough frank intuition to declare it an amnesty bill. The distinctions between the 1986 bill and the legislation that's before this Congress today and the Senate this week are really not significant in their scope. Amnesty in '86 is amnesty today.

But when the '86 bill was passed, it was billed as an amnesty to end all amnesties, Mr. Speaker. And I, sitting out there in the countryside, running a construction company, struggling through the farm crisis, absorbed the statements that were made here on the floor of Congress by the leadership here in Congress, by the President of the United States when the '86 amnesty bill was passed. I knew that I had to collect I–9s from job applicants, and I had to take a good look at their driver's license and their other documentation and make sure that it was a credible representation of who they were. I did so diligently. Those I–9s are still in my files and they're covered with dust. Nobody ever came and checked on that. They probably didn't need to check a little construction company, but they needed to check some large companies. They needed to have a presence out there that they were enforcing immigration law. And from 1986, the great threat that the Federal Government would be out there aggressively enforcing that new immigration law that was an amnesty to end all amnesties was a huge threat, a cloud that hung over all of us. We wanted to make sure that we dotted the I's and crossed the T's. And we lived in fear that the Federal government would shut us down, fine us or imprison us for not following Federal law. That was 1986.

But every month that went by, the threat diminished because the enforcement didn't materialize to the extent that we anticipated at least. And every year that went by, the enforcement got less. And as we went through the Reagan years, it diminished. And as we went through the first Bush presidency, it diminished. And as it went through the Clinton presidency, I was full of frustration because I was honoring immigration law, and I was competing against my competitors who sometimes did not honor immigration law. And I had two choices: I could adhere to the law and hope for enforcement when that competition had cheaper labor because they violated the law. I could do that, or I could throw up my hands and say, Well, if he can do it, I can do it. Well, I was raised in a family that revered that central pillar of American exceptionalism, the rule of law, and respected it. I still revere it and respect it, even more so today, Mr. Speaker. So that option of ''if you can't lick 'em, join them'' wasn't an option for me because the rule of law and respect for it prevented me from going down that path.

□ 1915

Today, we have watched the enforcement decline incrementally. I went through the Reagan administration from 1986 until the completion of Ronald Reagan's term. George Bush, the first President Bush, his lack of enforcement diminished it. The Reagan years, by comparison, were pretty good. The first President Bush diminished from there.

When Bill Clinton came to office, I began to really watch closely the lack of enforcement in the Clinton administration. I was full of frustration, as a construction company owner, that I was competing against that lack of enforcement. Yet when I look back at the statistics of the companies that were sanctioned during the Clinton administration, I see that, on the graph, it continued its decline of enforcement through these years that we are in today with a little uptick in the last year. I am not yet convinced that that uptick in enforcement from this administration is an uptick that comes from conviction on the rule of law or whether it is an uptick in increase and enforcement of immigration law to send a message to us that there will be enforcement if you just give us the comprehensive amnesty plan that we have asked for. You can choose your opinion on that, Mr. Speaker. I choose not to come down on either side of that argument for the sake of this discussion here.

I will say that this country has not been well served over the last 20 years due to lack of enforcement of immigration law. The country has been flooded with people that came in here illegally because we haven't enforced our laws and part of the things that came with that. Now, I will make the point, and it is a point that the opponents would continually make. I will make the point that most who come here do break the law to come here. But their goal is to provide for their family. At some point you make that decision, however hard the decision is, to provide for your family. But all who come here are not coming here to provide for their family. All who come here are not coming here with the goal of getting a job and finding a better way and finding a path through legalization and then bringing the rest of their family members here. That all happens. I admire the family network. I admire the faith network. I admire the work ethic that is within a significant majority of those who come here both legally and illegally. But I have a charge. I have a responsibility. I took an oath to uphold the Constitution. The complication of that oath is that I uphold the rule of law, as well. So I look into the statistical data that tells us what happens when we don't enforce the rule of law.

I listened to the immigration hearings over the last 5 years of constant immigration hearings, not every week, but sometimes multiple times a week, averaging every week at least, Mr. Speaker. The testimony constantly came. We are losing 250, 300 and then on up to 450 and more people who died in the desert in an effort to come into the United States. That is sad. It is

tragic. I have seen the pictures. It is a hard thing to look at. But I began to think, Mr. Speaker, about that other responsibility, that responsibility that we all here in the Chamber have to the American people, the responsibility that is part of our oath to uphold the Constitution. The implication is we uphold also the rule of law.

So I began to ask the witnesses that were testifying as to the loss of life in the Arizona desert. But what has happened to the people that did make it into the United States? What has happened to the American citizens who fell victim to the hand of some of those who came in here that are criminals, recognizing that $65 billion worth of illegal drugs pours across our southern border every year? That is all a crime.

By the way, for the point of record, Mr. Speaker, anyone who alleges that it is not a crime to illegally enter the United States is wrong, that it is a criminal misdemeanor to cross the United States border in violation of U.S. law. So sneaking across the border in the middle of the night makes that person a criminal. One of the Presidential candidates said otherwise. He might be a district attorney or prosecuting attorney. Federal law says it is a criminal misdemeanor to enter the United States illegally. So those who do so, and among them are those who are smuggling in illegal drugs, among them are those who are trafficking in illegal humanity, among them are those who are trafficking in prostitution and victimizing small girls and children. In this huge human wave, we have contraband. We have criminals. They commit crimes here in the United States.

So, one of the questions is, what would happen to the drug distribution chain if the fairy dust were sprinkled across America and tomorrow morning everyone woke up legally? It would shut town the distribution of illegal drugs in America if magically tomorrow morning everyone woke up in a country that they were lawfully present in. It would shut it down literally, virtually, any way you want to describe it, Mr. Speaker, because the links in the chain of the distribution that start in places like Colombia, China, Mexico, 90 percent of the illegal drugs coming across our southern border, those links in the chain are links that are built within the stream of humanity which is the illegal humanity that is here in this country today. That is the path of their fellow travelers, however good their virtues are, however high their ideals of providing for their family, getting a job and creating a home, they still also provide a conduit within a culture that is the distribution of illegal drugs.

With those illegal drugs comes the massive damage to human potential, especially to our young people in America. Yes, we have a responsibility here to shut down that demand. That is ours. We need to take that on. I can't look the Mexican Government in the eye and say, ''You need to help us shut down the illegal drugs in America and that will solve the problem.'' It will not. We need to shut down the demand in America. That is an American problem. It is a problem that causes problems in Mexico as well. That is a different subject, Mr. Speaker, and I will take that up perhaps another time. But this conduit for illegal drugs is a conduit that flows within illegal populations in America, and there are links to every distribution chain in America that go through that illegal population. So, that is one thing that would happen.

Another thing that would happen is there is a high crime rate, a higher crime rate in all the donor countries that send us people across at least our southern border and probably all of our borders, a higher crime rate than we have here in America. For example, violent death in America, 4.28 per 100,000 people. That is a statistic. Mexico, 13.2 per 100,000. That is three times the violent death rate in Mexico to that of the United States. So one could presume that out of every 100,000 people you would bring in, you would have three times more murderers than you would have within a typical population of the United States. That is not, when you look at the broader scheme, Mr. Speaker, as surprising or shocking as when you realize that Mexico has a lower crime rate than most, I will say, all of its neighbors with the exception of the United States, and most of the countries that are south of Mexico have a higher crime rate.

For example, the violent death rate in Honduras is nine times that of the United States. El Salvador can't find any statistics on. I can tell you in Colombia the rate is 63 violent deaths per 100,000. It works out to be 15.4 times more violent deaths per 100,000 than there are in the United States. Out of there comes a lot of cocaine, drug network, and drug trafficking.

My point is, Mr. Speaker, that American people die at the hands of criminal aliens here in the United States at a rate that we can't quantify nor comprehend at this point. I have a responsibility to protect the American people. This immigration policy that we have here in America, Mr. Speaker, is not a policy to accommodate any country in the world. It is a policy designed to enhance the economic, social and cultural well-being of the United States of America.

Every immigration policy for every sovereign state in the world should be established with the interests of that sovereign state, whether it would be Mexico, the United States, Holland, Norway, Russia, you name it. Every sovereign state needs to set an immigration policy that strengthens them. I support that we first seal the border, build a fence, build a wall, shut off automatic citizenship to babies that are born here to illegal mothers, workplace enforcement, pass the New Idea Act, end Federal deductibility for wages and benefits that are paid to illegals, and shut down that jobs magnet. I support all of that. Force all traffic, both human, contraband and legal cargo through our ports of entry on our southern border. Beef them up. Add more science. Make sure that we are effective in the job that we do on our border. I support all of that. By doing so, we have shut down the jobs magnet and we have shut off the illegal traffic coming into the United States. We have really made it difficult to bring illegal drugs into the United States at the same time.

We do all of that, Mr. Speaker, and then what we get out of that other side is, now, we have cleared the field so we can establish a rational immigration policy for legal people, legal entrance into the United States, and we can score them according to their ability to contribute to this economy. We can put out a matrix, a point system, that says, especially if you are young you have a lot of time to contribute to the economy, if you have a high education, you are going to make a higher wage and you are going to pay more taxes and you are going to be able to fund your own retirement and that of a bunch of other people while you are here. We can score this system up so we can have an immigration policy that does enhance the economic, the social and the cultural well-being of the United States.

But what we cannot do, Mr. Speaker, is we can't grant amnesty. We can't pardon immigration lawbreakers. We can't reward them with the objective of their crimes. If we do that, we ultimately destroy the central pillar of American exceptionalism called the rule of law. If that happens, there is no foundation to build a greater America. There is no foundation upon which we can lift this country up to a greater destiny. There is only the devolution of a civilization that is great today, maybe was greater yesterday, and that would lose its opportunity to be greater tomorrow.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. JOHNSON of Georgia (at the request of Mr. HOYER) for today.

Mr. KNOLLENBERG (at the request of Mr. BOEHNER) for today until 1:00 p.m. on account of personal reasons.

Mr. MCHUGH (at the request of Mr. BOEHNER) for today after 2:15 p.m. and for September 20 on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCDERMOTT) to revise and extend their remarks and include extraneous material:)

Mr. CUMMINGS, for 5 minutes, today.
Mr. ETHERIDGE, for 5 minutes, today.
Mr. MCDERMOTT, for 5 minutes, today.
Mr. ROTHMAN, for 5 minutes, today.
Mr. INSLEE, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.
Ms. WOOLSEY, for 5 minutes, today.
(The following Members (at the request of Mr. SHIMKUS) to revise and extend their remarks and include extraneous material:)
Mr. POE, for 5 minutes, September 26.
Mr. JONES of North Carolina, for 5 minutes, September 26.
Mr. HULSHOF, for 5 minutes, September 20.
Mr. SHIMKUS, for 5 minutes, today.

SENATE BILLS REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 558. An act to provide parity between health insurance coverage of mental health benefits and benefits for medical and surgical services; to the Committee on Energy and Commerce; in addition to the Committee on Education and Labor for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

BILLS PRESENTED TO THE PRESIDENT

Lorraine C. Miller, Clerk of the House reports that on September 19, 2007 she presented to the President of the United States, for his approval, the following bills.

H.R. 954. To designate the facility of the United States Postal Service located at 365 West 125th Street in New York, New York, as the ''Percy Sutton Post Office Building''.
H.R. 2669. To provide for reconciliation pursuant to section 601 of the concurrent resolution on the budget for fiscal year 2008.
H.R. 3218. To designate a portion of Interstate Route 395 located in Baltimore, Maryland, as ''Cal Ripken Way''.

ADJOURNMENT

Mr. KING of Iowa. Mr. Speaker, I move that the House do now adjourn.
The motion was agreed to; accordingly (at 7 o'clock and 26 minutes p.m.), the House adjourned until tomorrow, Thursday, September 20, 2007, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

3334. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting an extension of the Department's Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Peru Concerning the Imposition of Import Restrictions on Certain Categories of Archaeological Material from the Prehispanic Cultures and Certain Ethnological Material from the Colonial Period of Peru, pursuant to 19 U.S.C. 2602(g); to the Committee on Foreign Affairs.

3335. A letter from the Secretary, Department of the Treasury, transmitting the semiannual report detailing payments made to Cuba as a result of the provision of telecommunications services pursuant to Department of the Treasury specific licenses, as required by Section 1705(e)(6) of the Cuban Democracy Act of 1992, 22 U.S.C. 6004(e)(6), as amended by Section 102(g) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, and pursuant to Executive Order 13313 of July 31, 2003, pursuant to 22 U.S.C. 6032; to the Committee on Foreign Affairs.

3336. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting Copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on Foreign Affairs.

3337. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting Copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on Foreign Affairs.

3338. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting pursuant to the Taiwan Relations Act, agreements concluded by the American Institute in Taiwan on July 10, 2007, pursuant to 22 U.S.C. 3311; to the Committee on Foreign Affairs.

3339. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, Transmittal No. 07-19, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to Taipai Economic and Cultural Representative Office in the United States for defense articles and services; to the Committee on Foreign Affairs.

3340. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, Transmittal No. 07-51, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to Taipai Economic and Cultural Representative Office in the United States for defense articles and services; to the Committee on Foreign Affairs.

3341. A letter from the Secretary, Department of Defense, transmitting the report on Measuring Stability and Security in Iraq pursuant to Section 9010 of the Department of Defense Appropriations Act, 2006, Pub. L. 109-289; to the Committee on Foreign Affairs.

3342. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 2006-30, Waiving Prohibition on United States Military Assistance with Respect to Montenegro, pursuant to Public Law 107-206, section 2007(a); to the Committee on Foreign Affairs.

3343. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a Memorandum of Justification under Sections 610 and 614 of the Foreign Assistance Act to provide energy assistance to the Democratic People's Republic of Korea; to the Committee on Foreign Affairs.

3344. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report on the national emergency blocking property of persons undermining democratic processes or institutions in Zimbabwe that was declared in Executive Order 13288 of March 6, 2003; to the Committee on Foreign Affairs.

3345. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report on the national emergency with respect to persons who commit, threaten to commit, or support terrorism that was declared in Executive Order 13224 of September 23, 2001; to the Committee on Foreign Affairs.

3346. A letter from the White House Liaison, Department of Justice, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

3347. A letter from the White House Liaison, Department of Justice, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

3348. A letter from the White House Liaison, Department of Justice, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

3349. A letter from the White House Liaison, Department of Justice, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

3350. A letter from the White House Liaison, Department of Justice, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

3351. A letter from the White House Liaison, Department of Justice, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

3352. A letter from the White House Liaison, Department of Justice, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

3353. A letter from the White House Liaison, Department of Justice, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

3354. A letter from the White House Liaison, Department of Justice, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

3355. A letter from the White House Liaison, Department of Justice, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

3356. A letter from the Secretary, Department of the Treasury, transmitting the strategic plan for fiscal years 2007 through 2012 in compliance with the Government Performance and Results Act of 1993 (GPRA); to the Committee on Oversight and Government Reform.

3357. A letter from the Assistant to the Director of Congressional Affairs, Federal Election Commission, transmitting the Commission's annual report for FY 2006 prepared in accordance with the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Pub. L. 107-174; to the Committee on Oversight and Government Reform.

3358. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; MD Helicopters, Inc., Model 369, YOH-6A, 369A, OH-6A, 369H, 369HM, 369HS, 369HE, 369D, 369E, 369F, and 369FF Helicopters [Docket No. FAA-2007-28449; Directorate Identifier 207-SW-18-AD; Amendment

39-15103; AD 2007-09-51] (RIN: 2120-AA64) received September 14, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3359. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-145XR Airplanes [Docket No. FAA-2007-27981; Directorate Identifier 2007-NM-021-AD; Amendment 39-15107; AD 2007-13-03] (RIN: 2120-AA64) received September 14, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3360. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model 717-200 Airplanes [Docket No. FAA-2007-27152; Directorate Identifier 2006-NM-219-AD; Amendment 39-15105; AD 2007-13-01] (RIN: 2120-AA64) received September 14, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3361. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Gulfstream Model GIV-X, GV, and GV-SP Series Airplanes [Docket No. FAA-2007-28373; Directorate Identifier 2007-NM-110-AD; Amendment 39-15104; AD 2007-12-25] (RIN: 2120-AA64) received September 14, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3362. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-400, 747-400D, and 747-400F Series Airplanes [Docket No. FAA-2006-23803; Directorate Identifier 2005-NM-238-AD; Amendment 39-15108; AD 2007-13-04] (RIN: 2120-AA64) received September 14, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3363. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A330 and A340 Airplanes [Docket No. FAA-2007-27565; Directorate Identifier 2006-NM-215-AD; Amendment 39-15111; AD 2007-13-07] (RIN: 2120-AA64) received September 14, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3364. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 and Avro 146-RJ Airplanes [Docket No. FAA-2007-27714; Directorate Identifier 2006-NM-277-AD; Amendment 39-15110; AD 2007-13-06] (RIN: 2120-AA64) received September 14, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. RANGEL: Committee on Ways and Means. H.R. 3539. A bill to amend the Internal Revenue Code of 1986 to extend financing for the Airport and Airway Trust Fund, and for other purposes; with an amendment (Rept. 110–334 Pt. 1). Ordered to be printed.

Mr. WELCH: Committee on Rules. House Resolution 664. Resolution providing for consideration of the bill (H.R. 2881) to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to provide stable funding for the national aviation system, and for other purposes (Rept. 110–335). Referred to the House Calendar.

Mr. OBERSTAR: Committee on Transportation and Infrastructure. H.R. 2095. A bill to amend title 49, United States Code, to prevent railroad fatalities, injuries, and hazardous materials releases, to authorize the Federal Railroad Safety Administration, and for other purposes; with an amendment (Rept. 110–336). Referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII, the Committee on Transportation and Infrastructure discharged from further consideration. H.R. 3539 referred to the Committee of the Whole House on the State of the Union, and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. TOM DAVIS of Virginia (for himself, Mr. WOLF, and Mr. MARCHANT):

H.R. 3579. A bill to amend title 5, United States Code, to facilitate the temporary reemployment of Federal annuitants, and for other purposes; to the Committee on Oversight and Government Reform.

By Mr. DINGELL (for himself, Mr. BARTON of Texas, and Mr. PALLONE):

H.R. 3580. A bill to amend the Federal Food, Drug, and Cosmetic Act to revise and extend the user-fee programs for prescription drugs and for medical devices, to enhance the postmarket authorities of the Food and Drug Administration with respect to the safety of drugs, and for other purposes.; to the Committee on Energy and Commerce. considered and passed.

By Mr. JONES of North Carolina:

H.R. 3581. A bill to clarify the roles of the Department of Defense and Department of Veterans Affairs disability evaluation systems for retirement and compensation of members of the Armed Forces for disability, to require the development of a single physical exam that can be used to determine both fitness for duty and disability ratings, to standardize fitness testing among the Armed Forces, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. WOOLSEY:

H.R. 3582. A bill to amend the Fair Labor Standards Act of 1938 to clarify the exemption for home health care workers from certain provisions of that Act; to the Committee on Education and Labor.

By Mr. HENSARLING (for himself, Mr. AKIN, Mrs. BACHMANN, Mr. BACHUS, Mr. BARRETT of South Carolina, Mr. BARTLETT of Maryland, Mr. BARTON of Texas, Mr. BISHOP of Utah, Mrs. BLACKBURN, Mr. BRADY of Texas, Mr. BROUN of Georgia, Mr. BURTON of Indiana, Mr. CAMPBELL of California, Mr. CONAWAY, Mr. COLE of Oklahoma, Mr. MARIO DIAZ-BALART of Florida, Ms. FALLIN, Mr. FEENEY, Mr. FLAKE, Mr. FORTUÑO, Ms. FOXX, Mr. FRANKS of Arizona, Mr. GARRETT of New Jersey, Mr. HOEKSTRA, Mr. KING of Iowa, Mr. LAMBORN, Mr. DANIEL E. LUNGREN of California, Mr. ISSA, Mr. MANZULLO, Mr. MCHENRY, Mr. MILLER of Florida, Mrs. MUSGRAVE, Mrs. MYRICK, Mr. PENCE, Mr. PITTS, Mr. PRICE of Georgia, Mr. ROSKAM, Mr. RYAN of Wisconsin, Mr. SESSIONS, Mr. SHADEGG, and Mr. WELDON of Florida):

H.R. 3583. A bill to prevent Government shutdowns; to the Committee on Appropriations.

By Mr. BARTON of Texas (for himself, Mr. DEAL of Georgia, Mr. BOEHNER, Mr. SHIMKUS, Mr. WALDEN of Oregon, Mr. SESSIONS, Mrs. MYRICK, Mr. ROHRABACHER, Mr. PUTNAM, Mr. PITTS, Mr. KINGSTON, Mr. MCCAUL of Texas, Mr. PORTER, Mr. LEWIS of Kentucky, Mr. HASTERT, Mr. WESTMORELAND, Mr. PICKERING, Mr. HASTINGS of Washington, Mr. BURGESS, Mr. BLUNT, Mr. HULSHOF, Mr. RADANOVICH, Mr. BAKER, Mr. BUYER, Mr. HALL of Texas, Mr. HAYES, Mr. BARTLETT of Maryland, Mrs. BLACKBURN, Mr. CAMP of Michigan, Mr. STEARNS, Mr. HOEKSTRA, Ms. GRANGER, Mr. MCCOTTER, Mr. PEARCE, Mr. LUCAS, Mr. MICA, Mr. LATOURETTE, Mr. SMITH of Nebraska, Mr. WELLER, Mr. TERRY, Mrs. DRAKE, Mr. ADERHOLT, Mr. PRICE of Georgia, Mr. SAM JOHNSON of Texas, Mr. ISSA, Mr. HELLER, Mr. SULLIVAN, Mr. ROSKAM, Mr. YOUNG of Alaska, Mr. THORNBERRY, Mr. MANZULLO, Mr. NEUGEBAUER, Mr. REYNOLDS, Mr. ROGERS of Alabama, Mr. NUNES, Mr. BARRETT of South Carolina, Mr. KUHL of New York, Mr. CONAWAY, Mr. SOUDER, Mr. BILBRAY, Mr. GINGREY, Mr. BROWN of South Carolina, Mr. SHUSTER, Mr. BOUSTANY, Mr. WHITFIELD, Mr. KIRK, Mr. LINDER, Mr. MILLER of Florida, Mr. MCCARTHY of California, Mr. SMITH of Texas, Mr. GOHMERT, Mr. CARTER, Mr. MARCHANT, Mr. ROGERS of Michigan, Mr. GALLEGLY, Mr. MCCRERY, Mr. GARY G. MILLER of California, Mr. WAMP, Mr. HERGER, Mr. DAVID DAVIS of Tennessee, Mr. CHABOT, Mr. BONNER, Mr. BOOZMAN, Mr. BILIRAKIS, Mr. CALVERT, Mr. WICKER, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MARIO DIAZ-BALART of Florida, Mr. BUCHANAN, Mr. ALEXANDER, Mr. DREIER, Mrs. MCMORRIS RODGERS, Mr. POE, Mr. LATHAM, Mr. COBLE, Mr. CASTLE, Mr. DENT, Mr. PETERSON of Pennsylvania, Ms. ROS-LEHTINEN, Mr. RYAN of Wisconsin, Mr. MCKEON, Mrs. MILLER of Michigan, Mr. DAVIS of Kentucky, Mr. GILCHREST, Mr. GRAVES, Mr. TOM DAVIS of Virginia, Mr. ROGERS of Kentucky, Mr. TIBERI, Mr. HUNTER, Mr. KING of Iowa, Mr. BRADY of Texas, Mr. WALBERG, and Mr. JOHNSON of Illinois):

H.R. 3584. A bill to amend title XXI of the Social Security Act to extend funding for 18 months for the State Children's Health Insurance Program (SCHIP), and for other purposes; to the Committee on Energy and Commerce.

By Mr. BACA (for himself, Mr. KILDEE, Mr. KENNEDY, Mrs. NAPOLITANO, Mr. GRIJALVA, Mr. PASTOR, Mr. REYES, Mr. ORTIZ, Mr. CUELLAR, Mr. RODRIGUEZ, Mr. HINOJOSA, Mr. BECERRA, Ms. ROYBAL-ALLARD, Mr. SIRES, Mr. GUTIERREZ, Mr. GONZALEZ, Ms. SOLIS, Mr. RAHALL, Mr. SALAZAR, Mr. HONDA, Mr. FALEOMAVAEGA, Mr. HASTINGS of Florida, Ms. PELOSI, Mr.

CARDOZA, Mr. GEORGE MILLER of California, Mr. COSTA, Mr. SERRANO, Ms. VELÁZQUEZ, Ms. LORETTA SANCHEZ of California, Mr. FILNER, Mr. LAMPSON, Mr. PALLONE, Mr. MITCHELL, Ms. JACKSON-LEE of Texas, Mr. GENE GREEN of Texas, Ms. HERSETH SANDLIN, Mr. SHULER, Mr. CLYBURN, Mr. MORAN of Virginia, Ms. MCCOLLUM of Minnesota, Ms. LEE, Mr. KAGEN, Mr. YOUNG of Alaska, Mr. COHEN, and Mr. KIND):

H.R. 3585. A bill to honor of the achievements and contributions of Native Americans to the United States, and for other purposes; to the Committee on Education and Labor.

By Mr. DUNCAN (for himself, Mr. BOSWELL, and Mr. GRAVES):

H.R. 3586. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the production of certain material produced from organic matter which is available on a renewable or recurring basis; to the Committee on Ways and Means.

By Mr. FATTAH (for himself, Ms. JACKSON-LEE of Texas, Mr. TOWNS, Mr. KENNEDY, Ms. SCHAKOWSKY, Mr. CUMMINGS, Mr. DAVIS of Illinois, Mr. KUCINICH, Mr. ELLISON, and Mr. GRIJALVA):

H.R. 3587. A bill to establish a program to assist homeowners experiencing unavoidable, temporary difficulty making payments on mortgages insured under the National Housing Act; to the Committee on Financial Services.

By Mr. KING of New York:

H.R. 3588. A bill to amend the Consumer Product Safety Act to provide the Consumer Product Safety Commission with greater authority to require recalls, mandatory routine product testing, and for other purposes; to the Committee on Energy and Commerce.

By Mr. KING of New York:

H.R. 3589. A bill to amend the Trade Act of 1974 to extend trade adjustment assistance to certain service workers; to the Committee on Ways and Means.

By Mr. LAMPSON:

H.R. 3590. A bill to amend the Internal Revenue Code of 1986 to extend for one year relief from the alternative minimum tax on individuals; to the Committee on Ways and Means.

By Mr. LAMPSON:

H.R. 3591. A bill to amend the Internal Revenue Code of 1986 to provide that the net capital gain of certain individuals shall not be subject to tax; to the Committee on Ways and Means.

By Mr. LAMPSON:

H.R. 3592. A bill to amend the Internal Revenue Code of 1986 to make the election to deduct State and local sales taxes permanent law; to the Committee on Ways and Means.

By Mr. LAMPSON:

H.R. 3593. A bill to amend the Internal Revenue Code of 1986 to make permanent law the credit for nonbusiness energy property, the credit for gas produced from biomass and for synthetic fuels produced from coal, and the credit for energy efficient appliances; to the Committee on Ways and Means.

By Mr. LAMPSON:

H.R. 3594. A bill to amend the Internal Revenue Code of 1986 to make permanent law the penalty-free distributions from retirement plans to individuals called to active duty; to the Committee on Ways and Means.

By Mr. LAMPSON:

H.R. 3595. A bill to amend the Internal Revenue Code of 1986 to make permanent law the deduction for certain expenses of elementary and secondary school teachers; to the Committee on Ways and Means.

By Mr. LAMPSON:

H.R. 3596. A bill to amend the Internal Revenue Code of 1986 to make permanent law the tax-free distributions from individual retirement plans for charitable purposes; to the Committee on Ways and Means.

By Mrs. MCCARTHY of New York (for herself and Mr. LATOURETTE):

H.R. 3597. A bill to amend the Higher Education Act of 1965 to create a capitation grant program to increase the number of nurses and graduate educated nurse faculty to meet the future need for qualified nurses, and for other purposes; to the Committee on Education and Labor.

By Ms. MCCOLLUM of Minnesota:

H.R. 3598. A bill to prohibit the cessation, degradation, or limitation of broadcasting activities by the Broadcasting Board of Governors; to the Committee on Foreign Affairs.

By Ms. MOORE of Wisconsin:

H.R. 3599. A bill to authorize the Secretary of Health and Human Services to make grants to improve access to dependable, affordable automobiles by low-income families; to the Committee on Ways and Means.

By Mr. PAUL:

H.R. 3600. A bill to enforce the guarantees of the first, fourteenth, and fifteenth amendments to the Constitution of the United States by prohibiting certain devices used to deny the right to participate in certain elections; to the Committee on House Administration.

By Mr. PAUL:

H.R. 3601. A bill to restore to taxpayers awareness of the true cost of government by eliminating the withholding of income taxes by employers and requiring individuals to pay income taxes in monthly installments, and for other purposes; to the Committee on Ways and Means.

By Mr. PAUL:

H.R. 3602. A bill to amend the Communications Act of 1934 with respect to retransmission consent and must-carry for cable operators and satellite carriers; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SIMPSON:

H.R. 3603. A bill to authorize the exchange of certain land located in the State of Idaho, and for other purposes; to the Committee on Natural Resources.

By Mr. UDALL of New Mexico:

H.R. 3604. A bill to amend the Internal Revenue Code of 1986 to treat certain payments made to the European Union in lieu of income taxes to a member of the European Union as income taxes paid to a foreign country for purposes of the foreign tax credit; to the Committee on Ways and Means.

By Mr. WALZ of Minnesota (for himself, Mr. KIND, Mr. OBERSTAR, Mr. PATRICK MURPHY of Pennsylvania, Mrs. BOYDA of Kansas, Mr. HILL, and Ms. MCCOLLUM of Minnesota):

H.R. 3605. A bill to amend the Internal Revenue Code of 1986 to increase, extend, and make permanent the above-the-line deduction for certain expenses of elementary and secondary school teachers; to the Committee on Ways and Means.

By Ms. WOOLSEY (for herself, Mr. HARE, Mr. LOEBSACK, Mr. SARBANES, and Mr. JEFFERSON):

H.R. 3606. A bill to amend the Elementary and Secondary Education Act of 1965 to provide grants for core curriculum development; to the Committee on Education and Labor.

By Mr. KUHL of New York (for himself, Mr. BOREN, Mr. PICKERING, and Mrs. CAPPS):

H. Con. Res. 215. Concurrent resolution supporting the designation of a week as ''National Cardiopulmonary Resuscitation and Automated External Defibrillator Awareness Week''; to the Committee on Oversight and Government Reform.

By Mr. KLINE of Minnesota (for himself, Mr. WILSON of South Carolina, Mrs. MCMORRIS RODGERS, Mr. GINGREY, Mr. ROSKAM, Mr. BUCHANAN, Mr. CARTER, Mrs. MUSGRAVE, Mr. KELLER, Mr. HASTERT, Mr. GOODE, Mr. LAHOOD, Mr. SESSIONS, Mr. ALEXANDER, Mr. BROUN of Georgia, Mrs. DRAKE, Mrs. BACHMANN, Mr. PITTS, Mr. HENSARLING, Mr. FEENEY, Mr. BOUSTANY, Ms. GRANGER, Mr. THORNBERRY, Mr. WELDON of Florida, Mr. TIM MURPHY of Pennsylvania, Mr. LAMBORN, Mr. REHBERG, Mr. SHIMKUS, Mr. REICHERT, Mr. DAVID DAVIS of Tennessee, Mr. PORTER, Mr. SAXTON, Mr. AKIN, Mr. WALZ of Minnesota, Mr. GOHMERT, Mr. MAHONEY of Florida, Mr. SNYDER, Mr. SMITH of New Jersey, Mr. FORTENBERRY, Mr. PUTNAM, Mr. SMITH of Washington, Mr. KILDEE, Mr. BOSWELL, Mrs. BLACKBURN, Mr. JORDAN, Mr. BOREN, Mr. TERRY, Mr. WELLER, Mrs. MILLER of Michigan, Mr. ANDREWS, Mr. ORTIZ, Mr. GENE GREEN of Texas, Mr. PETERSON of Minnesota, Mrs. BOYDA of Kansas, Mr. MCKEON, Ms. MCCOLLUM of Minnesota, Mr. ISSA, and Mr. YOUNG of Alaska):

H. Res. 663. A resolution supporting the goals and ideals of Veterans of Foreign Wars Day; to the Committee on Oversight and Government Reform.

By Mr. TOM DAVIS of Virginia (for himself, Ms. LORETTA SANCHEZ of California, and Ms. ZOE LOFGREN of California):

H. Res. 665. A resolution endorsing reforms for freedom and democracy in Vietnam; to the Committee on Foreign Affairs.

By Mr. RODRIGUEZ:

H. Res. 666. A resolution recognizing and celebrating the 35th anniversary of Guadalupe Mountains National Park, and for other purposes; to the Committee on Natural Resources.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 211: Mr. CARNEY.

H.R. 371: Ms. LINDA T. SÁNCHEZ of California and Mr. HASTINGS of Florida.

H.R. 526: Mr. FRANK of Massachusetts.

H.R. 618: Mr. BROUN of Georgia.

H.R. 654: Ms. ROYBAL-ALLARD.

H.R. 743: Mr. BOOZMAN, Mr. YARMUTH, Mr. BILBRAY, Mr. WELDON of Florida, and Mr. HALL of Texas.

H.R. 821: Mr. SARBANES.

H.R. 854: Mr. WYNN.

H.R. 900: Mr. CARTER and Mr. ROSKAM.

H.R. 970: Mr. BUTTERFIELD and Mr. ANDREWS.

H.R. 971: Mr. LUCAS.

H.R. 977: Ms. DEGETTE.

H.R. 989: Mrs. WILSON of New Mexico.

H.R. 1110: Mr. TANNER, Mr. ELLSWORTH, Mr. MARCHANT, and Mrs. BONO.

H.R. 1125: Mr. LAMBORN, Mr. BOREN, Mrs. LOWEY, Mr. SESTAK, Mr. MORAN of Kansas, Mr. RYAN of Ohio, Mr. PENCE, Mr. HULSHOF, Ms. ROYBAL-ALLARD, Mr. WEXLER, Mr. PRICE of Georgia, Ms. ROS-LEHTINEN, Mr. WELDON of Florida, Mr. AKIN, and Mrs. EMERSON.

H.R. 1127: Mr. ROSKAM.

H.R. 1142: Mr. CARNAHAN.

H.R. 1155: Mr. BOUCHER.

H.R. 1190: Mr. PLATTS, Mrs. WILSON of New Mexico, Mr. RAHALL, and Mr. SOUDER.

H.R. 1201: Mr. KLINE of Minnesota, Mr. AKIN, Mr. WELDON of Florida, Mr. PITTS, Mr. FORTUÑO, and Mr. BISHOP of Utah.

H.R. 1213: Mr. ALTMIRE.
H.R. 1222: Mr. WOLF.
H.R. 1236: Mr. HALL of New York, Mr. TANNER, and Mr. DAVID DAVIS of Tennessee.
H.R. 1244: Mrs. NAPOLITANO.
H.R. 1275: Mr. TOWNS, Mr. WYNN, Mr. MARKEY, Mr. GUTIERREZ, and Mr. BLUMENAUER.
H.R. 1322: Mr. HIGGINS.
H.R. 1363: Mr. LAMPSON and Mr. GONZALEZ.
H.R. 1390: Mr. JONES of North Carolina.
H.R. 1422: Mr. BERMAN and Mr. TIERNEY.
H.R. 1439: Mr. PETERSON of Pennsylvania.
H.R. 1464: Mr. BOUCHER, Mr. WAXMAN, Mr. CARNAHAN, and Mr. BERMAN.
H.R. 1537: Mr. JOHNSON of Georgia.
H.R. 1553: Mr. BARRETT of South Carolina and Mr. SHULER.
H.R. 1576: Mr. PAYNE, Mr. OLVER, and Mr. RYAN of Ohio.
H.R. 1590: Mr. CARDOZA.
H.R. 1621: Mr. HINOJOSA.
H.R. 1634: Mr. ALLEN, Mr. GONZALEZ, and Mr. ARCURI.
H.R. 1644: Mr. SESTAK, Mr. BERMAN, Mr. PASTOR, and Mr. POMEROY.
H.R. 1683: Mr. GENE GREEN of Texas.
H.R. 1738: Mr. ABERCROMBIE and Mr. CARNEY.
H.R. 1843: Mr. KLINE of Minnesota, Mr. PERLMUTTER, and Mr. HERGER.
H.R. 1927: Mr. ISRAEL.
H.R. 1940: Mr. HALL of Texas.
H.R. 1960: Mr. BOREN and Mr. GORDON.
H.R. 1983: Mr. WAMP.
H.R. 1992: Mr. MCGOVERN, Mr. RUPPERSBERGER, Mr. UDALL of New Mexico, and Ms. MCCOLLUM of Minnesota.
H.R. 2015: Mr. TOWNS, Mr. BRALEY of Iowa, Mrs. BOYDA of Kansas, and Mr. GUTIERREZ.
H.R. 2054: Mr. UDALL of New Mexico.
H.R. 2138: Mr. DONNELLY and Mr. FORBES.
H.R. 2164: Mr. PATRICK MURPHY of Pennsylvania.
H.R. 2184: Mr. KENNEDY.
H.R. 2188: Mr. LEWIS of Kentucky.
H.R. 2231: Mr. BOUCHER and Mr. COHEN.
H.R. 2265: Mr. MARKEY.
H.R. 2266: Mr. CARNAHAN.
H.R. 2327: Mr. LEVIN, Mr. MCDERMOTT, Mr. HASTINGS of Florida, and Ms. CARSON.
H.R. 2390: Mrs. GILLIBRAND.
H.R. 2421: Ms. VELÁZQUEZ.
H.R. 2443: Ms. WATERS.
H.R. 2477: Mr. BRADY of Pennsylvania.
H.R. 2508: Mr. WAMP.
H.R. 2510: Mr. MCCARTHY of California.
H.R. 2539: Mr. AL GREEN of Texas.
H.R. 2585: Mr. WAMP and Mr. DAVID DAVIS of Tennessee.
H.R. 2593: Mr. UDALL of New Mexico and Mrs. CAPPS.
H.R. 2708: Mr. BOUCHER.
H.R. 2726: Mr. ETHERIDGE.
H.R. 2779: Mr. HODES and Mr. SNYDER.
H.R. 2807: Mr. JORDAN.
H.R. 2814: Mr. WAMP.
H.R. 2818: Mr. BAIRD and Mr. MORAN of Kansas.
H.R. 2820: Ms. ZOE LOFGREN of California.
H.R. 2915: Mr. ELLISON.
H.R. 2933: Mr. ISRAEL.
H.R. 2934: Mr. BARRETT of South Carolina.
H.R. 2964: Mr. REICHERT, Mr. VAN HOLLEN, Mr. BRALEY of Iowa, and Mr. FRANK of Massachusetts.
H.R. 3021: Mr. YARMUTH, Ms. MOORE of Wisconsin, and Mr. HARE.
H.R. 3033: Mr. FILNER.
H.R. 3075: Mr. ROSS.
H.R. 3076: Mr. PAUL and Mr. ROSS.
H.R. 3081: Ms. SUTTON, Mr. DAVIS of Illinois, Mr. DEFAZIO, Mr. JACKSON of Illinois, Ms. KAPTUR, Ms. KILPATRICK, Mr. LEWIS of Georgia, Mr. PAYNE, Ms. SCHAKOWSKY, Ms. WATSON, Mr. HARE, Mr. COHEN, and Mr. BRALEY of Iowa.
H.R. 3083: Mr. WELCH of Vermont.
H.R. 3090: Mr. PETERSON of Pennsylvania, Mr. COBLE, and Mr. POE.
H.R. 3168: Mr. JEFFERSON, Ms. CLARKE, and Ms. CASTOR.
H.R. 3177: Mr. MCCOTTER.
H.R. 3198: Mrs. DAVIS of California.
H.R. 3204: Mr. MCDERMOTT.
H.R. 3219: Mr. ARCURI and Mr. INGLIS of South Carolina.
H.R. 3256: Mr. MCDERMOTT, Ms. CARSON, Mr. BRADY of Pennsylvania, and Mr. COURTNEY.
H.R. 3257: Mr. KAGEN.
H.R. 3282: Ms. ZOE LOFGREN of California.
H.R. 3298: Ms. SUTTON.
H.R. 3317: Mr. JEFFERSON, Mr. BRADY of Pennsylvania, and Mr. MEEK of Florida.
H.R. 3329: Mr. ELLISON.
H.R. 3355: Mr. LYNCH.
H.R. 3358: Mr. BRADY of Pennsylvania and Mr. ROHRABACHER.
H.R. 3380: Mr. GOHMERT and Mr. YOUNG of Alaska.
H.R. 3393: Mr. DOYLE, Mr. HARE, and Mr. ELLISON.
H.R. 3405: Mr. HINOJOSA.
H.R. 3418: Mr. HOEKSTRA.
H.R. 3419: Mr. PRICE of North Carolina and Mr. WAMP.
H.R. 3432: Mr. FALEOMAVAEGA, Mr. SHERMAN, Mr. DELAHUNT, Mr. BURTON of Indiana, Mr. WELCH of Vermont, Mr. BRADY of Pennsylvania, Ms. MOORE of Wisconsin, Mr. FILNER, Mr. JOHNSON of Georgia, Mr. BAIRD, Mr. BISHOP of Georgia, Mrs. CHRISTENSEN, Mr. CLAY, Mr. CLEAVER, Mr. CLYBURN, Mr. COHEN, Mr. DAVIS of Alabama, Mr. DAVIS of Illinois, Mr. ETHERIDGE, Mr. FARR, Mr. FATTAH, Mr. HOLT, Mr. LAMPSON, Mr. JACKSON of Illinois, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JONES of Ohio, Mr. MCNULTY, Mr. MARSHALL, Ms. NORTON, Mr. PALLONE, Mr. PASCRELL, Mr. PASTOR, Mr. PRICE of North Carolina, Mr. ROTHMAN, Mr. SCOTT of Georgia, Mr. SIRES, Mr. THOMPSON of Mississippi, Mr. UDALL of Colorado, Ms. WATERS, Mr. WATT, and Mr. WU.
H.R. 3448: Mrs. CAPPS.
H.R. 3481: Mr. BISHOP of New York, Mr. ALTMIRE, and Mr. PAYNE.
H.R. 3494: Mr. BILIRAKIS, Mr. CRAMER, Mr. LINCOLN DAVIS of Tennessee, Mr. MCINTYRE, Mrs. MILLER of Michigan, Mr. TAYLOR, Mr. CONAWAY, Mr. DENT, Mr. GERLACH, Mr. GRAVES, Mr. KUHL of New York, Mr. YOUNG of Alaska, and Mr. RYAN of Wisconsin.
H.R. 3502: Mr. PETRI.
H.R. 3508: Mr. HENSARLING, Mr. GERLACH, and Mr. GINGREY.
H.R. 3529: Mr. SESTAK.
H.R. 3531: Mr. BARTLETT of Maryland and Mr. JONES of North Carolina.
H.R. 3533: Ms. ROS-LEHTINEN, Mr. MATHESON, Mrs. CAPPS, Mr. CROWLEY, Mr. MCNULTY, Mr. HALL of New York, Mrs. MALONEY of New York, Mr. MCGOVERN, Mr. HASTINGS of Florida, Mr. BISHOP of New York, Mr. TOWNS, Mr. MCNERNEY, Mrs. BONO, Mr. CONYERS, and Mr. HAYES.
H.R. 3544: Mr. GOODE.
H.R. 3558: Mr. PETERSON of Minnesota and Mr. LOBIONDO.
H.R. 3577: Mr. DAVIS of Alabama and Mr. BRADY of Pennsylvania.
H.J. Res. 3: Mr. HARE and Mr. GONZALEZ.
H.J. Res. 6: Mr. TANCREDO, Mr. JONES of North Carolina, and Mr. GINGREY.
H.J. Res. 12: Mr. BACHUS.
H.J. Res. 48: Mr. DOGGETT.
H. Con. Res. 40: Mr. EVERETT, Mr. POE, Mr. BROUN of Georgia, Mrs. MYRICK, and Mr. ISSA.
H. Con. Res. 83: Mrs. EMERSON.
H. Con. Res. 122: Mr. AL GREEN of Texas and Mr. SIRES.
H. Con. Res. 160: Mr. GILCHREST.
H. Con. Res. 176: Mr. MOLLOHAN.
H. Con. Res. 200: Mr. SOUDER and Ms. DELAURO.
H. Con. Res. 203: Ms. LINDA T. SÁNCHEZ of California, Mr. HASTINGS of Florida, Mr. PENCE, and Mr. MCCAUL of Texas.
H. Con. Res. 205: Ms. SUTTON, Ms. BERKLEY, Ms. CLARKE, Ms. MOORE of Wisconsin, Mr. BUTTERFIELD, Mrs. TAUSCHER, Ms. MCCOLLUM of Minnesota, Mr. BERRY, Mrs. BOYDA of Kansas, Mr. MOLLOHAN, Ms. WATSON, Ms. WOOLSEY, Mr. GUTIERREZ, Ms. RICHARDSON, Ms. HERSETH SANDLIN, Mr. CLEAVER, Mr. DELAHUNT, Ms. SCHWARTZ, Mr. JACKSON of Illinois, Ms. LEE, Ms. SHEA-PORTER, Ms. DELAURO, Mr. YARMUTH, Mrs. NAPOLITANO, Mrs. MALONEY of New York, Ms. ESHOO, Mr. KAGEN, Mr. COURTNEY, Mr. PAYNE, Ms. BEAN, Mr. FARR, Mr. CROWLEY, Ms. WASSERMAN SCHULTZ, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. HODES, Mr. ELLISON, Ms. ZOE LOFGREN of California, Ms. SLAUGHTER, Mr. WELCH of Vermont, Mr. SESTAK, Mr. MORAN of Virginia, Mr. BERMAN, Mr. LOEBSACK, Ms. CASTOR, and Mr. SNYDER.
H. Con. Res. 210: Mr. AL GREEN of Texas, Mr. CLAY, Mr. GRIJALVA, Ms. LINDA T. SÁNCHEZ of California, Mrs. DAVIS of California, Mr. SESTAK, Mr. LOEBSACK, Mr. HOLT, Ms. CLARKE, Mr. HARE, Mr. YARMUTH, Mr. ALTMIRE, Mr. BISHOP of New York, Ms. HIRONO, Ms. SHEA-PORTER, Mr. SCOTT of Virginia, Mr. HINOJOSA, Mr. JACKSON of Illinois, Mr. SARBANES, Ms. BERKLEY, Ms. LORETTA SANCHEZ of California, Ms. ROYBAL-ALLARD, Mr. RODRIGUEZ, Ms. BALDWIN, Mr. BARROW, Mrs. TAUSCHER, Mr. KENNEDY, Ms. MCCOLLUM of Minnesota, Ms. VELÁZQUEZ, Mr. TOWNS, Ms. KILPATRICK, Mr. OLVER, Ms. WASSERMAN SCHULTZ, Mrs. MALONEY of New York, Ms. CARSON, Mr. MOLLOHAN, Mr. CUMMINGS, Ms. LEE, Mr. FATTAH, Mr. CLEAVER, Mr. ELLISON, Mr. HASTINGS of Florida, Mr. LEWIS of Kentucky, Ms. RICHARDSON, Ms. MOORE of Wisconsin, Mr. BUTTERFIELD, Mr. THOMPSON of Mississippi, Ms. NORTON, Ms. WATSON, Mr. PAYNE, Mr. SCOTT of Georgia, Ms. WATERS, Ms. JACKSON-LEE of Texas, Mr. WATT, Mrs. JONES of Ohio, Mr. BISHOP of Georgia, Mr. ENGLISH of Pennsylvania, Ms. CORRINE BROWN of Florida, Mr. PAUL, Mr. MCDERMOTT, Mr. PASCRELL, Mr. LIPINSKI, Mr. GUTIERREZ, Ms. BEAN, Mr. MANZULLO, Mr. WELLER, and Mr. COHEN.
H. Res. 79: Mr. ALTMIRE.
H. Res. 111: Mr. SESTAK and Mr. MCINTYRE.
H. Res. 194: Mr. THOMPSON of California and Mrs. CAPPS.
H. Res. 213: Mrs. CAPPS, Mr. KUCINICH, Mr. MCGOVERN, Mr. TOWNS, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Mr. MORAN of Virginia, Mr. OLVER, Mr. CARNAHAN, Mr. MICHAUD, Mr. HONDA, Ms. KILPATRICK, Mr. BERMAN, and Mr. DELAHUNT.
H. Res. 282: Mr. ORTIZ.
H. Res. 529: Mr. BRALEY of Iowa, Mr. COHEN, Mr. BLUMENAUER, Mr. ARCURI, Mr. DICKS, Mr. HODES, Mr. GRIJALVA, Mr. ALTMIRE, Mr. CUMMINGS, Mr. WALZ of Minnesota, Mr. CROWLEY, Mr. FILNER, Ms. BORDALLO, Mr. HINCHEY, Mr. MCCOTTER, and Mr. HOLT.
H. Res. 548: Mr. ENGLISH of Pennsylvania, Mr. PRICE of North Carolina, Mr. LAMBORN, and Mr. PALLONE.
H. Res. 576: Mr. ELLSWORTH.
H. Res. 584: Mr. SESSIONS, Mr. LATOURETTE, Mrs. CUBIN, Mr. GORDON, Ms. BERKLEY, Mr. COBLE, Mr. KNOLLENBERG, Mr. TERRY, Mr. KILDEE, Mrs. MCMORRIS RODGERS, Mr. DELAHUNT, Mr. BOOZMAN, Mr. PETERSON of Minnesota, Mr. DONNELLY, Mr. WICKER, Mr. GALLEGLY, Mr. COOPER, Mrs. BONO, Mr. POMEROY, Mr. WILSON of South Carolina, Ms. MATSUI, Mr. SMITH of Nebraska, Mr. WU, Ms. FOXX, Mr. ROSS, Mr. CONAWAY, Mr. PAUL, Mr. SPRATT, Mr. PICKERING, Mrs. BLACKBURN, Mr. MATHESON, Mr. PENCE, Mr. BARRETT of South Carolina, Mr. LEWIS of Kentucky, Ms. HIRONO, Mr. PLATTS, and Mr. TIBERI.
H. Res. 590: Mr. CONAWAY, Mr. SPRATT, Ms. SLAUGHTER, and Mr. POMEROY.
H. Res. 605: Mr. BOUCHER.
H. Res. 610: Mr. MARIO DIAZ-BALART of Florida, Mr. PENCE, and Mr. GOODE.

H. Res. 616: Mr. DOGGETT and Mr. HASTINGS of Florida.

H. Res. 618: Ms. WOOLSEY.

H. Res. 635: Mr. ROTHMAN.

H. Res. 640: Mr. WELLER, Mr. SMITH of Washington, Mr. DAVIS of Kentucky, Mr. KIRK, Mr. LIPINSKI, Mr. JOHNSON of Illinois, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. CORRINE BROWN of Florida, Ms. SCHAKOWSKY, Mr. ROSKAM, and Mr. LOBIONDO.

H. Res. 644: Mr. HOEKSTRA, Mr. DAVIS of Kentucky, Mr. FEENEY, Mrs. DRAKE, Mr. KUHL of New York, Mr. HASTERT, Mr. YOUNG of Florida, Mr. MARSHALL, Mr. COLE of Oklahoma, Mr. WHITFIELD, Mr. LINCOLN DIAZ-BALART of Florida, and Mr. ENGLISH of Pennsylvania.

H. Res. 652: Mr. WELCH of Vermont, Mr. TAYLOR, Mr. CASTLE, and Mr. BARROW.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1644: Mr. RYAN of Wisconsin.

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *110th* CONGRESS, FIRST SESSION

Vol. 153 WASHINGTON, WEDNESDAY, SEPTEMBER 19, 2007 *No. 139*

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland.

PRAYER

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

Let us pray.

Eternal Lord God, You promised that those who passionately seek You will find You. So we fervently ask for Your presence. Deliver us from worries and distractions that hinder our pursuit of You, and guard our hearts and minds with Your peace.

As frail children of time and fate, we are lost without the wisdom of Your providence. Speak to our leaders and draw them into intimacy with You. Remind them that neither death nor life, angels or principalities, powers or things present or things to come, heights or depths, can separate them from Your love. Rescue them from misplaced priorities that major in minors and minor in majors. Keep their minds alert and their hearts at full attention as they wait for the unfolding of Your will.

We pray in Your hallowed Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BENJAMIN L. CARDIN 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 read a communication to the Senate.

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 19, 2007.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CARDIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, this morning, following any time used by me or Senator MCCONNELL, the Senate will resume debate on the Department of Defense authorization measure and then have a period of 1 hour to discuss the Specter-Leahy habeas corpus amendment prior to a vote to invoke cloture on that amendment. Members have until 10 o'clock this morning to file any germane second-degree amendments to this pending amendment.

Yesterday, there were discussions with respect to restructuring—I should not say restructuring, structuring the debate format for these Iraq amendments and the Defense authorization bill. Our staffs have been working. We hope something can be worked out.

Additionally, other Members have amendments on various topics dealing with the Defense authorization bill. We hope we can get a process going where we can move through these as rapidly as possible. I announced yesterday we would vote no later than 10:30 a.m. this Friday because of the Jewish holiday which begins at sundown, and some Members need that time to fly to their homes to be ready for Yom Kippur, which starts, as I indicated, at sundown. We also are going to have a vote at noon on Monday. Everyone should be aware of that. It is not going to be a judge's vote, it is going to be an important vote. I am well aware of the many scheduling issues facing Senators, but we have much work to do prior to the scheduled Columbus Day recess. We have to extend a number of bills because of the fiscal year ending, so I encourage Members to be mindful of the schedule and need for flexibility.

I ask unanimous consent the distinguished Senator from Oklahoma be allowed to speak for up to 7 minutes on an issue dealing with the war in Iraq, a fallen soldier, and that time not be taken away from the debate on the habeas corpus amendment.

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

RECOGNIZING THE FALLEN

Mr. REID. These remarks are so important. I have had the duty—I feel it is my duty—to call home and speak to 55 mothers and fathers and husbands and wives and children of Nevadans who have died in the war. It is a difficult situation. I last week talked to a grandmother whose 19-year-old grandson committed suicide a week after he went back for his second tour of duty. He killed himself in Iraq. These are real difficult situations. I know how strongly Members feel. So I certainly appreciate the feeling of the Senator from Oklahoma.

Mr. INHOFE. Mr. President, first, I thank the majority leader for his comments. It will be my intention, after I conclude my remarks concerning a fallen marine, that the floor be given to the Senator from South Carolina, Senator LINDSEY GRAHAM, for a period of approximately 15 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma is recognized.

HONORING OUR ARMED FORCES

CORPORAL JEREMY D. ALLBAUGH

Mr. INHOFE. Mr. President, today I rise to remember the life of one of America's heroes, Marine CPL Jeremy David Allbaugh. Corporal Allbaugh came from Luther, OK, and graduated from nearby Harrah High School. Before graduating, he was chosen to be a U.S. marine, becoming a member in the 1st Battalion, 4th Marines. Tragically, Jeremy died on July 5, while conducting combat operations in Al Anbar Province near the city of al-Qa'im, when his humvee was struck by an improvised explosive device.

There are no words that can truly express the dedication and selflessness of this young marine. There are no words that can adequately convey our thoughts for their loss to his family, who are here with us today. They have given everything to our country, something many find it difficult to comprehend and a sacrifice fewer will ever face. But I will say these words so as to honor Jeremy's last request, a request which America will always oblige her heroes, which was: ''Remember me.''

Before deploying to Iraq with his Marine unit, Jeremy had a conversation with his brother, Army 2LT Jason Allbaugh, in which Jeremy made two simple requests. He said: If something happens to me, do me a favor. Jeremy said: Do two things for me. Take care of mom and dad, and remember me.

Jeremy, today we do that. We remember your life of service and thank you for giving the ultimate sacrifice in defense of our Nation.

Growing up, Jeremy seemed destined to become a marine. His brother Jason—and I visited with him—said as far back as he could remember, Jeremy wanted to be a marine. Most kids had the conventional costumes on Halloween but not Jeremy. He wore fatigues. Jeremy also wore a camouflage backpack to school. His dream became reality 3 years ago when, 2 months shy of his 18th birthday and prior to graduating from high school, Jeremy joined the Marine Corps. His father Jon and his mother Jenifer, seeing how much Jeremy loved his country and his desire to serve, supported his decision and gave their permission.

That decision could not have been an easy one. All parents can understand their concern, especially parents of our servicemembers who face the possibility that their son or daughter could see combat in Iraq, Afghanistan or anyplace else in the world. Although their concern was great, I am sure it was surpassed only by the enormous pride they felt for their son Jeremy.

Jeremy, driven by a sense of duty, was willing to leave the comfort of his family and friends and the life he knew and answer the call for his country. Jeremy arrived in Iraq this past April. Jenifer said in Jeremy's weekly phone calls he gave the family a much different picture of what was going on in Iraq compared to what was being reported in the media. There were a lot of good things being done there, Jeremy told his family. There were Neighborhood Watch programs, new schools, hospitals, clinics being built in the area where he was assigned. I know this is true because I was there when Jeremy was there, and I saw this for myself in some 15 trips to the area of operation in Iraq.

When asked how the local Iraqi people treated the marines, Jeremy was upbeat. ''They appreciate what we do,'' he said. Jeremy believed in the positive changes he saw happening in Iraq, and he loved being a part of it.

Jenifer wishes so desperately that the American people knew and understood the sacrifices of our men and women in uniform. She hopes that more people will start to talk firsthand to our troops who are over there, not only to politicians in Washington. I, too, wish more people would talk to our troops who are over there and see their pride, their courage, their sense of honor and duty. Jeremy exemplified these qualities.

Maybe that is why Jenifer wishes people would talk to the troops, because she knows they would be talking to men and women similar to her own son.

Similar to so many of America's fallen heroes, Jeremy was young, only 21-years-old, when an IED took his life. Jeremy joined the Marine Corps after 9/11 and after the beginning of Operation Iraqi Freedom. He knew what it meant to serve. He knew what it meant to be a marine. He knew what chances he was taking. Jeremy's courage and selflessness are common for someone of his young age serving over there. Perhaps Jeremy's last wish, the wish that he be remembered, was his most selfless act.

When we remember Jeremy, we remember that which is great about our country, and his death will force us to remember the sacrifices of those throughout our history who have given their lives in defense of the Nation. We remember; we will always remember.

Rev. Jeff Koch, Pastor of the First Christian Church of Blackwell, OK, where Jeremy was honored before being laid to rest, said Jeremy ''paid the ultimate sacrifice so tonight we can sleep easy.''

I, too, believe this. Because of Jeremy's sacrifice, America can sleep easier. But I will rest easier knowing Jeremy lived and that, though they are rare, men and women similar to Jeremy are out there right now, protecting our lives and freedoms and our liberties. In this long war against terrorism and tyranny, America will continue to rely on men and women such as Jeremy, men and women who have been called to duty, men and women willing to put service before self.

We remember the life of Jeremy David Allbaugh, a marine, a friend, a brother, a grandson, and a son. We remember and pray for his family, father Jon; mother Jenifer; brothers Jason and Bryan; sister Alicia; and his grandparents, John, Dorothy, and Peggy.

Today, on the floor of this great deliberative body and in the annals of our RECORD, we mourn Jeremy's passing and forever honor and remember his life. Jeremy Allbaugh is a living memory to us, of what is great about America.

So we say: Rest easy, Jeremy. Semper Fidelis.

RESERVATION OF LEADER TIME

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2008

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 1585, the Department of Defense Authorization Act. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1585) to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

Pending:

Nelson (NE) (for Levin) amendment No. 2011, in the nature of a substitute.

Levin (for Specter-Leahy) amendment No. 2022 (to amendment No. 2011), to restore habeas corpus for those detained by the United States.

Warner (for Graham-Kyl) amendment No. 2064 (to Amendment No. 2011), to strike section 1023, relating to the granting of civil rights to terror suspects.

AMENDMENT NO. 2022

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to 60 minutes of debate prior to a vote on the motion to invoke cloture on amendment No. 2022, offered by the Senator from Michigan, Mr. LEVIN, with the time equally divided and controlled between the leaders or their designees.

Who yields time? The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I yield 15 minutes to the Senator from South Carolina.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina is recognized.

Mr. GRAHAM. Mr. President, I compliment Senator INHOFE in that moving tribute to a fallen marine.

The issue we have before the Senate is one of great importance to the country. It will affect the future of this bill. It will affect the national security needs of our Nation for a long time to come. It is a bit complicated, but at the end of the day, I don't think it is that difficult to get your hands around.

We are talking about a habeas corpus amendment to the Defense authorization bill that will confer upon any combatants housed at Guantanamo Bay, and maybe other places, the ability, as an enemy prisoner, to go to a Federal court of their choosing to bring lawsuits against the Government, against the military—something never granted to any other prisoner in any other war.

We had thousands of Japanese and German prisoners housed on American territory during World War II and not one of those Germans or Japanese prisoners were allowed to go to Federal court to sue the troops who had caught them on the battlefield or the Government holding them in detention as a prisoner of war.

To start that process now would be an absolute disaster for this country and has never been done before and should not be done now.

Now, the history of this issue: Guantanamo Bay is the place where international terrorists are sent, people suspected of being involved in the war on terror. Shaikh Mohammed is there, some very high-value targets are there, bin Ladin's driver. People who have been involved with al-Qaida activity and other terrorist groups are housed at Guantanamo Bay under the theory that they are unlawful enemy combatants. They do not wear a uniform as did the Germans and the Japanese, but they are very much at war with this country. They attack civilians randomly. Nothing is out of bounds in terms of their conduct. So they fit the definition, if there ever was one, of an unlawful enemy combatant. What they do in the law of war is unlawful. They certainly are enemies of this country. Shaikh Mohammed's transcript regarding his Combatant Status Review Tribunal—take time to read it. I can assure you he is at war with us. We need to be at war with him.

The basic premise I have been pushing now for years is that the attacks of 9/11 against the World Trade Center, against the Pentagon, the hijacking of the airplanes were an act of war. It would be a huge mistake for this country to look at the attacks of 9/11 as criminal activity. We are at war, and we should be applying the law of armed conflict.

The people whom we are fighting very much fall into the category of ''warriors'' based on their actions and their own words. What is the law of armed conflict? The law of armed conflict is governed by a lot of international treaties, the Uniform Code of Military Justice, and American case law.

What rights does an unlawful enemy combatant have? Well, our court looked at Guantanamo Bay. Habeas petitions were filed by detainees at Guantanamo Bay alleging that they were improperly held. The U.S. Supreme Court in the Rasul v. Bush decision in 2004 said: There is a congressional statute, 2241, that deals with habeas rights created by statute.

The Government argued that Guantanamo Bay was outside the jurisdiction of Federal courts; it was not part of the United States. The Supreme Court said: No, wait a minute. Guantanamo Bay is effectively controlled by the Navy; it is part of the United States.

The question for the court is, Did the Congress, under 2241, intend to exclude al-Qaida from the statute? And the answer was that Congress had taken no action. So the issue, 6 years after the war started here: Does the Congress wish to confer upon enemy combatant terrorists housed at Guantanamo Bay habeas corpus rights under section 2241, a statute we wrote? That is the issue.

Now, imagine after 9/11 if someone had come to the floor of the Senate and made the proposal: In case we catch anybody who attacked us on 9/11, I want to make sure they have the right of habeas corpus under 2241 because I want to make sure their rights exceed any other prisoner in any other war. I think you would have gotten zero votes.

Well, that is the issue.

Now, last year, Congress spoke to the courts, and the DC Circuit Court of Appeals understood what we were saying. Congress affirmatively struck from 2241 the ability of a noncitizen alien enemy combatant to have access to Federal court under the habeas statute. Why is that so important? From a military point of view, it is hugely important. Under the law of armed conflict, if there is a question of status—is the person a civilian? Are they part of an organized group? Are they an unlawful combatant? There are many different categories that can be conferred upon someone captured on a battlefield.

Under Geneva Conventions article 5, a competent tribunal should be impaneled—usually one person—to determine questions of status, and the only requirement is they be impartial. The question of who an enemy combatant is is a military decision. We should not allow Federal judges, through habeas petitions, to take away from the U.S. military what is effectively a military function of labeling who the enemies of America are. They are not trained for that. Our judges do not have the military background to make decisions as to who the enemy force is and how they operate.

So a habeas petition would really intrude into the military's ability to manage this war because if habeas rights were granted by statute to the prisoners at Guantanamo Bay, they could pick, through their lawyers, any district court in this country. They could go judge shopping and find any judge in this country they believed would be sympathetic and have a full-blown trial, calling people off the battlefield, having a complete trial as to whether this person is an enemy combatant in Federal court and let the judge make that decision. Well, that has never been done in any other war, and it should not be done in this war. Judges have a role to play in war, but that is not their role. The role of the U.S. military in this war, as it has been in every other war, is to capture people and classify them based on their activity within that war, and habeas would undo that. That is why last year Congress said: No, that is not the way we should proceed in this war.

This is not unknown to our courts. In World War II, there was a habeas petition filed by German and Japanese prisoners who were housed overseas asking the Federal courts to hear their case and release them from American military confinement. Chief Justice Jackson said:

> It would be difficult to devise a more effective fettering of a field commander than to allow the very enemies he has ordered to reduce to submission to call him to account in his own civil courts and divert his efforts and attention from the military offensive abroad to the legal defensive at home.

Justice Jackson was right. And what has happened since these habeas petitions have been filed? Hundreds of them have been filed in Federal court before Congress acted. Here is what they are alleging:

A Canadian detainee who threw a grenade that killed an American medic in a firefight and who comes from a family with long-standing al-Qaida ties moved for a preliminary injunction forbidding interrogation of him or engaging in cruel, inhumane, or degrading treatment of him. This was a motion made by an enemy prisoner for the judge to sit in there and conduct the interrogation or at least monitor the interrogation. I cannot think of anything worse in terms of undermining the war effort.

A motion by a high-level al-Qaida detainee complaining about base security procedures, speed of mail delivery, medical treatment, seeking an order that he be transferred to the least onerous conditions at GITMO, asking the court to order that GITMO allow him to keep any books, reading materials sent to him, and report to the court on his opportunities for exercise, communications, recreation, and worship.

Hundreds of these lawsuits have been filed under the habeas statute. That is why Congress said: No, dismiss these cases because they have no business in Federal court.

Surely to God, al-Qaida is not going to get more rights than the Nazis. Surely to God, the Congress, 6 years after 9/11, will not, hopefully, give a statutory right to some of the most brutal, vicious people in the world to bring lawsuits against our own troops in a fashion never allowed in any other war.

Here is what we did last year: We allowed the military to determine whether a person is an enemy combatant, whether they were an unlawful enemy combatant through a competent tribunal called a Combatant Status Review Tribunal made up of three officers. The legislation allows every decision by the military to be appealed to

the D.C. Circuit Court of Appeals so the court can look at the quality of the work product and the procedures in place.

There is Federal court review over activity at Guantanamo Bay where judges review the work product of the military. To me, that is the proper way to move forward because some people at Guantanamo Bay, because they are so dangerous, may not be released anytime soon or may never be released. More people have been released at Guantanamo Bay than are still at Guantanamo Bay. They were thought not to be a threat. Thirty of them have gone back to the fight. We have released people at Guantanamo Bay to take up arms against us again. That is the result of a process where you make a discretionary decision.

It would be ill-advised for this Congress to confer on American courts the ability to hear a habeas petition from enemy prisoners housed at Guantanamo Bay where they could go judge shopping and sue our own troops for anything they could think of, including a $100 million lawsuit against the Secretary of Defense. That will lead to chaos at the jail. It will undermine the war effort.

I am urging a ''no'' vote to this amendment. We have in place Federal court review of every military decision at Guantanamo Bay and a way to allow the courts to do what they are best trained to do—review documents, review procedures, review outcomes—not to take the place of the U.S. military. I cannot think of a more ill-advised effort to undercut what I think is going to be a war of a long-standing nature than to turn it over to the judges and to take away the ability to define the enemy from the military, which is trained to make such decisions, and give it to whatever judge you can find, wherever you can find him or her, and let them have a full-blown trial at our national security detriment.

I urge a ''no'' vote.

I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. SPECTER. Mr. President, I believe I have 10 minutes reserved at this time.

The ACTING PRESIDENT pro tempore. The time is divided between the leaders or their designees.

Mr. SPECTER. Mr. President, I will act as the acting designee since no one is on this side of the aisle.

The ACTING PRESIDENT pro tempore. I see that the Senator from Vermont is yielding 10 minutes to the Senator from Pennsylvania. The Senator from Pennsylvania is recognized.

Mr. LEAHY. The Senator from Pennsylvania is the lead cosponsor of this amendment. I proudly yield him 10 minutes.

Mr. SPECTER. I thank my distinguished colleague from Vermont.

Mr. President, the arguments advanced by the Senator from South Carolina a few moments ago are outdated. The Supreme Court of the United States has held in the Rasul case that the Guantanamo detainees have rights under the Constitution to proceed in court in habeas corpus. In my view, that decision was based on both constitutional and statutory grounds. The Court of Appeals for the District of Columbia has held that it is a matter of statutory interpretation. I believe that will be reversed by the Supreme Court in a case now pending there. But the existing law is governed by the Military Commissions Act, and the question is whether the Congress should now correct the provision in the Military Commissions Act which eliminated the right of Guantanamo detainees to challenge their detention by habeas corpus proceedings in Federal court.

The District of Columbia Circuit has held that the provisions of the Combatant Status Review Tribunal are adequate. I believe that an examination of those proceedings will show that they are palpably deficient and obviously inadequate on their face.

The constitutional right of habeas corpus is expressly recognized in the Constitution, with a provision that habeas corpus may be suspended only in time of invasion or insurrection, neither of which situation is present here. That fundamental right has been in existence since the Magna Carta in 1215. As noted earlier, the Supreme Court, in Rasul, has recently applied that constitutional right to Guantanamo Bay detainees.

Now, Congress has acted to legislate to the contrary. Of course, Congress cannot legislate away a constitutional right; that can be done only by amendment to the Constitution. That matter is now pending before the Supreme Court, and I believe on the precedents it will be held that it remains a constitutional right.

But the issue which we confront today is the statute, the Military Commissions Act passed by Congress 2 years ago which eliminates habeas corpus. The Supreme Court has held, in the case of Swain v. Pressley, that habeas corpus in the Federal courts may be eliminated by an adequate substitute. In that case, the substitute held to be adequate was a proceeding in the District of Columbia courts. The Supreme Court said: That was adequate judicial review to superintend executive detention.

But when we take a look at the provisions of the Combatant Status Review Board, as examined by the District Court in the District of Columbia, in the In re: Guantanamo cases, this is illustrative. An individual was charged with being an associate of al-Qaida individuals. When asked to identify whom he was supposed to have associated with, the tribunal could not identify the person. I discussed this case at some length yesterday, and the courtroom broke into laughter. It was a laughing matter to be detaining somebody who was allegedly associated with someone from al-Qaida when they could not even identify who the person was.

Now, there has been a very revealing declaration filed by LTC Stephen Abraham, who was a member of the Combatant Status Review Tribunal and observed the process.

This is the way Lieutenant Colonel Abraham described the process:

> Those of us on the panel found the information presented to try to uphold detention to ''lack substance.'' What were purported to be specific statements of fact lacked even the most fundamental earmarks of objectively credible evidence. Statements allegedly made by witnesses lacked detail. Reports presented generalized statements in indirect and passive forms without stating the source of the information or providing a basis for establishing the reliability or credibility of the sources.

I put this in the RECORD yesterday, but it shows a proceeding totally devoid of any substance. You don't have to have sufficient evidence to go to court to detain someone at Guantanamo, but there has to be some basis for the detention. An examination of what is happening with the Combatant Status Review boards shows they are entirely inadequate under the standards set down by the Supreme Court in the case of Swain v. Pressley. Therefore, the alternative established by Congress in the Military Commissions Act is totally insufficient to provide fair play.

The Supreme Court of the United States has laid it on the line. Even the Guantanamo detainees are entitled to fairness. Guantanamo has been ridiculed around the world and Guantanamo is not being closed. No alternative has been found for it. But at a minimum, those who are detained at Guantanamo ought to have some proceeding to establish some basis, however slight, for their continued detention.

When Congress established the Military Commissions Act and provided for Combatant Status Review boards, we did so with the thought that we could have an alternative to going to Federal court, which would provide a basic rudimentary element of fairness required by the Geneva Conventions and required by the Supreme Court, which brushed aside the practices from World War II, overruling the prior precedents. So now it is up to the Congress of the United States to correct that mistake which we made 2 years ago. I believe any fair reading of what happens with the Combatant Status Review boards would demonstrate that we ought to correct the 2005 legislation. This amendment ought to be adopted.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. LEAHY. Mr. President, I understand the Senator from New Mexico wants 3 minutes. I yield 3 minutes to the Senator from New Mexico.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized for 3 minutes.

Mr. BINGAMAN. I thank the Chair. Mr. President, I rise in support of the amendment being offered by Senators LEAHY and SPECTER to restore the writ of habeas corpus. I am proud to be a cosponsor of this legislation, and it is my sincere hope that it will be adopted.

One of the most troubling aspects of the administration's onslaught on basic civil rights, which has largely been carried out with the acquiescence of Congress, is with regard to the suspension of habeas corpus.

The ''great writ,'' as it is known in Anglo-Saxon jurisprudence, is simply the basic right to challenge the legality of one's confinement by the Government. It is based on a core American value that it is unacceptable to give the executive branch unchecked authority to detain whomever it wants without an independent review of the legality of the Government's actions. The right dates back to the Magna Carta, and our Founding Fathers included it as one of the fundamental rights guaranteed by our Constitution.

I would like to take a moment to briefly recount how we ended up where we are today.

In 2004, in the case Rasul v. Bush, the U.S. Supreme Court ruled that individuals held at the Guantanamo Bay naval base have the right to challenge the legality of their detention by filing a habeas petition in a U.S. Federal court.

In November 2005, in response to the Supreme Court's decision, and at the behest of the Bush administration, Senator GRAHAM offered an amendment to the 2006 Defense Authorization bill that sought to overrule the Rasul decision and strip Federal courts of jurisdiction to hear habeas claims filed by Guantanamo prisoners.

I offered an alternative amendment aimed at preserving the right to habeas corpus. My amendment was voted on the day before the Senate recessed for Veterans Day. No hearings had been held in either the Senate Judiciary Committee or the Armed Services Committee regarding the impact of eliminating this longstanding right. After very little debate on the Senate floor, my amendment was defeated by a vote of 49–42. The next week I offered a second amendment also aimed at preserving habeas rights, but it was also defeated after a deal was reached as part of what is known as the Graham-Levin compromise.

Under the Graham-Levin compromise, which was ultimately included in the Detainee Treatment Act of 2005, habeas rights were curtailed but the D.C. Circuit was granted very limited jurisdiction to review the determination of a Combatant Status Review Tribunal. That compromise was adopted 84–14. In 2006, the Supreme Court ruled in the Hamdan case that it was unclear as to whether Congress intended to prospectively repeal habeas rights and that the military commissions in Guantanamo were improperly constituted in violation of the Geneva Conventions and the Uniform Code of Military Justice.

Once again, the Senate had the opportunity to restore our Nation's commitment to the rule of law.

Unfortunately, rather than standing up for the rights enshrined in our Constitution, the Senate passed, by a vote of 65–34, the Military Commissions Act of 2006, which explicitly eliminated habeas rights.

Today is almost exactly a year after the Senate voted to pass the Military Commissions Act, and the Senate once again has the opportunity do what is right. We have the chance to restore one of the most fundamental rights guaranteed by our Constitution, and I hope the Senate will take this important step in restoring our Nation's commitment to the rule of law.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. KYL. Might I inquire how much time exists on both sides?

The ACTING PRESIDENT pro tempore. There is approximately 18½ minutes on both sides.

Mr. KYL. I thank the Chair.

I request the Chair to advise me when I have spoken for 15 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, let me respond to some of the arguments that have been made in support of this amendment and urge my colleagues, as they have done in the past, to reject it. The first thing that must be clarified is that the writ of habeas corpus is not being restored. It can't be restored because it has never existed to question detention. POWs and enemy combatants, detainees, have never, in the history of English common law or American jurisprudence, had the constitutional writ of habeas corpus to challenge their detention—never. So it is a mistake for those who support this amendment to claim that somehow we need to restore the right. It has never existed for this purpose; no case in the history of English or American jurisprudence or anywhere else in the world, for that matter.

Yesterday our distinguished friend and colleague Senator DODD praised and upheld the honor and wisdom of those like his father who participated in the Nuremberg tribunals after World War II. It is well that he should. Along with his father, Thomas Dodd, is, of course, Robert H. Jackson, who became a Justice of the U.S. Supreme Court in 1941 and who returned to the Court after serving as chief counsel at the Nuremberg tribunals from 1945 to 1946. The heroes of American justice and the lions of Nuremberg did not become evil men or ignorant in the law in the period between 1946 and 1950, the year that Johnson v. Eisentrager was decided by the U.S. Supreme Court. It is a case in which Justice Jackson delivered the opinion of the court that enemy combatants have no constitutional right to habeas corpus. That was the holding in the case by the very jurist who presided over the Nuremberg trials. He knew what he was talking about. That precedent remains the law of the United States to this day.

My colleague from South Carolina quoted Justice Jackson in that decision in which he said he could think of nothing that would fetter our commanders more than granting to enemy POWs a right to contest their detention, a constitutional habeas corpus right to question their detention in American courts. He said the very act of war is to subdue your opponent and for that opponent to have the right to require you to go into the courts of your land to defend your capturing of that enemy would be, from the commander's standpoint, an impossible burden to bear. He was right. It is the wisdom and correctness of that decision and all of the precedents that we defend today.

So, first, this is not about restoration of a right. With respect to questioning detention, that right has never existed. The reasons why should be evident to us all.

Secondly, to the extent there needs to be a process for determining whether an individual should be detained, this Congress has gone further than ever in the history of our country and granted an unprecedented process and procedure for that issue to be resolved. After the military tribunals sort out the people who have been captured and they determine, based upon the evidence they have, whether to detain these individuals, what we have granted to these detainees is a right never before granted. It is unprecedented in the history not just of the United States; no other country has done this. We allow that detainee to appeal that detention to a court in the United States, a Federal court, and not just any Federal court, the U.S. Circuit Court for the District of Columbia, the U.S. Court of Appeals for the District of Columbia, which many view as the court directly below the U.S. Supreme Court. And from a decision of that DC Circuit Court, the losing side can petition for writ of certiorari to the U.S. Supreme Court. Never has such an unprecedented legal right been granted to a POW or a detainee. So we should not be suffering under the illusion that by not granting habeas, they don't have any rights. They have more rights than they have ever had.

I would briefly respond to my good friend and colleague Senator SPECTER, who cited an affidavit of an individual who said, from his perspective, the evidence of the Government was inadequate in a case or in a series of cases, there are three remedies for that. The first is that the tribunal says the evidence is inadequate. The detainee gets to go. The second is for the court to ask for more evidence and say this isn't sufficient; do you have anything else you can provide. Of course, it is usually a question of classified information that the Government is loathe

to release because frequently it is from a source to which a commitment has been made that the source would not be revealed or that the intelligence wouldn't be revealed, or sometimes it is from another country that we have gotten the information from and we have also made agreements with those countries not to air intelligence they provided to us. So there is always a tension between how much evidence the United States wants to reveal of a classified nature in order to keep this person in detention. But that is the second remedy.

The third remedy is if the court nonetheless decides that there is sufficient evidence, the individual is detained, he can appeal that detention to the circuit court. The circuit court can make all of those same inquiries. So you have one of the most prestigious courts in the country making the final decision about whether the evidence is sufficient. That is certainly adequate process.

The Congress has ratified that twice through our decisions in dealing with the statutory right of habeas. Remember, there is the constitutional right and a statutory right of habeas. What Congress did 2 years ago, in consideration of the Detainee Treatment Act, was to develop a compromise that provided this procedure and make it clear, we thought, that the statutory right of habeas did not apply to these detainees.

A subsequent court decision said: Well, you made that clear with respect to future cases, but for pending cases we think you have not made it clear. So we came back and made it clear that the statutory right applied to neither the existing cases nor future cases. Of course, Congress has the right to limit the statutory right of habeas corpus. So neither the statutory right nor the constitutional right has provided a remedy for these detainees.

There is an alternative remedy that is perfectly adequate. When the Military Commissions Act was marked up by the Armed Services Committee—the bill that is before us—it was adopted with an even more specific provision removing Federal court habeas jurisdiction over enemy combatants to clear up any remaining doubt after the Supreme Court's interpretation of the DTA in the Hamdan decision. That vote, last September, was 15 to 9, including all the committee's Democratic members. Were they all wrong about the Constitution at that time? After subsequent negotiations that did not change the habeas provisions in the bill, the MCA passed this body on a vote of 65 to 34.

We have acted on this matter. I urge my colleagues, when they vote in a few minutes, to refer to their previous vote. It was correct at that time. It remains correct today. If, by some reason, we are wrong, and the case the Supreme Court has before it decides that this fall, then there is no necessity for us to act in a statutory way now. It is not going to change what the Court decides. The Court will say that right exists, and nothing we do will affect that. It would be unnecessary in any event. But if the Court confirms we are right, then it would not only be unnecessary but wrong for us to change that law by supporting the habeas amendment in a few minutes.

The final point I wish to make is that the consequences of granting the habeas right would be horrendous. Justice Jackson referred to this in the Eisentrager decision. I can be more explicit. But as he said: No decision of this Court supports the view. None has ever even hinted that the right of habeas existed in this case.

What would the consequences of granting habeas be?

At least 30 detainees who have been released from the Guantanamo Bay facility have since returned to waging war against the United States and our allies. A dozen released detainees have been killed in battle by U.S. forces. They went right back to fighting us. Others have been recaptured. Two released detainees later became regional commanders for Taliban forces. One released Guantanamo detainee later attacked U.S. and allied soldiers in Afghanistan, killing three Afghan soldiers. Another former detainee killed an Afghan judge. One released detainee led a terrorist attack on a hotel in Pakistan and also led a kidnaping raid that resulted in the death of a Chinese civilian. This former detainee recently told Pakistani journalists he plans to fight America and its allies until the very end.

The point here is even detainees whom we have released, either because there was insufficient evidence to hold them or because we deemed they no longer posed a threat to us, have gone back to the battlefield and have fought us and fought our allies, have killed and been killed. These are dangerous killers.

This is not some law school exercise we are going through here. This is not the American criminal justice process. This is dealing with terrorists who are fighting us on the battlefield, and will continue to do so if they are released improperly. That is why dealing with something such as habeas is a very serious—very serious—matter.

I mentioned the problem of classified evidence. In a habeas trial, there clearly would be a right of the defendant or the detainee to both call witnesses—he would literally be able to call his captors, the people who captured him on the battlefield and require them to verify his identity and the reasons why he was held and why he needs to continue to be held—totally disrupting our operations—and classified evidence would probably be required in most of the cases because these are people on whom we have gotten good intelligence as to their intentions and their past activities. Much of this intelligence is highly sensitive as it comes from foreign sources and human sources to whom we have made commitments that we would not reveal the information they provided to us.

It is a Hobson's choice, then, if you treat this like an American trial, where you say either the Government has to come and make this classified evidence available—and then it becomes public—or you have to withhold the classified information and let the detainee go. That cannot be the case in the case of these detainees. That is another practical reason why you cannot have the habeas granted to allow them to contest detention.

Again, put this in the context. What we have is a process that allows them to contest their detention at several stages. It allows counsel to have access to at least some of the classified information. It allows the court—and, in fact, the court of appeals has said it has the right—to review this information, all of the information that is relevant to a particular detainee's case.

The process is not lacking. It is not as if you have to grant habeas in order for these individuals to have a fair determination of their detainee status. They have that today. What they do not have is the extra right that habeas accords American citizens, people here in the United States, to call the witnesses to the court who captured you, to call up all of the classified evidence that is used against you—for the detainee to have a right to that.

The judge who tried the 1993 World Trade Center bombing case and the Padilla case made the point that when information was granted to the lawyers of the detainees in that case, within 10 days the information that was supposed to remain classified—the lawyers were not supposed to reveal it to anyone because it was highly classified; it included the names of coconspirators—within 10 days that information was in Sudan and was in the hands of Osama bin Laden. He knew because his name was on the list that we were after him. He was named as a coconspirator in the case.

So when the habeas right exists, and you have an even greater requirement to release this information, it is inevitable that highly sensitive information in fighting this war on terror will find its way into enemy hands. So the detainees can get back to the battlefield and the highly sensitive information will be very much jeopardized.

These are reasons not to grant, for the first time, a writ of habeas corpus. It is a reason to sustain what we have established for these detainees—a very fair procedure. I urge my colleagues not to grant the cloture motion, to vote ''no'' on cloture, so we do not open up this can of worms, so we can continue to fight the war against these terrorists.

I reserve the remainder of the time on this side.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask to be yielded 2 minutes.

Mr. LEAHY. Mr. President, I yield 2 minutes to the senior Senator from Michigan.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized for 2 minutes.

Mr. LEVIN. Mr. President, the law we passed last Congress stripped the Federal courts of jurisdiction to grant habeas corpus despite a constitutional prohibition which says that habeas corpus may not be suspended except in cases of rebellion or invasion, neither of which is the state of affairs today.

I want to make in this 2 minutes one essential point. The Specter-Leahy-Dodd amendment does not grant any individual the affirmative right to go to court. It does not grant a right of habeas corpus. It simply removes a legislative barrier to such action, restoring the law as it was before we enacted this provision in the last Congress, leaving it up to the courts—where it belongs and it always has been—as to whether habeas corpus should be granted.

When we debated this provision in the last Congress, we received a letter from three retired Judge Advocates General who urged us not to strip the courts of habeas corpus jurisdiction. That letter, signed by Admirals Hutson and Guter, and General Brahms, said the following:

> We urge you to oppose any further erosion of the proper authority of our courts and to reject any provision that would strip the courts of habeas jurisdiction.
>
> As Alexander Hamilton and James Madison emphasized in the Federalist Papers, the writ of habeas corpus embodies principles fundamental to our nation. It is the essence of the rule of law, ensuring that neither king nor executive may deprive a person of liberty without some independent review to ensure that the detention has a reasonable basis in law and fact. That right must be preserved. Fair hearings do not jeopardize our security. They are what our country stands for.

Well, we received similar letters from nine distinguished retired Federal judges and from hundreds of law professors from around the United States, and from many others.

I urge our colleagues to support the Specter-Leahy-Dodd amendment.

Mr. KENNEDY. Mr. President, I am cosponsoring this amendment because I strongly support the restoration of the right to habeas corpus for noncitizens detained as enemy combatants.

This bill will reinstate one of the cornerstones of the rule of law. Habeas corpus protects one of our most fundamental guarantees: that the Government may not arbitrarily deprive persons of their liberty.

President Bush and Congress undermined that guarantee last year by enacting the Military Commissions Act, which stripped courts of jurisdiction over habeas corpus petitions by enemy combatants. That legislation is a stain on our human rights record and an insult to the rule of law. It is almost surely unconstitutional.

For centuries, the writ of habeas corpus has been a core principle of Anglo-American jurisprudence. Since the days of the Magna Carta in the 17th century, it has been a primary means for persons to challenge their unlawful government detention. Literally, the Latin phrase means ''have the body'' meaning that persons detained must be brought physically before a court or judge to consider the legality of their detention.

The writ prevents indefinite detention and ensures that individuals cannot be held in endless detainment, without indictment or trial. It requires the Government to prove to a court that it has a legal basis for its decision to deprive such persons of their liberty.

The Framers considered this principle so important that the writ of habeas corpus is the only common law writ enshrined in the Constitution. Article I, section 9, clause 2, specifically 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.''

Mr. President, 9/11 was a tragic time for our country, but we did not set aside the Constitution or the rule of law after those vicious attacks. We did not decide as a nation to stoop to the level of the terrorists. In fact, we have always been united in our belief that an essential part of winning the war on terrorism and protecting the Nation is safeguarding the values that Americans stand for, both at home and throughout the world.

Instead of standing by these principles, however, the Bush administration used 9/11 to justify abandoning this basic American value. It has consistently undermined habeas corpus, claiming that the Constitution, statutory habeas corpus, and the Geneva Conventions, which Alberto Gonzales described as ''quaint,'' do not apply to enemy combatants held at Guantanamo Bay or elsewhere.

The administration even went so far as to establish detention facilities outside the United States to avoid the reach of U.S. courts and the application of basic legal protections such as habeas corpus. The administration's purpose was to hold these combatants indefinitely and try them in military commissions.

The commissions, however, have severely limited the rights of alleged enemy combatants. The accused have no access to the evidence which the Government claims it possesses and no ability to provide a meaningful defense. The tribunals are a sham and an insult to the rule of law.

The administration's lawlessness failed. Last year, the Supreme Court ruled in Hamdan v. Rumsfeld that Federal courts have jurisdiction over habeas corpus petitions brought by detainees at Guantanamo Bay. Justice Stevens reminded the administration that ''in undertaking to try Hamdan and subject him to criminal punishment, the Executive is bound to comply with the Rule of Law.''

In the face of this clear Supreme Court precedent, the administration and Congress recklessly responded with the Military Commissions Act, which eliminated the right of all noncitizens labeled by the executive as enemy combatants to be heard in an Article 3 court. This bill will repeal these disgraceful provisions of the Military Commissions Act and restore the right to habeas corpus for detainees held at Guantanamo Bay and elsewhere. I urge my colleagues to vote for the rule of law and to support this amendment.

Mr. DODD. Mr. President, I rise to once again voice my support for the Specter-Leahy-Dodd amendment to the Department of Defense Authorization Act. This amendment will restore habeas corpus rights to individuals held in U.S. custody.

Just as importantly, it will begin to undo the damage done by the Military Commissions Act of 2006—legislation that undermined our values and our commitment to the rule of law. In a struggle with terrorism in which our credibility, our good name, is a powerful weapon, the Military Commissions Act was not simply wrongheaded; it was dangerous. The amendment we offer today is a first step out of that danger and back to our moral authority.

Critics of this amendment in the Bush administration and elsewhere have argued that restoring habeas corpus rights will clog Federal courts and hamper our military operations in Iraq and Afghanistan. This is simply not true.

First, in keeping with long tradition, this amendment only applies to individuals held on clearly defined U.S. territory, including Guantanamo—but not to individuals held in U.S. custody in Iraq and Afghanistan. Several individuals filing habeas petitions from Iraq and Afghanistan have already been denied. The truth is that a relatively small number of individuals are covered by this amendment. Right now, fewer than 500 people are held in Guantanamo Bay. It is simply not credible to suggest that thousands or millions of petitions would deluge our courts and grind them to a halt. From 2002 to 2006, when detainees had the ability to file habeas petitions, the Federal courts continued to run smoothly. Last year, a distinguished group of retired judges wrote to Congress, stating clearly that habeas petitions from detainees in no way tied up our courts.

Second, habeas petitions heavily favor the Government's position. They are often decided solely by paper filings by the Government, and Federal judges have wide discretion in determining what type of evidence they need to make their determinations. In addition, usually only a minimal amount of evidence is needed to justify continued detention. Therefore, it is highly unlikely that U.S. servicemembers will be called from the battlefield to testify before a Federal judge.

Finally, many of those who oppose this amendment have relied on Justice Jackson's opinion in Johnson v. Eisenstrager to defend the stripping of habeas rights to detainees. But Eisentrager has been overtaken by more recent cases. Justice Jackson's opinion in that case relied in part on the fact that the petitioners were German prisoners of war who were imprisoned outside the United States. In 2004, however, the Supreme Court held in Rasul v. Bush that the U.S. courts have jurisdiction to hear challenges to the legality of detention of foreign nationals held there because the United States had complete jurisdiction and control over the base at Guantanamo. In other words, the Supreme Court itself rejected the Government's reliance on Eisentrager as it applies to individuals held in Guantanamo. That was the very decision that prompted the President and Congress to strip detainees of habeas rights with the Military Commissions Act.

In ignoring the most recent precedent, President Bush and his supporters are ignoring the history of the very bill they are now fighting to uphold. Their reliance on outdated rulings is, at best, disingenuous. Willfully or not, they have once again distorted the facts.

I believe that returning to the legal framework that was in place prior to the Military Commissions Act would not undermine our security. In fact, I believe reaffirming our commitment to the rule of law will strengthen our efforts to combat terrorism—we can protect our security and uphold our values at the same time. And so I ask my colleagues to support this amendment.

Mrs. FEINSTEIN. Mr. President, I rise today to speak in favor of the Leahy-Specter amendment to restore habeas corpus, as part of the Defense authorization bill. This amendment is identical to S. 185, the Habeas Restoration Act, which was introduced earlier in this Congress and enjoys bipartisan support. I was pleased to sign onto that bill as one of its earliest cosponsors, and I am pleased to speak in favor of this amendment today.

I strongly disagree with the provisions in the Military Commissions Act that were passed last fall, eliminating the jurisdiction of American courts to consider any petition for a writ of habeas corpus filed by an alien detained by the United States after either being determined to be an enemy combatant or while awaiting such a determination.

I believe the Leahy-Specter amendment would rectify this provision, and I urge my colleagues to support it.

I firmly believe that we must do all we can to fight the war on terrorism. But we also must preserve the core principles that create the foundation of this country.

The right to habeas corpus is one of those fundamental principles. Habeas corpus is the right secured in the Constitution, allowing a person to seek relief from unlawful detention. It has roots that date back to the Magna Carta of 1215.

Habeas corpus has been suspended only a few times in our history—and then only temporarily, such as during our Civil War. Never in history have we suspended habeas corpus indefinitely, for a war that has no foreseeable end.

This is not simply a matter affecting a few hundred detainees at Guantanamo. The Military Commissions Act went far beyond eliminating the rights of the remaining detainees at Guantanamo—it also potentially can reach all 12 million lawful permanent residents in the United States, as well as visitors to our country. Under this law, any of these people can be detained, potentially forever, without any ability to challenge their detention in Federal court, simply based on the Government declaring them enemy combatants.

In fact, the Government need not even find that a noncitizen is an enemy combatant for their habeas rights to be stripped. It is enough for someone to be ''awaiting'' a determination—of a mere accusation is enough for a person to lose this basic right.

Here is what the Military Commissions Act says:

> 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 United States to have been properly detained as an enemy combatant or is awaiting such determination.

Most of the remaining detainees at Guantanamo have been held without charges for years. While they did receive very limited due process through DOD-sponsored administrative tribunals, designed to evaluate whether they can continue to be classified and held as enemy combatants, in these review tribunals, detainees can often face: secret and hearsay evidence, evidence obtained from ''enhanced interrogation techniques,'' and no right to counsel. Appeals from these review tribunals are limited to the question of whether the Government followed its own limited procedures. There are even recent reports that when some of these tribunals found that a detainee was not an enemy combatant, the Defense Department arranged for the tribunals to be repeated, until Government officials got a result that they wanted.

Rather than abolishing habeas corpus, I believe the judiciary plays a vital role in evaluating and reviewing whether due process has been provided and whether innocent persons are being held.

This is not a partisan issue, as demonstrated by the fact that the lead Senators are the chair and ranking member of the Judiciary Committee. In addition, conservatives like Kenneth Starr, Professor Richard Epstein, and David Keene of the American Conservative Union have all called for restoration of habeas, as have a long list of liberal and other scholars, retired Federal judges, and military leaders such as RADM Donald Guter, former Judge Advocate General of the Navy, who wrote that the elimination of habeas corpus rights for detainees ''makes us weaker and impairs our valiant troops.''

The right of habeas corpus is a key component of what keeps our system of justice fair and balanced. It is time for Congress to ensure that it remains available. I urge my colleagues to support the Leahy-Specter amendment to restore the rule of law at Guantanamo and elsewhere and the Great Writ of habeas corpus to its rightful place in our American system of justice.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Alabama.

Mr. SESSIONS. Mr. President, I want to——

Mr. LEAHY. Mr. President, if I could ask the Senator from Alabama a question.

Mr. SESSIONS. Yes.

Mr. LEAHY. Is it the Senator's intention to close for his side?

Mr. SESSIONS. Mr. President, let's see how the time looks. I think perhaps so. How much time is left on this side?

The ACTING PRESIDENT pro tempore. Three minutes remain.

Mr. SESSIONS. Mr. President, I would utilize that 3 minutes and allow the distinguished chairman of the Judiciary Committee to close with his remarks.

First, I express my appreciation to Senator LINDSEY GRAHAM and Senator JON KYL, who meticulously explained the origin of the situation we find ourselves in today and why we have never provided the writ of habeas corpus to enemy combatants and why we should not do so.

Let's back up a little bit and go to the core of it. The Senator from New Mexico, Mr. BINGAMAN, I think correctly gave us the status of the case. Congress passed section 2241, part of the United States Code, a statutory provision of Congress dealing with habeas. At that time, I suggest, without any doubt in my own mind, Congress had no idea that years later the Supreme Court would conclude that language—and rightly or wrongly on the Supreme Court ruling—that language would provide habeas rights to combatants captured on the battlefield. OK. But the Supreme Court ruled that based on the way the statute was written. It was an unintended consequence. I would note, three members of the Supreme Court dissented and did not think that statute covered that.

So after that happened, we had to ask ourselves: Is the Supreme Court saying: You, Congress, provided habeas rights to prisoners. You did it when you passed the statute. We are not saying the Constitution requires it. We are not saying the Supreme Court requires it. What we are saying is you did it when you passed the statute?

So Congress said: OK, we did not mean that. Then we passed the amendment last year Senator GRAHAM offered

that fixed it, and did not provide, for the first time in the history of American history—or world history, for that matter—enemy prisoners be given the right to sue the generals who have captured them.

All right. So we did that, and we passed it. The DC Circuit Court of Appeals, in interpreting that statute, has followed it and concluded that Congress has changed the law and that the prisoners in Guantanamo are not entitled to habeas rights that we provide to every American citizen.

Now, that is the right thing. This is exactly what we should do. So I am somewhat taken aback by the suggestion of those who are promoting this amendment that somehow Congress denied the Great Writ and changed the law and they are here to restore it.

This is purely a matter of congressional policy and national policy on how we want to conduct warfare now and in the future. How are we going to do that? Are we going to do it in a way that allows those we capture to sue us? Now you can utilize those rights if we choose to try a prisoner of war and to lock them up or to execute them. You can use a lot of legal rights. A prisoner can use those rights, but not in this circumstance. This is merely to restore the historical principles of habeas that already existed. The current law does that. The new amendment would change it.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The Senator's time has expired.

The Senator from Vermont.

Mr. LEAHY. Mr. President, at the beginning of this debate, I said Congress committed a historic error when it eliminated the Great Writ of habeas corpus because it did it not just for those detained at Guantanamo Bay—that raises enough questions about our sense of history and our sense of our own basic jurisprudence in this country—but Congress also eliminated it for millions—millions—of permanent legal residents here in the United States. Some of them are professors in our finest schools, others are medical people in our hospitals, and some are actually serving in our law enforcement and in our military. Listening to the arguments these past few days of those opposed to restoring habeas rights, it becomes ever more apparent that this was a mistake the last Congress and the administration made based on fear. I cannot think of a greater mistake than one based on fear in the most powerful Nation on Earth.

Opponents make the alarmist argument that if we permit people to challenge their detention in Federal court, we will jeopardize our national security and place ourselves in greater danger. In fact, of course, the opposite is true.

We have heard these kinds of arguments before during trying and turbulent times in American history, such as when the Government shamefully interned tens of thousands of Japanese-Americans during World War II. We should know by now that it hurts this country, and especially our men and women in uniform, when we allow public policy to be guided by fear, rather than by American values and freedoms.

The critics of habeas restoration resort to scare tactics because they know that history and the facts are against them.

The truth is that casting aside the time-honored protection of habeas corpus makes us more vulnerable as a nation because it leads us away from our core American values and calls into question our historic role as the defender of human rights around the world. It also allows our enemies to accomplish something they could never achieve on the battlefield—the whittling away of liberties that make us who we are, the liberties we fought during the Revolutionary War to preserve, the liberties we fought a civil war to preserve, the liberties we defended not only our own freedom but the freedom of much of the Western World in two world wars to preserve.

The need for the Great Writ has never been stronger than it is today. We have an administration that at every opportunity has aggressively sought unchecked executive power while working to erode or to eliminate constitutionally enshrined checks on that power by the courts and by Congress. Stripping away habeas rights which allow people to go to court to challenge detention by the executive is just the latest brazen attempt in a 6-year-long effort to consolidate power in the executive branch. You could have picked up somebody, locked them up, and all that person wants to say is: I am not the person named here. Before we did this, someone could at least get a writ of habeas corpus, go to the court, and say: I am not going to contest the case or anything else, but just the fact that you picked up the wrong person. They can't even do that now. This is America?

The writ of habeas corpus is not some special benefit to be honored only when it is convenient. As no less a conservative than Justice Antonin Scalia has written, ''[t]he very core of liberty secured by our Anglo-Saxon system of separated powers has been freedom from indefinite imprisonment at the will of the Executive.'' Habeas has served for centuries to protect individuals against unlawful exercises of state power.

Habeas corpus is the only common law writ enshrined in the Constitution. Article I, section 9 provides that the ''Writ of Habeas Corpus shall not be suspended, unless when in Cases of rebellion or invasion the public Safety may require it.'' The Judiciary Act of 1789 specifically empowered federal courts to issue writs of habeas corpus ''for the purpose of an inquiry into the cause of commitment.'' In more than two centuries since then, habeas has only been suspended four times, all of them at times of active rebellion or invasion. Even this administration does not claim that we are at such a point now.

The Military Commissions Act of 2006 spurned centuries of tradition and empowered the executive to detain noncitizens potentially forever, with no meaningful check by another branch of Government. With this act, Congress permanently eliminated the writ of habeas corpus for any noncitizen determined to be an enemy combatant or even awaiting such determination. If the determination hasn't been made, we are going to spend a few years making up our minds whether you are an enemy combatant, but you still can't contest the fact that we have picked up the wrong person. So a mere accusation by the executive is enough to keep a person in custody indefinitely, and that detention is not subject to review. As our Founders knew well, no administration—no administration, not this one, not the next one, not the one after that—can be trusted with that kind of power.

The Specter-Leahy amendment would restore the proper balance of power between the branches of Government by reestablishing the law on habeas as it existed prior to the passage of the Detainee Treatment Act and the Military Commissions Act. It creates no new legal rights. The U.S. Supreme Court confirmed in the Rasul case that American and British courts have routinely assumed jurisdiction over habeas claims made by aliens.

British courts in the 18th century considered habeas claims of aliens held as enemy combatants, as did the U.S. Supreme Court during World War II, a war where we faced the possible destruction of democracy. These courts considered habeas claims of alien enemy combatants who had already received military trials—meaning even before their habeas claims, they had already received more process than most noncitizen detainees will ever get now. Our legendary Chief Justice, John Marshall, in one instance granted relief to an alien enemy combatant bringing a habeas claim. In most of these historical cases, though, habeas petitioners lost and were not granted any relief, and indeed most habeas petitioners have their claims dismissed with a simple, one-page ruling from a judge. This historical record is evidence that habeas can be relied upon as a necessary, but entirely reasonable, check on Executive power.

As in the past, noncitizen detainees alleged to be enemy combatants should at least have the right to go into an independent court to assert that they are being held in error—not to have a trial but at least to say: Hey, we read the warrant, this is not the person—I am not the person named; you picked up the wrong person. They can't even ask an independent court to determine that.

As in the past, a court will only grant habeas relief if the petitioner is able to, in fact, establish this effort.

We are not talking about having a trial with all of these red herrings we have heard from those on the other side, who say that somehow we would have to bring in battlefield tactics or we would have to bring in classified information. That is not it. That is not it. We are talking about just being able to at least contest the fact that they have been picked up.

If the detainees held at Guantanamo truly are the worst of the worst of our enemies, as this administration claims, surely it will be easy for the Government to make a baseline showing in court that they are lawfully detained. If they are really such enemies, we ought to at least know that and know that they were lawfully detained. Of course, senior government and military officials have told the press a story very different from the party line. They have told the New York Times that the Government detained many of the Guantanamo detainees in error.

In any case, the sweep of the Military Commissions Act goes well beyond the few hundred detainees held at Guantanamo Bay. It threatens the civil liberties of an estimated 12 million lawful, permanent residents of the United States. They work here, they pay taxes in this country, and under current law, any of these people can be detained forever without the ability to challenge their detention in Federal court simply on the executive say-so, even if the Government made a mistake and picked up the wrong person. As we heard from Professor Mariano-Florentino Cuellar at the Judiciary Committee's hearing on this issue, this is of particular concern to the Latino community, which includes so many of the hard-working lawful permanent residents in this country.

The cursory review process set up by Congress for detainees, called combatant status review tribunals or CSRTs, is no substitute for habeas corpus because, among many other deficiencies, it does not provide a neutral arbiter—a Federal judge—to review the factual record for error. This summer, LTC Stephen Abraham, a military lawyer who participated in the CSRT process, said in a sworn affidavit that the evidence presented to CSRTs ''lack[s] even the most fundamental earmarks of objectively credible evidence.'' He also said that superiors pressured the officers on review panels to find detainees to be ''enemy combatants.'' That is neither just nor fair, and rigged tribunals are not the way this country has ever dispensed justice, nor the way it should. Court review allowed under current law that relies on the findings of such a flawed system falls well short of the independent review that our system of checks and balances demands.

Restoring habeas would send a clear message that when we promote democracy and the importance of human rights to the rest of the world, we are practicing what we preach. I have heard so many speeches on the floor of this body—and I agree with them—criticizing other countries for doing what we have done. How do we go to these other countries and say: You can't do this. And they say: But you do it. And we say: Oh, well, that was the war on terror; we are facing this great threat, so we have to do it, but you shouldn't do it. Well, we need to listen to our military leaders and our foreign policy specialists on this point who disagree with what we have done.

The former Navy Judge Advocate General Donald Guter told the Judiciary Committee in May that by stripping even our enemies of basic rights, we are providing a pretext to those who capture our troops or our civilians to deny them basic rights. What do we say the next time an American civilian, lawfully in another country, is picked up and detained and not even allowed to raise the point that they picked up the wrong person, and we go to that country, and they say: Hey, wait a minute, that is what you do in your country; don't preach to us. Your American citizen is going to stay behind bars. We are just doing to you what you are allowed to do to us.

William H. Taft IV, former Deputy Secretary of Defense under President George H. W. Bush, and a former State Department adviser in the current administration, told us that stripping the courts of habeas jurisdiction sacrificed an important opportunity to enhance the credibility of our detention system. Restoring habeas to detainees will improve our strategic and diplomatic positions in the world and remove a rallying point for our enemies.

The right to habeas corpus is a limited right. Habeas, as I said before, does not give a person the right to a trial. It does not give a habeas petitioner a right to personally appear in court. It most certainly does not mean that U.S. service men and women will be pulled from the battlefield to testify in such proceedings, notwithstanding the alarmist comments made on the other side of the aisle. All the Government must do to defeat a habeas claim is demonstrate to a judge by a preponderance of the evidence that the detainee is being lawfully held. That is all.

Most habeas petitions are rejected by the Federal courts without the need to call a single witness. I certainly knew that when I was a prosecutor. Any time I ever sent anybody to prison for more than a year, I knew there would be half a dozen habeas petitions filed. They would usually be denied without even ever having called a single witness. In fact, habeas petitions can be, and routinely are, disposed of in Federal court based on a single affidavit by a Government agent explaining the basis for detention. I simply sent over an affidavit showing the date and time of conviction to the court clerks. That is all I had to do. Habeas simply provides an opportunity for a detainee to argue to an independent Federal judge that he or she is being held in error. If the detainee is properly held, the Government can easily overcome that claim. The distinguished Presiding Officer was a distinguished U.S. attorney. He understands very well that point.

Recent history makes clear that restoring habeas will not invite habeas litigation from abroad, as some have claimed. The Supreme Court found habeas jurisdiction at Guantanamo Bay because Guantanamo is, for all intents and purposes, a U.S. territory. U.S. courts have found no habeas jurisdiction in the case of enemies captured, detained, and held in Iraq. There was no flood of international habeas petitions following the 2004 Rasul decision validating the extension of habeas rights at Guantanamo, and there is not going to be if habeas is restored now.

Guantanamo detainees had habeas rights until those rights were conclusively taken away last year. Between 2002 and late 2006, these claims were handled by judges in the U.S. District Court in Washington, DC. The judges in that court released no detainees, and they issued no orders compelling the Government to alter the detainees' conditions of confinement. Habeas is a necessary and appropriate check on executive power, but it is a far cry from a get-out-of-jail-free card.

Opponents of habeas restoration suggest other countries will not open their courts to petitions from enemy aliens. But if a foreign country imprisoned an American, as I said before—say an aid worker or a nurse or a civilian contract employee—and held that person without any charge as a combatant, or simply said: We are going to ''determine'' whether that person is a combatant because he or she has supported the U.S. military, for example, or had a ''Support Our Troops'' sticker on their car, the U.S. Government would surely demand that American have a chance to go to court. Our consul would be down there immediately demanding that. What kind of a reaction would there be in this country if we read in the paper where another country said: No, you have no right to challenge the fact that we picked them up; you have no right to challenge even that we picked up the wrong person. When we screamed about that in editorials all over this country saying how horrible that is, they would simply answer: We are just doing what you do. By denying basic rights to alien detainees, we encourage other nations to do the same to American civilians, and they will. They will. That is why we hear from so many of our military, so many distinguished people that we should change this.

Critics of the Specter-Leahy bill also point to released detainees who they assert went back to the battlefield, as a reason not to restore habeas rights. But the truth is that those Guantanamo detainees who have been released since 9/11 have been freed by the military following its own process, not by Federal judges on habeas review.

The critics' assertions that habeas proceedings in Federal court will somehow lead to the sharing of classified information with terrorists is

cockamamie. It is merely fearmongering. This argument demeans our Federal judiciary. It ignores the procedures established by Congress to ensure that classified information is safeguarded in Federal proceedings. Federal judges have significant discretion in determining what kinds of evidence to consider, what witnesses, if any, to allow for a habeas claim. Many detainee habeas claims could be resolved with no recourse to classified documents at all. Where classified evidence is relevant, all Federal judges are cleared to view such information, and they are well equipped to deal with it without compromising national security.

We must not succumb to baseless, fear-driven arguments. The sky will not fall if we vote to restore habeas. Quite the contrary: Congress will take a positive step toward returning to our core American values of liberty, due process, and checks and balances. In doing so, we will increase America's security and bolster our place in the world. That is why this amendment has support from across the political and ideological spectrum.

I thank Senator DODD, Senator MENENDEZ, Senator BINGAMAN, Senator LEVIN, and Senator SPECTER for coming to the floor and eloquently calling for a return to basic American values and the rule of law.

Yesterday, 41 Republicans voted to filibuster a bill that would have given to hundreds of thousands of residents of the District of Columbia the fundamental right to vote for Congress—the District of Columbia, which has roughly the same population as my own State of Vermont. I hope they will not follow that sad day with a filibuster today of legislation to restore the fundamental right of someone held by the Government without any charge to at least go to court and ask why.

The most daunting challenge in the age of terrorism is to strike the proper balance between maintaining our national security against very real threats but also preserving the liberties that are the proudest legacy of our Founders. It is our Founders who were willing to risk capture and hanging to bring about a nation based on the principles that you, Mr. President, and I have always supported and which we supported in our oath of office.

More than ever, especially in the wake of September 11, we have to remain vigilant against security threats, but let's never forget that our values are the foundation that makes our Nation strong. Now is the time to reaffirm those values, to be renewing this country's fundamental, longstanding commitment to habeas corpus review. I urge every Senator to support the Specter-Leahy amendment to restore habeas corpus.

Mr. President, I wish Members would look at those who support this. Support from this amendment goes across the political spectrum, from the American Conservative Union to liberal groups, to some of our leading citizens, including former Secretary of State Powell and others who have spoken out for this. We should pass this amendment.

Mr. President, how much time remains?

The PRESIDING OFFICER. All time has expired.

Mr. LEAHY. I thank the Chair. Mr. President, if the yeas and nays have not been ordered, I will ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are mandatory.

Mr. LEAHY. I thank the Chair.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on amendment No. 2022, regarding restoration of habeas corpus, to H.R. 1585, the Department of Defense Authorization bill.

Harry Reid, Dick Durbin, Carl Levin, Christopher Dodd, Jeff Bingaman, Barack Obama, Robert Byrd, Ken Salazar, Debbie Stabenow, Dianne Feinstein, Patrick Leahy, Sheldon Whitehouse, Daniel K. Akaka, Russell D. Feingold, Amy Klobuchar, Bill Nelson (FL).

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

The question is, Is it the sense of the Senate that debate on amendment No. 2022, offered by the Senator from Michigan, Mr. LEVIN, to amendment No. 2011 to H.R. 1585 shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. The following Senator is necessarily absent: the Senator from Georgia (Mr. CHAMBLISS).

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

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 340 Leg.]

YEAS—56

Akaka	Hagel	Nelson (NE)
Baucus	Harkin	Obama
Bayh	Inouye	Pryor
Biden	Johnson	Reed
Bingaman	Kennedy	Reid
Boxer	Kerry	Rockefeller
Brown	Klobuchar	Salazar
Byrd	Kohl	Sanders
Cantwell	Landrieu	Schumer
Cardin	Lautenberg	Smith
Carper	Leahy	Snowe
Casey	Levin	Specter
Clinton	Lincoln	Stabenow
Conrad	Lugar	Sununu
Dodd	McCaskill	Tester
Dorgan	Menendez	Webb
Durbin	Mikulski	Whitehouse
Feingold	Murray	Wyden
Feinstein	Nelson (FL)	

NAYS—43

Alexander	Crapo	Lott
Allard	DeMint	Martinez
Barrasso	Dole	McCain
Bennett	Domenici	McConnell
Bond	Ensign	Murkowski
Brownback	Enzi	Roberts
Bunning	Graham	Sessions
Burr	Grassley	Shelby
Coburn	Gregg	Stevens
Cochran	Hatch	Thune
Coleman	Hutchison	Vitter
Collins	Inhofe	Voinovich
Corker	Isakson	Warner
Cornyn	Kyl	
Craig	Lieberman	

NOT VOTING—1

Chambliss

The motion was rejected.

The PRESIDING OFFICER. On this vote, the yeas are 56, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. 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. LEVIN. Mr. President, I have been talking with Senator MCCAIN, and it is our understanding the agreement now is the Graham amendment, which would be next in order under the previous UC, would be laid aside temporarily—we think we are making some progress on working out that amendment—and then we would now have Senator WEBB recognized to introduce his amendment.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I wish to thank my friend from Michigan. We would like to get a time agreement on debate on the Webb amendment, but I do not know how many speakers we have on our side. We will be proposing an amendment that has been put together by my other colleague from Virginia, Senator WARNER, as a sort of side-by-side effect.

I thank the Senator from Virginia, Mr. WARNER, for working on an amendment that I think expresses very clearly we all want all our troops home. We understand the stress and the strain that has been inflicted on the men and women in the military—and the Guard and Reserves—and we admire the motivation and the commitment of Senator WEBB from Virginia. We are, obviously, in opposition to his amendment and think his colleague from Virginia has an alternative idea that expresses the will of practically all of us to relieve this burden on the men and women in the military.

So I wish to thank my friend from Michigan, and I also wish to say again, hopefully, within a relatively short period of time we can get a time agreement on debate and vote as soon as possible on this issue. This same amendment has been debated before in the Senate and it is pretty well known to our colleagues, although it is very clear that many want to speak on it because of its importance.

So I thank my friend from Michigan and both Senators from Virginia, for whom I have the greatest respect, and we will look forward to a rather unusual situation here in the Senate—a vote on a resolution by one Senator from Virginia and a resolution from another Senator from Virginia on the same issue. I look forward to this debate. I know it will be both educational and, I hope, enlightening and informative not only to our colleagues but to the American people.

Mr. LEVIN. Mr. President, I now ask unanimous consent that the pending amendments be set aside and that Senator WEBB be recognized to offer his amendment.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. Reserving the right to object, and I would not object, but I ask my friend from Michigan, will the vote on this amendment have a 60-vote requirement?

Mr. LEVIN. I think that is the intention, as part of a unanimous-consent agreement. It is my understanding that is the intent, however, that will be part of a larger UC.

The PRESIDING OFFICER. Is there objection?

Hearing no objection, it is so ordered.

The Senator from Virginia.

Mr. WEBB. Mr. President, I assume you are calling on this particular Senator from Virginia.

I rise to offer, along with Senator HAGEL, as the lead Republican cosponsor, and 35 of my colleagues a bipartisan amendment that speaks directly to the welfare of our servicemembers and their families.

I have learned from Senator MCCAIN's comments that Senator WARNER will be offering a side-by-side amendment that goes to the sense of the Congress rather than the will of the Congress, and I would like to state emphatically at the outset this is a situation that calls for the will of the Congress. It calls for the Congress to step in and act as, if nothing else, an intermediary in a situation that is causing our men and women in uniform a great deal of stress and which again calls for us in the Congress to do something about this.

We have been occupying Iraq for more than 4 years—more than 4½ years. During that time, it is sensible to assume our policies could move toward operational strategies that take into account the number of troops who are available rather than simply moving from one option to another, one so-called strategy to another, and continually going to the well and asking our troops to carry out these policies. This amendment would provide a safety net to our men and women in uniform by providing a minimum and more predictable time for them to rest and retrain before again deploying.

If you are a member of the regular military, this amendment basically says that as long as you have been gone, you deserve to have that much time at home. This is a 1-to-1 ratio we are trying to push. Many of our units and our individuals are below that, even when the Department of Defense's stated goal and the restated goal of the Commandant of the Marine Corps not long ago was to move back to 2 to 1. In other words, our troops right now are being deployed in environments, many of them, where they are spending more time in Iraq than they are spending at home, when traditionally they should have twice as much time in their home environments to refurbish their units, retrain, get to know their families, and then continue to serve their country. For the Guard and Reserve, we have a provision in here that would require that no member or unit be deployed to Iraq or Afghanistan within 3 years of a previous deployment.

I would like to emphasize this amendment is within the Constitution. There have been a number of Members, including the Senator from Arizona, who have stated publicly this is blatantly unconstitutional. It is well within the Constitution, and I read from article I, section 8:

> The Congress has the power to make rules for the government and regulation of the land and naval forces.

This constitutional authority has been employed many times in the past, most significantly during the Korean war, when the administration in charge at the time was sending soldiers to Korea before they had been adequately trained. The Congress stepped in under that provision of article I, section 8 and mandated that no one be deployed overseas until they had at least 120 days of training. We are doing essentially the same thing in terms of a protective measure for the troops of our military but on the other end. We are saying, as long as you have been deployed, you deserve to have that much time at home.

This amendment is responsible. It has been drafted with great care. We have put waivers that would apply to unusual circumstances into it. The President can waive the limitations of this amendment in the event of an operational emergency posing a threat to vital national security interests. People who want to go back, can go back. It does not stop anyone from volunteering to return if they want to waive this provision.

I have spoken with Secretary Gates, spoken with him at some length last week. I listened to his concerns. We put in two additional provisions in this amendment to react to the concerns the Secretary of Defense raised. The first is a 120-day enactment period, which is different from the way this amendment was introduced in July. In other words, the Department of Defense would have 120 days from the passage of this legislation in order to make appropriate plans and adjust to the provisions.

I also have a provision in this bill that would exempt the special operations units from the requirements of the amendment. Special operations units are highly selective, their operational tempos are unpredictable, and we believe it is appropriate they be exempted.

This amendment is not only constitutional, not only responsible, but it is needed. It is needed in a way that transcends politics. After 4½ years in the environment in Iraq, it is time we put into place operational policies that sensibly take care of the people we are calling upon to go again and again.

That is one reason why the Military Officers Association of America took the unusual step to actually endorse this amendment. The Military Officers Association of America is not like the Veterans of Foreign Wars, not like the American Legion. They rarely step into the middle of political issues. But this organization, which comprises 368,000 members, military officers, took the step of sending a letter of endorsement for this amendment, calling upon us in the Congress to become better stewards of the men and women who are serving.

It is beyond politics in another way. We are asking our men and women in uniform to bear a disproportionate sacrifice as the result of these multiple extended combat deployments with inadequate time at home. We owe them greater predictability.

This is this week's issue of the Army Times. The cover story in the Army Times this week talks about brigade redeployments, who has gone the most, who has gone the least, who is going next. At least eight of the Army's active combat teams have deployed three or four times already. These are year or 15-month deployments. Another six, including three from the 101st Airborne, leave this month for either round three or round four.

There is one brigade in the 10th Mountain Division, which is now nearing the end of its 15-month deployment, that is on its fourth deployment. When these soldiers return in November, they will have served 40 months since December 2001. That is about two-thirds of the time we have been engaged since December 2001. This amendment is needed for another reason, and that is that it has become clearer since the testimony of General Petraeus and Admiral Crocker that the debate on our numbers in Iraq and our policy in Iraq is going to continue for some time. We have divisions here in the Senate. We have divisions between the administration and the Congress. We are trying to find a formula, the right kind of a formula that can undo

what I and many others believe was a grave strategic error in going into Iraq in the first place. But we have to have this debate sensibly. In the meantime, because this debate is going to continue for some time, we need to put a safety net under our troops who are being called upon to go to Iraq and Afghanistan.

I noted with some irony on Monday, as I was presiding, when the Republican leader expressed his view that it would not be an unnatural occurrence for us to be in Iraq for the next 50 years. This comparison to Korea and Western Europe is being made again and again.

I go back to 5 years ago this month when I wrote an editorial for the Washington Post, 6 months before we invaded Iraq. One of the comments I made in this editorial 5 years ago was that there is no end point, there is no withdrawal plan from the people who have brought us to this war, because they do not intend to withdraw.

I said that 5 years ago. It is rather stunning to hear that ratified openly now by people in the administration and by others who have supported this endeavor. We need to engage in that debate. We need to come to some sort of agreement about what our posture is going to be in the Middle East. And, as we have that debate, it is vitally important that we look after the well-being of the men and women who are being called upon, again and again, to serve.

We are seeing a number of predictable results from these constant deployments. We are seeing fallen retention among experienced combat veterans. We are seeing soldiers and marines—either retained on active duty beyond their enlistments in the ''Stop Loss'' program or being recalled from active duty after their enlistments are over—being sent again to Iraq or Afghanistan. We are seeing statistics on increased difficulties in marital situations and mental health issues.

There was a quote in this week's Army Times by one Army division's sergeant major who was saying:

After the second deployment, it's hard to retain our Soldiers. They have missed all the first steps, they've missed all the birthdays; they've missed all the anniversaries.

I have seen that again and again with people I have known throughout their young lifetimes. One young man who is a close friend of my son just returned with an army unit, back for his second tour in Iraq. One of his comments at his going-away party was: 15-month deployments mean two Thanksgivings, two Christmases, two birthdays.

What we are trying to do with this amendment is to bring a sense of responsibility among the leadership of our country in terms of how we are using our people. It is an attempt to move beyond politics as the politics of the situation are sorted out. Again, it is constitutional, it is responsible, it has been drafted with care, it is needed beyond politics. I hope those in this body will step forward and support it to the point that it could become law.

I note my colleague, the Senator from Nebraska, has arrived, my principal cosponsor, for whom I have great regard. He and I have worked on many issues over nearly 30 years. I am grateful to be standing with him today and I yield my time and hope the Senator from Nebraska is recognized.

AMENDMENT NO. 2909 TO AMENDMENT NO. 2011

Mr. President, I had assumed the amendment was called up by the chairman. I erred. I ask amendment No. 2909 be called up.

The PRESIDING OFFICER (Mr. CASEY). The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WEBB] for himself, Mr. REID, Mr. HAGEL, Mr. LEVIN, Ms. SNOWE, Mr. SMITH, Mr. OBAMA, Mrs. CLINTON, Mr. BYRD, Mr. KENNEDY, Mr. SALAZAR, Mr. HARKIN, Mr. BROWN, Mrs. LINCOLN, Ms. KLOBUCHAR, Mr. DODD, Mr. BIDEN, Mr. LAUTENBERG, Mr. KERRY, Mr. DURBIN, Mr. TESTER, Mrs. MCCASKILL, Mr. SCHUMER, Mr. PRYOR, Mr. SANDERS, Ms. MIKULSKI, Ms. CANTWELL, Ms. STABENOW, Ms. LANDRIEU, Mr. JOHNSON, Mr. CARPER, Mr. ROCKEFELLER, Mrs. MURRAY, Mrs. FEINSTEIN, Mr. AKAKA, and Mr. MENENDEZ, proposes an amendment numbered 2909.

Mr. WEBB. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To specify minimum periods between deployment of units and members of the Armed Forces deployed for Operation Iraqi Freedom and Operation Enduring Freedom)

At the end of subtitle C of title X, add the following:

SEC. 1031. MINIMUM PERIODS BETWEEN DEPLOYMENT FOR UNITS AND MEMBERS OF THE ARMED FORCES DEPLOYED FOR OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM.

(a) FINDINGS.—Congress makes the following findings:

(1) Congress expresses its grateful thanks to the men and women of the Armed Forces of the United States for having served their country with great distinction under enormously difficult circumstances since September 11, 2001.

(2) The all-volunteer force of the Armed Forces of the United States is bearing a disproportionate share of national wartime sacrifice, and, as stewards of this national treasure, Congress must not place that force at unacceptable risk.

(3) The men and women members of the Armed Forces of the United States and their families are under enormous strain from multiple, extended combat deployments to Iraq and Afghanistan.

(4) Extended, high-tempo deployments to Iraq and Afghanistan have adversely affected the readiness of non-deployed Army and Marine Corps units, thereby jeopardizing their capability to respond quickly and effectively to other crises or contingencies in the world, and complicating the all-volunteer policy of recruitment, as well as the retention, of career military personnel.

(5) Optimal time between operational deployments, commonly described as ''dwell time'', is critically important to allow members of the Armed Forces to readjust from combat operations, bond with families and friends, generate more predictable operational tempos, and provide sufficient time for units to retrain, reconstitute, and assimilate new members.

(6) It is the goal of the Armed Forces of the United States to achieve an optimal minimum period between the previous deployment of a unit or member of a regular component of the Armed Forces and a subsequent deployment of such a unit or member that is equal to or longer than twice the period of such previous deployment, commonly described as a 1:2 deployment-to-dwell ratio.

(7) It is the goal of the Department of Defense that units and members of the reserve components of the Armed Forces of the United States should not be mobilized continuously for more than one year, and that a period of five years should elapse between the previous deployment of such a unit or member and a subsequent deployment of such unit or member.

(8) In support of continuous operations in Iraq, Afghanistan, and other contested areas, the Army has been required to deploy units and members to Iraq for 15 months with a 12-month dwell-time period between deployments, resulting in a less than 1:1 deployment-to-dwell ratio.

(9) In support of continuous operations in Iraq, Afghanistan, and other contested areas, the Marine Corps currently is deploying units and members to Iraq for approximately seven months, with a seven-month dwell-time period between deployments, but it is not unusual for selected units and members of the Marine Corps to be deployed with less than a 1:1 deployment-to-dwell ratio.

(10) In support of continuous operations in Iraq, Afghanistan, and other contested areas, the Department of Defense has relied upon the reserve components of the Armed Forces of the United States to a degree that is unprecedented in the history of the all-volunteer force. Units and members of the reserve components are frequently mobilized and deployed for periods beyond the stated goals of the Department.

(11) The Commander of the Multi-National Force–Iraq recently testified to Congress that he would like Soldiers, Marines, and other forces have more time with their families between deployments, a reflection of his awareness of the stress and strain placed on United States ground forces, in particular, and on other high-demand, low-density assets, by operations in Iraq and Afghanistan.

(b) MINIMUM PERIOD FOR UNITS AND MEMBERS OF THE REGULAR COMPONENTS.—

(1) IN GENERAL.—No unit or member of the Armed Forces specified in paragraph (3) may be deployed for Operation Iraqi Freedom or Operation Enduring Freedom (including participation in the NATO International Security Assistance Force (Afghanistan)) unless the period between the deployment of the unit or member is equal to or longer than the period of such previous deployment.

(2) SENSE OF CONGRESS ON OPTIMAL MINIMUM PERIOD BETWEEN DEPLOYMENTS.—It is the sense of Congress that the optimal minimum period between the previous deployment of a unit or member of the Armed Forces specified in paragraph (3) to Operation Iraqi Freedom or Operation Enduring Freedom and a subsequent deployment of the unit or member to Operation Iraqi Freedom or Operation Enduring Freedom should be equal to or longer than twice the period of such previous deployment.

(3) COVERED UNITS AND MEMBERS.—The units and members of the Armed Forces specified in this paragraph are as follows:

(A) Units and members of the regular Army.

(B) Units and members of the regular Marine Corps.

(C) Units and members of the regular Navy.

(D) Units and members of the regular Air Force.

(E) Units and members of the regular Coast Guard.

(c) MINIMUM PERIOD FOR UNITS AND MEMBERS OF THE RESERVE COMPONENTS.—

(1) IN GENERAL.—No unit or member of the Armed Forces specified in paragraph (3) may be deployed for Operation Iraqi Freedom or Operation Enduring Freedom (including participation in the NATO International Security Assistance Force (Afghanistan)) if the unit or member has been deployed at any time within the three years preceding the date of the deployment covered by this subsection.

(2) SENSE OF CONGRESS ON MOBILIZATION AND OPTIMAL MINIMUM PERIOD BETWEEN DEPLOYMENTS.—It is the sense of Congress that—

(A) the units and members of the reserve components of the Armed Forces should not be mobilized continuously for more than one year; and

(B) the optimal minimum period between the previous deployment of a unit or member of the Armed Forces specified in paragraph (3) to Operation Iraqi Freedom or Operation Enduring Freedom and a subsequent deployment of the unit or member to Operation Iraqi Freedom or Operation Enduring Freedom should be five years.

(3) COVERED UNITS AND MEMBERS.—The units and members of the Armed Forces specified in this paragraph are as follows:

(A) Units and members of the Army Reserve.

(B) Units and members of the Army National Guard.

(C) Units and members of the Marine Corps Reserve.

(D) Units and members of the Navy Reserve.

(E) Units and members of the Air Force Reserve.

(F) Units and members of the Air National Guard.

(G) Units and members of the Coast Guard Reserve.

(d) INAPPLICABILITY TO SPECIAL OPERATIONS FORCES.—The limitations in subsections (b) and (c) shall not apply with respect to forces that are considered special operations forces for purposes of section 167(i) of title 10, United States Code.

(e) WAIVER BY THE PRESIDENT.—The President may waive the limitation in subsection (b) or (c) with respect to the deployment of a unit or member of the Armed Forces specified in such subsection if the President certifies to Congress that the deployment of the unit or member is necessary to meet an operational emergency posing a threat to vital national security interests of the United States.

(f) WAIVER BY MILIARY CHIEF OF STAFF OR COMMANDANT FOR VOLUNTARY MOBILIZATIONS.—

(1) ARMY.—With respect to the deployment of a member of the Army who has voluntarily requested mobilization, the limitation in subsection (b) or (c) may be waived by the Chief of Staff of the Army (or the designee of the Chief of Staff of the Army).

(2) NAVY.—With respect to the deployment of a member of the Navy who has voluntarily requested mobilization, the limitation in subsection (b) or (c) may be waived by the Chief of Naval Operations (or the designee of the Chief of Naval Operations).

(3) MARINE CORPS.—With respect to the deployment of a member of the Marine Corps who has voluntarily requested mobilization, the limitation in subsection (b) or (c) may be waived by the Commandant of the Marine Corps (or the designee of the Commandant of the Marine Corps).

(4) AIR FORCE.—With respect to the deployment of a member of the Air Force who has voluntarily requested mobilization, the limitation in subsection (b) or (c) may be waived by the Chief of Staff of the Air Force (or the designee of the Chief of Staff of the Air Force).

(5) COAST GUARD.—With respect to the deployment of a member of the Coast Guard who has voluntarily requested mobilization, the limitation in subsection (b) or (c) may be waived by the Commandant of the Coast Guard (or the designee of the Commandant of the Coast Guard).

(g) EFFECTIVE DATE.—In order to afford the Department of Defense sufficient time to plan and organize the implementation of the provisions of this section, the provisions of this section shall go into effect 120 days after the date of the enactment of this Act.

Mr. WEBB. I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Mr. President, I wish to acknowledge my friend, the junior Senator from Virginia, and also recognize his leadership, not just on this issue that he has framed over the last few minutes on which the Senate will be voting, as we did in July, but his years of contributions to this country—specifically his efforts on behalf of our military. I think most of us recognize the distinguished record of Senator JIM WEBB, that service to his country. We appreciate that, and in particular his leadership on this amendment is important.

Senator WEBB and I wrote this amendment many months ago. We introduced it on the floor of the Senate in July. We received 56 bipartisan votes for it. As Senator WEBB has noted in his explanation of what this amendment does, it is relevant to our Armed Forces, to our country, and to our future. I wish to take a little time to expand on a couple of the points Senator WEBB has made.

First, a democracy of 300 million people, the greatest democracy in the world, the oldest living democracy in the world, finds itself in a situation today where we are asking about 1 percent of our citizens to carry all the burden, make all the sacrifices. We will be dealing with this issue for many years to come, because the consequences of what has been going on are that we are doing great damage to our military force structure, great damage to our Army and our Marines.

Senator WEBB noted some examples. These are not isolated episodes. The fact is, you cannot grind down your people, you cannot grind down your force structure as we have been doing to our force structure over the last years—redeployment after redeployment, and longer and longer deployments.

We know, because our generals and admirals tell us, that this will come to an end sometime next spring, the rate of redeployments. Why is that the case? That is the case because we can't sustain the force structure we have assigned in Iraq today. It is not because I say it or Senator WEBB says it, but our professional military leaders say it.

It doesn't do us much good to go back and review the mistakes we have made over the last 5 years, first when we invaded and occupied a country. The fact is, we never had enough force structure in that country. Many Senators, including the distinguished ranking Republican on the Armed Services Committee, our friend JOHN MCCAIN, noted that. He still talks about it, as many of us do. This administration refused to take the counsel of the then Chief of Staff of the U.S. Army, General Eric Shinseki, when he, in open hearing before the Senate Armed Services Committee, was asked the question: What will it take, General, to invade, occupy, and help stabilize Iraq? He said it would take hundreds of thousands of American forces.

He was right. He was right. But this administration chose not to listen to the Chief of Staff of the Army, who knew far more about the details of manpower requirements than anyone in the White House.

We are not going to go back and unwind all that series of bad decisions. We are where we are, and we are in a mess in Iraq today by any dynamic, any measurement, any qualifications. We heard about that, I think in some detail, as we probed General Petraeus and Ambassador Crocker's testimony last week—two distinguished Americans. General Petraeus and Ambassador Crocker are two of our best. But the military doesn't set policy. The civilian leadership sets policy. So we hand that off to the military. They salute; they say, Yes, sir. Now, you go implement the policy.

What we are addressing in this amendment is not only a basic component of fairness in how you treat your people—because, after all, as we know, it is people who represent the greatest resource of an institution, of a country, of a society. When you grind those people down to a point where they just cannot be effective, but when the morale is gone, when they leave the institution as we are seeing happen in the Army and Marines, when you are 15,000 short of Army captains and lieutenant colonels and majors, and senior enlisted, and story after story—every Senator in this body can relate these specific stories like I had in my office yesterday. A Marine Corps officer, couple of years in Iraq, 14 years in the Marines, got out. He loved the Marines. It pulled his heart out to leave the Marines.

I said, Why did you leave?

He said, Sir, I tried to balance my family life. The last time I got back from Iraq my youngest daughter said, Daddy, I am going to tape you to the refrigerator so you don't have to leave again.

The Chairman of the Joint Chiefs of Staff, Admiral Mullen, said in his confirmation hearing a few months ago, and I quote from Admiral Mullen, Chairman of the Joint Chiefs of Staff:

I am concerned about the number of deployments, the time when they're home—in fact, even when they are home, there's training associated with that, so they spend

weeks, if not months, out of their own house, again, away from their families, and I believe we've got to relieve that.

That is the end of the quote from the new Chairman of the Joint Chiefs of Staff. So, are we really asking so much here when we say that our brave fighting men and women, who are bearing all the burden, carrying all the sacrifice for this country, that 1 percent of our society, that we say they ought to have at least the same amount of downtime off as they serve in a war zone in combat? Is that outrageous?

We in this town are very good at abstractions. We talk about policies. We act like moving men and brigades in combat—that somehow this is a chess game. Somehow these people are objects.

No, humanity is always the underlying dynamic of the world and life and it always will be. As Senator WEBB has often said: Who speaks for the military? The National spokesmen.

Their leaders are appointed by the President. They have spokesmen, they are Governors, if no one else. But who speaks for the rifleman? Who speaks for the people whom we ask to go fight and die and their families?

Now, let's be very clear about another issue. As Senator WEBB has noted, this certainly is within the constitutional authority and responsibility of the Congress of the United States. Senator WEBB said article I of the Constitution is about the Congress. Section 8 of the Constitution, in article I, speaks specifically to Congress's responsibilities. We can have disagreements about policies and strategies, and that is appropriate, should be, absolutely, in a democracy. But let's not be confused about our responsibilities as well.

The fact is, as General Shinseki warned us in his comments before the Senate Armed Services Committee before we invaded Iraq, that it would take hundreds of thousands of American soldiers.

What has happened is we have a mission that does not match our manpower capabilities. So what is this administration's answer? Keep grinding down the people out there who have been fighting and dying. Keep grinding them down more because we do not have any choice. Are you going to suit the Boy Scouts up on the weekends?

Where is the manpower going to come from? So the easy answer is—because who speaks for the rifleman? Who speaks for the military? You keep asking them to do more. You keep pushing more down on them.

By the way, the so-called surge the President of the United States announced to America in January—by the way, I do not find the term ''surge'' in any military manuals. Surge is not a policy, it is not a strategy, it is a tactic.

But the President said: This is temporary. That escalation of troops, that 30,000 more troops on top of the 130,000 troops they already had over there, that is temporary. Because we are going to buy time for the Iraqi Government to find an accommodation so there can be political reconciliation. In the end, that is all that counts. As General Petraeus and everybody, every one of our great generals has said, there is no military solution in Iraq.

General Petraeus and every general has said that. They know it better than anyone knows it. The only solution in Iraq is going to come from, must come from, some political accommodation resulting in a political reconciliation.

So let's buy more time, let's grind those guys down more. Well, it will automatically come to some kind of an end. But in the process, what are we doing to our society, to our country, to our Armed Forces, that is going to take years to rebuild, just as General Schwarzkopf and General Powell and other great generals after Vietnam, they stayed in the military and rebuilt the military after what we had done to it during Vietnam.

This is a very modest step forward, of clear thinking. This is relevant. It is rational. This has at least a modicum of humanity in it. If we do not take these steps, the consequences we are going to continue to face are going to be severe.

I know the questions, the concerns on the other side of this issue are appropriate. Is this not a back-door way of trying to micromanage the war, micromanage our force structure? Well, the fact is, as I have already noted, we have inverted the logic. In order to carry out a mission or a policy or strategy, you have to match the resources for that. Those resources were never matched to that mission.

So the easy answer for all of us in Washington, and 99 percent of the American people, is: Well, let those guys over there do more. So we have 15-month deployments, in some cases they are 18-month deployments, in some cases they are longer than that. So what if they go over there three times.

That is not a good enough answer. That is a failed answer. That is irresponsible.

So I hope our colleagues take a hard look at this, and I hope they would give some intense thought to what we are doing, not only for the immediate term but for the long term. This is essential for our country. This has ramifications, societal implications that go far beyond our force structure.

I am very honored to be the original cosponsor and coauthor of this amendment with my distinguished colleague, the Senator from Virginia.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, before I begin my comments on the pending amendment, I think—I hope it is appropriate to mention our colleague from Nebraska, Senator HAGEL, has announced his intentions not to seek reelection in this body.

I have the highest degree of affection and respect for my friend; we have adjoining offices in the Russell Senate Office Building. He has served this Nation in many capacities, including in combat during the Vietnam War. I think he has been an outstanding Member of this body and a dear friend. I will say a lot more about him in many venues, but I wish to express my appreciation for his outstanding service in the Senate, to the people of Nebraska, and to this country.

On July 11 of this year, I spoke against Senator WEBB's amendment on dwell time, as it is now called. The amendment has not changed substantially since then. I thought the debate at the time was comprehensive and adequately addressed the merits of the proposal. But here we are again. Here we are again. Why?

In July, Senator WEBB said:

This is an amendment that is focused squarely on supporting our troops who are fighting in Iraq and Afghanistan; it speaks directly to their welfare and the needs of their families by establishing minimum periods between deployments.

More recently, he has called it a ''safety net for the troops.'' I have no doubt of Senator WEBB's sincerity and his concern for our ground troops and their families. No one in this body has served his family more honorably than Senator WEBB.

I share Senator WEBB's concerns for the well-being of our troops and their families, as I know all Senators do. But let me be clear: Senator WEBB's amendment is not a litmus test for whether you care about the troops. Would it not be great if our choices were that easy.

I argued back in July, and I repeat today, that the amendment would do more harm than good and should not pass. But the question remains: Why are we arguing again? Why are we arguing again about this proposal?

Unfortunately, the reason is obvious. It was spelled out in a New York Times article on September 15, by David Herszenhorn and David Cloud, who stated:

The proposal by Senator Webb has strong support from top Democrats who say that the practical effect would be to add time between deployments and force General Petraeus to withdraw troops on a substantially swifter timeline than the one he laid out before Congress this week.

Senator BIDEN was quoted in the article as calling the proposal the ''easiest way for his Republican colleagues to change the war strategy,'' to change the war strategy. The reporters referred to the amendment as a ''back-door approach'' aimed at influencing the conduct of the war. That is what this amendment is about.

I say to my colleagues, I will say it again and again, the President's present strategy is succeeding. If you want the troops out, support the present mission, support the mission that is succeeding. Don't say you support the troops when you do not support their mission. Excuse me, I support you but not the mission you are

embarking on today as you go out and put your life and limb on the line in a surge that is succeeding—that is succeeding.

We will have a lot of discussion on the floor of this body about the Maliki Government and the national police and the other challenges we have, but the military side of this is succeeding. This goes at the heart, this goes at the heart of the surge that is showing success in Anbar Province, in Baghdad, and other parts of Iraq.

Now, maybe someone does not agree with that. Maybe that is the point. But the effect of this amendment—the effect of this amendment—would be to emasculate this surge. That is why the Secretary of Defense, Mr. Gates, sent a letter to my colleague, Senator GRAHAM, which I intend to quote from in a minute. So what is this debate about? This debate is about whether we will force, as Senator BIDEN was quoted, as the easiest way for his Republican colleagues to change the war strategy, this backdoor approach aimed at influencing the conduct of the war.

Not only that, it is blatantly unconstitutional. Are we going to have, in conflicts the American people engage in—if it is unpopular with the American people, the way the Korean war was unpopular—and somehow designate who should stay and who should not and how long?

That is a micromanagement of the military that is very difficult to comprehend. The President is the Commander in Chief because he is the Commander in Chief. Nowhere in the Goldwater-Nickles bill, nowhere in the Constitution do I see the role for Congress to play in determining the parameters under which the men and women who have enlisted and are serving in the military, in an enterprise which the majority of this body voted to support, being embarked on.

Secretary Gates echoed this assessment last weekend in various interviews, stating the Webb amendment is:

Really pretty much a backdoor effort to get the President to accelerate the drawdown so that it is an automatic kind of thing, rather than based on conditions in Iraq.

So I would say to my colleagues, let's not conceal or fail to mention the intended effect or purpose of this amendment. I wish to repeat, every one of us, every one of us cares about the men and women who are serving in the military, every single one of us on an equal basis. It is clear that in the wake of General Petraeus's report, the majority has brought this back in order to reduce the numbers of fully trained and combat-experienced troops available to our military commanders and thus to force an accelerated drawdown of troops and units in Iraq and Afghanistan.

Why don't we be clear about that? Let's consider the impact of this amendment on the force. The effect of the amendment would be to exclude fully trained, combat-experienced officers, NCOs, soldiers, and marines from military units that need them to perform in combat. I think we should ask the question: Will an unintended consequence of this amendment be to cause harm to our troops? I argued in July, as did various other Senators, that the amendment would cause harm to the mission, the units, and members who would have to succeed in combat despite the obstacle this amendment would impose.

Now we have the view of Secretary Gates to consider in a letter regarding the Webb amendment, which without objection, Mr. President, I ask unanimous consent to have printed in the RECORD.

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

THE SECRETARY OF DEFENSE,
Washington, DC, September 18, 2007.

Hon. LINDSEY GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: Thank for your recent letter requesting my views on the Webb amendment.

I understand that the specifics of this amendment may be changing so my comments are based on the version filed for Senate consideration in July (the only version available publicly).

As drafted, the amendment would dramatically limit the nation's ability to respond to other national security needs while we remain engaged in Iraq or Afghanistan. Although the amendment language does provide the President a waiver for ''operational emergencies,'' it is neither practical nor desirable for the President to have to rely on waivers to manage the global demands on U.S. military forces. Moreover, the amendment would serve to advance the dangerous perception by regional adversaries that the U.S. is tied down and overextended.

Further, the amendment, if adopted, would impose upon the President an unacceptable choice: between 1) accelerating the rate of drawdown significantly beyond what General Petraeus has recommended, which he and other senior military commanders believe would not be prudent and would put at real risk the gains we have made on the ground in Iraq over the past few months, and 2) resorting to force management options that would damage the force and its effectiveness in the field.

The first choice is not acceptable. The latter choice would require one or more of the following actions for units deployed or deploying to Iraq and Afghanistan:

Extension of units already deployed beyond their current scheduled rotation.

Creating ''gaps'' in combat capability as units would rotate home without a follow-on unit being available to replace them. Rearranging schedules to close such gaps would, even if possible, further limit the ability to continue the sound practice of overlapping unit rotations to achieve smooth hand-offs and minimize casualties.

Increase in the use of ''in lieu of'' units that are either minimally or not normally trained for the assigned mission. We will always deploy trained units, but the quality, depth of experience and thus combat capability associated with the broader use of ''in lieu of'' forces will invariably degrade combat readiness.

Return to the cobbling together of new units from other disparate units or unassigned personnel. We have discouraged this practice by adopting a unit rotation policy. As the options for and availability of active duty units is constrained, the broader and more frequent mobilization of National Guard and Reserve units would be inevitable.

I am told that one of the possible modifications to the original amendment is to allow a transition period of a few months before its requirements are binding. While transition periods are generally helpful, such a modification would not alleviate the damaging impact this amendment would have on our military force and our efforts against violent extremists.

In sum, the cumulative effect of the above steps necessary to comply with Senator Webb's amendment, in our judgment, would significantly increase the risk to our service members. It would also lead to a return to unpredictable tour lengths and home station periods that we have sought to eliminate for our service members and their families.

The above impacts on managing the flow of military units pale in comparison to the disruptive and harmful effects the amendment would have if we have to comply with its requirements at the level of each individual service member. Such an approach would make it exceedingly difficult to sustain unit cohesion and combat readiness.

Finally, the amendment would unreasonably burden the President's exercise of his Constitutional authorities, including his authority as Commander in Chief. In particular, the amendment would hinder the President's ability to conduct diplomatic, military, and intelligence activities and limit his ability to move military forces as necessary to secure the national security.

I believe that the intent of those who support this amendment is honorable and motivated by a desire to advance the welfare of our service members. Unfortunately, I also believe the amendment would in fact result in the opposite outcome while restricting our nation's ability to respond to an unpredictable and increasingly dangerous world.

Sincerely,

ROBERT M. GATES.

Mr. MCCAIN. He said:

As drafted, the amendment would dramatically limit the nation's ability to respond to other national security needs while we remain engaged in Iraq or Afghanistan.

He said the amendment would cause the Army and Marine Corps to resort to force management options that would further damage the force and its effectiveness on the field and would result in the following actions for units deploying to Iraq and Afghanistan:

Extension of units [in Iraq and Afghanistan] already deployed beyond their current scheduled rotation.

Creating ''gaps'' in combat capability as units would rotate home without a follow-on unit being available to replace them.

This, in turn, would squeeze ''the ability to continue the . . . practice of overlapping unit rotations to achieve smooth hand-offs and minimize casualties.'' And minimize casualties. That seems important, minimizing casualties.

Secretary Gates goes on. The Webb amendment would:

Increase the use of 'in-lieu of' units that are either minimally or not normally trained for the assigned mission.

[Would] return to the cobbling together of new units from other disparate units or unassigned personnel.

A practice discouraged by the adoption of a unit rotation policy. As a result of the Webb amendment, it would

result in the ''broader and more frequent mobilization of National Guard and Reserve units [which] would be inevitable.''

Secretary Gates, in his letter, said the Webb amendment would impose an unacceptable choice upon the President and our military to either, one, accelerate the rate of drawdown significantly beyond what General Petraeus has recommended, which he and all of our military commanders believe would not be prudent and would put at real risk the gains we have made on the ground in Iraq in the last few months; two, resorting to force management options that would further damage the force and its effectiveness in the field.

Not surprisingly, Secretary Gates has stated unequivocally that if this amendment were included in the authorization act, he would recommend the President veto it. I urge my colleagues to reject, again, the Webb amendment.

My friend from Nebraska, Senator HAGEL, pointed out accurately—and he has played an incredible role—the terrific mistakes made in the conduct of this conflict under Secretary Rumsfeld and other leaders. This strategy, the Senator from Nebraska and I knew, was doomed to failure. As far back as 2003, we came back from Iraq and said: This strategy has to change or it is doomed to failure. As I have said, it was very much like watching a train wreck. Those mistakes and errors in the strategy have been well chronicled in a number of books that have been written, among them, and which I strongly recommend, ''Fiasco'' by Tom Ricks and ''Cobra II'' by General Trainor and Michael Gordon But we are where we are.

I would be glad, along with my friends from Nebraska and Virginia, to chronicle those many mistakes. Those mistakes were made with expressions of optimism which were, on their face, not comporting with the facts on the ground in Iraq: a few dead-enders, stuff happens, last throes, on and on. The fact is, the American people became frustrated, and they have become saddened and angry. Nothing is more moving than to know the families and loved ones of those who have sacrificed, nearly 4,000 in this conflict, not to mention the tens of thousands who have been gravely wounded. But we have a new strategy. We have success on the ground.

As I said earlier, all of us are frustrated by the fact that the Maliki government has not functioned with anywhere near the effectiveness we need. We also acknowledge that there are portions of the national police which are ''corrupt,'' which is a kind word, a kind description. But the facts were made very clear last week by the President of Iran, the President of a country that has dedicated itself to the extinction of Israel, a country that is developing nuclear weapons, a country that is exporting explosive devices of the most lethal kind into Iraq today that are killing young Americans. He said: When the United States of America leaves Iraq, we will fill the void. That is what this conflict is now about. It may not have been that when we started. The President of Iran has made Iranian intentions very clear. The Saudis will feel that the Sunnis have to be helped. Syria continues to try to destabilize the Government of Lebanon and continues to arm and equip Hezbollah. By the way, there is a standing United Nations Security Council resolution that calls for the disarmament of Hezbollah. Has anybody seen any effect of that lately? Jordan has 750,000 refugees in their small country.

The situation as regards Afghanistan, as far as Pakistan is concerned, is certainly murky at best, and perhaps we could see a nuclear-armed country, which Pakistan is, in the hands of people who may not be friendly to the United States or interested in controlling the Afghan-Pakistan border areas which are not under control now.

As Henry Kissinger wrote in the Washington Post over the weekend, a precipitous withdrawal would have profound consequences. As GEN Jim Jones testified, on the results of his commission, his last words were, a precipitous withdrawal would cause harm to America's national security interests, not only in Iraq but in the area.

The reason I point this out is because the effect of the Webb amendment—and whether it is intended by the Senator from Virginia or not but it is interpreted by many, including others whom I have quoted—would be to force precipitous withdrawal before the situation on the ground warranted.

I hope we understand that America is facing a watershed situation. We have grave challenges in Iraq. I believe if we set a date for withdrawal or, through this backdoor method, force a date for withdrawal, we will see chaos and genocide in the region, and we will be back.

I fully acknowledge to my friends and colleagues that we have paid a very heavy price in American blood and treasure because of failures for nearly 4 years. I understand their frustration. I understand their anger. But I am also hearing from the men and women serving in Iraq as we speak. Always throughout this long ordeal, the most professional and best- equipped and best-trained and bravest military this Nation has ever been blessed with were doing their job. They were doing their job under the most arduous conditions of warfare that any American, Army and Marine Corps and military, has ever been engaged, ever.

But now in the last few months, we are hearing a different message from these brave people; that is, they believe they are succeeding. They believe they are succeeding. In Anbar Province, the marines are walking in downtown Ramadi, which used to be Fort Apache. Neighborhoods in Baghdad are safer. They are not safe, but they are safer. Al-Qaida is being rejected in many areas. I pointed out the difficulties in the other part of it, but I also believe, from my study of history, that when you have a condition of military security, it is very likely and much more possible that the commercial, social, and political process moves forward in a successful fashion. I keep saying over and over: We have not seen that with the Maliki government, and we have every right to see it. But I believe the conditions have been created, if they seize it, that we will also see political progress in that country.

I believe the people of Iraq, not wanting to be Kurds or Sunni or Shia but Iraqis, harbor the same hopes and dreams and aspirations to live in a free and open society where they can send their kids to school and live in conditions of peace and harmony. That can be achieved over a long period of time.

Let me finally say that success in Iraq is long and hard and difficult, but I also believe the options are far worse than to pursue what has been succeeding.

This amendment will probably define our role in Iraq as to how this whole conflict will come out. I question no one's patriotism. I question no one's devotion to this country. I am sure there are Members on the other side of this issue, supporting this amendment, who are more dedicated than I am, perhaps. But the fact is, this is a watershed amendment. We need to defeat it. We need to make sure these brave young men and women who are now serving and succeeding have more opportunity to succeed and come home with honor. We all want them home. We don't want to see the spectacle of another defeated military. Overstressed, overdeployed, weary, but not defeated—that is our military today. The Webb amendment could easily bring about their defeat.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WEBB. Mr. President, I would like to yield further time to the Senator from New Jersey, but before doing so, I would like to respond to some of the things the Senator from Arizona said in his statement, just to clarify the intention of this amendment and the environment in which it is being offered.

Contrary to what the Senator from Arizona said, this amendment has been changed since July. There is a 120-day implementation provision in it, after my discussion with Secretary Gates. There is also an exclusion of special operations units from the requirements of the amendment. There are, as always, clear waiver provisions in here which would address a number of the situations Secretary Gates mentioned.

The Senator from Arizona may believe the impact of this amendment would be to alter the strategy in Iraq, and he has made a few implications

that people cannot support our military people unless they support a political mission. I don't believe that is correct. I believe it is the role in American society to question missions when one believes they are heading in the wrong direction. I believe many of our troops have that option and also exercise it. You can look at poll after poll on that.

The one thing we can say about the U.S. military is that it has always controlled the tactical battle space into which it has been put. We can clearly say that in Iraq today. We can say that about other engagements. That is the job the military is being called upon to do.

When the Senator from Arizona talks about what is this debate really about, to characterize this as a debate about defeat is inappropriate. The narrow purpose of this amendment is not to question so much whether the strategy is working but how do you feed troops into an operational environment. Where do we draw the line? I suppose we could have a decision from an administration that we would put all of American forces in Iraq until the war was over. When does the Congress decide that the policies of the executive branch have reached an imbalance? This is a very modest amendment.

With respect to the constitutional implications, this is a tired old argument. I addressed it in July. I addressed it again today. There is a third provision in article I, section 8, which clearly gives Congress the authority to make these sorts of decisions.

Senator MCCAIN rightly talks about the loss of qualified officers and NCOs. My experience, looking at the U.S. military today, is that we are now losing them permanently. If you look at the retention rates from West Point, they are clearly on a marked downside. That is the canary in the bird cage.

With respect to the letter of Secretary Gates, I respect Secretary Gates. I talk with him. He is a political appointee. We can expect political answers to a number of these questions.

When Senator MCCAIN speaks of the implications of withdrawal, we are in a box, I agree. The same implications being addressed right now for withdrawal were the implications that people such as myself, General Zinni, General Scowcroft, General Hoar, and many others with long national security experience were warning about if we went in in the first place. We have a region that is on the edge of chaos. We have oil now at $82 a barrel. We have a situation with the Turks, who once were our greatest supporters in the region, being roundly critical of the United States, complaining about guerilla activities emanating out of the Kurdish areas. We need to get the Saudis to the table. We need to address Iran. The only way for us to do that on a permanent basis is through aggressive diplomacy.

I, too, read Henry Kissinger's article last Sunday. A big portion of it at the end was about the need to move forward more strongly with diplomacy.

All of those issues are legitimate. They are all going to be thoroughly debated. The purpose of this amendment, again, is to put a safety net under our Active-Duty military and our Guard and Reserve while these debates are taking place.

With that, I yield the floor and note the Senator from New Jersey wishes to speak. Perhaps the Senator from Arizona wants to speak.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank the Senator from Virginia for his comments. I would like to point out that the Senator from Virginia says his amendment has a waiver associated with it, so, therefore, it should be acceptable to us. I would like to quote from Secretary Gates's letter to Senator GRAHAM. He says:

Although the amendment language does provide the President a waiver for ''operational emergencies''—

''Operational emergencies''—not just a waiver, but there has to be an operational emergency—

it is neither practical nor desirable for the President to have to rely on waivers to manage the global demands on U.S. military forces. Moreover, the amendment would serve to advance the dangerous perception by regional adversaries that the U.S. is tied down and overextended.

So I think we ought to understand what this waiver really means. Of course, Secretary Gates is a political appointee. That is the way the Government functions. But to somehow, therefore, question his judgment because he is a political appointee is inappropriate, I say to the Senator from Virginia.

GEN Brent Scowcroft, whom the Senator from Virginia referred to, said: The costs of staying are visible. The costs of getting out are almost never discussed. If we get out before Iraq is stable, the entire Middle East region might start to resemble Iraq today. Getting out is not a solution.

Now, that is the view of one of the most respected men in America. He also was a political appointee at one time as the President's National Security Adviser. He believed very strongly we should not have gone to Iraq, and I would be glad someday, along with Senator WEBB and Senator HAGEL, to talk about all the reasons why we should or should not have. But the fact we are where we are today, in his view, is very clear.

Now, on the issue of constitutionality, it clearly violates the principles of separation of powers. Congress has no business in wartime passing a law telling the Department of Defense which of its fully trained troops it can and cannot use in carrying out combat operations.

As we all know, this dwell time provision, as I said, has been tried before. The President, when it was included in the Emergency Supplemental Appropriations Act, said:

[T]he micro-management in this legislation is unacceptable because it would create a series of requirements that do not provide the flexibility needed to conduct the war.

This legislation is unconstitutional because it purports to direct the conduct of operations of the war in a way that infringes upon the powers vested in the Presidency by the Constitution, including as Commander in Chief of the Armed Forces.

The Senator from Virginia referred to article I, section 8 of the Constitution, which gives Congress the power ''to make Rules for the Government and Regulation of the land and naval Forces.'' Well, clearly that applies to pay, equipment, end strength, basing, and most of the training, equipping, and organizing functions that are vested in the services under the Goldwater-Nichols Act. But the article I power cannot be employed to accomplish unconstitutional ends, and that would include restricting the President's authority as Commander in Chief in wartime to direct the movement of U.S. forces.

Justice Robert Jackson, who served as President Franklin Delano Roosevelt's Attorney General, said:

The President's responsibility as Commander in Chief embraces the authority to command and direct the armed forces in their immediate movements and operations, designed to protect the security and effectuate the defense of the United States.

I submit that current policies regarding combat unit rotations, tour length, and dwell time that affect our brave men and women in uniform fall squarely under that authority.

In his letter, as I mentioned before, Secretary Gates addressed this constitutional question. He said:

The amendment would unreasonably burden the President's exercise of his Constitutional authorities, including his authority as Commander in Chief. In particular, the amendment would hinder the President's ability to conduct diplomatic, military, and intelligence activities and limit his ability to move military forces as necessary to secure the national security.

Let's consider other legislation—the Goldwater-Nichols Act of 1986—which fundamentally reorganized the Department of Defense and reflected some serious thought about how wars ought to be conducted. The act says:

Unless otherwise directed by the President, the chain of command to a unified or specified command runs—

from the President to the Secretary of Defense; and

from the Secretary of Defense to the commander of the combatant command.

I see no mention of Congress in that chain of command.

The Goldwater-Nichols Act also has a section titled ''Responsibilities of the Combatant Commanders'' that says: The commander of a combatant command is responsible to the President and to the Secretary of Defense for the performance of missions assigned to that command by the President or by the Secretary with the approval of the President. Again, no mention of Congress in that chain of command.

I want to clarify to my friend from Virginia, I have—again, I repeat, and I

am sure I will repeat several times in the conduct of this discussion—I have no doubt that the intent of the Senator from Virginia is to relieve this terrible burden of service that is being laid upon a few Americans. He and I both know people who have been to Iraq and Afghanistan three and four times—an incredible level of service. The National Guard has never, ever that I know of in my study of history borne the burden they have today. These citizen soldiers have performed not only at the same level but sometimes at a higher level of our professional standing Army, Marine Corps, Air Force, and Navy. But the fact is, the amendment of the Senator from Virginia—I believe and am convinced from my study of the Constitution, my view of the role of the Commander in Chief, what is at stake in Iraq, as I pointed out—will have the effect of reversing what has been a successful strategy employed by General Petraeus, General Odierno, and the brave men and women. I have no doubt of the intention of the Senator from Virginia in this amendment, but I have great concerns and conviction that the effect of this amendment would have impacts that would lead to greater consequences and require, eventually, over time, because of chaos in the region, greater sacrifice of American blood and treasure.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I rise in strong support of the Webb-Hagel amendment. Both of our colleagues have served our country not only in the Senate but also in uniform, and they have done so honorably. So they speak from experience, and I, for one, do not question their sincerity of purpose. I do not know how every Member of the Senate will decide on how they will cast their vote, but I do not question their sincerity or the purpose of what they are driving at.

This is about preserving our troops, enhancing their ability, and in the long term being able to continue to enlist people who want to serve their country, who bear the overwhelming burden of the national security of the United States by a small percentage of the population. That is what I believe Senator WEBB is doing, and that is why I join him strongly in support of his and Senator HAGEL's amendment.

This amendment provides an important opportunity to recognize the courageous efforts of our men and women in uniform. This amendment provides a critical opportunity to ensure the care and safety of our troops—the care and safety of our troops—now, but I would argue not only now but for the long term. To those who believe this amendment is only about now, to change the current course of events, I believe the amendment has longstanding import now and for the long term. It sets our policy as to where we are going to be headed in the deployment of troops—the respites they need, the ability for us to sustain a voluntary Army under all of the circumstances.

This amendment provides a great opportunity for us in the Senate to ignore politics and work together on behalf of our troops. This amendment simply says that our troops should have at least—at least—the same time at home as they spend deployed abroad. It ensures that no unit, including the National Guard, which is clearly citizen soldiers who have been asked to do far beyond what many of them thought they were ever going to be called upon to do on behalf of their Nation—they would get the same treatment.

This amendment simply says that after 4½ years of bravely fighting for our country, we must honor the sacrifice of the troops and their families. This amendment simply says we must make sure we are taking care—underline ''taking care''—of our troops. We believe we must protect our troops fighting in combat now, just as we must take care of our veterans when they return home from combat.

Let me be clear. I do not believe this amendment ties the hands of the administration in the case of a clear threat to our national security. Senator WEBB has been responsive in providing a fair and reasonable waiver for the President, as well as a waiver for those individuals in service who want to volunteer to return early. If they want to return, if they feel they are ready to return, they will be able to do so and provide the continued leadership they have been providing. I am sure many may. But the bottom line is, there are many who may not feel they can do that. So, therefore, their ability to perform at the optimum is not being preserved under the present circumstances.

This amendment also responds to specific concerns raised by the Secretary of Defense and other military leaders. It allows the Department of Defense time for a transition period, for an implementation period that is well within the scope that is necessary. It also provides a specific exemption for special operations forces since the nature of their deployment schedule is much different.

So I think Senator WEBB has listened and responded since the last time he offered this amendment, as has Senator HAGEL.

Now, unfortunately, the war in Iraq has taken a terrible toll on our military. I am deeply concerned about our ground forces. I am deeply concerned about severe mental health issues, such as post-traumatic stress syndrome, which comes out of extended and repeated deployments. I am deeply concerned about our ability to retain experienced servicemembers and our ability to recruit new forces.

Clearly, if someone is looking at whether to be engaged, in addition to their great desire to serve their country, especially if they have family, they are going to be looking at: Well, how are these deployments taking place? Are they taking place in a way to respond to my desire to serve but also to be able to sustain my family? That is why we have to adopt this amendment. It is about now and the long term.

Some here have argued that Congress should not interfere. But the Founding Fathers put it right up there early in the Constitution. They did not wait for various later articles; they put it right up there in article I. Article I, section 8 of the Constitution is where they gave the Congress the right, the power ''to make Rules for the Government and Regulation of the land and naval Forces.''

I have heard other statutory references here, but none of those statutory references have the power to undermine the Constitution. The Constitution is supreme. It comes first above all other acts. So, therefore, the Founders understood how important it was for the Congress to have the role ''to make Rules for the Government and Regulation of the land and naval Forces,'' and they put it up early in the Constitution to make it very clear. Those who wish to ignore or reject that provision of the Constitution, in my mind, undermine the Constitution by doing so.

This President often acts as if the only role for the Congress is to provide a blank check for his failed war policy. I believe he is definitely wrong in believing that Congress's only role is to provide a blank check. That is not the role of the Congress. As a matter of fact, that would be an abdication of the duties and responsibilities of the Congress in its role under the Constitution. We have a fiduciary responsibility to the American people, both in national treasures and, most importantly, in lives. We have a responsibility to the men and women in uniform.

This amendment before us reflects the reality on the ground and the will of the American people, but most importantly the welfare of those sacrificing the most. I have heard a lot from our colleagues in the time I have been in the Senate, and before in the House, about supporting our troops. Well, we are providing here a plan to fully support our troops who volunteer to put their lives on the line for our country. Senator WEBB has referred to the Military Officers Associations' unusual movement or action of supporting this amendment. I think we need to listen to those who serve, especially when they act out of the norm and say: We believe this is in the interests of those men and women who serve. And it comes from the association of those men and women who are actively engaged in serving. I have so often heard our colleagues say: Let's listen to those on the ground. Well, this is a reflection of those in boots in service. Our brave troops have answered the call of duty. Let us now answer the call to do what is right by them.

I urge all of our colleagues to support this amendment. It goes to the heart of how we truly honor those people who are serving our country, sacrificing for our country, and in my mind, when we talk about supporting the troops, making sure our long-term security can be preserved and enhanced goes to the very core of how we are going to treat them in their service. That is why I strongly support Senator WEBB's and Senator HAGEL's amendment, and I hope all of our colleagues will do so as well.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. GRAHAM. Mr. President, I rise in opposition to the Webb amendment. I guess if I can pick up where my colleague from New Jersey left off, what is the best thing for the Congress to do in terms of supporting our troops? What are our duties? What are our obligations? I would argue the worst thing the Congress can do at a time of war is to start taking over operational control of deployments.

Many of us are up for reelection next year. This Iraq war has become one big political commercial. There are commercials being run out there—I don't know if they are on the air right at this moment, but every time there is a vote in this body, a Republican in a tough State will have an ad run in their State saying: Senator so-and-so has voted six times not to withdraw from Iraq. There are political commercials being run around every policy debate we have regarding this war. This is a political consultant's dream, this war.

Well, this war is not about the next election; this war is about generations to come. The commercials will keep coming. Every time we have a vote like this, somebody is going to take a work product, turn it into a political ad, and try to get some political momentum from the dialog we have on the floor.

None of us question each other's patriotism. That is great. To those who have served in combat, my hat is off to you. But we all have our independent obligation to make our own decisions here, and those who have never worn the uniform, you are just as capable of understanding this issue as I think anybody else. If you have been to Iraq, you understand how tired people are. They are tired. If you visit the military on a regular basis, you know they are stressed.

Let me give my colleagues some numbers here. The 1st Cavalry Division, their retention rates are 135 percent; The 25th ID, 202 percent; the 82nd Airborne, 121 percent retention rates. Recruiting and retention is very good because people who are in the fight now understand the consequences of the fight and they don't want to lose. I was in Baghdad on July 4. We had 680-something people reenlist in theater.

The troops are tired. That is not the problem. They understand the war. They understand the enemy because they deal with the enemy face-to-face, day-to-day. They realize that if we don't get this right—and in spite of the mistakes we have made, we can still get it right—if at the end of the day we don't get it right in Iraq, their kids are going to go back. The No. 1 comment I get from the troops after having been there many times is: I want to do this, Senator GRAHAM, so that my children do not have to come over here and fight this war. Let's get it right now.

Well, let's help them get it right. I think we are not helping them if the Congress mandates troop rotations that will undercut the ability for the surge to continue.

Everyone cares about the troops, but the politics of this amendment are such that it would get—the bill would be vetoed. The President has said that if this amendment gets to be part of the underlying Defense authorization bill, he would veto it. I think any President would veto this bill. The Secretary of Defense's letter to me is a chilling rendition of what would happen to the force if this amendment was adopted. So we know the Defense authorization bill would get vetoed, and all the good things in it we do agree on—about MRAPs, support for the troops, better health care—all that gets lost.

Now, why are we doing this? Some people have a very serious concern that the force is stressed, and they want to take pressure off the force by giving them as much time at home as they have in the theater. Some people want to use this amendment to make sure the surge can't go forward because that would be the effect of it. People are all over the board. The consequence to the Defense authorization bill is it would get vetoed over this provision. Now, if that is what my colleagues want to happen, this is a way to make sure it happens.

The idea of telling the Department of Defense how long someone can stay in combat once they are trained and ready to go to the fight is probably the most ill-advised thing any Congress could do in any war. The Congress is a political body that is driven, appropriately, by the moment, by the next election, the voices of constituents, concerns of the public. Wars are not fought that way. Decisions in wars are not poll-driven—I hope. Decisions of politicians appropriately incorporate political consequences to the Member. Let's not make military policy based on the political consequence to the Member of Congress. That is what you would be opening a can of worms to.

If we take on this responsibility of managing troops from a congressional point of view, setting their rotation schedules, how many can go and how long they can go, then their presence in whatever battlefield or theater we are talking about in the future is very much tied to the political moment back home. Think about that. If we begin to adopt this way of managing a war where the Congress takes this bold, unknown step of saying: You can only go in theater this long and you can't do A and you can't do B, but you can do C, what happens in the next war? Is it wise for political people who worry about their own reelection—which is an appropriate, rightful thing to be worried about if you are in politics—to have this much power? Is it good for the military for the Congress—535 people—to have this much power over military deployments? Our Constitution gives them a political Commander in Chief—a single person—who has to answer to the public at the ballot box.

The Congress can, as part of our constitutional responsibilities, terminate any war because our constitutional role allows us to fund wars. So to my colleagues on the other side and those on this side who want to support this amendment, you would be doing the country a service and eventually, I think, the troops a service by trying to stop this war by cutting off funding, if that is your goal. If you think the war is lost and you believe it is the biggest foreign policy mistake in a generation and that it is a hopeless endeavor and that Iraq will never get any better, then just come to the floor and offer an amendment on the appropriations bill to say we will not continue to fund this war and create an orderly withdrawal. If you do that, I will disagree with you, but you will have followed a constitutional path that is well charted, and if you believe all the things I have just said, you will be doing the troops a great service because you will not create a precedent in the future where some other politician may take up your model and use it in a way you never envisioned.

Once we legitimize politicians being able to make rotation deployment schedule decisions, once we go down that road, we have opened up Pandora's box where the politics of the next war could dramatically affect the ability to operate on the battlefield. If we limit our actions to cutting off funding, that will be a sustainable way for Congress to engage in terms of wars they believe have been lost.

Now, the majority leader, HARRY REID, said the war was lost in April and the surge has failed. If you really believe that, let's have a debate not about micromanaging troop schedules and deployment schedules; let's have a debate that would be worthy of this Congress and this Nation. Let's come back onto the floor and put an amendment on the desk to be considered that would end the war by stopping funding for the war. That is not going to happen. The reason that is not going to happen is because the surge has been somewhat successful and the politics of ending this war—everybody is trying to hedge their bet a little bit now. The politics of the next election are affecting the politics of this body when it comes to war policy in a very unhealthy way.

We have a side-by-side alternative to Senator WEBB that puts congressional

voice behind the idea that we would like the policy of Secretary Gates to be implemented of ensuring the dwell time at home is consistent with the amount of time one is in theater. It is a sense-of-the-Senate that gives voice to Secretary Gates's goal and policy of dwell time without retreating into the Commander in Chief's functions, without getting out of our constitutional lane. Senator MCCAIN has introduced this side-by-side. It will be called up at an appropriate time, and I can talk about it later on. It is a sense-of-the-Congress where we all agree that it would be a great policy to have if the conditions on the ground would warrant it, to give our troops a little bit of rest.

But what our troops need more than anything else is a commander who knows what he is doing and who can carry out his mission unimpeded by a bunch of politicians who are scrambling to get an advantage over each other. This whole debate is unseemly. It is destructive to our constitutional system. It brings out the worst in American politics. You have an ad being run against the very general in charge of our troops that is sickening and disgusting, and we are just absolutely going to a new low as a nation over this war.

So if you think all the things I said before—the war is lost, hopeless, stupid; the worst decision ever made in terms of U.S. foreign policy—end the thing. End it. Cut off funding. Don't play this game of having 535 people become generals who have no clue of what they are talking about. I respect everybody in this body, and those who have served, I respect you, but there is not one person here who I think has anywhere close to the knowledge of General Petraeus in how to fight a war. You could dig up Audie Murphy, and he could come back and tell me to vote for this amendment, and I would respectfully disagree. To those who have been in battle: God bless you. You deserve all the credit and honor that comes your way.

This is about winning a war we can't afford to lose. This is about who should run this war—a group of politicians who are scared to death of the electorate and who will embrace almost anything to get an advantage over the other, who is at 14 percent approval rating in the eyes of their fellow citizens? You want to scare the military? You want to give them something to be afraid of? Let them read in the paper Congress takes over operational control of Iraq. We would have some retention problems then. Anybody in their right mind would get out.

There are a lot of choices to be made in our constitutional democracy about war and peace. The one choice we have never made before is to allow the Congress to set rotation schedules, deployment schedules, and if we do it now, not only will we hurt this war effort, we will make it impossible for future commanders and future Presidents to protect us.

Mr. MCCAIN. Mr. President, will the Senator yield for a question?

Mr. GRAHAM. Yes.

Mr. MCCAIN. It is my understanding that Senator GRAHAM, the senior Senator from South Carolina, is a member of the Air Force Reserve and the JAG Corps; is that correct?

Mr. GRAHAM. Yes, sir.

Mr. MCCAIN. I understand you just spent a couple of weeks in Iraq serving in active duty and in your capacity as an Air Force colonel?

Mr. GRAHAM. Yes, sir.

Mr. MCCAIN. And despite the mistake that was made in the promotion system, you did form impressions over there from the day-to-day interface with the men and women who are serving there?

Mr. GRAHAM. Yes.

Mr. MCCAIN. I think it might be appropriate, given the Senator's recent probably longer stay than any Member of Congress has ever had in Iraq, maybe he can talk to us a bit on the record not only about where the troops' morale is, what they believe in, and about the issue that was the reason he went there, and that is this enormous challenge of the rule of law, and whether we are making progress in that area, and what he expects, particularly in the area of the prisoner situation.

Mr. GRAHAM. Mr. President, I will try my best. No. 1, my time in the service has been as a military lawyer. I am not a combat operational guy. If you want to talk about my experiences in the military, I am glad to talk about them, but they are limited, and I know how far they should go—not very. As a JAG colonel, I cannot tell you how to deploy troops. I don't know. That is out of my line. I have to make a decision as a Senator when the general comes, as Senator MCCAIN says, as to whether it makes sense to me. I would not advise any Member of this body to follow a four star general's recommendation just because of the number of stars.

Here is what I would advise the Members of this body to do. Listen to what the general says. Use your own common sense. Go in theater and see if it makes sense. For 3½ years, we went to Iraq and we were told by the generals in the old strategy that things were fine. On about the third trip with Senator MCCAIN, I would say we were in a tank. I am a lawyer, so I don't understand military deployments and how to deploy combat troops. But I can tell you this from a lawyer's perspective and from good old South Carolina common sense: After the third visit to Iraq, if you thought things were getting better, you were crazy. We blamed it on the Republican side. The media doesn't tell the story right. It wasn't the media's fault. We were losing operational control of Iraq because we didn't have enough troops. You could see it if you wanted to look. If you were blinded by the partisanship that exists in this building, you will find some other group to blame it on. But it was there to be seen.

I have been seven times—twice in uniform—working on issues where I think I have a little bit to offer. My contribution is insignificant, inconsequential, but I am honored to have been able to be allowed to go, because I am cheering on people over there and I am still in uniform and I am the only one left, and I wish I could stay over there longer because I feel an obligation to do so.

Here is the morale as I see it this time around. A year ago, I was in Iraq—maybe a little bit longer—sitting at lunch across the table with a sergeant. I asked him: Sergeant, how is it going? He said: Senator, I feel like I am driving around waiting to get shot. Not going very well.

This last tour, when I was there for 11 days, I got to have three meals a day with them in Baghdad and meet folks with different missions and responsibilities, including combat guys coming in from the field. I sat down with them every night and I asked: How is it going? I was told: Colonel, we are kicking their ass.

Morale is high because of the new strategy. They are fighting and living with the Iraqi troops out in the field. Their army is getting better. When you talk to the marines in Anbar, they will tell you with pride: Look at what we did here.

For us politicians to deny what they did is an insult to their hard work. They liberated Anbar Province because there were enough of them this time around to join up with the Sunnis in Anbar to make a difference and drive out al-Qaida. This new strategy—and everybody has been asking for something new for a long time—is working. It is working. There are areas in Iraq, as Senator MCCAIN described, that are liberated from a vicious enemy.

On the rule-of-law front, judges have a new level of security because of the surge that they have never known before. The first thing General Petraeus did when he went in theater was create a rule-of-law green zone for judges. We have taken an old Iraqi base and built housing for judges and created a perimeter of security. We have a jail inside the complex, judge housing, a police station, and a brandnew courtroom, so that the judges can implement the law without fear of assassination. I have never seen such growth in an area as I have in the rule of law since the surge began. The judges now are able to do their job without their families being assassinated, and we have seen dramatic improvements.

I will give you two examples. There was a Shia police captain accused of torturing Sunnis at the police station he was in charge of. He is now facing a long-term prison sentence because the Iraqi legal system didn't listen to the fact that he was a Shia and the people he abused were Sunni. They gave a verdict based on what he did, not who he did it to. It is sweeping the whole legal system.

Judges are going into areas that al-Qaida operated from just months ago

and they are rendering justice, but not based on what sect you come from; it is based on what the person was accused of. I witnessed a trial downtown Baghdad where two people of the three were Shia police officers in the Iraqi police force. There was a raid on the house they were living in by the American forces. Coalition troops were the only witnesses and these two defendants who were in a house full of IED material, rocket-propelled grenades, explosive devices that were meant to kill Americans. The defense said: Who are you going to believe, us or the invader? The lawyers in the trial looked the judge in the eye and started citing one verse of the Koran after another to tell the judge he had a duty to stand beside his Muslim brothers and reject the testimony of the infidels. I was there; I saw it.

The three judges conducted a trial that everybody who witnessed that trial would have been proud of. They asked hard questions. They separated the defendants, and rather than listening to dictates from the Koran coming out of the mouth of their lawyer, they asked questions such as how were they in the house, and how could they not have known the weapons were there? They did a great job proving these guys were lying through their teeth. When they reconvened, they got convicted, getting 6 years in jail.

There is progress going on in Iraq. There are people in Iraq who are bigger than sectarian differences. There are judges, lawyers, and average, everyday people who are risking their lives to make their country better. One of the biggest problems they have had is that we screwed up early on and let security get out of hand. With better security, people are beginning to engage in a way I have never seen before.

This idea of pulling back now, reducing our military footprint, at a time when we have made a real difference, is too disheartening to the troops. They are watching what we are doing. I was stopped every 30 feet with questions such as: What are we going to do? Is the war going to go on? Are they going to cut it short? The people fighting want one thing, and that is the ability to finish the job. Do they want to come home? Yes, God knows they want to be home. Are they tired of going over? Yes. But above all others, they want to win.

Senator MCCAIN said he met people for the third and fourth time. Well, nobody stays in this military unless they volunteer, to begin with, and when their enlistment is up, there are stop-loss problems, but there is an end to this war for them; it is an end of their choosing. This force, unlike others, chooses when to end the war for them when their enlistment comes. What they are choosing to do we need to understand. They are choosing to reenlist at numbers greater than any other area of the military. Why can't this body sit down and think for a moment; what do they see about this war that I don't see? Why do they keep leaving their families and going to a dangerous place time and time again, in numbers larger than any other group in the military? Do you know why they do it? I think they do it because they interact with the judges I have just described to you. They see hope. They understand the enemy. They know an enemy that will take a 5-year-old child and put that child in front of their parents, douse him with gasoline and set him on fire, is an enemy to their family. They understand that Iran is trying to drive us out of Iraq because they want to be stronger. And they understand that will mean they are likely to have to fight a bigger war.

From the troops' perspective, from my view, they want to come home, and they want a lot of things; but they want, above all others, the chance to win a war they believe they can win and one we cannot afford to lose.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the author of the amendment, Senator WEBB, be recognized, and that following his comments, Senator WARNER from Virginia be recognized, Senator VITTER be recognized, and that I follow Senator VITTER.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. Mr. President, at this point, I have to object, unless the Senator from Georgia will agree that if there is a person on the other side who wants to speak in opposition, we can go back and forth. If we can modify the request that a speaker in support of the amendment may be interjected into that lineup, if there is a speaker in support of the amendment, I will not object. Is that agreeable to the Senator from Virginia?

Mr. WEBB. That is agreeable.

Mr. CHAMBLISS. I say to my friends, I already discussed that with Senator WEBB. I agree to that.

The PRESIDING OFFICER. Without objection, the request, as modified, is agreed to.

Mr. MCCAIN. Mr. President, can I hear the unanimous consent request again, please?

Mr. CHAMBLISS. Yes. I ask unanimous consent that the Senator from Virginia, Senator WEBB, be recognized; that following him, Senator WARNER be recognized; that following him, Senator VITTER and myself be recognized; that if there is a member of the other side of the aisle who comes in after Senator WARNER or after Senator VITTER, they be given the opportunity to be interjected into the rotation.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

VOTE EXPLANATION

Mr. CHAMBLISS. Mr. President, I neglected to vote on rollcall vote No. 340. Had I voted, I would have voted negatively.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WEBB. Mr. President, I want to take a few minutes and clarify, from my perspective, the intention of this amendment in the context of a number of the things the Senator from South Carolina spoke about. That was quite a lengthy speech. There was a lot of material in it.

This amendment is a very narrow amendment. It is talking about a minimal adjustment in terms of troop rotation ratios. That is all this amendment is doing.

When the Senator from South Carolina mentioned we should not have the politics of the next election being the driving force in these sorts of situations, I hasten to clarify that my election occurred last year. It is going to be a while before that decision is faced again. The principal cosponsor on the Republican side, Senator HAGEL, has indicated he is retiring from the Senate. These issues we are attempting to put before the Senate have nothing to do with the politics of being reelected.

Another point that I think needs to be made is that no one I know of is trying to push a precipitous withdrawal from Iraq. The Senator from South Carolina made a lot of comments about if you want to end the war, if you believe it is the worst strategic error we have ever made, we should call for cutting off the funding. There are a lot of us, including myself, who believe this was a huge strategic blunder and said so before we went in. As I said to General Petraeus when he was testifying: That was then, this is now.

We have to find a way out of Iraq, for those of us who want to remove our residual forces eventually. That doesn't include everybody in this body. For those of us who want to remove all residual forces eventually, we have to do so in a way that will not further increase the instability in the region and will allow us to focus on international terrorism and our other strategic interests around the world. There is no debate on that. That is not what this amendment is about. We must do that through a proper, regionally based diplomatic solution. That will only take place with the right sort of leadership out of the administration. But that is not on the table. That is not what we are trying to address in this amendment.

There have been questions on the constitutional issues. Again, I go to article I, section 8. The Congress has the power ''To make Rules for the Government and Regulation of the land and naval Forces. . . .''

There has been some discussion about how this should not apply to movement of forces during a time of war. I don't see this as a movement of forces in a time of war, and I do see precedent, again, from the Korean war. This is a very similar situation; it is on the other end of it.

In the Korean war, an administration was sending our troops into combat before they had been properly trained.

The administration would say that is proper. The Secretary of Defense would come in and say that is proper, we need these troops in Korea. But the Congress decided it was not proper, that once our people step forward and take the oath of enlistment or oath of office, there is some protection that should come if there is a belief from the Congress that the executive branch has not used them properly.

This is an intrinsically limited power. It is limited by the nature of this process. All one has to do is take a look at the votes we need today to move it forward. But it is a power that belongs in the Congress when the right vote is taken.

Senator MCCAIN and Senator GRAHAM had a lengthy colloquy about service. Believe me, I am indebted to both of them and to the others who have served our country for the service they have given. Thirty years ago this year, I started as a committee counsel in the Congress. I was the first Vietnam veteran to work as a full committee counsel. At that time, two-thirds of the Members in the Congress had served in the military. That number is a very small percentage today. So it affects, in some cases, the ability of people to understand the movements on the ground, but it also increases the importance of people such as Senator MCCAIN and Senator GRAHAM, both of whom I respectfully disagree with on this particular amendment, but it increases the importance of what they are saying and the insight they are bringing. I greatly respect both of them for their service.

I know there is going to be a sense of the Senate submitted after our vote is taken—I assume after our vote is taken. I wish to say again this is basically a figleaf. This is not a time for the Congress to be giving advice. It is a time for the Congress to step in and put a floor under those people who are serving us.

This is a very minimal adjustment, but it is, in my view and in the view of others, an essential adjustment in terms of how we are handling the welfare and well-being of people who are going again and again.

On that point, I again remind the Senate that for the first time in all the years we have been involved in Iraq, we are seeing people from the administration and from the other party openly saying they expect we might be in Iraq for the next 50 years. I was warning 5 years ago this month, in an editorial in the Washington Post, that there was no exit strategy from the people who wanted us to go into Iraq because they didn't intend to leave. Now we are seeing graphic evidence of that. That is a debate we are going to have. That is a debate we are going to have separate from this amendment. The only purpose of this amendment is to provide some stability in the rotational cycles, particularly of our traditional ground forces in the Army and Marine Corps, so we can have that debate in a way that calms down the instability in the forces.

I yield the floor.

The PRESIDING OFFICER (Mr. MENENDEZ). The Senator from Arizona.

Mr. MCCAIN. Mr. President, while my friend from Virginia is on the floor—my other friend from Virginia—I apologize to him for misspeaking this morning about his sponsorship of any amendment. I know he has a number of proposals he may bring before the Senate in the course of this debate, and I apologize to him for assuming he hadn't had any of those ready at that particular time.

Again, I thank him for the enormous input he has made in this debate and his wisdom and knowledge, and his leaving will create a void around here. Voids are always filled, but I think it may exist for a long time because of the many years of leadership on national security issues he has provided to this body, the State of Virginia, and the Nation. I say to the Senator, please accept my apologies.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank my colleague. The factual basis that this follows—I wish to thank him and I wish to indicate to my colleague from Virginia the exact background. I first saw the amendment, prepared by, I believe, Senator MCCAIN and Senator GRAHAM, yesterday when it was circulated to the members of the Armed Services Committee. At that time, I promptly suggested a change in the amendment or, more specifically, an addition that a waiver be put in. I suggested the President. The draft now has the Secretary of Defense.

I say to my good friend—and, indeed, Senator WEBB and I share a very strong bond of friendship. It actually goes back over 30 years, when I was in the Navy Secretariat. Senator WEBB, at that time, a young—still young but anyway a bit younger—Marine captain who, fortunately for me and others in the Secretariat, was assigned to our staff. He had just finished his tour in Vietnam, where he displayed a measure of courage few in uniform in the history of our country can equal. For that he received our Nation's second highest decoration.

I stand in awe of his military career. My modest career pales in comparison to his. Nevertheless, we did form at that time a friendship and resumed it once he came here.

I would like to also say, Senator WEBB and I were both privileged to serve as Secretaries of the U.S. Navy. As I look back on the good fortune I have had in life, that was a chapter—5 years, 4 months, 3 days as Secretary of the Navy—that I cherish as the very foundation for whatever I have achieved thereafter in life. It was the association, the learning I had from men and women of the Armed Forces, that gave me a certain sense of confidence and inner strength that has enabled me to go on and do other things, most humbly, I say, to serve Virginia for now my 29th year in this chamber.

I have come to know Senator WEBB, of course, in the perspective of being a Senator. I said to others that he possesses the intellectual ability, the sincerity, the feeling about people to make him a great Senator. His career is before him; my career is behind me. When I leave some 14 months from now, having finished 30 years in the Senate, I leave with a sense of confidence that this fine young Senator will represent Virginia well, and they can take righteous pride in his leadership.

But the amendment by Senator GRAHAM is one I somewhat disagree with my colleague on. It embraces the principles he put forth in his amendment, principles which led me to join him when he first laid down his amendment and vote for that amendment. So the question arises: Why, at this point in time, would I go into a very intense deliberative process of reconsidering that process? I will enumerate those reasons.

But I wish to go back again to the service we both had as Secretary of the Navy. It was the management of a force of men and women in uniform. During my period, it was somewhat larger in number than when Senator WEBB was Secretary of the Navy. But nevertheless, we both learned the difficulty, the challenges of managing under the all-volunteer force the men and women of our Armed Forces.

One of the reasons I joined my good friend was the all-volunteer force. I was in the Department of Defense, as I stated, from 1969 through 1974, serving under three Secretaries of Defense, Melvin Laird being the first. He had the concept of going to the all-volunteer force. That concept was not by any means readily accepted. There was considerable and, I think, justified doubt among the uniform ranks at that time, in the White House, and elsewhere, that this daring concept, this unique concept would be able to adequately serve America, given the troubled world, not only at the time of Vietnam but subsequently and particularly at that time in the midst of the Cold War when the Soviet Union, in many respects, had challenged us potentially in terms of their military prowess. Nevertheless, in the wisdom of the executive branch, we went forward, and the Congress subsequently endorsed it.

Senator WEBB's amendment, I say without any equivocation, is designed to help protect the concept of the all-volunteer force. It was for that reason that I joined him because I felt, having been in the Department of Defense at the period of time when the formative stages of that concept were developed, I had a stake in it.

I have said many times on this floor it is a national treasure that the members of today's Armed Forces, every one of them, are men and women who have raised their hands and volunteered. They were not subjected, as

previous generations had been, to a draft and compelled to go into uniform. They were there, every one of them, because they wanted to be there, they wanted to be a part of the Armed Forces that would protect our country.

If we add up all the men and women in the Armed Forces today and include the very valuable Reserve and Guard—because the Reserve and Guard are as much a part of our defense structure, more so than they have ever been—and how magnificently the Reserve and Guard have proven throughout the conflicts in Iraq and Afghanistan, their ability to take on in every way responsibilities, dangers, and personal risk equal to the regular force.

I come back to that little chapter when both of us served as Secretary, and then he subsequently served in the Department in other capacities where Senator WEBB gained a basic knowledge of personnel management, management of not only the Navy Secretariat but prior thereto, when he was looking at all the force structures of the Department of Defense. I readily acknowledge he is an expert and, in some ways, more current than I am, in terms of the management of our forces in uniform.

We have a difference, Senator WEBB and I, and I will spell it out, with regard to the amendment. I endorsed it. I intend now to cast a vote against it. The reasons are as follows:

I went forward some months ago and informed the Senate and, indeed, informed the country, having returned from my 10th trip to Iraq, that I was gravely concerned about the situation over there and gravely concerned about the turbulence here at home, gravely concerned that the U.S. Army and the U.S. Marine Corps were being pushed to the limits, greatly concerned that our Guard and Reserves were being pushed to the limit. Furthermore, I felt that the surge—although I did not fully support the surge, and the record of this body, the Senate, clearly reflects my concerns—at that time, I felt that far more of the responsibility should be borne by the Iraqi forces. In January of this year, 2007, when the President announced his policy regarding the surge, I believed that Iraqi forces should take on a far greater role, particularly as it related to the sectarian violence—the criminal elements that are striking against our forces, and for nothing more than a few bucks undertaking, to put at risk the lives of our great soldiers, airmen, marines, and sailors. I thought that the Iraqi force should take on that and we should concentrate more on the security of that nation, to maintain the sovereignty and integrity of its borders and tighten the borders.

I won't go into the details, but the record is clear that I questioned the surge. Once the decision was made, I think I felt, like most Senators, that I should support the President, and I have tried to do so.

But back again to the force structure problem. At that time, I felt that we should send a signal to the Iraqi Government by putting some teeth in what the President had repeatedly said; namely, we are not going to be there forever. Our Ambassador in Iraq at that point in time had said something to that same effect. At the time that I announced the recommendation to reduce the forces and have that reduction take place so they could be home by Christmas, Ambassador Crocker had said: We are not giving you a blank check. They were just verbal statements directed at the Maliki government and all levels of the Iraqi Government to say that we are not going to be there forever, but you had to put teeth in it.

I felt if we first announced that we were going to take the first group home—and I carefully said that the President should consult with the ground commanders before he accepted any recommendation from me or anybody else to reduce force levels and begin to send people back such that they would be back home with their families before Christmas, and the President obviously did that. In his message of a week or so ago, he indicated—not necessarily agreeing with me—that he agreed with the concept; that after consultation with General Petraeus and other on-scene commanders, that they could now, based on certain successes of the operation of the surge and visible successes that the intelligence community verified. Indeed, Senator LEVIN and I, on our trip a few weeks ago, saw with our own eyes, where there had been measurable success of the surge—but consequently the President agreed with the thought that troops could begin to depart Iraq ahead of schedule and come home. There are further details of that well-known to Members of this body.

So first and foremost, I asked for that, the administration and the uniformed side agreed with it, and it was done. That put me in a different posture because I felt my thought that it was time to bring some people home was accepted, and therefore I could then turn to the Webb amendment and the need to go back and get a clear understanding from the U.S. military, the uniformed side, of the consequences of the well-intentioned principles of the Webb amendment.

I would like to also digress momentarily to talk about politics. The Senator felt challenged. I wasn't here for the earlier debate. I was holding a briefing with senior members of the military from the Department of Defense on this very subject—the Webb amendment. And I can tell you without any equivocation whatsoever, knowing Senator WEBB as I do, that politics is not a factor in his judgment. He honestly believes—he honestly believes—based on his long experience and his current knowledge of the readiness of the situation of our Armed Forces today that we need a policy, and we need it now, of a 1-month home for every month served abroad in a combat zone.

As I said, I agreed with him. But in that subsequent period of time, I have had consultations with a lot of senior military officers and just concluded a briefing with Lieutenant General Ham, the Director of Operations of the Joint Staff and Lieutenant General Lovelace, the Deputy Chief of Staff for Operations for the U.S. Army. Two respected three-star generals, whom I invited to come over here and further brief me and several other Senators who were present. They are not politically motivated. They are motivated by what they have to do to be fair to those serving in Iraq today.

It is their professional judgment that if this amendment were to be adopted and become law—and I will put aside all the other issues of a possible veto, and I just don't want to see another veto scenario here right in the middle of the war, and that is another reason—but they are absolutely convinced, and have now convinced me, that they cannot effectively put into force that amendment at this time, without causing severe problems within the existing forces and those who are serving there.

One of the consequences that could change in some fashion could be the very thing I advocated—namely, let us bring some of the troops home by Christmas. That might not be feasible if this amendment were adopted. The announced schedule of withdrawals—bringing the force structure down by July 2008 to what we call the pre-surge level, announced by the President and General Petraeus that might not be achievable, the reason being that on any day, if you look at the totality of the U.S. Army, about one-third of it is globally deployed beyond our shores—some 250,000 men and women in uniform. There is a rotation in and out of Korea of roughly 20,000 a year and rotation in other areas of concentration. You just cannot simply look at Iraq or Afghanistan; you have to look at the totality of the Army.

A soldier coming out of, say, Korea, having spent a year over there and expecting to have a year back at home, joins a unit for further training, and that unit is suddenly called to go to Iraq. Well, the only recourse is to begin to pull that soldier and some others out because of their need to have 12 months back here. In fairness, that soldier should have 12 months back here, but that unit has to deploy.

These generals, again putting all politics aside, they have not been ordered to do this; they are simply trying to manage the U.S. Army today in a way that is equitable to every single soldier, and they have convinced me they cannot manage it in this time period. If this amendment were changed to be effective at, say, the beginning of fiscal year 2009—starting in October of 2008—they feel they could manage it, certainly with regard to the combat units that are going over. But they still have a problem with—for example, in Iraq today there are some 50,000 soldiers who are in what we call combat support roles, not just cooks and bakers,

although they are essential, but the people who are performing the removal of the IEDs over which the combat trucks roll to go forward to the front. If there is any single front in Iraq, and I don't think there is, the concept being they are deployed there to different parts of Iraq. Iraq is a 360-degree battle zone, in my judgment. And how well we know that the IED is causing the most severe damage to our soldiers in terms of loss of life and limb in Iraq today. They explained to me that the persons, the explosives experts who know how to go in and detect and remove these lethal weapons, are in short supply. The Army is doing everything it can, the Marine Corps everything it can, to train sufficient numbers of these individuals to come in and do these jobs, but they, too, have to be treated with a sense of fairness. They cannot be subjected to having to stay there maybe 15 months, maybe even longer, because we have no replacement for them.

So at another time, because I don't want to go into greater detail here—there was point after point these generals made in our briefing and that I have studied that clearly documents the difficulty, the unfairness, to others now serving in Iraq if this amendment were to become law.

Now, to the credit of Senator WEBB and in my conversations with him—although I don't know that I was the one who persuaded him—he went ahead and added an extension to his amendment, so that it goes into effect 120 days after the authorization bill is signed into law. Well, that still does not carry it anywhere near the October 2008 date, which is the earliest date that the Army feels it can now follow the Webb amendment and its goals. These generals told me there is no one who wants to move to the 1-to-1 ratio with any greater fervor or desire than the senior military staff of the U.S. Army and, indeed, others in the Department of Defense. They want it. They would do everything within their realm of professional responsibility to make it happen. But they simply cannot make it happen in the time frame as it is now couched in the provisions of the Webb amendment.

Mr. President, for those reasons and others—and I know I am taking generously of the time of others here—I feel I will have to cast a vote against my good friend's amendment. It is a change of vote for me, I recognize that, but I change that vote only after a lot of very careful and analytical work with the uniformed side of the Department of Defense.

The Secretary of Defense has written me on this subject, in a very detailed letter. I have a great deal of respect for him. I traveled with him this week and talked to him, and I tried to explain that possibly there are changes which could be made to the Webb amendment which would enable us to go forward and enact it into law, as opposed to a sense of the Senate, which I do hope we vote on later, but that was not achievable. I did my very best, but it was not achievable.

So I say to my good friend from Virginia, I agree with the principles you have laid down in your amendment, but I regret to say that I have been convinced by those professionals in uniform that they cannot do it and do it in a way that wouldn't invoke further unfairness to other soldiers now serving in Iraq.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I want to thank the Senator from Virginia for his knowledge, his wisdom, and his in-depth analysis of the situation. All of us who know him are appreciative of the very difficult process he has gone through as he has attempted to balance the needs of the military, America's national security, and the frustration and sorrow and anger that is felt by many Americans over our failures in this war. I thank him for the consultation process he has gone through. I have never known the Senator from Virginia to arrive at a decision without a thorough and complete analysis of it. He has used the wisdom he has acquired since World War II, when he served as a brave marine.

Mr. WARNER. Sailor, you rascal. How could you forget that?

Mr. MCCAIN. Excuse me—sailor, and later in the Marine Corps. He went wrong—I mean he did very well by serving both in the U.S. Navy and the U.S. Marine Corps, and then, of course, as Assistant Secretary of the Navy and as an outstanding chairman of the Armed Services Committee. So I thank him for his in-depth analysis, I thank him for his leadership and guidance to all of us and to all of our citizens, and for a very thoughtful and persuasive discussion.

As we move forward on this issue, no matter what happens with the Webb amendment, we will be faced with the situation in Iraq. I hope the situation improves and these debates can be eliminated over time. I am not sure they can. I hope and pray they can, but in the meantime we will rely on the judgment and guidance of our friend from Virginia.

Mr. WARNER. Mr. President, if I might ask the Senator a question because, indeed, the Senator has a career of active-duty service to the country that cannot be paralleled, certainly by this humble Senator or many others. But don't you believe in your heart of hearts the Webb concept of 1 to 1 is a good one, and if it were possible for the military to achieve it they would do so, and we would all vote for this amendment?

Mr. MCCAIN. I say to my friend, he is exactly right. He is exactly right. Among the many failures, as my friend from Virginia knows very well, is that at the onset of this conflict it was believed by the then Secretary of Defense and others in the administration, including the President of the United States, this was going to be quick, it was going to be easy, it was going to be over.

There were people such as the Senator from Virginia—and, I might add, and me—who said you have to have a bigger Army. You have to have a bigger Marine Corps. The Army and Marine Corps is one-third smaller than it was at the time of the first gulf war. We should have paid attention to our friend and comrade, General Powell, and the Powell doctrine, and we obviously should have understood the requirements in the postinitial combat phase, which I think would have relieved this terrific burden we have laid on the men and women in both the Active Duty and the Guard and Reserve. God bless them for being able to sustain it. It is a remarkable performance on their part.

Mr. WARNER. Mr. President, on that point, I grilled these officers today very intensely. You may recall that in January, subsequent to the President's announcement of the surge, the Secretary of Defense stepped up and said: Hold everything. I am going to put in place a callup policy for the Reserve and the Guard which will enable them to have a clearer understanding of how much active service they will be called upon to do and, more important, once that active service is completed, how much time they can remain home.

Now, a reservist has to maintain two jobs, in a way: his Reserve job and his job with which he puts, basically, the bread on the table for his family, in the private sector. So they are different than the regulars.

I was told today that, if the Webb amendment became law, they would have to go back and revisit and change that policy that the Secretary of Defense enunciated for the Guard and Reserve in January, this year.

Is that your understanding?

Mr. MCCAIN. That is my understanding, I would say to the Senator from Virginia, and I also say that is why I think we need to have a Sense-of-the-Senate resolution, to reflect the overall opinion of the Senate that we need to fix this situation. Obviously, the unintended consequences of putting it into law at this time are myriad. The Senator from Virginia has, in the most articulate fashion, described those. I agree with the Senator from Virginia.

Mr. WARNER. Mr. President, I conclude my remarks by saying—others are waiting to speak—the reason I brought up Senator WEBB's distinguished career as former Secretary of the Navy, and indeed in the Department of Defense in an earlier assignment, is he understands these arguments. He has looked at them. I respect his views. We have a personal difference of opinion on the professional viewpoints, that it can or cannot be done.

He believes honestly it can be done. I believe, based on what I related this

morning and that my ranking member has stated—we feel it can't be done. Therein is the problem.

I, in no way, in any way denigrate what Senator WEBB is trying to do. It is just that we have an honest difference of opinion, mine based on basically the same facts that have been given to him. He has a different analysis than do I.

Mr. MCCAIN. Mr. President, I wish to add one additional point, though, that I think is important. I also believe that it is unconstitutional for this body to dictate the tours of duty and the service of the men and women in the military and how that is conducted. I am absolutely convinced, from my reading of history and of the Constitution, that to enact such an amendment would be an encroachment on the authority and responsibility of the Commander in Chief which could have significant consequences in future conflicts, particularly if those conflicts at some point may be unpopular with the American people. So I have additional reasons, besides our desire to—the impracticability, as the Senator has so adequately pointed out.

I see my friend from Illinois is waiting.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. OBAMA. Mr. President, let me begin by expressing my utmost support for Senator WARNER. I am absolutely convinced of his commitment to our troops. I do not think there are many people in this Senate Chamber who understand our military better or care more deeply about our military. So I have the highest regard for him.

I have to say I respectfully disagree on this issue and must rise in strong support of the amendment offered by Senator WEBB to require minimum periods between deployments for members of our armed services who are serving in Iraq and Afghanistan. This amendment protects our brave men and women in uniform and ensures that our Armed Forces retain their ability to meet any challenge around the world. That is something that ultimately all of us have to be concerned about. I am proud to be a cosponsor of this amendment.

I opposed the war in Iraq from the beginning and have called repeatedly for a responsible end to the foreign policy disaster that this administration has created. Over 3,700 American service men and women have died in this war. Over 27,000 have been seriously wounded. Each month, this misguided war costs us a staggering $10 billion. When all is said and done, it will have cost us at least $1 trillion.

There are different views of the war in this Chamber, but there is no disagreement about the tremendous sacrifice of the men and women who are serving in Iraq and Afghanistan. They have performed valiantly under exceedingly difficult circumstances. They have done everything we have asked of them. But they have also been stretched to the limit. The truth is, we are not keeping our sacred trust with our men and women in uniform. We are asking too much of them, and we are asking too much of their families. We owe it to our troops and their families to adopt a fair policy that ensures predictable rotations, adequate time to be with their families before redeployment, and adequate time for realistic training for the difficult assignments we are giving them.

Our service men and women will always answer the call of duty, but the reality is extended deployments and insufficient rest periods are taking their toll. The effects of the strain are clear: Increasing attrition rates, falling retention rates among West Point graduates, increasing rates of post-traumatic stress disorder and unprecedented strain on military families.

This amendment is a responsible way to keep our sacred trust while restoring our military to an appropriate state of readiness. It ensures that members of our Armed Forces who are deployed to Iraq or Afghanistan have at least the same amount of time at home, before they are redeployed. It would also ensure that members of a Reserve component, including the National Guard, cannot be redeployed to Iraq or Afghanistan within 3 years of their previous deployment.

After 4½ years of fighting in Iraq and almost 6 years of fighting in Afghanistan, we owe it to our troops and their families to provide them with a more predictable schedule with sufficient time home between deployments. As the Military Officers Association of America, which represents 368,000 members, has stated:

> If we are not better stewards of our troops and their families in the future than we have been in the recent past, the Military Officers Association of America believes strongly that we will be putting the all-volunteer force at unacceptable risk.

There are scores of anecdotes that bear out the strain on our families. One woman from Illinois recently wrote my office telling me how her husband was facing his fourth deployment in 4½ years. She described how her husband had spent so much time in Iraq that, in her words: ''He feels like he is stationed in Iraq and only deploys home.'' That is not an acceptable way to treat our troops. That is not an acceptable way to treat their families.

This amendment is not only important for military families, it is also important for our national security. Our military simply cannot sustain its current deployments without crippling our ability to respond to contingencies around the world.

This is all the more important since the administration has squandered our resources on the war in Iraq and neglected to address serious threats to our safety. According to the National Intelligence Estimate in July, al-Qaida has ''protected or regenerated key elements of its homeland attack capability,'' including a safe haven in Pakistan's tribal areas, operational lieutenants, and its top leadership.

Ensuring the readiness and capabilities of our troops will be crucial to confronting the threat of al-Qaida in Afghanistan and other parts of the world and deterring other threats to America's national security.

Over the coming months, I will continue to push for a new course in Iraq that immediately begins a safe and orderly withdrawal of our combat troops, that changes our military mission to focus on training and counterterrorism, that puts real pressure on the Iraqis to resolve their grievances, and that focuses our military efforts on the real threats facing our country.

I believe this amendment is an important part of that new course. I strongly urge my colleagues to support this proposal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I was on the floor when the Senator from Virginia, Senator WARNER, made his comments a little bit earlier. I hope a lot of the American people were listening to what Senator WARNER had to say because there is nobody in this Senate who has more respect, not just on military issues but principally on military issues, than does Senator WARNER. He not only has a lot of expertise, and great experience, but he is known to be very thoughtful in his deliberations. He doesn't arrive at decisions of major importance very easily or very quickly. For him to come to the floor and to make the statement he made earlier this afternoon, having thought through this issue and having now decided to change his vote on this particular amendment, is of monumental importance. It is the type of decision that makes all of us proud to serve in this great institution.

I rise in opposition to the Webb amendment. This amendment is about restricting the President and his military leaders' ability to prosecute a war we have asked them to execute and which we unanimously confirmed General Petraeus to carry out. It is an unwise and harmful effort to limit the ability of the President and his military leadership and to handicap their use of personnel and resources available to them.

Senator WEBB's amendment would preclude deployment of certain Active and Reserve Forces based on the number of days they have spent at home. Keep in mind, these restrictions would apply to the Nation's most experienced and capable troops during a time of war, when we face an unpredictable and highly adaptive enemy.

That statement is very similar to what Senator WARNER said a little bit earlier.

There is no one in this body who would not like to see every single one of our troops come home tomorrow. There is nothing pretty about a military conflict. There have been times in

the history of our country when we have had to bow our backs and when we have had to stand up to an enemy that sought to destroy what America stands for. That is exactly what we are doing in Iraq today.

What Senator WARNER said is that if we make a decision in this body to micromanage the war, let's make no mistake about it, if this amendment passes, what we are really going to be doing is subjecting our men and women to greater harm and to the possibility of even greater inflicting of injuries and greater numbers, possibly, of making the ultimate sacrifice. This amendment says there are 435 Members of the House of Representatives and 100 Members of the Senate who have determined that this is the rotation that should be carried out by our military leadership relative to the conflict in Iraq, and that is a micromanagement of the war from the Halls of Congress versus the management of this conflict on the ground in theater by our military leadership in Iraq.

If we do micromanage this war, exactly what Senator WARNER said is what is going to happen, and that is, today in Iraq, the most dangerous weapon that is being fired at our brave men and women who wear our uniform and are protecting the freedom is what we call the IED and the EFPs. These particular weapons are inflicting injuries on our men and women, and are inflicting death on our men and women, requiring them to make the ultimate sacrifice for our sake. We have a very limited number of trained military personnel who are experts in the area of detecting and defusing IEDs and EFPs. If we put those men and women on a mandatory rotation, then we are setting our men and women in uniform up for failure.

I have had a policy since I have been elected to Congress of not trying to make decisions on military issues relative to my personal feelings and my personal beliefs. My decisions have been based upon information I have received from our military leadership, both inside and outside the Pentagon, some civilian folks as well as men and women in uniform, who are more expert in these areas than I am.

In this case, I listened very closely last week as General Petraeus and Ambassador Crocker came to Congress and spent the whole day Monday with the House of Representatives, the whole day Tuesday in the Senate, testifying, answering every question that was propounded to them about what is going on relative to the new vision and the new strategy on the ground in Iraq. What I heard from those men who are the leaders from a diplomatic standpoint as well as from the military standpoint is we are seeing great progress made on the ground by our military that is unlike any progress we have seen during the last 4½ years. That is significant.

If you are not impressed by that, then you simply did not hear what they had to say. So I think now to say to them: Well, we appreciate the great job you have done leading our troops, but we are going to take the decision-making process out of your hands, and we are now going to decide how the war is going to be prosecuted, that, I think would be a huge mistake.

The Pentagon and the civilian side have responded to the Webb amendment and said this, that if the Webb amendment passes:

> Operations and plans would need to be significantly altered. Units or individuals without sufficient dwell time would need a waiver to deploy based on threat. This waiver process adds time, cost, and uncertainty to deployment planning.

Secondly:

> In emergency situations, the waiver process could affect the war fight itself by delaying forces needed in theater.

Thirdly:

> Units would need to be selected for deployment based on dwell criteria that may in fact cause significant disruption to needed reset, planned transformation or unit training schedules.

Fourthly:

> The Department routinely deploys units at less than a one-to-one deployment-to-dwell ratio if the individuals within a unit meet minimum dwell requirements.

The proposed language stipulates minimum periods between deployments for both units and individuals. The requirement to meet both criteria for unit and individuals before deployment could severely limit the options for sourcing rotations.

And more specifically and directly to the point, in a letter dated September 18, 2007, from the Secretary of Defense, Robert Gates, to Senator LINDSEY GRAHAM, I quote a comment made by the Secretary. He says:

> The cumulative effect of the above steps [and he had outlined the Webb amendment] necessary to comply with Senator WEBB's amendment, in our judgment, would significantly increase the risk to our servicemembers.

Now, this is one of the military experts in the United States of America, the chief civilian military officer, saying: If this amendment passes, it could significantly—it would significantly increase the risk to our servicemembers. And yet some folks are going to vote in favor of this amendment in spite of the fact that the chief civilian military leader of the United States says it has the potential to significantly increase the risk to our men and women in uniform.

The power of Congress under article I of the Constitution to make rules for the Government and the regulation of the land and naval forces is well understood, as is the President's authority under article II, to command our military forces as commander-in-chief. This amendment, however, is an unprecedented wartime attempt to limit the authority of the President and the military leaders by declaring a substantial number of troops and units unavailable.

Now, again, let me close by saying I wish we could bring everybody home tomorrow and that this conflict would be over. We know we are going to be in this conflict for a long time. The President could not have been clearer on that issue when, on September 17, 2001, in a statement to a joint session of both the House and the Senate, he said:

> This is going to be a long and enduring war.

He was right then, and he is right now. This is a long and enduring war. It is not dictated by the brave and professional job our men and women are doing, but it is dictated by a vicious enemy that seeks to destroy everything that is good about America.

We have men and women who are serving today in an all-volunteer Army, Navy, Air Force, Marine Corps. They are very dedicated men and women. They know the mission they have to carry out in Iraq. I know because I have been there five times. I have talked with them with their boots on the ground, including about 3 months ago when I had an opportunity to visit with a number of soldiers in an area that had just been cleaned out, an area in Al Anbar Province called Ramadi.

Ramadi, a year ago this month, was the self-declared capital of al-Qaida in Iraq by al-Qaida itself. Today, because of the great job and the professional job our men and women, fighting side by side with members of the Iraqi Army and other coalition forces, is clear of al-Qaida. But if we seek to limit the ability of our leadership, if we seek to micromanage the war from the Halls of Congress versus on the ground by our leadership in Iraq, then the potential is certainly there for an immediate return of al-Qaida in Iraq to places such as Ramadi.

There is no more important time in the history of our country than the present. That has been the case in so many situations. Certainly this is a very critical time in the history of our country from the standpoint of the ability of future generations to live in the same safe and secure America every previous generation has enjoyed. There is no better way to ensure that, than to make sure we prevail and we win in Iraq.

It is my opinion and the opinion of military leadership, the passage of this amendment leads this nation down a trail of exposure to those who seek to do us harm, when what we need to be doing is listening those men and women who are serving proudly to secure our future generations from the enemy.

I yield the floor.

The ACTING PRESIDENT pro tempore (Mr. CARDIN). The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise as a supporter of the Webb amendment. I want to compliment the Senator from Virginia for offering that amendment. Although he is a freshman Senator, he certainly is no stranger to war a combat veteran, a warrior's warrior, and he

is fully aware of the stresses the men and our military are facing along with their families.

I support the Webb amendment, and I support it for several reasons. One, I want to talk about the surge. I called it an escalation. The escalation was to send more troops to give the Iraqis more time to come up with a political solution.

Well, I wish to salute our troops. For those who are on the ground, the basic number, for those who were part of the escalation, we want to support them for doing their duty, and doing their duty so well. I think by every account, regardless of how one feels about the war, one is very proud of the men and women who are part of our military, who have been on the ground, and have been on the job. They have done their part. And that is what the two reports we got last week are, that if you send in more people, the violence will temporarily come down. But what happens when you do not keep that level? Well, that is a point of discussion.

Let's go back to why they went. They went this summer, in blazing heat, with blazing guns, to give the Iraqis more time. And what did the Iraqis do while our guys and gals were out there in 100-pound armor, trying to avoid IEDs? The Iraqis took a vacation. More time. More time. More time. What is wrong with this picture? So what did more time get us? It got us nowhere. With their 2-month break, they still did not go anywhere near a political solution. Now we are told we have got to keep this up, and we could be there indefinitely because of what? The Iraqis need more time.

Well, I think we are out of time. I think we are genuinely out of time. This is why I support the Webb amendment, because I think we need a different direction. I think we need a different direction in Iraq to do what we can to contain the violence and also to move ahead with a political solution. I am going to support the Webb amendment because I am never going to vote to cut off money. I will vote to protect our troops, and the best way is at least to give them more time while we are giving the Iraqis more time.

How about giving our troops more time to be at home? I am really hot about this. One hundred six degrees in July, they took a break; 110 degrees in Baghdad, our troops are there, they took a break—they, the Iraqis, took a break.

I am also going to be supporting the Biden amendment, because if the Iraqis will not come up with a political solution, now with the so-called soft position, it is time to go to the international community and see if there needs to a hard solution.

I am beginning to explore and believe that perhaps Iraq needs to be partitioned. Part of our solution, though, is while the Iraqis want more time, I want more time for our troops. I want more time for our troops to be at home. That is why I am supporting this brilliant amendment by Senator JIM WEBB, for our men and our women in the military.

We know what his amendment says is that they have to be at home for at least as long as the length of their last deployment. So if they were there for 15 months, they should be home for 15 months. Then, for the National Guard and for the Reserves, no one would be redeployed within 3 years of their previous deployment.

Why is that important? It is not only important for the Guard and the Reservists, but as the Presiding Officer knows, when a National Guards person goes to meet their duty, their employer in many instances is required to keep that job open, or they at least have that as a commitment of honor.

That used to be 6 months. Now it is 15 months, and home again, back again, while the Iraqis want more time. Our employers are wondering how they can keep those jobs open because they don't want to turn their backs on the military.

We have to get real here. A $20,000 bonus for a quick fix, quickly trained military doesn't cut it. JIM WEBB is really onto something. Our military is overstretched. Our troops are exhausted. Their families are living with tremendous stress. Every day they wonder what is happening. Every day a family that hears a news report about another attack wonders if their loved one was in it. Every time they are at home and they hear: CNN, breaking, 4 U.S. military killed, 10 killed, 4 killed, they first listen; is it in the zone where my husband or my wife or my son or daughter is? Then when they hear that, they think: Is it the Army or the Marines? They want to know because what they are doing is wondering how close to home it is.

Then they hear that news. For some, it is unbearable news. But all of the news is unbearable for the families at home. We are crushing the very spirit these families have to keep them going. It is not that they went once; it is that they go again. And no sooner do they come back and say: Hello, honey, I think your name is Mary Beth, than they have to go back out again. What are we doing to our families?

I want more time for the troops. I want to give them more time the way the Iraqi politicians want more time. When we think about our troops, we know what they are laboring under. You have heard me say it before. I check the temperature every day in Baghdad. Yesterday, it was 102 degrees. For us, it was 73, a beautiful day. What a day to be out on the bay. I know a lot of our National Guard already deployed would love to be there. I think about our troops, carrying 100 pounds of armor in brutal heat, being shot at, being attacked by IEDs, while we have a policy that is going to give the Iraqis more time, while they are there doing their duty. Let's talk about these families.

In World War II, the military would say: If the Army wanted you to have a wife, we would have issued you one. It was primarily a single military. That is not true today. For our families, the stress of maintaining a family during all of this while a spouse is at war is an enormous stress. Not only are they facing traumatic stress, but so is the spouse at home. They are trying to protect their children. They are trying to shield their children. The children wonder: How is daddy doing; how is mommy doing? The children learn e-mail. They e-mail mom. They e-mail dad. I know how they communicate. Mom and dad will communicate by e-mail. The little guys and gals will often read the first paragraph, but the last two paragraphs are spouse-to-spouse talking about what is going on. The tension, the fear, the anxiety and, I might add, the financial stress as well is amazing. We are talking about 19-year-olds, 21-year-olds. We are talking about people with two and three children. But we have to give the Iraqis more time.

Well, we are out of time. I know my time is up on the floor, but I will tell you, I am going to vote for this Webb amendment because I am going to give our troops more time. I am going to vote to give our troops more time at home.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. BOND. Mr. President, I ask unanimous consent that the next speaker on our side be Senator KYL. He has asked to be in line on this side.

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

Mr. BOND. Mr. President, I last came to the floor to speak on the subject of the way ahead in Iraq. Since that time, significant events, both good and bad, have occurred. First and foremost, General Petraeus has presented to the Congress a candid and encouraging assessment that the new strategy in Iraq has shifted the momentum in our favor. The testimony by the general and by Ambassador Crocker reinforced what I and my congressional delegation in May saw in Iraq and what I have heard directly from troops on the ground. The Petraeus counterinsurgency strategy, which is clear an area, move in with local forces, hold it, and then help them build their community, enlisting the locals in fighting the terrorist and showing them security is working—this is the strategy which, last year, I and many of our colleagues were asking for. The old strategy without enough people, without a permanent presence in the community, was not working. Well, it is starting to work now. But General Petraeus has proposed minor immediate withdrawals, withdrawals that are based on the commander's recommendations and security conditions, not Washington politics or micromanaging from this wonderful air-conditioned building.

The President used the term ''return on success.'' That is the term I hope we

will embrace. These brave men and women went over there as volunteers to accomplish a mission. We need to allow them to work with the commanders to accomplish that mission. Even General Petraeus testified that the new strategy had reversed the trajectory of the war. He said: ''Al Qaeda is on the run. Security incidents'' since the surge began have fallen in 8 of the last 12 weeks. Civilian deaths have decreased by 45 percent. Ethno-sectarian deaths are down 55 percent, and attacks in Al Anbar are down 85 percent.

For all the attempts by the antiwar movement to discredit General Petraeus—and I will address that—he demonstrated enough military progress from his new counterinsurgency strategy to conclude that ''we have a realistic chance of achieving our objectives in Iraq.''

Secretary Gates on Monday gave a speech in which he said:

> For America to leave Iraq and the Middle East in chaos would betray and demoralize our allies there and in the region, while emboldening our most dangerous adversaries. To abandon an Iraq where just two years ago 12 million people quite literally risked their lives to vote for a constitutional democracy would be an offense to our interests as well as our values, a setback for the cause of freedom as well as the goal of stability.
>
> We must realize and recognize that the institutions that underpin an enduring free society can only take root over time.

Secretary Gates was absolutely right. One only needs to look at our own history to understand this. After a long, bloody revolution, a civil war, a struggle for women's suffrage, and a civil rights movement, some 150 years later, democracy is still a work in progress.

Just as Ambassador Crocker testified:

> Iraq is experiencing a revolution, not a regime change.

Difficult challenges remain. Political progress in Iraq has been too slow. They have done some things. Actually, they have passed a few bills. In this body, we haven't passed an appropriations bill or a Defense authorization bill yet. We took August off ourselves. It is kind of tough for us to claim that the Iraqi Parliament is not doing its job when we can't seem to get our job done.

On the political front in Iraq, the Government is already sharing oil revenues among provinces. They are reaching out to former Baathists, allowing them to participate in the army and the Government. As I said, millions turned out to vote. It will take time for them, just as America's revolution did, but the benefits of a stable Iraq as an ally to the United States in the most volatile region of the world would be a major blow to terrorism, al-Qaida, and Iran's religious extremists.

Let me be clear: Our national security interest for the near and intermediate term is preventing chaos, genocide, and a regionwide war. That is our interest there, that is why our troops are there, because if they left, we could be facing far greater challenges, likely attacks on the United States and potentially a regionwide war. Our Intelligence Committee has long warned that precipitous withdrawal would create chaos and those impacts. If we were to be driven out of Iraq on the terms of terrorists and political timelines, terrorists from the Middle East to Southeast Asia to Europe to Africa would be emboldened to spread their fear, oppression of women, death and destruction, just as they were emboldened when we failed to respond appropriately to bombings of the USS *Cole*, Khobar Towers, embassies in Iraq, and the 1993 attack on the World Trade Center—all instances in which civilians and servicemembers were murdered.

Despite General Petraeus's testimony, despite our intelligence community warnings, and despite Secretary Gates's recent remarks, some war opponents continue to want to cede defeat. They refuse to listen to the advice of commanders. They ignore the consequences of a political withdrawal and the problems about which the Intelligence Committee warned.

I am very concerned about the amendment before us. I urge my colleagues to think about it and then vote against it. This is an amendment which would micromanage the war. Even a few of its supporters have been forthright enough to admit that it is a backdoor way of achieving what they want, which is defeat in Iraq by a premature withdrawal, because they know the chaos this would spread. They know what would happen if we tried to implement this into law. As Secretary Gates said on FOX News, such congressional meddling would mean force management, make problems that would be extremely difficult, and affect combat effectiveness and perhaps pose greater risk to our troops. He said when lawmakers intrude into this process, they could produce gaps during which one unit pulling out would not be immediately replaced by another, and as a result, they would have an area of combat operations with no U.S. forces, and the troops coming in would be at greater risk.

Contrary to the notion of its supporters that the measure would give the Armed Forces relief, it actually might force greater use of the National Guard and reservists. I am concerned about the National Guard and Reserve; they have been overstressed. I am concerned about our military; they have been overstressed. You know what happened? After the first gulf war in the 1990s, we slashed the size of our military. We slashed it far too much. The President recommended; the Congress went along with it. We slashed it too far. We are starting to rebuild. We have a very dangerous world. We need to have a military ready to respond.

Let me talk about the troops. I hear from a lot of them. I hear from my son, who is on his second tour in Iraq. He is a sniper platoon commander. He says he can only speak for 30 or 40 marines, but the one thing they understand is they want to complete their mission. They want to come home. Sure, they would like to be home. But they signed up for a mission. They don't want to withdraw, see all their contributions and sacrifices go for naught. They know that meddling in the war strategy, cut and withdrawal, cut and jog, or tying up the management of the war would be a disaster. They know that al-Qaida and the enemy is hoping that will happen.

This amendment is not as straightforward as cutting funding or withdrawing the troops, but it is perhaps more dangerous. That is why I urge my colleagues to stand up for the men and women who might be put at greater risk, and our national security interests, by refusing the amendment.

I want to talk about another part of this debate that is very shameful. MoveOn.org's attack depicting General Petraeus as ''Betray Us'' should be condemned, period.

It was an attack on the integrity of an intellectual, distinguished, and patriotic officer serving his Nation during a time of war, with the confidence of his troops behind him.

Make no mistake about it, discussing and condemning MoveOn.org's ad is not a sideshow or a distraction. In fact, it is paramount in a time of war we condemn the trashing of decorated military officers highly respected by their troops, and this one unanimously approved by this body, in order to achieve a political objective.

Marty Conaster, commander of the American Legion said:

> As Americans, we all have a duty to speak up when our uniformed heroes are slandered.

He went on to say:

> The libelous attack on a general is not the American Legion's primary concern about the anti-war movement. Our concern is for the private, the sergeant, the lieutenant and the major. If a distinguished general could be attacked in such a manner, what can the rank-and-file soldier expect when he or she returns home?

Sadly, the MoveOn.org ad is emblematic of a broader struggle by opponents of the war to muzzle other experts and discredit their views.

It is this tactic of desperation and, ironically, one that attempts to distract the American people from the realities of the threat our Nation and our allies face from terrorism.

Sadly, Mr. Presiident, this effort is being used to attack another distinguished military man approved by this body. It has to do with the field of intelligence, and this is another area we learned is critically important on our Intelligence Committee delegation to Iraq in May.

When we were in Iraq, one of our key generals expressed his great frustration that old provisions of the FISA law were blocking him from keeping our troops in the field safe. Well, I have some good news on that front, and I

thank the Members of this body on both sides of the aisle who, on a bipartisan basis, approved the Protect America Act on August 3 and August 4. That has opened up the lines of communications, the lines of intelligence for our troops in the field, for our safety here at home and homeland security. It has been very important and it eliminated a blockage that was critical.

Now, after we passed it, I have heard some critics, most recently, notably, in the House who have been trying to rewrite history and say the law did things it did not do. They have tried to discredit ADM Mike McConnell, the Director of National Intelligence. I am compelled to set the record straight.

As vice chairman of the Senate Intelligence Committee and sponsor of the Protect America Act, I was the lead negotiator during the final hours as Congress acted to pass a critical short-term update to our Nation's law governing terrorist surveillance. As one who was there, I dispute the misinformation being spread by some, and largely those who were not there, and I will outline the events as they occurred. For my colleagues and members of the press who are interested in the other side of the story, here is what happened.

First, the timeline of events:

In January, the President announced his Terrorist Surveillance Program was being put under the FISA Court, the Foreign Intelligence Surveillance Act Court. Our Director of National Intelligence, the DNI, subsequently stated that after that time the intelligence community lost a significant amount of its collection capability because of the fact that the law, as interpreted, did not square with the technology now in place and it was imposing unwarranted limitations we had not had when we were collecting radio communications, and he asked the Congress to modernize FISA sooner rather than later.

As I said, when we toured Iraq in May, our Joint Special Operations Commander, LTG Stan McChrystal, told us the blockage in electronic surveillance by FISA was substantially hurting his ability to gain the intelligence he needed to protect our troops in the field and gain an offensive advantage.

On April 12, the DNI sent his full FISA modernization proposal to Congress. On May 1, DNI McConnell presented it in open session to the Senate Intelligence Committee. Immediately following the admiral's testimony, I urged that our committee mark up FISA legislation. The reply was until the President turned over certain legal opinions from the surveillance program, Congress would not modernize FISA.

That Congress would hold American security hostage to receiving documents from a program that no longer existed was disheartening. We have received an inordinate amount of documents from the Department of Justice and the DNI. Yet I do not dispute the desire or the right of Members to seek a few important documents from the executive branch. In fact, I have joined in requesting those. But I did disagree with holding up FISA modernization when those documents are not necessary to do that. Now, despite the urging from the DNI and knowing this outdated law was harming our terrorist surveillance capabilities, for more than 3 months Congress chose to do nothing.

In late June, Admiral McConnell briefed Members of the Senate again urging us to modernize FISA. Finally, his pleadings began to gain traction.

In mid-July, Members of Congress agreed to discuss a short-term, scaled-down version of FISA to protect the country for the next few months before we could address comprehensive reform this fall. Admiral McConnell immediately sent Congress his scaled-down proposal.

Over the next week, Admiral McConnell was given nearly a half dozen versions of unvetted proposals from various congressional staffs across Congress and then pressed for instant support of these proposals. The admiral returned a compromise proposal, including some of the provisions requested.

Finally, we in this body on August 3 and in the House on August 4 passed, on a bipartisan basis, the Protect America Act.

I am pleased that the admiral and I could include in the measure we passed several important changes suggested by members of the majority party. We recognized this legislation still needs to be clarified, but it allowed the intelligence community to collect very important foreign intelligence targeted at foreign sources to keep our troops and Americans here at home safe.

After the passage of the act, I spoke with a number of members of the Senate Intelligence Committee, and I am confident now that we will be able to craft an improved, permanent version of FISA. So there is good news on that front. But now that I have laid out the timeline of sorts, I do need to address some recent attempts, primarily in the other body, to discredit our Director of National Intelligence, Admiral McConnell.

As I said with General Petraeus, unfortunately, the M.O. for some is attacking military leaders. Here, as others attacked Petraeus, they are attacking personally another honorable man. I am disappointed with those who are charging Admiral McConnell with partisanship and duplicity for their own political gains.

Despite accusations to the contrary, Admiral McConnell never agreed to any proposal he had not seen in writing by congressional staff. There were indeed several dialogs where concepts were discussed, but I noted that Admiral McConnell at the end of every discussion said he needed to see and review with these leaders the congressional language in writing before he could support it. It is a good thing he objected because I was present when several elements of FISA were agreed to that the DNI and I wanted but subsequently and notably were absent from congressional proposals later sent to the admiral.

Unfortunately, this bait-and-switch during negotiations was not the only disappointment. There were efforts by some to circumvent the committee process and craft legislation behind closed doors without input from the relevant committee or from the minority side of the aisle. Even as the vice chairman of the Intelligence Committee, I was excluded from most of the key meetings. Not only was I excluded, but most members of the Intelligence Committee, Republicans and Democrats, were left out of the process. Despite attempts to leave out key Members of Congress during the last negotiations, I think we are on the right track. I am confident the Senate Intelligence Committee can pass comprehensive FISA reform, and we have engaged in very positive and encouraging talks, not just—obviously, I have talked with the chairman, Chairman ROCKEFELLER. The Democrats and Republicans in the Senate are making great progress. We are working on the issue, and I have confidence that colleagues on both sides of the aisle can come together on this issue.

Unfortunately, again, today, another Member of the House is trying to demonize to the American public the Protect America Act that we passed in August, saying the bill went too far and was a power grab of executive power. They wrongly claim the law allows warrantless searches of Americans' homes, offices, and computers and reduces the FISA Court to a rubberstamp. That is absolutely flat dead wrong.

While I agree, as I said earlier, the law can be improved, clarified, nothing could be further from the truth. Quite the opposite, the law gave the FISA Court a greater role than it was ever meant to have when FISA was passed in 1978. This Protect America Act in no way allows for warrantless physical searches of Americans' homes, offices, and computers. This sort of inaccurate fear-mongering should have no place in this debate.

I am counting on cooler heads to prevail in the Senate Intelligence Committee, and in the committee we are making real progress. I think with the members we have on our committee, we have a great chance to get an even better bill forging bipartisan solutions that will deal with some questions probably not contemplated when the initial proposal came up to us. We have a lot of different opinions, but all our members want to do what is best for national security and best ensures privacy protections. The key is working out just the right balance, and I am optimistic we will do so.

As we saw in the strong bipartisan support for the Protect America Act,

we can act in a bipartisan manner to protect terrorist surveillance—a critical early warning system—while protecting the civil liberties of ordinary Americans.

Mr. President, I ask unanimous consent to have a brief editorial from Investor's Business Daily called ''Mettle Vs. Meddle,'' referring essentially to the amendment before us, printed in the RECORD.

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

METTLE VS. MEDDLE

After last year's elections gave them a slim majority, Senate Democrats enthusiastically endorsed President Bush's choice of Robert Gates to replace Donald Rumsfeld as secretary of defense—with not a single one of them voting against his nomination.

As Senate Armed Services Chairman Carl Levin, the Democrat from Michigan, wished Gates well at that time, he said he hoped the new Pentagon chief would ''speak truth to power.'' Gates certainly did that on Fox News Sunday—telling the powers that be in Congress the truth about their impending attempts at micromanaging the war in Iraq. Gates called the Democrats' plan to require that troops spend as much time at home as in the field ''pretty much a back-door effort to get the president to accelerate the drawdown so that it's an automatic kind of thing, rather than based on the conditions in Iraq.'' While on Fox News, Gates also said:

''The president would never approve such a bill,'' and the secretary would personally recommend a veto.

Such congressional meddling would ''force management problems that would be extremely difficult and . . . affect combat effectiveness and perhaps pose greater risk to our troops.''

Intrusions by lawmakers would produce gaps during which ''a unit pulling out would not be immediately replaced by another, so you'd have an area of combat operations where no U.S. forces would be present for a period, and the troops coming in would then face a much more difficult situation.''

Contrary to the Democrats' notion that the measure would give the armed forces relief, it actually might force greater use of the National Guard and reservists.

Gates stressed that ''the consequences of getting this wrong—for Iraq, for the region, for us—are enormous.''

He added: ''The extremist Islamists were so empowered by the defeat of the Soviet Union in Afghanistan, if they were to be seen or could claim a victory over us in Iraq, it would be far, far more empowering in the region than the defeat of the Soviet Union.''

Compare that sober warning with House Defense Appropriations Subcommittee Chairman John Murtha's appearance at the National Press Club on Monday, in which the Pennsylvania Democrat blustered that Iraq would cost as many as 50 House Republican seats in the 2008 elections.

Gates and his boss are obviously interested in America and the rest of the free world winning the global war on terror. The war Murtha and so many of his fellow top Democrats seem interested in winning is the political one being waged in Washington.

Mr. BOND. Mr. President, I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Virginia is recognized.

Mr. WEBB. Mr. President, I would like to emphasize yet again the very minimal adjustment this amendment is asking for in terms of policy and to also emphasize again it is well within the Constitution and within precedent—article I, section 8.

The precedent is a similar phenomenon as to the issues that are facing us today, just on the other side of the deployment schedule, from the Korean war. When our troops were being sent into harm's way without proper training, the Congress stepped in. It overruled an administration that was doing that. It set a minimum standard of deployment. We are attempting to do the same thing on the other end.

There seems to be a great deal of question in our national debate as to what exactly ''dwell time'' means. I was in a discussion with Lieutenant Colonel Martinez, who is an Army fellow in the Senate who has extensive command experience at all levels up to the battalion level, as I recall, in many different theaters, just trying to put together notionally what goes on when military units are home after deployment.

So I have an outline, Mr. President, which I ask unanimous consent to have printed in the RECORD.

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

MAJOR TASKS THAT OCCUR DURING A ONE YEAR DWELL TIME

Month 1: One week-two weeks to redeploy the BCT from theater; ''Re-integration'' training; normally 2–3 weeks long; Single Soldier Barracks reassignments.

Month 2: 21 days to 30 days ''Block Leave''; Activation of Headquarters; Rear-Detachment Headquarters disbanded; Begin recovery of equipment that was shipped from OIF or OEF.

Months 3–5: Recovery operations of equipment; Personnel receive orders (if they haven't already) for reassignment—needs of the Army (Recruiting, Drill Instructor, Instructors at Training Centers); for individual requirements; and to fulfill reenlistment options; Newly assigned personnel arrive—intent is to create a one-for-one equation for losses.

Month 6: Individual training, crew training, team training, squad-level training; very limited platoon level training; Major reset and refit of major pacing items of equipment—major weapon systems are enrolled into maintenance; Leadership and key personnel receive plans and operational guidance for pending deployment (D–180); Small core of personnel deploy to Iraq or Afghanistan for a 10-day reconnaissance; logisticians deploy to Kuwait to inspect pending stocks; Deployment orders lock in personnel.

Month 7: Platoon and company level training—limited resources to conduct quality training; 2–3 weeks deployed in the field; Deployment training continues—key leaders deploy to a National Training Center (Fort Polk, Fort Irwin, Hoensfel, GE); 2–3 weeks deployed to these centers; Maintenance of critical weapon systems and equipment continues.

Month 8: Leadership and Key Leaders tied into Command and Control exercises and begin interfacing directly with units in Iraq or Afghanistan—reverse training cycle (evenings) to stay in touch with Baghdad and Kabul times-zones; Units begin reporting combat readiness and deployment issues to DA; Battalion (minus) collective training—2–3 weeks deployed to the field; Maintenance of critical weapon systems and equipment continues.

Month 9: Ship equipment to a National Training Center for Mission Rehearsal Exercise; Ship equipment to theater; Short block leave period (2 weeks).

Month 10: Brigade and Battalion level Mission Rehearsal Exercise—3–4 weeks deployed (units at 75% strength, at best).

Month 11: Advanced Party Personnel pack equipment and depart; Final Non-deployment personnel are identified—unit request for fills is submitted; other divisional units and the Army begin to provide replacements; Main Body Personnel pack equipment; Limited individual to squad level training continues; Major equipment systems return to unit; inspected, packed, shipped to theater as required or will be taken with Main Body.

Month 12: Active Rear Detachment; Replacements continue to arrive; Begin final packing; Deployment Training (Administrative Tasks); Begin Deployment.

Mr. WEBB. But I would like to mention some points out of this outline. It is a very good survey of the types of things our soldiers have to do.

So put yourself in the mind of a soldier who has just finished a 15-month deployment in Iraq. When they come home for a year, which is all they get now after a 15-month deployment, they do not sit around and get to know their family and have rest time. There is a little bit of that, but month by month during these 12 months of dwell time before they have to redeploy, these are the types of things they do:

In the first month, they have 1 to 2 weeks of redeployment from the theater back home. That is a part of that first month. They have what is called reintegration training for a couple weeks.

In the second month, there is ''block leave,'' but then they activate the headquarters. They begin recovery of equipment that was shipped.

In the third through the fifth months, they have recovery operations of their equipment. They have the requirement of bringing in newly assigned people, the typical adjustment at the top and at the bottom which requires a great deal of command supervision in terms of bringing these people and assimilating them into the units.

In the sixth month, they have individual training, crew training, team training, squad-level training, and begin platoon training. A small core of their personnel at the top actually have to deploy back to Iraq or Afghanistan for 10-day reconnaissance.

In the seventh month, they have more platoon and company-level training, and 2 to 3 weeks out of that 1 month are out in the field.

In the eighth month, they have command and control exercises. They have units beginning to report their readiness status to the Department of the Army. They do collective training, just below the battalion level. And 2 to 3 weeks, again, out of that month are in the field.

In the ninth month, they start shipping equipment, which is a 24/7 process, shipping equipment to a national training center, shipping equipment back to

theater. The 10th month, they have rehearsal exercises, brigade and battalion level. These are 3 to 4 weeks out of that one month where they—and at this point these units are approximately 75 percent full strength. So what happens then? You have a unit which is 75 percent full strength which is going to deploy, and they start bringing people in. They call it backfill. It is also predominant in the Marine Corps. They start bringing people in who have been home, in many cases, less than even the people in this unit.

The 11th month, you have the advanced party personnel leaving, packing their gear and going. You have your final personnel being selected. You go back to individual training, major equipment systems returning to the unit, inspected, packed, and shipped to theater.

The 12th month, you activate rear detachments, you assimilate your final replacements, and you deploy.

So that is the year, which is called dwell time after a 15-month deployment. Obviously, what occurs after that 12-month cycle of dwell time is another combat deployment.

So that is the situation we are addressing. That is the situation that, in my view, we need to bring the Congress in as a referee. Why? I will give you one example. When the Chief of Staff of the Army called me to tell me they were going to 15-month deployment cycles several months ago, moving from 12- to 15-month deployment cycles, I was stunned. I said: How can you do this? How can you not stand up and resist the notion that your troops are going to be deployed for 15 months with only 12 months at home? He said: Senator, I only feed the strategy; I don't make the strategy. Yet when we had General Petraeus before the Armed Services Committee and Senator NELSON of Florida asked him about this dwell-time problem, he basically said: Talk to the Chief of Staff of the Army. He is the person who gives us our people.

So when you have that kind of a situation, and this sort of activity that goes on when people are arguably out of theater, we need a result. We need a resolution. We need people who are going to stand up and say, basically, however long you have been gone, you get that much back.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I will take a minute to say to my colleagues we have several speakers lined up, and if Senators would come over and speak and also call as to whether you wish to speak and how much time, because we, I think, are close to entering into an agreement on speakers and also a time agreement so we can set a time for the vote on the Webb amendment.

Mr. President, I ask unanimous consent that following the disposition of the Webb amendment, that a side-by-side alternative to the Webb amendment be considered, which is in keeping with the agreement—well, I withdraw my request because I will wait until Senator LEVIN comes so there is no misunderstanding, except to say we do intend, after the disposition of the Webb amendment, to propose a side-by-side amendment which then we, I hope, could act on quickly because it is basically the debate we have been having. There is also the habeas amendment pending, as I understand it, and negotiations I think are still going on with regard to that issue. I hope we could get that resolved, and then we will try to nail down the number of amendments so we can address the issue of Iraq and associated amendments so we can then move forward with the rest of the DOD authorization bill.

I will very soon have conversations with Senator LEVIN, but in the meantime, if there are those on either side who wish to speak on this amendment, please make their wishes known, and the length of their statement, so we can begin to put together a unanimous consent agreement, which would then allow for a vote on the Webb amendment. I say this after having had discussions with Senator WEBB on the issue.

I wish to make one additional comment. Dr. Kissinger had a piece in the Washington Post on Sunday which I had printed in yesterday's RECORD. I also commend to my colleague an article by Frederick W. Kagan entitled ''A Web of Problems.''

Mr. MCCAIN. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I will be brief. I know there are others who wish to speak. I would like to reiterate what Senator MCCAIN and Senator WARNER have said with regard to the pending amendment. All of us have the utmost regard for the junior Senator from Virginia and his intentions with respect to this amendment, but it is also true that despite those best intentions, there would be very unfortunate consequences should his amendment be adopted. It has been well presented by a number of my colleagues as to what those consequences are. Secretary Gates himself has personally responded to the possibility of such an amendment being adopted by noting the adverse consequences for his ability and those of the military commanders to deal with the constraints that such an amendment would place on their ability to deal with individuals and units being deployed.

Part of the problem, as I understand it, is the amendment applies not just to the units of military combat but the individuals within those units because it relates to the specific amount of time those individuals spend back home either in training or at rest while they are not deployed. Part of the problem, as Secretary Gates personally related to me, is the fact that when you get ready to send a unit abroad into theater, especially for a combat mission, you want them to be not only trained together but prepared to do everything our military does in the middle of combat with a unit-cohesive approach to protecting their friends and carrying out their mission. They do this by training together and fighting together.

The concern expressed was that if you get into a situation where Congress imposes a law on the Executive, which is then binding on the military commanders about the exact amount of time that is permitted for troop rotation, that the individuals responsible for putting these units together are going to have to review each and every member within that battalion, for example, to determine whether the appropriate amount of time back home has been spent as opposed to in theater and, therefore, to the extent they do not meet the criteria, pull them out of the units so others then can be plugged in. This may be on the eve of deployment. It could be at any point. The result is you do not have the kind of unit cohesiveness you would otherwise. You have people who have been plugged into military units who should have been training with them all along, so when they go into combat, they fight as one. That could put forces at risk.

In addition to that, because you will have to draw people from other places, the concern is it could put greater strain on the Guard and on the Reserve, filling in for slots that are vacant from Active-Duty personnel. The Secretary has spoken to this, as I said. It has been well presented by Members on the floor as to what his concerns are.

The last point I would mention, and it is not a small point, is the attempt by Congress to dictate very specific terms of operational flow of individual members of our military, which is clearly not within the purview of Congress's jurisdiction. I know there has been an attempt to make an argument that the Constitution does not prohibit this. You have to stretch pretty far as a lawyer to make that argument. It is clear under the Constitution the Founders thought it would be best if the President, the Executive, be the Commander in Chief of the military forces. If anything should fall within his purview as Commander in Chief, and then within the chain of command to his military commanders, it should be the individual soldiers, sailors, airmen, and marines fighting in theater, it should be the individual—the decision of those commanders with respect to the deployment of those individuals. That is about as specific and personal as you can get with respect to a Commander in Chief's jurisdiction over these fine men and women who serve for us.

To suggest that Congress actually has the authority to override or to bind any future Commander in Chief in this

regard I think is to stretch the Constitution way beyond what the Founders thought and way beyond what makes sense. Somebody has to be in charge. You can't have all of us, as smart as we are, as ''armchair generals'' deciding all of these details of deployments with respect to the members of our military. It does not make sense. As Secretary Gates said, it could put our folks at risk. Why would we want to do anything that might put them at risk? I know this isn't the intent of the author of the amendment, but it is very clear that one of the unfortunate consequences of this is the indirect—the backdoor—influence on the amount of time we can spend in this surge.

It is probably true that as a result, were this amendment to be adopted, the way the surge is carried out, the time within which troops could be redeployed home will be adversely affected. That is an unfortunate consequence of the amendment.

So for all these reasons, I hope my colleagues will be very careful about binding future Presidents, about getting very close to the line in terms of constitutional policy—I think going over the line—and intruding into an area that could put our forces at risk. Take the concerns of the Secretary of Defense—whom I think all of us have a great deal of confidence in—take those concerns into account. Don't dismiss them. They are very real. I think he has expressed them in a most serious way.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senator from Washington be recognized for 14 minutes and then followed by the Senator from Kentucky for 12 minutes; and then I see the Senator from Montana on the floor, so the Senator from Montana for 5 minutes, followed by the Senator from Connecticut—this is going back and forth on both sides—for 14 minutes. I hope by then we will have been able to have the speakers and their times together so we could set a limit on this debate when everybody is heard.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. MCCAIN. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I thank the Senator from Arizona for helping us work through that.

More than 4½ years into this war in Iraq, our troops are stretched thin, we all know the equipment is deteriorating, and the patience of the Nation is wearing out. We have now seen 3,700 of our servicemembers die and thousands and thousands more have been injured. Month after month, our fighting men and women are pushing harder and harder and our troops are leaving their loved ones behind for months and years and putting their lives on the line without complaint. We owe them the best treatment and the best training possible. Unfortunately, the Bush administration has continually fallen short in doing that.

Our country is home to some of the finest fighting forces in the world, and we can all be very proud of that. We need our military to remain the best trained, the best equipped, and most prepared force in the world. Tragically, however, the war in Iraq and the President's use of extended deployments are now undermining our military's readiness. The current deployment schedule hampers our ability to respond to threats around the world. We know it causes servicemembers to leave the military service early. It weakens our ability to respond to disasters at home. It unfairly burdens family members and intensifies the combat stress our servicemembers experience.

We do need to rebuild our military, and the first step is giving our fighting men and women the time they need at home to prepare and train for their next mission. So that is why I am on the floor today, to speak to the readiness challenges that threaten our military strength and ultimately our Nation's security.

Two months ago, I came to the floor and spoke those very same words in my effort to support the Webb amendment—virtually the same measure we are now, this afternoon, considering. Member after Member did the same, pleading with our colleagues to join us in this most basic effort to truly support our troops. Unfortunately, even though 56 Senators voted in favor, it was blocked by the Republican Senators. Now since that time, 2 months later, more of our troops have died, more have been wounded, and more have been subjected to 15-month deployments, without hope for the same amount of time at home. Meanwhile, the administration has told us 15-month deployments will continue, and they have maintained their plan to keep 130,000 troops in Iraq.

Today we have another chance—another chance to support our troops, to support their families, and to return some common sense to our troop rotations. We need a few more courageous Senators to join us. Today I hope they will.

Sadly, our forces are being burned out. Many of our troops are on their third and even fourth tours in Iraq and Afghanistan. Months ago, the Department of Defense announced that tours would be extended from 12 months to 15 months. On top of all that, they are not receiving the necessary time at home before they are sent back to battle.

This is not the normal schedule. It is not what our troops signed up for. And we in Congress—those of us who represent these people—should not simply stand by and allow our troops to be pushed beyond their limits like this.

Traditionally, active-duty troops are deployed for 1 year and then they rest at home for 2 years. National Guard and Reserve troops are deployed for 1 year and they rest at home for 5 years. But that, as we know, is certainly not the case today. Currently, our active-duty troops are spending less time at home than they are in battle, and Guard and Reserve forces are receiving less than 3 years rest for every year in combat.

With the increasing number and length of deployments, this rest time is even more critical for our troops. Unfortunately, though, our forces are not receiving the break they need, and that increases the chances that they become burned out. But this administration has decided to go in the other direction, pushing our troops harder, extending their time abroad, and sending troops back time and again to the battlefield.

The current rotation policy not only burns out servicemembers, but it hurts our military's ability to respond to other potential threats.

For the first time in decades, the Army's ''ready brigade,'' that is intended to enter troubled spots within 72 hours, cannot do so; all of its troops are in Iraq and Afghanistan.

The limited time period between deployments also lessens the time to train for other threats. Numerous military leaders have spoken to us about this problem.

GEN James Conway said:

> . . . I think my largest concern, probably, has to do with training. When we're home for that seven, eight, or nine months, our focus is going back to Iraq. And as I mentioned in the opening statement, therefore, we're not doing amphibious training, we're not doing mountain-warfare training, we're not doing combined-armed fire maneuvers, such as would need to be the case, potentially, any other type of contingency.

Those were not my words; those were the words of GEN James Conway, who spoke before the Senate Armed Services Committee in February of this year.

GEN Barry McCaffrey said that because all ''fully combat ready'' active-duty and Reserve combat units are now deployed in Iraq and Afghanistan, ''no fully-trained national strategic Reserve brigades are now prepared to deploy to new combat operations.''

This current deployment schedule is making us less ready for other contingencies we need to be ready for. It is also making us less secure at home. The current rotation policy has left our Guard units short of manpower and supplies, and it has severely hindered their ability to respond to any kind of disaster they might face here at home.

For years, those kinds of problems were the exception, not the rule. But I fear that the balance has shifted. Recently, USA Today reported that National Guard units in 31 States say 4 years of war in Iraq and Afghanistan have left them with 60 percent or less of their authorized equipment. Last month, LTG Steven Blum said the National Guard units have 53 percent of the equipment they need to handle

State emergencies, and that number falls to 49 percent once Guard equipment needed for war, such as weapons, is factored in. In fact, Blum said:

Our problem right now is that our equipment is at an all-time low.

That is deeply concerning to a lot of us who worry about national disasters in our States. Out in the West, where I live, we face forest fires; along the gulf coast, we have seen the destruction of hurricanes this season; and in the Midwest, entire towns can be decimated by tornadoes in minutes. So we are deeply concerned about our Guard and Reserve being ready for a disaster here at home.

This problem is about more than equipment. It is about retention rates. It is about real people and real families. We all know military life can be very tough on our troops and their families. They go for months, and sometimes years, without seeing each other. Our troops—these men and women—need adequate time at home to see their newborns, to be a part of their children's lives, to spend time with their husbands or wives, and to see their parents. This current rotation policy decreases the time families are together, and that places a tremendous strain on everyone. Our troops, who are facing these early deployments and extended tours today, have spoken out. When the tour extensions and early deployments were announced, our troops themselves expressed their displeasure.

In Georgia, according to the Atlanta Journal-Constitution:

Soldiers of a Georgia Army National Guard unit were hoping to return home in April, but instead they may be spending another grueling summer in the Iraqi desert. At least 4,000 National Guard soldiers may spend up to 4 extra months in Iraq as part of President Bush's troop increase announced last month.

SGT Gary Heffner, a spokesman for the 214th, said news of the extension came as a ''little bit of a shock'' to the Georgians.

In the 1st Cavalry Division, according to the Dallas Morning News:

Eighteen months after their first Iraqi rotation, the 2nd Battalion, 5th Cavalry regiment, and the last of the Fort Hood, Texas-based 1st Cavalry Division, returned to Iraq in mid-November.

These are the words of Brandon Jones, a veteran from my State of Washington. He testified before a field hearing on mental health care that I held in Tacoma last month. He said:

In November 2003, I was called to full-time duty with the 81st Brigade. I was given very short notice that my unit was being mobilized. In that time, I had to give up my civilian job—an income loss of about $1,200 a month—and my wife had to drop out of classes at Olympic College to care for our children.

I went from living at home and seeing my children on a daily basis to living on base—just a mile from home—and visiting my children periodically. To my kids, I went from being their dad to the guy who drops by the house for a visit once in a while.

The 3 months of mobilization before my deployment were very stressful. We struggled financially. Although we reached out for help, we were told that the only financial resources available were strictly for active duty soldiers at Fort Lewis. It wasn't until we were threatened with eviction and repossession of our car that my wife was able to obtain a small amount of assistance generally reserved for active duty soldiers. Our families helped us make up the rest—about 60 percent of what we were in need of.

The stress made it difficult for my wife to keep a positive attitude, for our children to feel comfortable, and for me to concentrate on the mission ahead of me. When my wife and I reached out for marriage counseling prior to my deployment, we were made to feel that the few sessions we were given were a favor to us and that we were taking up a resource meant for active duty soldiers from the base.

Let me remind you that all of this happened before I was even deployed.

As Brandon said, that was before he was even deployed. Just imagine the sacrifice these families have made when they go through these 15-month deployments. To me, it is very clear that we need to pass the Webb amendment. We hear a lot of rhetoric on the floor about supporting our troops, but I believe this amendment is the opportunity we need to end the rhetoric and start with action.

Troops should be at home for the same amount of time as they are deployed. That seems to me like a basic commonsense requirement. I applaud our colleague from Virginia for being a champion for our troops and for crafting this bipartisan measure that he and the entire Senate can be proud of.

Our troops have sacrificed a lot. They have already gone above and beyond the call of duty. We need to institute a fair policy for the health of our troops, for the health and well-being of their families, and for our Nation's security and our ability to respond to disasters here at home. This amendment does all of those things. I urge our Senators to support this amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, the Senator from Michigan, the chairman, will be recognized to point out that we will have a side-by-side amendment, which I will be prepared to introduce soon. We also wish to move forward with speakers so we can set a time for a vote on the Webb amendment, in keeping with the wishes of the respective leaders.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I discussed this with the Senator from Arizona. I ask unanimous consent that after the current lineup of speakers, Senator BROWN be recognized for up to 10 minutes, Senator STABENOW be recognized for up to 10 minutes, and then, as the Senator from Arizona mentioned, we will try to see if in the next few minutes we are able to come up with an agreement to schedule a vote—probably, I guess, around 5 o'clock, for the convenience of Senators.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky is recognized.

Mr. BUNNING. Mr. President, I rise today to voice my strong objection to the Webb amendment. I voted against this amendment when it was offered 2 months ago, and I will vote against it again today.

I will not support this slow-bleed strategy from Iraq. It ties the hands of our commanders. I cannot remember a time in history when the Congress of the United States has dictated to our commanders on the ground how to conduct their mission to this extent.

This is an extremely dangerous amendment. The junior Senator from Virginia would like for you to believe it helps our troops and that a vote in support of his amendment is a vote to support our troops. Wrong. Nothing can be further from the truth.

This amendment would be a nightmare to execute. It says a soldier must spend 1 day at home for every day the soldier is deployed. That may sound reasonable on its face, but anyone who knows how the military plans its missions knows it will be a logistical roadblock for our military planners.

The problem is when a unit returns from a deployment, its personnel are often reassigned to other units and other assignments. Divisions, brigades, battalions, and units don't stay together forever. In a military of millions of people, there are a lot of people reassigned each day.

This amendment would essentially require the Army and Marine Corps staff to keep track of how long each service man or woman has spent in Iraq or Afghanistan, how long they have been at home, how long their unit was deployed, and how long it was home. This is absurd. This would mean pulling soldiers out of units scheduled to deploy if the servicemembers did not have enough dwell time.

This breaks up leadership and soldier teams, the formations of which are the purpose of the Army and Marine training system. Requiring the President to issue a certification to Congress to waive this requirement for every individual servicemember who might be affected by this is even more absurd.

This amendment takes tools and flexibility away from our commanders on the ground, such as General Petraeus. That is why it is being offered today.

Commanders make estimates about the forces they need based on assumptions about current and future threats. If a commander in Iraq or Afghanistan concludes that some event might require the deployment of additional forces to his theater, this amendment would restrict the units and personnel that could be sent.

The junior Senator from Virginia claims to be concerned for the welfare of our troops. Not one Member of this body is opposed to troops getting rest after a long deployment. But we need to be equally concerned about the dangers our soldiers face when they do not

have the necessary resources and reinforcements available to do their mission. This is the true purpose of this amendment. It cripples the ability of Secretary Gates, General Petraeus, and our other commanders on the ground to accomplish their mission and forces a drawdown of our troops in Iraq and Afghanistan.

I will not support this strategy out of Iraq. It puts troops in harm's way, restricting the resources and reserves they need to successfully accomplish their mission.

This is not supporting our troops. It is wrong to cloak a troop pullout amendment in language that relates to troop rest, but that is exactly what this amendment does.

This week I had the pleasure of visiting with two brave Kentuckians who recently served in Iraq. They came to me directly to ask me to vote against the Webb amendment. These Kentuckians know the sacrifices their fellow soldiers and families make. They know and understand the importance of rest back home. They know the strains of war. They have experienced the heat of Iraq and the tragedy of knowing that some of their fellow soldiers never made it home.

But these two Kentuckians also know the intent of this amendment. They know why it was offered, and they do not want to tie the hands of the military so we are forced to leave Iraq and Afghanistan before the mission is completed. That is why they came from Lawrenceburg, KY, and Hebron, KY, to ask me to oppose the Webb amendment.

It is not Congress's role to mandate individual soldiers and unit deployments. I know the Democrats like to try to micromanage the war, but I am not the Commander in Chief and neither are any of my colleagues across the aisle. I want to remind everyone in this body of this fact.

If you want to truly support our troops, then vote against the Webb amendment. It was defeated 2 months ago on the Senate floor, and I can only hope it will be defeated again today.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. TESTER. Mr. President, I rise in support of the Webb amendment. I am pleased to be a cosponsor of this amendment. Much has been made about this amendment and the well-being of our troops and their families. Make no mistake, this amendment is about ensuring that we do not do permanent damage to the military's most valuable asset—its people.

Congress must make the health and well-being of our men and women overseas a priority. We know multiple deployments with short periods of rest back home raise the incidence of PTSD. Studies have shown that the likelihood of a soldier being diagnosed with PTSD rises by 50 percent when he or she is on a second or third deployment.

We know multiple deployments are causing a massive strain on our junior officer corps. Earlier this year, the Army's Deputy Chief of Staff told Congress these officers are getting out of the Army at nearly double the rate that the Army says is acceptable. That is why until this war, we have always given our active-duty soldiers a ratio of 2 days at home for every day in combat, and we have always given the National Guard and Reserve 5 days at home for every day in combat. That has been the standard until this war.

That is why the National Military Families Association supports this amendment. That is why the Military Officers Association of America supports this amendment. The Military Officers Association says:

> If we are not better stewards of our troops and their families . . . we will be putting the all-volunteer force at unacceptable risk.

I urge my colleagues to listen to what our officers and their families are saying through their support of the Webb amendment.

As my colleagues know, I am a farmer; I am not a military expert. But I believe and the people of my State believe in no uncertain measure that we need to continue to have the strongest military in the world, not only today, not only 6 months from now, but 6 years from now as well.

The good news is we have a strong military. I represent 3,500 Air Force personnel, more than 300 of whom are serving in Iraq and other places around the world today. I represent another 3,600 Guardsmen, many of whom have spent a tour or two in Iraq. I can tell my colleagues that these people are the best in the world at what they do, and I am proud to represent them.

But the bad news is what I am hearing is we are in danger of losing too many young leaders in our military today who are leading a platoon but whom we will be relying on to lead brigades and entire divisions in the future.

I know some people on both sides of the aisle have raised the question of how this measure will impact the schedule for the surge General Petraeus has outlined. The fact is, even if this amendment becomes law, the Pentagon would still have another 4 months to prepare for the change in policy, and if there is a national emergency, there is an opportunity for even more time. The fact is, this amendment will have a much greater impact on tomorrow's military than it will impact on the military surge.

I believe we need the Webb amendment to ensure that we maintain a strong military today, tomorrow, and for years to come.

I congratulate Senator WEBB for this amendment. This has been a good debate. For the most part, it has been thoughtful and respectful. There have been differences of opinion, but it is time to allow this measure to have an honest vote before the Senate. Let's not simply debate whether to debate this amendment. Let's have an up-or-down vote on the measure. Our troops, their families, and the American people deserve nothing less.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SANDERS). The Senator from Connecticut has 14 minutes.

Mr. LIEBERMAN. Mr. President, I rise to respectfully speak against the amendment offered by my colleague from Virginia.

Let me put this in context, as I see it. One week ago, the commander of our military forces in Iraq and our top diplomat in Baghdad returned to Washington to address the Members of this Congress. What General Petraeus and Ambassador Crocker offered us last week was not hype or hyperbole but the facts. They offered us the facts. What we heard from them was reality—hard evidence of the progress we have at last begun to achieve over the past 8 months—progress against al-Qaida, progress against sectarian violence, progress in standing up the Iraqi Army, progress that all but the most stubborn of ideological or partisan opponents now acknowledge is happening.

What we also heard from General Petraeus last week was a plan for the transition of our mission in Iraq which he has developed, together with our military commanders on the ground, that builds on facts on the ground, not on opinions over here, that builds on the successes our troops have achieved on the ground which will allow tens of thousands of American troops to begin to return home from Iraq starting this month.

So the question now before the Senate is not whether to start bringing some of our troops home. Everyone agrees with that point. Beginning this month, some of our troops will be coming home. The question before the Senate now is whether we are going to listen to the recommendations of our commanders and diplomats in Iraq, or instead whether we will reject them and try to derail the plan they have carefully developed and implemented and that is working. The question is whether we build on the success of the surge and the strategy of success led by General Petraeus, or instead whether we impose a congressional formula for retreat and failure.

I believe the choice is clear because we have too much at stake for our national security, our national values, and most particularly, of course, freedom is on the line and the outcome in Iraq. Are the victors going to be the Iraqis with our support and the hope of freedom and a better future for them or are the victors going to be al-Qaida and Iran and Iranian-backed terrorists? That is the choice. It is in that context that I believe the Webb amendment is a step in precisely the wrong direction. That is its effect.

The sponsors of the amendment say they are trying to relieve the burden on our men and women in uniform. I, of course, take them at their word. They

have an honorable goal that all of us in this Chamber share. It is not, however, what the real-world consequences of this amendment will be.

On the contrary, Secretary of Defense Bob Gates has warned us in the most explicit terms that this amendment, if enacted, would have precisely the opposite effect that its sponsors say they desire. It would create less security, more pressure on more soldiers and their families than exists now.

As many of my colleagues know, Secretary Gates is a man who chooses his words carefully. He is a former member of the Iraq Study Group. He is a strong believer in the need for bipartisan consensus and cooperation when it comes to America's national security, particularly in Iraq and Afghanistan. He does not practice the politics of polarization or partisan spin. So when he tells us this amendment would do more harm than good, so much harm, in fact, that he, as Secretary of Defense, would feel obliged to recommend to the President that if this amendment is adopted, the President veto the entire underlying Department of Defense authorization bill, well, then, when Bob Gates, Secretary of Defense, says that, I think we have a responsibility to listen and to listen to his words very carefully.

The reason for Secretary Gates' opposition to this amendment is not political, it is practical. As he explained in a letter to Senator GRAHAM of South Carolina earlier this week, the Webb amendment ''would significantly increase the risk to our servicemembers''—significantly increase, not decrease, the risk to our servicemembers—and ''lead to a return to unpredictable tour lengths and home state periods and home station periods.'' Exactly the opposite of the intention of the amendment.

By injecting rigid inflexibility into the military planning process, this amendment would force the Pentagon to elevate one policy—the amount of time individual members of the military spend at home—above all other considerations, above the safety and security of those same soldiers and their colleagues when they are deployed abroad, above the impact of implementing that policy would have on our prospects for success in Iraq and all that means to our country and, I add, to our soldiers. Secretary Gates also described a range of grim consequences that would result if this amendment is adopted.

To begin with, it would likely force the Pentagon to extend the deployments of units that are already in Iraq and Afghanistan beyond their scheduled rotations. So some of those units which are now scheduled to be there for 15 months might have to be extended beyond that because of the provision in this amendment that says you have to have an equal amount of time at home as deployed. Why? Because there aren't enough capable units to replace them that meet the inflexible requirements imposed by this amendment.

Far from relieving the burden on our brave troops in battle deployed overseas, this amendment would actually add to their burdens and keep our soldiers away from their families, certainly a goodly number of them, for even longer. It would also mean more frequent and broader callups of our National Guard and Reserve units, pulling forces into the fight that would otherwise be able to remain at home.

In other cases, this amendment will require the Pentagon to deploy units trained for one mission to go fight another mission, not because it makes military sense to do so but because they are the only ones left that meet this amendment's inflexible dwell-time rule. In plain English, we are going to be forced by this amendment to send less-capable units into combat.

In addition to imposing greater dangers thereby on our individual service men and women, this amendment would also have other baneful effects on our national security. At a time when our military is stretched and performing brilliantly, it would further shrink the pool of units and personnel available to respond to events, crises, not just in Iraq and Afghanistan but around the world. In doing so, this amendment—and again I quote Secretary Gates—''would dramatically limit the Nation's ability to respond to other national security needs while we remain engaged in Iraq or Afghanistan.'' Is that what any one of us desire? Is that what the men and women who serve us in uniform desire? No.

All of us recognize the extraordinary services our troops are giving our country and the burden that places on their family in this time of war. All of us want to do something to help relieve the burden they bear. But the answer is not to impose a legislative straitjacket on our men and women in uniform. The answer is not to impose an inflexible one-size-fits-all rule that will endanger their safety and hobble our military's ability to respond to worldwide threats. The answer is not, in our frustration, to throw an enormous wrench into the existing, well-functioning personnel system of the U.S. military. The answer is most definitely not to make it harder for us to succeed in Iraq.

I know there has been some disagreement among the supporters of this amendment about whether it is intended to be a backdoor way to accelerate the drawdown of our troops from Iraq, for which there is not adequate support in this Senate Chamber, fortunately, and thus discard the recommendations of General Petraeus and, if I may say so, put us on a course for failure instead of the course of success we are on now. My friend, the Senate majority leader, said he does not see this as a backdoor way to accelerate the drawdown. On the other hand, Congressman MURTHA said that is exactly what it is supposed to do and he hopes it will do.

The fact is many in this Chamber have argued honestly and openly for months that General Petraeus and his troops were failing to make meaningful progress in Iraq and that Congress should, therefore, order them to begin to withdraw. That could be done by cutting off funding or mandating a congressional deadline for withdrawal.

I have argued against those recommendations, as my colleagues know. But I must say I respect the fact that those arguments by opponents of the war accept the consequences of their beliefs, and they are real and direct. Those in the Chamber who want to reject the Petraeus recommendations and his report of progress and impose on him their own schemes for the withdrawal of our troops from Iraq, I think ought to do it in the most direct way, rather than any attempt to derail this now successful war plan by indirection.

The fact is, regardless of the intention of its sponsors, the Webb amendment, if enacted, will not result in a faster drawdown of U.S. troops from Iraq. The fact is the Commander in Chief and the military commander in Iraq are committed to the success of this mission. On the contrary, therefore, it would only make it harder for those troops, along with their brothers and sisters in uniform in Afghanistan, to complete their mission successfully, safely, and return home but to return home with honor to their families and their neighbors.

Yesterday, a couple of Connecticut veterans from the Iraq war were in town and came to see me. At the end of a good discussion, in which they did urge me to vote against the Webb amendment, one of them said to me: Senator, we want to win in Iraq, and we know we can win. I said to them: Thanks to your bravery and skill—and now a good plan—and with the help of God, you are going to win, so long as the American people and their representatives in Congress don't lose their will. That victory will not only secure a better future for the people of Iraq and more stability and an opportunity for a course in the Middle East that is not determined by the fanatics, the haters, the suicide bombers of al-Qaida and Iranian-backed terrorism but is determined by the people themselves who pray every day and yearn every day for a better future.

I will say something else. There are different ways to burden men and women in uniform. One is the stress of combat, another is to force them into a position where they fail. I have had many conversations with soldiers from Connecticut and elsewhere who have served in Iraq, and I have had the conversations in Iraq and here. I don't want to mislead my colleagues in what I am about to report. I don't get this in 100 percent of those conversations, but in an overwhelming number of those conversations, they are proud of what they are doing, they believe in their mission, they believe they are part of a battle that can help make the future of

their families and our country more secure. They are proud. They are reenlisting at remarkable numbers. That is the best indicator of this attitude.

If you want to burden them and their families in a way we can never quite make up for, then take us from the road of success, leading to the road of victory, and force us directly, force them directly or indirectly, to a retreat and defeat. That can break the will of an army. We don't have to do it, we must not do it, and I believe this Senate will not allow this to happen. I, therefore, urge my colleagues to vote against the Webb amendment.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 10 minutes.

Mr. BROWN. I thank the Chair, and I thank Senator WEBB for his leadership on this important issue as I rise in support of the Webb amendment.

This amendment, first and foremost, is about supporting our troops. It is about supporting the military families. Every Member of this body, some even more than others, talk about their support for our troops. Many put the yellow ribbon magnets on their cars, many wear other kinds of clothing to show their support for the troops. They talk about it at home, they talk about it here. This vote will put that support for our troops into action.

This amendment ensures that our military gets the rest at home they deserve; that our military readiness gets the support it needs. This amendment will ensure that our National Guardsmen will stay at home for at least 3 years after returning from deployment, the men and women of the Guard who leave businesses, jobs, and families on hold while bravely serving our Nation.

The current Iraq policy is overextending our troops and placing unacceptable burdens on families back home, with spouses often acting as single parents, doing their very best, in sometimes worse economic times, to keep their families together.

I have met with these families for 4 years, going back as early as 2003, soon after tens of thousands of American troops were deployed in Iraq. They would talk frequently about the shortage of body armor. They talked frequently about the shortage of bottled water, about hygiene products, and all kinds of things our troops needed as our Government rushed into war in 2003 without adequately supplying them. Families would raise money at events to provide the body armor and to send bottled water and hygiene products or whatever their loved ones needed in Iraq.

Our Government didn't do what it should have done back then because of the poor civilian leadership and its lack of preparation for this war in Iraq. I heard comments over and over about the difficulty of adjusting, as those troops came back home, due to the lack of foresight and the lack of planning on the part of the civilian leadership of our military.

Our Armed Forces have served bravely and honorably again and again, deployment after deployment, often without, as I said, the proper body armor, proper vehicle protection, proper training, and dwell time between deployments. We fought in this body and in the House for more body armor, we fought for more MRAPS, the triangular-bottomed vehicles. We shouldn't have to fight to allow our soldiers the proper amount of time between deployments.

The requirement in this amendment for dwell time is something the military has voluntarily done for decades because they know that serves the troops well, they know it serves the families well, and they know principally it serves the military well to have that dwell time between deployments. The 1-to-1 standard in the Webb amendment is actually below the historic standard of the Department of Defense for dwell time. We could do even better than this.

We can debate about our role in Iraq's civil war, we can debate timelines for ending our involvement, we can debate how much money we should spend in Iraq, but we shouldn't need to debate how much rest, preparation, and training our troops get before they go back off to war. Everyone in this Chamber talks about supporting our troops, even as our President failed to provide body armor and MRAPs, failed to provide support and supplies, and even as our President has failed to provide enough money for medical care for the Veterans' Administration for when our troops return home. Everyone in this Chamber talks about supporting our troops, but this amendment puts the soldiers and their families first.

They have done their job. It is time we do ours.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 10 minutes.

Ms. STABENOW. Mr. President, I wish to thank my colleague from Michigan, whom we are so proud of, for all his efforts in supporting our troops and leading our efforts as it relates to the defense of our country and for once again leading this very important bill on the Defense reauthorization.

It is time to put aside for a brief moment the overall debate of the war and focus on the troops. Regardless of whether you supported going into Iraq or, as I did, voted no on going into that war, we come together and we hear frequently from colleagues on both sides of the aisle that, of course, we support our troops. We want what is best for the brave men and women who are fighting in harm's way, who didn't take that vote and didn't decide the policy but who are, in fact, stepping up to defend that policy and defend our country.

The question is, What is best for the troops on the ground right now, in the middle of these conflicts that have gone on now for over 4½ years? We are here today to talk about what is best for our military, our troops, and for their families.

We are not here to debate the merits of the mission. I certainly am willing to do that and do that with other amendments. But this particular amendment, the amendment of Senator WEBB, is an effort to determine what makes sense when it comes to deploying our armed services, what is best for those who have been willing to put their lives on the line for our country, who follow the leadership of the Department of Defense and operate under the policies that have been set by this Congress and this President.

What is very clear is that the current system is broken for our troops. We are forcing our troops into longer and longer combat deployments and giving them shorter and shorter rest periods. We are demanding multiple combat deployments over very short periods, with many units on their second, their third, or even their fourth redeployment in the war in Iraq. We are denying the men and women who put their lives on the line for America the time they need off from the front lines to recuperate, to retrain, to prepare themselves physically and mentally to return to combat and, just as important, to spend time with their families, to be able to reconnect with the loved ones they have left behind when they have gone into this war.

We are placing an unfair and unreasonable burden on those military families, families who are willing to sacrifice, who have sacrificed; families who count on us to be there for them, representing their interests and the interests of their loved ones who are on the front lines. They are doing all of it in the name of a policy that the military itself has indicated is not only unreasonable but unsafe. The Department of Defense itself has said that the conditions under which they are operating have been unreasonable and unsafe.

Historically, the Department of Defense, as has been said, has mandated a combat-to-rest ratio of 1 to 2—1 month on, 2 months off as an example; 1 year in combat, 2 years at home—to rest, retrain, and prepare for the next deployment. In fact, the historic 1-to-2 ratio is currently the stated policy of the DOD. We are hearing from colleagues on the other side of the aisle as if this is some outrageous idea, that we put some parameters around the deployment and redeployment of our troops. Yet it is the stated policy of the Department of Defense: 1 month or 1 year on, 2 months or 2 years here at home.

The Webb amendment merely sets a 1-to-1 ratio, a floor that only gets us halfway to the standard the Department of Defense itself has called for. The policies pursued by this administration have stretched our men and women in uniform to the breaking point. Our Armed Forces are getting the job done under the most extreme

and trying conditions imaginable. Most of us have had an opportunity, firsthand, to see them in action, to see what they are doing and the conditions under which they are operating. They are getting the job done. No one is surprised because we have the best and the brightest, but they are under extreme and trying conditions. They face an enemy who often cannot be identified. They face an environment that is harsh and hot and unbearable. They do their jobs with pride, with honor, with dignity, and most certainly with excellence.

The current deployment schedule places an unfair burden not only on our soldiers and sailors and airmen and marines but on the families they leave behind. Military families have, in their own way, been called to serve this country, been called to sacrifice. They demand our respect and support for the sacrifices they are making. What we are currently asking of them is simply unreasonable. When our troops go into combat, the people they leave behind shoulder the burden of keeping the family together while mom or dad—mother, father, sister, brother—is fighting in service to their country. They are left to face not only the practical problems that come with having a family member gone for long stretches of time but also the constant uncertainty and stress of simply not knowing what is happening to their loved one. Are they safe? Will they come home safely? Our troops and their families have done everything we have asked of them. They have been there for America. And now the answer to the question must be that we will be there for them.

The young Americans who volunteer to put on the uniform and fight for our country are truly our best. They are the best-trained, the best-equipped, the bravest fighting forces in the world, and they are one of the Nation's most valuable assets and greatest resources. Current administration policy is abusing their willingness and desire to serve. This has to stop. By straining and stretching our military, we are undercutting our own national security. We are compromising everything we have done to build up a force that can defend America and properly respond to the dangers we face in today's uncertain world.

Senator WEBB has crafted an amendment that addresses the concerns of our military leaders. It includes reasonable waivers in the face of unexpected threats to America. It includes a transition window that will allow a shift in the deployment schedule without a disruption of our fighting forces. We have worked with the military to develop a policy that makes sense. I commend Senator WEBB for his foresight and his willingness to work with the Secretary of Defense and others to make the changes, to make this even more workable. We compromised where it makes sense to strengthen the legislation, but we will not compromise on the safety of our troops or on the support for their families.

This amendment is not about where we stand on the war. It is not about partisan politics. It is about doing the right thing for our troops and for their families. I urge my colleagues to stand up and vote for the Webb amendment. Stand with the people we have sent to war and their families waiting at home, and stand with all Americans who want us to have the right kind of policy to support our troops and to keep us safe for the future.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CARDIN. 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. CARDIN. Mr. President, I take this time first to thank Senator WEBB for bringing forward his amendment that I strongly support. I believe it is in the best interests of our troops, their families, our military readiness, and the proper deployment of our troops.

I also thank Senator LEVIN and Senator REID for their efforts in allowing us the opportunity to try to change our mission in Iraq. I believe it is not only in the best interest of the United States to do that but also the Iraqi people.

I also compliment Senator BIDEN for his efforts to bring forward an amendment that would give us a more realistic and achievable political game plan in Iraq. As has been recently reported, the Iraqi Government is dysfunctional, and the only way we are going to be successful in Iraq is if we can have a political solution to their problems.

On September 3, 2007, President Bush told troops at Al-Asad Air Base that the troop buildup has strengthened security—and that the military successes are ''paving the way for the political reconciliation and economic progress'' in Iraq. ''When Iraqis feel safe in their own homes and neighborhoods,'' said President Bush, ''they can focus their efforts on building a stable, civil society.''

I believe that the last part of that statement, when an Iraqi can walk into the street without fear of being attacked, blown up, or bribed, of having family harmed, his house or his business taken, when he is confident that his children will have enough food and water and be able to attend school in peace, he will be able to focus on building a more stable civil society.

But what I don't see is any independent evidence that the increased U.S. troop presence has, as promised, led to greater civilian security, let alone paved the way for political and economic success.

The 2007 emergency supplemental appropriations bill required President Bush to report to Congress and the American people in July and September on the progress Iraqis are making toward achieving certain critical benchmarks put forward by the Iraqi Government and affirmed by President Bush in his January ''New Way Forward'' speech. These were not benchmarks established by Congress. These were benchmarks established by the Iraqis, in this legislation. That same legislation asked the independent Government Accountability Office to undertake the same investigation and chartered the Independent Commission on the Security Forces of Iraq to investigate the progress those institutions are making toward independence. We now have each of those reports.

Not even President Bush claims that substantial progress toward political or economic benchmarks has occurred. As reported by his administration in July and September there has been little progress on debaathification reform, oil revenue sharing, provincial elections, or amnesty laws.

The GAO reports that the Iraqi Government has met only ⅛ of the legislative benchmarks. The rights of minority party political parties in the Iraqi legislature are protected, though the same is not true for the Iraqi population whose ''rights are often violated.''

Any prospects for further progress toward these goals have been dashed by the withdrawal of 15 of the 37 members of the Iraqi cabinet. The Congressional Research Service reported that the boycott has left ''the Iraqi Government in essential collapse.''

That is another reason why we need The Biden amendment, and more important, for us to move forward implementing a new strategy in Iraq.

Just as important, there is no independent evidence that increased troop presence has created the security necessary to foster future political and economic progress in Iraq.

The GAO reports that it is not clear whether sectarian violence has been reduced and that the average number of daily attacks aqainst civilians has remained about the same.

The August National Intelligence Estimate reports that the level of overall violence in Iraq, including attacks on and casualties among civilians, remains high and will remain high over the next 6 to 12 months.

According to figures compiled by the Associated Press, Iraqis are suffering double the number of war-related deaths throughout the country compared to this time last year.

In an August op-ed, seven non-commissioned officers wrote:

[T]he most important front in the counterinsurgency, improving basic social and economic conditions, is the one on which we have failed most miserably. . . . Cities lack regular electricity, telephone services and sanitation. . . .

In a lawless environment where men with guns rule the streets, engaging in the banalities of life has become a death-defying act. . . . When the primary preoccupation of average Iraqis is when and how they are likely

to be killed, we can hardly feel smug as we hand out care packages. As an Iraqi man told us a few days ago with deep resignation, ''We need security, not free food.''

Even if we assume a decline in violence, in certain regions in Iraq it is far from clear that increased U.S. troops are responsible. There are over 2 million refugees that have fled Iraq.

Internally displace persons are estimated at 2 million and are increasing by 80,000 to 100,000 each month. At that rate, Washington, DC would be empty by March.

The United Nations High Commissioner for Refugees found that 63 percent of those displaced moved because of threats to their security. Sixty-nine percent left homes in Baghdad. Baghdad is undergoing sectarian cleansing. If the death toll in a Sunni district falls because its residents have fled, the resulting reduction in violence is not attributable to increased troops, and that kind of development is not ''progress.''

The bottom line: the GAO report found the Iraqi Government has not eliminated militia control over local security or political intervention in military operations. It has not ensured evenhanded enforcement of the law or increased the number of army units capable of independent operations.

Are Iraqis more secure? For me, the 100,000 people fleeing their homes each month in fear for their safety answer the question. The truth, as everyone acknowledges, is that the security that Iraqi man wanted instead of free food will only come with political reconciliation.

Those same seven NOC's explained that:

> political reconciliation in Iraq will occur, but not at our insistence or in ways that meet our benchmarks. It will happen on Iraqi terms. . . .
>
> [I]t would be prudent for us to increasingly let Iraqis take center stage in all matters, to come up with a nuanced policy in which we assist them from the margins but let them resolve their differences as they see fit.

President Bush predicted that increased U.S. troop levels taking a more visible—rather than marginal—role would stabilize the country so that its national leaders could reach political agreement. They would enable us to accelerate training initiatives so that Iraqi army and police force could assume control of all security in the country by November 2007. President Bush sent over 28,000 more soldiers into Iraq to fulfill these goals.

The reports before us in September, like the reports before us in July, show us that President Bush's troop escalation is ineffective. It has failed to make Iraq more secure, failed to stem the civil war going on in Iraq, and failed to lead to political reconciliation. That failure was clear when I last came to the floor to discuss this issue in July, and it is clear today.

Since July, 150 more American soldiers have died; nearly 5,000 more have been wounded. My home State of Maryland has lost three more of its bravest citizens. One of those seven NOC's, whose wisdom and insight I have quoted at length, was shot through the head and, just last week, two others were killed. Every month in 2007 has seen more U.S. military casualties over the same month in 2006.

Six years after 9/11, our policy in Iraq has distracted us from confronting the weaknesses those attacks revealed. Terrorist attacks around the world continue to rise. No progress has been made on the Arab-Israeli conflict. Our military might has been stretched thin.

The most recent intelligence analysis reports that al Qaeda in Afghanistan and Pakistan is stronger now than at any other time since September 11, 2001. Iran is as dangerous as ever.

Thomas H. Kean and Lee H. Hamilton, cochairs of the 9/11 Commission, wrote that ''we face a rising tide of radicalization and rage in the Muslim world—a trend in which our own actions have contributed.'' Last week, Senator Warner asked General Petreaus whether continuing the strategy the general laid before Congress would make our country safer. General Petreaus responded, ''Sir, I don't know actually.''

He didn't know because he has been ''focused on . . . how to accomplish the mission of the Multi-national Force in Iraq.'' That is what he should be focused on. That is his job. But the people focused on our Nation's safety and our overall strategy in the Middle East agree with Kean and Hamilton.

Admiral Fallon, chief of the U.S. Central Command, which oversees Middle East operations, has argued for accepting more risks in Iraq in order to have the necessary forces available to confront other potential threats. The Joint Chiefs have been sympathetic to Admiral Fallon's view.

In order to bolster our military and refocus attention on the global terrorist threat, this Congress has attempted to change the mission of our operation in Iraq. But President Bush and a minority in Congress have rebuffed the effort.

We cannot wait any longer to change the mission in Iraq. The cost of further delay in lives, matériel, treasure, and our standing in the world is too great. President Bush's strategy has put this Nation at greater risk—a risk that metastasizes each day that we sit by and wait.

A new policy starts by removing our troops from the middle of a civil war and giving them a more realistic mission: counterterrorism, training, and force and border protection.

The Independent Commission on the Security Forces of Iraq, chaired by retired GEN James L. Jones, and composed of prominent senior retired military officers and chiefs of police, suggests that:

> Coalition forces begin to be adjusted, realigned, and re-tasked . . . to better ensure territorial defense . . . concentrating on the eastern and western borders and the active defense of the critical infrastructures essential to Iraq.

The Commission also emphasized the importance of transferring responsibility to Iraqis, noting the ''fine line between assistance and dependence.'' Iraqi citizens turn to our military for protection and the basic services the government has failed to provide. We want Iraqis to become loyal to their government, not to the local U.S. military commander.

We must begin to extricate ourselves and hand responsibility to the Iraqis themselves.

As the bipartisan Iraq Study Group noted, ''There is no action the American military can take that, by itself, can bring about success in Iraq.'' But any effort must include stepped-up diplomacy—a ''diplomatic surge,'' if you will. Iraq's neighbors have a stake in Iraq's stability. The war in Iraq means the spread of fundamentalist insurrection and sectarian violence, and an increase in basic crime and lawlessness, and not just in Iraq.

We must begin to have a broader diplomatic and economic vision in the Middle East. Currently, all of Iraq's neighbors are involved in the conflict, but they operate under the table. Iran supports the Shiite militias. Saudi Arabia supports the Sunni militias. Turkey plays a role in the North, Syria exerts control over Iraq's western border.

The United States engaged all of Afghanistan's neighbors at the highest levels and secured their cooperation at the beginning of that conflict. We must engage in that same high level effort with Iraq's neighbors no matter how much we wish circumstances or the current balance of power in the region were different.

We need our Nation's most senior officials engaged in bringing other nations and international entities such as the United Nations and the Organization for Security and Cooperation in Europe to the table.

The various agencies of the United Nations are well-suited to tackle matters of economic and community development and providing electricity, water, and sanitation service. OSCE could assist Iraq with collective border security, police training, and immigration and religious tolerance efforts.

A change of mission, an increased diplomatic effort, and a movement to engage international entities presents the best chance of helping the Iraqis build a government that has their confidence and would strengthen our own national security and military readiness.

The world has an interest in a safe and secure Iraq. We can no longer ignore the overwhelming evidence or recoil from the cold reality the facts on the ground reveal. It is time to change the mission, step up our diplomatic efforts with a realistic and workable game plan, recognize the limits of deployment of our troops and internationalize the effort to bring stability to the country and to the Middle East.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WEBB. Mr. President, I wish to take the opportunity, since it looks as if there are no other Senators who wish to speak at this moment, to clarify a few items in this amendment with respect to some of the criticisms that have been leveled against it.

Again, let me emphasize, this is a minimum amendment. It wants to make a small adjustment to our operational policy that is needed because of these continuous rotations that have been going on for the last 4½ years.

With respect to the constitutionality issue which has been mentioned a number of times, my staff has put together a fact sheet, which I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. WEBB. I have mentioned many times the situation in Korea during the Korean War, where the Congress passed legislation to provide that every person inducted into the military would receive full and adequate training for a period of not less than 4 months, and that no personnel during that 4-month period would be assigned duty overseas. This was the Congress stepping in to correct a situation that had been created by the executive branch in sending people to Korea before they were trained.

In 1940, the Selective Training and Service Act stipulated that people inducted into the land forces of the United States would not be sent beyond the limits of the Western Hemisphere, except in U.S. territories.

The Congress acted in similar ways multiple times prior to World War II. In 1915, the Army Appropriations Act restricted Army tours of duty in the Philippines to 2 years, and tours in the Canal Zone to 3 years. There are a number of other examples here. This is a matter that is clearly within the constitutional prerogative of the Congress should it choose to act.

There was a comment earlier by the junior Senator from Arizona regarding Secretary Gates's concern about the strain on the Guard and Reserve if this amendment were to pass. Again, let me reiterate that this amendment addresses the Guard and Reserve. It specifically states that National Guard and Reserve units that have been deployed will not be redeployed for a period of 3 years. This is not going to result in a greater strain on the Guard and Reserve if this amendment passes.

There was also some comment about individuals being difficult to manage if the amendment were passed, because we do single out in this amendment that not only units being deployed should be protected, but also individuals. The reason that language was inserted into this amendment is because there is a common practice now to backfill individuals who may have returned from a tour of duty much more recently than the unit they have been assigned to.

At the same time, we do have this goal, a laudable goal, of having units train together and then deploy together. But even under today's circumstances—for instance, in the data sheet that Lieutenant Colonel Martinez has put together for us—and I have heard this from many people, that even by month 10, on a 12-month dwell time back here, the units are still putting people together.

So you want them to train together, but it is a fallacy to say they have been training for this entire period before they are deployed. Most importantly, this is not difficult to manage. Everyone in the U.S. military has a service record book of some sort, and in that record book, there are indications of when they have served overseas. In today's computer age, it is not very difficult to figure out who has come back and what period of time. Units are tagged to deploy at least 6 months before they deploy. So you know who in your unit has recently been returned and who has not. It is not a difficult problem to fix.

I wanted to make these clarifications.

EXHIBIT 1

FACT SHEET: CONSTITUTIONALITY OF SENATOR WEBB'S BIPARTISAN DWELL-TIME AMENDMENT

(1) There is clear constitutional authority and extensive legislative precedent for Congress to impose minimum periods between operational deployments. As then-Acting Secretary of the Army Geren stated during his confirmation hearing before the Senate Committee on Armed Forces earlier this year, ''Article I of the Constitution makes Congress and the Army full partners.''

(2) Among the many congressional authorities the Constitution delineates with regard to the armed forces and the nation's common defense, Article I, Section 8 empowers Congress ''to make rules for the government and regulation of the land and naval forces.'' The Congress has exercised this authority to regulate land and naval forces many times with regard to military training and operational assignments. The most noteworthy example occurred during the height of the Korean War, when Congress passed legislation to require all service members to receive no less than 120 days of training before being assigned overseas.

(a) Despite pressing wartime exigencies in Korea, Congress amended the Selective Service Act in 1951 to provide that every person inducted into the Armed Forces would receive ''full and adequate training'' for a period not less than 4 months and no personnel, during this 4-month period, would be assigned for duty at a land installation located outside the United States, its territories, or possessions.

(b) This Korean-War legislation had as its precedent similar congressional action before and after World War II. In 1940, for example, the Selective Training and Service Act stipulated that persons inducted into the land forces of the United States under the Act would not be employed beyond the limits of the Western Hemisphere, except in U.S. territories and possessions. In 1948, the Selective Service Act provided that 18- and 19-year-old enlistees for 1-year tours could not be assigned to land bases outside the continental United States.

(c) Congress acted in similar ways multiple times prior to World War II. In 1915, for example, the Army Appropriations Act restricted Army tours of duty in the Philippines to 2 years and tours in the Canal Zone to 3 years—unless the service member requested otherwise or in cases of insurrection or actual or threatened hostilities.

(d) Congress has continued to exercise its constitutional authority to pass laws to govern and regulate the armed forces. In 1956, a public law prohibited the assignment of female service members to duty on combat aircraft and all vessels of the Navy. Congress subsequently saw the wisdom of repealing this legislation.

(e) Later, during the 1980s and 1990s, Congress invoked the War Powers Resolution in the ''Multinational Force in Lebanon Resolution'' to authorize Marines to remain in Lebanon for 18 months. In 1993, the House used a section of the War Powers Resolution to stipulate that U.S. forces should be withdrawn from Somalia by March 1994. Congress also prohibited the expenditure of funds to support personnel end-strength levels above specific limits in NATO countries and other nations outside the United States during the post-Cold War era of the 1990s. Other examples also exist.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, we hope to be able in the next few moments, perhaps after Senator MARTINEZ has gone, to enter into a unanimous consent agreement which would hopefully schedule votes on both the Webb amendment and on the McCain amendment. We expect those votes would begin at approximately 5:15. We do not have a unanimous consent locked in yet, but we do expect, perhaps after Senator MARTINEZ has completed, to be able to offer a unanimous consent agreement.

Mr. MCCAIN. Mr. President, I mention to my friend, I think by 4:40 we would know for sure. That is when the meeting the principals are in now is over. But we fully anticipate that at 5:15 a vote would be agreed to.

If there are other Senators who want to speak between now and about 5:00, please come down and do so. But my understanding is that this agreement is, following the Webb amendment vote, there would be 10 minutes equally divided and a vote after that.

Mr. LEVIN. That is the expectation. So two votes and 10 minutes interviewing between the two, and then move on to other amendments.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MARTINEZ. Mr. President, I rise today to speak in opposition of the current amendment, the Webb amendment, to the fiscal year 2008 National Defense authorization bill.

The fact is that this amendment, in its good intentions to think about the care and condition of our men and women in uniform who have so bravely served us, in fact is very much misguided in that it attempts to dictate to the military leaders exactly what type and how troop rotations should take place.

I think it is a dangerous amendment because it could also interfere with the ability of our country to respond in times of a national emergency, even

though it has a waiver provision in the amendment for the President's ability to respond to the dangerous situations that can occur in the very dangerous world in which we live.

The fact is—I know it has been mentioned, but I reiterate—the Secretary of Defense, the person charged with the constitutional responsibility of deployment of the Armed Forces, has foursquare clearly stated that this amendment, while well intended, is certainly not a good amendment. It would dramatically limit the Nation's ability to respond to other national security needs while we remain engaged in Iran and Afghanistan. Secretary Gates, in a letter of September 18 to Senator GRAHAM, indicated clearly his concern. He goes on to mention some other concerns.

General Petraeus announced—and the President affirmed—that there would be troop drawdowns in Iraq in the upcoming weeks. In fact, this amendment could have the effect of extending the tours of duty of troops in Iraq beyond their currently scheduled rotation.

There is another thing that bothers me. I think we also need to think about our constitutional scheme, how our Government is organized and ordered. Constitutionally to enact an amendment such as this would clearly be an encroachment on the constitutional duties of the Commander in Chief. This is not an area where the Congress is welcomed to dictate. We have one Commander in Chief, not 535. We only elect one at a time. This Commander in Chief has a Secretary of Defense. It is their responsibility under our form of Government to determine what our troop rotations should be.

There are other very practical considerations of why this should not happen, why this is a bad idea. The Secretary of Defense goes into several items in his letter. But it does make sense, when you look at it, that units do not always stay together. Following an individual rather than a unit and following the deployment of an individual rather than that of a unit is something that would be cumbersome, difficult, and, in fact, not a way in which we would be, in this very dangerous time, having to run our military. The fact is, there is something here which is maybe the most underlying and important reason of all why this amendment is not a good idea, which is the clear desire and design of the amendment to limit the options of our military forces to maintain the current policy in Iraq. We ought to not use the good intentions and the good ideas about our soldiers, about our troops and their rotations, to have an underlying mission of simply saying, they can't keep this up so they will have to pull troops out. We will change policy by dictating how troops are rotated in and out of the battlefield. The fact is, that could have serious consequences for our Nation as other nations would view this as a vulnerability. It would be viewed as a weakness, as a fact that the United States is overextended and incapable of responding to crisis. It is these kinds of misperceptions and misunderstandings that can lead irresponsible states to take irresponsible actions that could lead to frightening scenarios in the very dangerous world in which we live.

It is important to also note that many of the members of our Armed Forces consider it a privilege and an honor to serve this Nation at this difficult time. My recent trip to Iraq was in Tikrit. While there, I visited with a number of troops, some of them Floridians, all proud of their service. Over 90 percent of those troops had already reenlisted, knowing full well of our involvement in Iraq, knowing what the expectations of their service would be during their time of reenlistment, and they had voluntarily reenlisted. Reenlistment rates of those serving in the theater are larger than those of any other. It is a testament to their courage, valor, and sense of duty to their country. We would demean their service if we were to say to them that there had to be parity between the time in service out of the country and the time at home.

The goal ought to be for us not to have 15-month deployments. The hope would be that these would never be necessary. But a mandate from Congress that this is how we must operate our Armed Forces is ill-conceived. It is dangerous and does not serve either the national interest of the Nation or the interest of the soldiers on the field whom it is intended to serve. We should not have a subterfuge of policy to change direction in Iraq heaped on the backs of our brave men and women in uniform. If, in fact, there is the thought that this policy is wrong and it should be changed—and I know many Members feel that way; there has been plenty of debate about this issue—there ought to be the courage to say: We will not fund the troops. If you can't do that, you shouldn't do it this way. This is unnecessary. It is cumbersome, and it will be detrimental to the national security of the country.

I yield the floor.

The PRESIDING OFFICER (Mrs. MCCASKILL). The Senator from Michigan.

DWELL TIME

Mr. SMITH. Mr. President, I rise today in support of the Webb-Hagel dwell time amendment. Our service men and women are under constant strain, spending more time in theater than they have with their families. These men and women are risking their lives to protect this country, some on their fourth tour in Iraq. Their bodies are aching and their minds are stressed, but by the time they become acclimated to home life, they are sent back into combat. Something must be done to prevent the breakdown of our military and the men and women who serve. This amendment would provide our troops ample rest and recuperation, time to visit with family, and an opportunity to extract our troops from the stress of war.

The Oregon National Guard has served admirably since we began combat operations in 2001. I could not be more proud of their contributions to the war on terror while still serving as the foundation of their families and communities.

Many citizen-soldiers have been on multiple deployments for over a year at a time, placing a significant strain on their families, employers, and communities. The amendment will give our soldiers predictability by preventing surprise deployments. Providing a consistent schedule allows them to plan for this disruption. Often, these men and women are the core of the community, the major breadwinner of their family or a needed caregiver and require advanced notice to plan for such a major disruption in their lives.

If current enlistment levels do not allow us to provide our troops with the rest and recuperation needed to protect our Nation, then we must examine increasing the number of volunteer troops, both Active Duty and Reserve.

For the past 10 years, we have shrunk the National Guard and ignored their call for needed resources. As a country, we are finally realizing the importance of our citizen-soldiers. They serve admirably in combat operations overseas, they provide help at home in the face of a natural disaster or emergency, and they are the bedrock of our community. Giving them some stability in their lives is the least we can do.

I urge my fellow Senators to join me in supporting the Webb-Hagel dwell time amendment.

Mr. DODD. Mr. President, for 4 long years, our Nation has been engaged in a war without a clear objective, exit strategy, or international mandate, and the consequences of such policies have been devastating. Our moral standing in the world has plummeted. Iraq is now mired in civil war, and terrorists have found a recruiting and training ground for attacking American troops. But few effects of this war are more troubling than the destructive impact this war has had on our Armed Forces.

Approximately 3,800 brave American servicemembers have been killed in Iraq, and tens of thousands have been severely wounded. Military families have been forced to endure long and repeated stretches of time without their loved ones. And most significant, our forces have been stretched thin to a near-breaking point. This can be seen in the ever increasing number of suicides among our returning servicemembers, alltime low reenlistment rates, and the destruction of our military families. The adage is true—we recruit a soldier, but we retain a family. And if that family is broken, so, too, will be the soldier.

While long deployments are testing our troops in the field, they are also

taxing critical stocks of combat gear and training time. According to some reports, over two-thirds of our Army and 88 percent of our National Guard are unable to report for duty due to equipment shortfalls and insufficient military instruction stateside.

The bipartisan Webb amendment is an important step toward restoring our military's readiness and providing the important support that our servicemembers and families need and deserve.

It would implement two simple principles—if a unit or member of a Regular component of the Armed Forces deploys to Iraq or Afghanistan, they will have the same time at home before they are redeployed. No unit or member of a Reserve component, including the National Guard, could be redeployed to Iraq or Afghanistan within 3 years of their previous deployment.

These are the very principles incoming Secretary of Defense Robert Gates committed to months ago. And now, the distinguished junior Senator from Virginia has modified his proposal to address objections raised concerning both the time the Pentagon needs to implement it and the flexibility needed for our special operations forces, SOF.

Senator WEBB's amendment now allows 120 days for the Department to implement its provisions and provides exceptions for SOF. But as is clear, the administration still objects to any interference by this body in how we expect our troops to be treated. Of course, this body has a unique role in the governance of our Armed Forces. Specifically, article 1, section 8 of the Constitution states that the Congress shall have the power to, '' make rules for the Government and Regulation of the land and naval Forces.'' Obviously, the Founding Fathers of this great Nation had a very specific idea of how the Congress should behave with respect to the troops—that Congress, and Congress alone, should have the power and authority to govern and regulate our forces. We can see first hand the tragedy that occurs when the administration is given a free hand to engage our troops in conflict without any oversight from this body—and we should reassert our constitutional prerogative.

Since the war's beginning I have tried to advance initiatives that would reverse the administration's irresponsible defense policies, so that our troops would be prepared and protected in combat and our country made safer. In 2003, I offered an amendment to the emergency supplemental appropriations bill to add $322 million for critical protective gear identified by the Army that the Bush administration had failed to include in their budget. But it was blocked by the administration and their allies. In 2004 and 2005, I authored legislation, signed into law, to reimburse troops for equipment that they had to purchase on their own because the Rumsfeld Pentagon failed to provide them with the body armor and other gear they needed to stay safe. And last year, working with Senators Inouye, Reed, and Stevens, I offered an amendment to help address a $17 billion budget shortfall to replace and repair thousands of war-battered tanks, aircraft, and vehicles. Without these additional resources, the Army Chief of Staff claimed that U.S. Army readiness would deteriorate even further. This provision was approved unanimously and enacted in law. But much more remains to be done.

Senator WEBB's amendment is an important first step, but it is only the first step. Ultimately, we need to withdraw our combat forces as quickly as possible. This can only be accomplished by changing our mission in Iraq, and it will only be accomplished when this body finally stands up to the administration and their failed policies and enacts legislation that will bring our troops home. I strongly support this amendment and hope all of our colleagues do as well.

Mr. KENNEDY. Mr. President, the war in Iraq has severely overstretched and strained our military personnel and their families. According to many of our foremost experts, we're actually in danger of breaking our military.

Frequent and extended deployments are over-taxing our brave military men and women and their families and our support structures at home. It's reducing our ability to adequately train our soldiers, sailors, airmen and Marines.

The men and women of our military forces signed up in the belief that they were going to defend America, and preserve our way of life. Instead, they find themselves entangled in an Iraqi civil war that is not theirs to win or lose.

Their repeated and extended deployments breach the trust they have in their government. We as a Congress must do everything we can to ease the strain.

The Department of Defense itself has set a goal of 2 years at home for every year deployed, and that makes sense. It gives servicemembers time to be with their families, and re-establish the bonds that we all take for granted.

It also gives our servicemembers time to train—not just for a return to Iraq, but for other missions we may ask them to undertake.

Because of the President's misguided war and his so-called surge, the Department of Defense can no longer meet this goal.

As General Casey, Chief of Staff for the Army said last month, ''Today's Army is out of balance. We're consumed with meeting the current demands and we're unable to provide ready forces as rapidly as we would like for other contingencies; nor are we able to provide an acceptable tempo of deployments to sustain our soldiers and families for the long haul.''

What does the General mean when he says the army is ''consumed with meeting current demands?''

Over 1.4 million American troops have served in Iraq or Afghanistan; More than 420,000 troops have deployed more than once.

The Army has a total of 44 combat brigades, and all of them except one—the First Brigade of the Second Infantry Division, which is permanently based in South Korea—have served at least one tour of duty in Iraq or Afghanistan, and the majority of these 43 brigades have done multiple tours: 17 brigades have had two tours in Iraq or Afghanistan; 13 brigades have had three tours in Iraq or Afghanistan; and 5 brigades have had four tours in Iraq or Afghanistan.

Army recruiting is struggling to maintain the current force structure, let alone meet its goal of increasing its overall end strength over the next 5 years.

The Army missed its recruiting goals for both May and June by a combined total of more than 1,750, and it's borrowing heavily on future commitments to meet its goals for this year.

Spending on enlistment and recruitment bonuses tripled from $328 million before the war in Iraq to over $1 billion last year.

The Commandant of the Marine Corps, James Conway, says his marines can't focus on conventional operations because training time is too scarce.

It's an impossible situation. Our military is strained—some would say already broken—and we face a crisis in recruiting.

We can't continue to sacrifice our Nation's security and the readiness of our forces while Iraq fights this civil war. This amendment will give General Conway and General Casey the time they need to make sure that our forces are ready and able to defend our country against any threat. It will also show our appreciation for the men and women who serve our country so well. I urge my colleagues to support this amendment.

Mr. LEVIN. Madam President, over 4 years of war have stressed our Armed Forces to the breaking point. Our Army and Marine Corps are stretched dangerously thin. They are performing magnificently, as they always do. Chronic personnel and equipment shortages plague our nondeployed forces resulting in dangerously low readiness. As a nation, we simply do not have the ground forces necessary, nor are the few uncommitted forces trained and ready, to protect our interests against other threats around the world. As Army Chief of Staff GEN George Casey put it:

> The demand for our forces exceeds the sustainable supply.

Nearly 1.6 million servicemembers have been deployed to Iraq or Afghanistan. Of the Army's 43 active brigades available for rotation, 10 brigades have been deployed three or more times. All others have been deployed once or twice, with the exception of one new brigade just forming. Of course, the single brigade stationed in Korea does not deploy as part of the Iraq or Afghanistan rotation. All of our National Guard combat brigades have at least one rotation to Iraq, Afghanistan, or

Kosovo. Two National Guard combat brigades have two rotations. Guard brigades from Indiana, Arkansas, Ohio, Oklahoma, Minnesota, and New York have been notified that they should be prepared to deploy at the end of this year.

Through the first part of this year, units pushed to Iraq as part of the surge strategy barely had enough time to make up their personnel and equipment shortages or complete their training. Inadequate time to prepare for war puts a unit at risk when sent into harm's way.

We have the responsibility to make sure that our forces have adequate time available to prepare and then use that time to best advantage. We have accepted too much risk for too long.

Senator WEBB's amendment goes to the heart of this obligation, ensuring that our forces have the time they need to recover and prepare. Multiple rotations and insufficient dwell time inherently raise readiness risks. Units must have the time necessary to fully man, equip, and train prior to their next deployment. Readiness reports we receive here in Congress consistently show that most of our nondeployed units are not ready to deploy, and those getting ready to deploy to Iraq and Afghanistan do not have personnel and equipment necessary for comprehensive training until very late in their preparation. In order to provide some relief for the personnel shortages in next-to-deploy units, the Army is cutting training at its important officer and NCO schools. The Army has gone so far as to institute a 6-day training week at many of these schools to accelerate getting troops back to their units. For soldiers, especially young leaders and instructors just back from deployment, working a 6-day week starts to make dwell time feel a lot like deployment. Insufficient dwell time contributes to retention challenges, especially among young officers.

There is ample evidence that multiple long deployments are impacting our troops' mental health and family stability. Servicemembers and their families, particularly among our young officers and NCOs, are voting with their feet, leaving the military rather than endure the uncertainty and turmoil in their families' lives. There is no greater threat to the quality and viability of our all-volunteer force than the loss of these combat-experienced young leaders.

The Webb amendment exempts our special operations forces. Their deployment cycles are always irregular, their readiness sustained at much higher levels, and their ability to respond to emergencies is critically important. The exemption in this amendment preserves that flexibility.

Servicemembers and their families are weary of the deployment cycle and uncertainty about timing and length of deployments. They are eager for greater predictability about when and for how long troops will be at home or deployed. The Webb amendment will require the DOD to make earlier strategic and operational decisions which will result in greater predictability and stability for troops and their families.

The Webb amendment will incentivize the Department of Defense to greater certainty in the implementation of unit and individual rotation policies. Controlling deployment cycles is the only way to rapidly stop the dramatic loss of readiness in our nondeployed and next-to-deploy units. Controlling deployment cycles is the only way to provide the fastest possible relief to our troops and their families. Controlling deployment cycles is a critical step in preserving our all-volunteer military system. The Webb amendment deserves the support of this Senate.

I yield the floor and 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. SPECTER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SPECTER. Madam President, the issues relating to Iraq have been very complex, have aroused an enormous national reaction, and have been consuming for those of us in the Congress trying to decide what is the best course of action.

Had we known Saddam Hussein did not have weapons of mass destruction, I do not think we would have gone into Iraq. But once there, we do not want to leave precipitously, and we do not want to leave Iraq in an unstable condition with all of the potential forces that might bode ill for the United States in the future with respect to terrorism, with respect to Iran moving into a vacuum, and many complex problems which might arise.

The President, in his recent speech, and General Petraeus and Ambassador Crocker, in their testimony before Congress, have gone to considerable distance in trying to move toward some of the areas of concern. There have been commitments of troop withdrawal before Christmas. There are projections for additional troop withdrawal next year. There has been a modification to some extent of the mission. But still there is an unease with the current policy.

I voted against the Levin-Reed amendment when it came before the Senate because I think it is unwise to fix a firm date of withdrawal. It just gives the insurgents a target date to shoot at to declare victory.

I think the provisions of the Warner-Lugar amendment had much to recommend them and joined as a cosponsor. I have already expressed on the floor my concern that the Warner-Lugar amendment was not called before the Senate. I think its thrust to have required a report by the President by October 15 and the possibility of a withdrawal date later but leaving the ultimate discretion to the President would have been a step forward. It would have imposed an obligation on the part of the President, the administration, to come forward with a plan.

I have also cosponsored the Salazar-Alexander amendment, which incorporates the findings of the independent study group. I believe that is a general outline which is desirable to follow. Again, I expressed my concern when the majority leader took down this bill before calling up the Salazar-Alexander amendment. I have cosponsored that as an outline. Again, it does not place the administration in a straitjacket but outlines certain goals and certain objectives.

I believe the idea advanced by Senator BIDEN for some time now, to divide Iraq into three parts—the Shiites, the Sunnis, and the Kurds—where those factions have been engaging in violent warfare, is an idea which is worth pursuing. Again, that is a matter which has to be decided by the Iraqi Government, not by the Congress of the United States, but Senator BIDEN has couched it in the form of a resolution, really, on what amounts to a recommendation.

I have been considering the amendment offered by the junior Senator from Virginia, Mr. WEBB. I discussed the issue with him last week and since that time have undertaken to try to find out what the impact of the Webb amendment would be on force projection.

I met with LTG Carter Ham last week. General Ham is in charge of operations at the Joint Chiefs of Staff.

During the course of that meeting, General Ham outlined the projection by the Department of Defense that they could meet that 1-to-1 ratio—12 months in Iraq and 12 months at home, which is the thrust of the Webb amendment—that they could meet that objective by October 1, 2008, the beginning of the next fiscal year. General Ham was not supportive of the Webb amendment because he raised a number of concerns that on its face, if you enact the Webb amendment, there are troops in Iraq now who will have to stay longer. There would have to be additional calls to the Reserves and National Guard. There might be a need to take people out of units which would impact on morale, but that if there were an October 1 date, 2008, that the 1-to-1 ratio could be achieved, according to the Department of Defense projections.

Earlier today, at the invitation of Senator WARNER, I met to talk again to LTG Carter Ham and to LTG Lovelace who works with General Ham. During the course of that meeting, the target date of October 1, 2008, to be the 1-to-1 ratio was reaffirmed. There was an additional factor injected into the discussion, and that is the factor of some 5,500 additional troops in a variety of categories, special forces and others, where this 1-to-1 ratio could not be met by October 1.

Following that meeting, I have had telephone conversations with Secretary of Defense Gates and National Security Adviser Hadley to get some sense of the position of the Department of Defense and the administration. Secretary Gates confirmed the ability of the Department of Defense to meet in general terms the 1-to-1 ratio by October 1, 2008. He talked about some other difficulties and, obviously, is not endorsing any plan. The administration would prefer not to have any congressional action on this subject. Similarly, after an extended telephone conversation with National Security Adviser Hadley, I heard the reasons there is opposition—the difficulty of knowing whether the factors on the ground will be as they are projected now, and they are resisting congressional action which would tie the hands of the administration.

In considering these issues, I have been very concerned about the problems of micromanaging the Department of Defense by the Congress. There is no question we are not equipped to do that. I have studied the constitutional law aspects, and I studied the case of Fleming v. Page [50 U.S. 603 (1850)], a decision by Chief Justice Taney, and the case of the United States v. Lovett [328 U.S. 303 (1946)], decided by the Supreme Court in 1946. I am well aware of the authority, the broad authority the Constitution vests in the President under Article II as Commander in Chief, but I am also cognizant of the authority of the Congress under Article I, Section 8: ''To raise and support Armies;'' ''To provide and maintain a Navy;'' ''To make rules for the government and Regulation of the land and naval Forces;'' ''To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States.''

We have seen the Supreme Court recently strike down executive action on military commissions, saying it is the function of the Congress of the United States, and the Congress has acted there. So there is authority for the Congress on that premise, in addition to our power of the purse, our power of appropriation.

I have discussed the matter with Senator WEBB and have indicated—have stated an interest on my part in supporting the Webb amendment, if the concerns which have been expressed to me by the Department of Defense could be accommodated, and that is a change of date to October 1, and an accommodation of the 5,500 specialty forces that cannot be enumerated. Of course, there is the waiver provision which is already present in the Webb amendment. I asked about the possibility of deferring the vote. I think that if there was an understanding by other Senators about the ability of the Department of Defense to meet a 2008 October 1 date, and the flexibility needed on some 5,500 additional troops, there might be some additional interest in the amendment. I am told, at least as of this moment of 4:36, the vote is going to go ahead 5:15. But I have discussed the matter, as I say, with the sponsor of the amendment, Senator WEBB.

There is also the obvious factor that what we do here is unlikely, in any event, to have the full effect of law. If the Webb amendment gets 60 votes and is embodied in congressional enactment, it is virtually certain to be vetoed by the President of the United States, and there are not 67 votes to override a Presidential veto. But our function in the Congress is to exercise our best judgment and pass what we think is appropriate. Then, under our constitutional system, it is the prerogative of the President to either sign or veto. So we take all of these matters a step at a time. There is a lot of concern in the Congress of the United States about what is happening now, and an interest in, if it can be structured, congressional action which would be helpful. All of this is obviously very involved and requires a lot of analysis and consideration.

I think it would be a very helpful thing for the U.S. effort, generally, if the Congress and the President could come to an agreement on a policy and a plan without leaving it solely to the discretion of the executive branch. The Congress is going to continue funding, and I have voted for that. We are not going to put the troops at risk. We are not going to set times for withdrawal. It is possible we could use the Vietnam model, where funding existed up to a certain date on the condition that the troops be reduced to a certain number and then by another date. That hasn't been tried, but I think it unlikely the Congress is going to go that route. We are too concerned about the troops and we want to support them, but we are also gripped with a sense of unease as to what is happening.

There is agreement between the Department of Defense, for the purpose of Senator WEBB's amendment, that the stays in Iraq are too long. We have noted the increase in the suicide rate, the increase in the divorce rate, the increase in psychiatric problems and stress disorders. The policy of the Department of Defense is to have 2 months at home for every 1 month in Iraq for the Army; 5 months at home for every 1 month in Iraq for the Reserves. We are far from that. So we are struggling and groping to try to find an answer. In the course of the remaining time before the roll is called, I am going to see if it is possible to find some constructive way forward and some rational basis for the vote I will cast.

I yield the floor, and 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. DORGAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DORGAN. Madam President, I have watched and listened to the debate today on the floor of the Senate. It is a debate in many ways that is similar to debates we have had on previous occasions, and I know there are people on all sides who feel passionately about these issues. I respect differences of opinion. I respect those who come to the floor and say: Here is how I see it, here is what I believe, and here is what I think we should do.

This is a very important issue. There is so much at stake for our country with respect to this issue of the war in Iraq. It casts a shadow on virtually everything else we consider and do in public policy and our relationships around the world. It is a situation I think that requires us to do the best we can to develop public policy that finds a way to extract ourselves from what has largely become a civil war with sectarian violence in the country of Iraq, and take the fight to the terrorists.

I wish to raise a few points about fighting terrorism, even as I come to the floor to support the amendment offered by Senator WEBB. I think it is an amendment that has great merit and an amendment that will be supportive of the best interests of this country in pursuing the war against terror.

Let me say there have been a series of reports—an almost dizzying number of reports and speeches and testimony over the last several weeks—about the status of the war in Iraq and the performance of the Iraqi Government. There are claims and counterclaims; I expect there is spinning on all sides of these issues. Much of it has been about whether the U.S. military surge of 30,000 troops since January 2007 has worked and about the benchmarks—about whether the Iraqi Government has been willing to or has made progress in meeting benchmarks it has promised to meet to do its job, to justify U.S. troops fighting and dying in their country. Through all of that, it seems to me there are three facts that are clear. First, only political reconciliation among the Shiites, the Sunnis, and the Kurds will stop the civil war that rages in Iraq. Only political reconciliation will ultimately solve this problem.

Second, the Iraqi Government has made very little progress—perhaps some in several areas but in the main very little progress toward the needed reconciliation.

Third, terrorism remains the No. 1 threat to the United States. The July National Intelligence Estimate makes the case. This is not coming from me; this comes from a July 2007 National Intelligence Estimate. The unclassified portion says:

Al-Qaida is and will remain the most serious terrorist threat to the homeland. We assess that the group has protected or regenerated key elements of its homeland attack capability, including: A safe haven in the

Pakistan federally administered tribal areas, operational lieutenants, and its top leadership.

Let me say again that it says that ''al-Qaida is and will remain the most serious terrorist threat to the homeland.'' We know that as of last week, Osama bin Laden, the leader of al-Qaida, al-Zawahiri, and others who lead al-Qaida are still speaking to us through videos and through voice tapes, giving us their version of the world. These are people who have boasted about murdering innocent Americans on 9/11, and six years later, they remain in what the National Intelligence Estimate says is somewhere on this planet that is secure or safe. It is almost unbelievable to me that there is a ''safe haven'' anyplace on this planet for the people who have boasted of initiating the 9/11 attacks against this country, but that is what our National Intelligence Estimate says—they are in a safe haven.

There ought not be 1 square inch on planet Earth that is safe for the leadership of al-Qaida. How did we come to this point of having a safe haven for those very terrorists who initiated the attacks against this country and who, as our most recent National Intelligence Estimate says, remain the most serious terrorist threat to our country? How have we reached that point? What has been happening while we have surged troops in Iraq? Well, as I indicated, Osama bin Laden released two videos, one on September 7 and one on September 11. He boasted about the 19 hijackers who did the killings on September 11 and rambled on about the coming downfall of America, as is his custom.

Regardless of what Osama bin Laden has said, our National Intelligence Estimate says that al-Qaida is back stronger than ever and terrorism remains the No. 1 threat to the U.S. homeland. I think we need a set of policies that focuses on fighting terrorists first. Frankly, what is happening in Iraq is not the central fight on terrorism. It seems to me the central fight on terrorism is to eliminate the leadership that represents the greatest threat to our country, and they are not in Iraq. That leadership, we are told by the National Intelligence Estimate, is in a safe haven in the Pakistan federally administered tribal areas.

I don't mean to say that dealing with that would be easy or without difficulty. I do mean to say that if this represents the judgment of our National Intelligence Estimate, and if we know—and we all do—that those who boasted about initiating the 9/11 attacks are there and are pledging additional attacks against our homeland, it seems to me that should be where we focus our country's priority of action.

We are told, by the way, that the leadership of that terrorist organization that is, again, the most serious threat to this country—we are told they have regenerated.

Here is a September 11 story quoting our intelligence officials. The headline is ''Al-Qaida's Return: The Terrorists Have a Sanctuary Once Again.'' In the last week or so, we have seen terrorist arrests in Denmark and in Germany, and we see that these arrests, particularly in Germany, are for terrorists plotting attacks against large U.S. military bases. Those attacks against our military base in Europe are being plotted by terrorists who have trained in Pakistan, which is the very area where the Intelligence Community says Osama bin Laden has regenerated his terrorist training camps in the tribal area.

Madam President, this issue of a sanctuary for terrorists to begin planning additional attacks against our country, as they are apparently now doing, it seems to me ought to claim our attention and ought to claim the policy debate about what is the approach this country might best use.

My colleague from Virginia comes to the floor with respect to this issue of the war in Iraq. What are we doing in the war in Iraq? What about the surge and the road ahead? What about the Petraeus report? My colleague has made an important argument on the Senate floor about the strength of the U.S. military if you don't provide ample opportunity for the U.S. military to have sufficient time home from the battlefield to rest and regenerate and also sufficient time for additional training.

Madam President, the point of the amendment offered by Senator WEBB is to provide a sufficient opportunity for troops who are on station, on duty in a war zone 24 hours a day, to give them time to retrain, rest, and refresh. You cannot have a fighting force that doesn't have that opportunity. That is what my colleague from Virginia is suggesting in his amendment.

My point about this is that as we discuss how to deal with these issues in Iraq, we are, on a course at the moment that says our mission in Iraq is to go door to door in Baghdad in the middle of sectarian violence or a civil war. My point is, while that is going on, while we are in the middle of a civil war in Baghdad with our soldiers—and, yes, there is some al-Qaida presence there, but that is not the majority of what is happening there; it is largely a civil war. While we are doing that, here is what we are understanding and knowing. This is not a claim, this is what we know: ''Europeans Get Terror Training Inside Pakistan.'' We picked them up in Denmark and Germany. We find out that the terrorists are being trained in Pakistan. We are told that is where the al-Qaida leadership is, reconstituting its base, its strength, building new training camps. We picked up the people who are threatening to attack the largest military installation owned by the United States in Europe.

Should that surprise us? Not if we have been reading the newspaper. We don't have to read the intelligence; we can just read the newspaper.

This is a New York Times newspaper story from February 19 of this year. This is from our intelligence officials talking about what they know:

> Senior leaders of al-Qaida, operating from Pakistan over the past year, have set up a band of training camps in the tribal regions near the Afghan border, according to American intelligence and counterterrorism officials. American officials said there was mounting evidence that Osama bin Laden and his deputy, al-Zawahiri, have been steadily building an operations hub in the mountainous Pakistan tribal area of north Waziristan.

Now we have picked up terrorists who were trained there. We are told by the National Intelligence Estimate that the greatest threat to our country is from the al-Qaida organization and the leadership of al-Qaida, who are now planning terrorist attacks against our homeland. That is the greatest threat to our country. So what are we doing? We are going door to door in Baghdad in the middle of a civil war while there is a ''safe haven'' on this Earth, apparently, for the leadership of al-Qaida. Is there common sense missing here? Would one not think those who boasted of murdering 3,000-plus Americans on 9/11, 2001, that they would have long ago been apprehended? President Bush was asked about this, and he said, ''I don't think about Osama bin Laden and the leadership of al-Qaida.'' I really think we ought to take the fight to what the National Intelligence Estimate insists is the greatest threat to our country, and I don't believe that is happening.

I support the effort of my colleague from Virginia. I think that amendment is one which will give our military the opportunity to retrain, rest, and be refreshed and represent the kind of fighting force we want and need. All of us are proud of our American soldiers who walk in harm's way.

There is a verse about those soldiers and patriots:

> When the night is full of knives and the drums are heard and the lightning is seen, it's the patriots that are always there ready to step forward and fight and die, if necessary, for their country.

We have a lot of patriots who got up this morning and put on body armor and are walking in harm's way on behalf of this country. What we owe them, it seems to me, as policymakers is our unyielding support for whatever they need to finish their job. In addition, we owe them good policy that focuses on attacking and destroying and eliminating the greatest terrorist threat to this country. And nobody should take it from me; take it from the National Intelligence Estimate of July of this year. The greatest terrorist threat to our country is Al-Qaida.—I will put the chart back up:

> Al-Qaida is and will remain the most serious terrorist threat to the homeland.

The NIE says that they have a safe haven in Pakistan. So that is the fight—to eliminate the greatest terrorist threat to our homeland. There ought not to be a square inch of safe haven anywhere on this planet for that group.

I yield the floor.

Mr. LEVIN. Madam President, I ask unanimous consent that the time between now and 5:20 p.m. be for debate with respect to the Webb amendment 2909, with the time divided as follows: Senator DURBIN be recognized for 5 minutes; at 5:05, the majority leader be recognized for 10 minutes; and at 5:15, for 5 minutes, which would be immediately prior to the vote, it be equally divided and controlled between Senators MCCAIN and WEBB or their designees; and that at 5:20, without intervening action or debate, the Senate proceed to vote on the amendment; further, that upon disposition of the Webb amendment, there be 10 minutes of debate with respect to the McCain-Graham amendment No. 2918, with the time equally divided and controlled between Senators MCCAIN and WEBB; that upon the use or yielding back of time, the Senate proceed to vote on the amendment; that no amendment be in order to either amendment in this agreement; that each amendment must achieve 60 votes to be agreed to, and if neither vote achieves 60 votes, it be withdrawn; that if either amendment receives 60 votes, then it be agreed to and the motion to reconsider be laid upon the table.

Mr. CARPER. Reserving the right to object, earlier I asked for some time. I asked for 10 minutes, but I would like to have at least 5 minutes before the vote. If we can do that, I would appreciate it.

Mr. MCCAIN. That would make the vote at 5:25. I have no objection.

Mr. LEVIN. So Senator CARPER would be after Senator DURBIN for 5 minutes, and everything else will be delayed for 5 minutes.

Mr. MCCAIN. Parliamentary inquiry: Is it necessary to call up amendment No. 2918 or is it in order according to the unanimous consent agreement?

The PRESIDING OFFICER. It will need to be called up.

AMENDMENT NO. 2918 TO AMENDMENT NO. 2011

Mr. MCCAIN. At this time, I call up amendment No. 2918 to be in order according to the unanimous consent agreement propounded by the Senator from Michigan.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 2918.

The amendment is as follows:

(Purpose: To express the sense of Congress on Department of Defense policy regarding dwell time)

At the end of subtitle C of title X, add the following:

SEC. 1031. SENSE OF CONGRESS ON DEPARTMENT OF DEFENSE POLICY REGARDING DWELL TIME RATIO GOALS FOR MEMBERS OF THE ARMED FORCES DEPLOYED IN SUPPORT OF OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the wartime demands in support of Operation Iraqi Freedom (OIF) and Operation Enduring Freedom (OEF) placed on the men and women of the Armed Forces, both in the regular and reserve components, and on their families and loved ones, have required the utmost in honor, courage, commitment, and dedication to duty, and the sacrifices they have made and continue to make in the defense of our nation will forever be remembered and revered;

(2) members of the Armed Forces who have completed combat deployments in Iraq and Afghanistan should be afforded as much ''dwell time'' as possible at their home stations prior to re-deployment; and

(3) consistent with wartime requirements, the Department of Defense should establish a force management policy for deployments of units and members of the Armed Forces in support of Operation Iraqi Freedom or Operation Enduring Freedom (including participation in the NATO International Security Assistance Force (Afghanistan)) as soon as practicable that achieves the goal of—

(A) for units and members of the regular components of the Armed Forces, providing for a period between the deployment of the unit or member that is equal to or longer than the period of the previous deployment of the unit or member;

(B) for units and members of the reserve components of the Armed Forces, and particularly for units and members in the ground forces, limiting deployment if the unit or member has been deployed at any time within the three years preceding the date of the deployment; and

(C) ensuring the capability of the Armed Forces to respond to national security needs.

(b) CERTIFICATIONS REQUIRED.—The Secretary of Defense may not implement any force management policy regarding mandatory ratios of deployed days and days at home station for members of the Armed Forces deployed in support of Operation Iraqi Freedom or Operation Enduring Freedom until the Secretary submits to Congress certifications as follows:

(1) That the policy would not result in extension of deployment of units and members of the Armed Forces already deployed in Iraq or Afghanistan beyond their current scheduled rotations.

(2) That the policy would not cause broader and more frequent mobilization of National Guard and Reserve units and members in order to accomplish operational missions.

(c) NATIONAL SECURITY WAIVER AUTHORITY.—The Secretary of Defense may waive the provisions of any force management policy and any attendant certification requirement under subsection (a) or (b), and the applicability of such a policy to a member of the Armed Forces or any group of members, if the Secretary determines that the waiver is necessary in the national security interests of the United States.

Mr. LEVIN. Mr. President, with that modification, I ask that the unanimous consent request be agreed to.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The assistant majority leader.

Mr. DURBIN. Madam President, I understand that under the agreement, I have 5 minutes; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DURBIN. Madam President, I rise in support of the Webb amendment. What is the Senator from Virginia, a Marine Corps veteran from Vietnam, trying to do? It is actually easy to state. He wants to make sure that when our troops are deployed, they have at least as much time home between deployments as they do the length of the deployment. If they are deployed for a year, they will have a year at home before they are deployed again. If they are deployed 15 months, they will have 15 months at home before they are deployed again.

Madam President, you have been to Iraq and I have been there, too—three times. I do not profess to be an expert on the military. That is not a field of my training or expertise, but I talk to those who are. The last time I visited Iraq, I went to Patrol Base Murray, south of Baghdad 12 miles, part of the surge, the Third Infantry Division, Fort Stewart, GA, and saw the Illinois soldiers and others. I had a little lunch with them.

As I was starting to leave, one of the officers came over to me and spoke to me privately. Do you know what he told me? He said: Senator, 15 months is too long. These troops have to be on guard every moment of every day for roadside bombs and snipers and other dangers.

He said: After 12 months, I work so hard to keep them on their toes so they come home safe and protect the soldiers who are with them. Fifteen months is too long. He told me: I am a career soldier. My wife knew what we were getting into long ago. So I leave, but it is tough on my family.

He said: When I left Fort Stewart, GA, my daughter was in the sixth grade. When I get back home, she will be in the eighth grade. I will have missed a year in her life. That is the price we pay.

He said: These young soldiers with babies at home, they are e-mailing their wives every single day. They are hearing how the babies are growing up and the problems the family is having. At the end of the year, they can't wait to go home, and we tell them: Give us 3 more months.

I said: What about the 12 months in between deployments?

He said: It is not enough; 12 months is not enough time to reconstitute our unit, retrain them, equip them, give them time with their families so they can get their lives back together. Twelve months is not enough.

I said: How much time do you need?

He said: Twice that. Give us 2 years. That is what it takes.

That is the reality of this war on the ground. So when we hear the arguments being made by Senators that somehow we should not, as a Senate, be sticking our nose into the business of how they manage the military overseas, I am sorry, but that is part of our constitutional obligation. We do not just declare the war and send the money; we have responsibilities that reach far beyond that.

Over the years, Congress has spoken to the number of troops our country will have. It has spoken to whether those troops can be deployed overseas. It has passed laws restricting Presidents from sending troops overseas

without at least 4 months or 6 months of training. We have restricted the roll of women in the military. Time and again, Congress has spoken under its constitutional authority to make certain our military is treated properly. That is part of my responsibility as a Senator. It is part of every Senator's responsibility.

Calling this micromanagement is unfair to our troops. Our soldiers and their families are making more sacrifices than any of us serving in this Chamber today. They are risking their lives at this very moment. All they ask for is a little more time to be with their families, a little more time to get their unit combat ready before it is sent out again.

Senator WEBB knows this story because he lived it in Vietnam as a marine. He knows it as a father of a soldier who is in Iraq today. We should know it too, and we should understand something as well. It is true, as someone once said, war is hell, but politicians should not make it any worse, and we are making it worse when we push these soldiers to the limit.

Look at the numbers coming back to us: Divorce rates among our soldiers now reaching record highs, suicide rates higher than any time since Vietnam, cash incentives to bring people into the military and keep them at a record level of $10,000 and $20,000, waiving the requirements so we can fill the ranks with people who have not graduated from high school or have some criminal records. These are the realities of the Army today.

For the President to stand and boldly say, ''I am sending the troops into battle'' is to ignore the reality. Many of our warriors are weary. Having fought the good fight and stood up for this country, they deserve for this Senate to stand up for them and adopt the Webb amendment.

The PRESIDING OFFICER. Under the previous order, the Senator from Delaware is recognized.

Mr. CARPER. Madam President, I rise in support of the Webb amendment. I have had a chance to think about this issue that is before us today wearing a hat other than my hat as Senator. During my time in the Vietnam war, I served 5 years active duty as a naval flight officer. I spent 3 tours in Southeast Asia with my squad. I spent another 18 years after that as a Naval Reserve flight officer, staying current in the P–3 aircraft and was made mission commander of that aircraft.

Then for 5 years before I came to the Senate, from 1993 to 2001, I wore another hat. I was commander in chief of the Delaware National Guard, a force that served in the last 15 years in two wars—the Persian Gulf war and the Iraq war to date.

So I have had a chance to think about this issue, not just as a person who helps set policy for our country but someone who has worn a uniform on active duty in a hot war, wore a uniform in the Cold War, and then as commander in chief of my State's National Guard.

When I first heard of this idea that Senator WEBB had come up with of equaling the Active-Duty deployed time with the dwell time folks have to catch up, to retrain, reunite with their families for Active-Duty personnel, I had some questions about it. I know others do as well.

One of the questions I had was, what if the President or what if the Secretary of Defense felt a particular individual with certain skills or unit that brought certain attributes to a fight were needed. Could the President or the Secretary of Defense intercede and be able to say: We need this individual, we need this unit. As it turns out, that concern has been addressed.

What if you had an individual who said: I know I am entitled to 12 months downtime or 2 years downtime, dwell time back home. I don't want to use it. I want to go back and serve. The question is, Does this amendment allow that to happen? And it does.

A number of legitimate questions have been raised not just as to the intent but the practical effect of the legislation, and I believe they have been addressed in a good way.

Another concern was, if we adopt this amendment, if it is passed as part of a Defense authorization bill and the President signs it, does it take effect immediately. If this provision were to take effect immediately, I would not want to be Secretary of Defense or Secretary of the Navy. I would want to have time to try to make this work. It is not going to be easy, but given a reasonable amount of time, it could work.

To his credit, Senator WEBB changed the early language of the amendment, I think after consulting with Secretary Gates, in order to say we are going to provide, after enactment of this provision, after it is signed into law, 4 months during which the Secretary of Defense and our services have a chance to figure out how we actually work with this provision and make it work.

I thank the Senator from Virginia for providing the kind of flexibility that is needed if we are going to enact this kind of legislation. I think it is good policy. I believe some major concerns that I and others had have been addressed.

My last point is I wish to talk about what it is like to be a reservist or guardsman. My Active-Duty squad flew out of the naval air station at Willow Grove, PA, north of Philadelphia. I tell my colleagues, if the men—and we were all men in my squadron at that time—if we thought we were going to be deployed a year or two, come back and then go back a year or two, we would not have had much in terms of reenlistment and reupping. They would be gone. It is not a question of patriotism, that is the fact. They have families to support. They have jobs. In their own lives, they have businesses, in some cases, to run. They need the kind of break that is envisioned in this legislation to enable them to not just be a patriot, to be a reservist, to be a citizen twice over but to always keep commitments to their families, keep commitments to their employers, and keep commitments, in many cases, to their employees, to the businesses they have started and gone on to run.

This is a good provision. It is a good proposal. It is better actually than the proposal we voted on several months ago. I urge my colleagues, particularly those who are on the fence—most people have made up their minds—particularly those on the fence, they can vote for this amendment not just in good conscience but I think knowing the questions that needed to be addressed have been addressed and that the people who will benefit from this will very much appreciate our taking this step.

I yield back my time.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Madam President, there will come a time in the not-too-distant future when people will write about what we as a Senate did, what we as a Congress did regarding this intractable war in which we find ourselves in faraway Iraq.

I approach my comments today recognizing people are going to look back at what we do to make sure our country is safe and secure and that we have done everything we can to make sure not only is our country safe and secure but we do everything we can to allow the men and women in our military to be safe and secure.

The fight to end the war in Iraq and refocus our efforts against those who attacked us on 9/11 has now raged in this Chamber and throughout the country for months—no, not months, for years.

On one side, Democrats stand united to responsibly end the war, to begin to bring home our brave soldiers, marines, airmen, and sailors, and refocus our attention to Osama bin Laden, his al-Qaida operatives, and others around the world who seek to do us harm.

On the other side, most of our Republican colleagues, including some who have publicly questioned the current course, stand with the President and his failed policies. Seven Republicans have previously voted courageously for this amendment. The amendment is better than it was last time. Certainly they should vote that way again.

We on this side of the aisle are not going to stop waging the hard but necessary fight to responsibly end this war. Today we have the opportunity to take an important step in that direction by voting for an amendment upon which all of us, Democrat or Republican, can and should agree.

Regardless of where we stand on this war, we should stand as one in our commitment to keeping our military the strongest in the world. We can only sustain that strength if our men and women in uniform are given the respect they deserve and the opportunity

to reset, rebuild, and restore their capabilities. That is not a Democratic talking point or a Republican talking point. It is common sense, and in this debate it is long overdue.

On President Bush's watch, our military and their families have been stretched to the breaking point. This is not idle talk. Every single one of the Army's 38 available combat brigades is either deployed, just returning or scheduled to go to Iraq or Afghanistan, leaving no fresh troops to replace the five extra brigades sent to Iraq earlier this year. Most Army brigades have completed two or even three tours in Iraq or Afghanistan, with one, the 2nd Brigade of the 10th Mountain Division, having served four tours already.

The Army has been forced to rely on a so-called $20,000 ''quick-ship'' bonus to meet recruiting goals, paying soldiers $20,000 to stay in the military, in part to make up for last year's shortage of military officers. We are 3,000 officers short, and the number is only projected to rise.

Eighty percent of our National Guard and Reserves have been deployed to Iraq or Afghanistan and are serving an average of 18 months per deployment.

Those National Guard and Reserves remaining in the United States have 30 percent of the essential equipment they need because so much of it has been shipped overseas, destroyed, in need of repair, or now obsolete. Thirty percent is what they have in case of an emergency, and they have to help in this country. We have all heard of the heavy personal toll this overburdening of our military is taking. Let me give two examples.

First, the heartbreaking story of Army PFC Travis Virgadamo of Las Vegas. Travis was a boy who loved his country. What did he want to do? He wanted to go in the military, and he did that. He loved serving in the military. He saw it, as his family said, as his calling. Yet after months of serving in Iraq—and here is how he described it, ''being ordered into houses without knowing what was behind strangers' doors, walking along roadsides fearing the next step could trigger lethal explosives''—and he said other things, but that is enough—the horrors were more than this 19-year-old could take.

He sought therapy. He wanted to have somebody help him with his emotional status while he was overseas, but he got nothing. He came home, asked for help, and was given some medicine and forced to go back to Iraq. He felt as if he wasn't going to be able to do his job. His family knew it. They talked about it. As I said, he was given medicine and sent back for his second tour of duty. Travis was, I repeat, 19 years old when he committed suicide after going back to Iraq for just a matter of weeks.

The ordeal he went through was sadly far from unique. Is this fair? Is this fair to those other troops he was asked to serve with and who relied upon him? The answer is no.

Last year, the Veterans Affairs Department reported that more than 56,000 veterans of Iraq and Afghanistan had been diagnosed with mental illness—56,000. Many of them had been sent back into battle without receiving adequate care.

A second example. SGT Anthony J. Schober, a 23-year-old from northern Nevada, was killed in May in an ambush while serving his fourth tour of duty. I had the chance to speak with Anthony's family—his grandfather. Before returning to Iraq for the last time, Anthony told his grandfather and other family members he knew he wouldn't be coming home. He had survived too many explosions, in his words. Too many of his buddies were killed who were with him.

Madam President, if my time expires, I will use my leader time.

Travis and Anthony died as heroes. Our troops are all heroes, but Anthony and Travis weren't machines, they were people, one 19 years old, one 23 years old. They sacrificed so much—all our troops have—and asked for so little in return. We want to give them something in return. That is what this amendment is all about.

With gratitude for their service and recognition that our national security demands no less, I rise to once again support the amendment offered by JIM WEBB, representing the Commonwealth of Virginia. They sent to Washington to represent them in the Senate a brave man. It is more than his ability to talk and say the right thing courageously. Here is a man who is qualified to talk about this. He has been in combat. The author of this amendment is a Naval Academy graduate, a Marine Corps commander, received a Silver Star award for heroism, the Navy Cross, the Bronze Star for heroism, a couple of Purple Hearts, and was a Secretary of the Navy. His amendment, his readiness amendment, begins the critical and long overdue process of rebuilding our badly overburdened military.

It is simple, his amendment. It states:

> If a member of the active military is deployed to Iraq or Afghanistan, they are entitled to the same length of time back home before they can be redeployed.

It also states:

> Members of the Reserves may not be redeployed within 3 years of their original deployment—which will not only give them time to recover from deployment, but will also restore our reserve forces ability and availability to respond to emergencies here at home.

Some have tried to confuse this issue by calling it an infringement of Presidential authority. That argument was debunked the first time anyone ever suggested it. The Constitution of the United States, article I, section 8, says Congress is empowered:

> To make rules for the government and regulation of the land and naval forces.

This argument is undercut even further by the fact the amendment provides ample authority for the President to waive these requirements in case of an emergency that threatens our national security. The Webb amendment establishes a new policy, but it doesn't tie the President or Congress's hands to respond to any emergency.

If we are committed to building a military that is fully equipped and prepared to address the challenges we face throughout the world—and I know we are—then we must support this amendment. If we are committed to repaying in some small measure the sacrifices our brave troops are making every day—and I know we are—then we must support this amendment.

The decision by Republican leadership to thwart the will of the majority in this body from adopting this troop readiness amendment back in July was discouraging, to say the least. And after 3 more months of keeping our troops enmeshed in a civil war, their continued effort to undermine this legislation today is simply inexplicable to me. If Republicans oppose troop readiness, they are entitled to vote against this. If Republicans don't believe our courageous men and women in uniform deserve more rest and mental health, they can vote ''no'' on this amendment. If they do not agree constant redeployments and recruitment shortages are straining our armed forces, they can vote ''no'' on this amendment. If they believe it is in our national security interest to push our brave troops and their families beyond their breaking point, then let them vote ''no'' on this amendment. But to stop the majority of this body from acting shows yet again that most of my Republican colleagues are much more concerned about protecting the President than protecting our troops.

Some in the administration have argued that this amendment would be too complicated for the Defense Department to enact. We, our military, can develop and deploy the best technology on Earth, and we have done that. Our stealth fighters can enter undetected into enemy territory. We can launch terrain-hugging missiles from thousands of miles away and hit a single target the size of a small window in a building. We can pay, clothe, feed, train, and manage a military force of over 2 million, plus their families. Yet we are supposed to believe that the Department of Defense can't follow one simple rule, that each and every soldier, sailor, airman, and marine must receive rest equal to their time of deployment.

Senators, please don't fall victim to the White House talking points. This amendment is for Travis Virgadamo and his family, for Anthony Schober and his family, and for the 50 other Nevadans who have given the ultimate sacrifice, and the approximately 2,800 other Americans who have died.

Because some in the minority are choosing obstruction doesn't mean all Republicans must follow in lockstep. We almost overcame Republican obstructionism on this amendment in

July. We can finally do the right thing here today. So I say to my friends, my Republican friends, this is Bush's war. Don't make it also the Republican Senators' war.

I know every single one of my colleagues, on both sides of the aisle, would agree that America's Armed Forces are the envy of the world and must continue to be. This amendment puts that commitment into action and honors our troops and prepares our Armed Forces for the serious challenges that lie ahead—and they do lie ahead.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I understand I have 2½ minutes; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. MCCAIN. Madam President, I think we ought to understand what this amendment is all about. In the view of the Secretary of Defense, he says:

> As drafted, the amendment would dramatically limit the Nation's ability to respond to other national security needs while we remain engaged in Iraq or Afghanistan.

He goes on to say:

> The amendment would impose upon the President an unacceptable choice between accelerating the rate of drawdown significantly beyond what General Petraeus has recommended, which he and other senior military commanders believe would not be prudent, and would put at real risk the gains we have made on the ground in Iraq over the past few months, or to resort to force management options that would further damage the force and its effectiveness in the field.

That is what this amendment is about. Nowhere in the Constitution does it say the President of the United States is deprived of the authority to decide when and where to send troops in a time of war. Nowhere. Nowhere in the history of this country have such restrictions been imposed or privileges assumed by the Congress of the United States. We have one Commander in Chief, and one only. To somehow assume that we would begin with Congress's 535 commanders in chief, I think, would reduce our ability to ever fight another war effectively.

Let me sum up by saying that clearly the message I am getting from the troops in the field is not that the war is lost, as the majority leader in the Senate stated last April. We are succeeding and we are winning. And with the enactment of this amendment, we will choose to lose. This is setting a formula for surrender, not for victory.

I am hearing from the troops in the field three words, three words: Let us win. They have sacrificed a great deal, as the majority leader described very dramatically. Now give them a chance to win. That is what they want. They do not want that sacrifice to be in vain.

This amendment would do exactly what the Secretary of Defense says, as well as other interested observers. I urge my colleagues to reject this amendment. Allow this new strategy and for this great general, whom the American people had a great opportunity to see last week as he spoke to the Congress and the American people. Reject this amendment and let us win.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WEBB. Madam President, I wish to first say I am grateful to all the Senators who participated in the debate today, including my good friend Senator MCCAIN, for whom I have had respect for a long time.

I wish to emphasize again that this amendment provides a minimal adjustment in our rotation policies, and it does so with the notion that we can get a minimum floor underneath the deployment cycles of people who have been conducting the operational policies of the United States for 4½ years.

If we were attempting to be obstructionists or we were attempting to shut down a system, we would probably be arguing for the 2-to-1 ratio which is the goal of the Commandant of the Marine Corps and the historical tradition of the U.S. military. We are simply saying for every period you have been gone, you should have that amount of time back here at home.

This amendment is constitutional. It is well within the Constitution. I have given a memorandum that shows at least a half dozen different examples of when the Congress has put these sorts of restrictions in place when the executive branch has gone too far.

It is responsible. It was drafted with a great deal of care. We have listened. This amendment is an adjustment from the amendment that was offered last July. We have spoken with Secretary Gates. We modified the language of it. It is needed. It is needed in a way that is beyond politics, and certainly would not contribute to what some people are calling defeat.

It is needed for troop and family reasons, and that is why the Military Officers Association of America, 368,000 military officers, has supported the amendment. It is needed because the state of the debate on the Iraq war is going to continue for a long period of time. We all know that now. We know it specifically since General Petraeus's testimony.

We are going to have to resolve this in the political environment. We need to do so under a framework that protects our troops. I ask my colleagues to support it. I am very pleased we have 36 cosponsors on this amendment, and I would hope the Senate passes it.

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 amendment.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 56, nays 44, as follows:

[Rollcall Vote No. 341 Leg.]

YEAS—56

Akaka	Feingold	Nelson (FL)
Baucus	Feinstein	Nelson (NE)
Bayh	Hagel	Obama
Biden	Harkin	Pryor
Bingaman	Inouye	Reed
Boxer	Johnson	Reid
Brown	Kennedy	Rockefeller
Byrd	Kerry	Salazar
Cantwell	Klobuchar	Sanders
Cardin	Kohl	Schumer
Carper	Landrieu	Smith
Casey	Lautenberg	Snowe
Clinton	Leahy	Stabenow
Coleman	Levin	Sununu
Collins	Lincoln	Tester
Conrad	McCaskill	Webb
Dodd	Menendez	Whitehouse
Dorgan	Mikulski	Wyden
Durbin	Murray	

NAYS—44

Alexander	DeMint	Lugar
Allard	Dole	Martinez
Barrasso	Domenici	McCain
Bennett	Ensign	McConnell
Bond	Enzi	Murkowski
Brownback	Graham	Roberts
Bunning	Grassley	Sessions
Burr	Gregg	Shelby
Chambliss	Hatch	Specter
Coburn	Hutchison	Stevens
Cochran	Inhofe	Thune
Corker	Isakson	Vitter
Cornyn	Kyl	Voinovich
Craig	Lieberman	Warner
Crapo	Lott	

The PRESIDING OFFICER (Ms. KLOBUCHAR). Under the previous order, requiring 60 votes for the adoption of this amendment, the amendment is withdrawn.

Mr. MCCONNELL. Madam President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2918

The PRESIDING OFFICER. There will now be 10 minutes of debate equally divided before a vote on amendment No. 2918.

The Senator from Arizona.

Mr. MCCAIN. Madam President, I again wish to express my appreciation and respect for the author of the amendment that was just considered by the Senate. I appreciate the courtesy and the level of debate that was conducted. I also always appreciate very much his brave service to our Nation.

I hope I could convince my friend from Virginia that perhaps we could have a voice vote on this, because as we know, it is a sense-of-the-Senate amendment. I will not take all of my time except to say that all Senators share the concern for the men and women of the Armed Forces and their families, as a result of the operational demands of operations in Iraq and Afghanistan.

This amendment expresses a sense of Congress—a sense of Congress, not a mandate—that consistent with wartime requirements, DOD should put into place force management policies that reflect the dwell time ratios in the Webb amendment.

The amendment is clear, however, that such dwell time policies cannot be implemented if to do so would prevent mission accomplishment or harm other

members of the force. That is why it includes a certification requirement that would have the Secretary of Defense assure Congress that such a policy would not result in extending deployments of units or members beyond their current scheduled rotation.

The amendment also includes a waiver provision that Senator WARNER suggested. It wisely provides authority to the Secretary of Defense to waive the requirements of any existing dwell time policy and an attendant certification if the Secretary of Defense determines it is necessary to do so in the interest of national security.

I again want to thank Senator WARNER, our distinguished former chairman and long-time Member of this body, who played such an important role in this whole debate and continues to.

I realize this debate on Iraq is far from over, that this is only one amendment. But I also appreciate the level of dialog, debate, and discussion on this very important issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WEBB. Madam President, I wish to begin this statement the same way I did the last one, by thanking the Senator from Arizona for his service and also for the quality of the debate I believe we had on the other amendment.

I would be very anxious to try to find some common ground here on something that we could agree upon that would help move this forward. There are portions of this amendment that I think are fairly useful. But I am unable to support it.

I urge my colleagues to vote against it. The first part of it is nothing more than a statement of existing policy even with the language that the Department of Defense ''should'' establish a force management policy.

On the second part, I have attempted several times to read it carefully. As an attorney, and as someone who used to be a committee counsel, the certifications required are very confusing. It is kind of gobbledy-gook.

I believe it would, on one level, be redundant to current policy and on the other be confusing. I don't think it is useful, and I intend to oppose it.

I yield the floor.

Mr. MCCAIN. Madam President, I yield back the remainder of my time and 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.

Mr. LEVIN. Parliamentary inquiry: Like the previous vote, this amendment requires 60 votes?

The PRESIDING OFFICER. The Senator is correct.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 55, nays 45, as follows:

[Rollcall Vote No. 342 Leg.]

YEAS—55

Alexander	DeMint	McCain
Allard	Dole	McConnell
Barrasso	Domenici	Murkowski
Bayh	Ensign	Nelson (FL)
Bennett	Enzi	Nelson (NE)
Biden	Graham	Roberts
Bond	Grassley	Sessions
Brownback	Gregg	Shelby
Bunning	Hatch	Smith
Burr	Hutchison	Snowe
Chambliss	Inhofe	Specter
Coburn	Isakson	Stevens
Cochran	Johnson	Sununu
Coleman	Kyl	Thune
Collins	Landrieu	Vitter
Corker	Lieberman	Voinovich
Cornyn	Lott	Warner
Craig	Lugar	
Crapo	Martinez	

NAYS—45

Akaka	Feingold	Mikulski
Baucus	Feinstein	Murray
Bingaman	Hagel	Obama
Boxer	Harkin	Pryor
Brown	Inouye	Reed
Byrd	Kennedy	Reid
Cantwell	Kerry	Rockefeller
Cardin	Klobuchar	Salazar
Carper	Kohl	Sanders
Casey	Lautenberg	Schumer
Clinton	Leahy	Stabenow
Conrad	Levin	Tester
Dodd	Lincoln	Webb
Dorgan	McCaskill	Whitehouse
Durbin	Menendez	Wyden

The PRESIDING OFFICER. On this vote, the yeas are 55, the nays are 45. Under the previous order requiring 60 votes for adoption of this amendment, the amendment is withdrawn.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

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

Mr. LEVIN. Madam President, the Senator from Texas, I understand, is now ready to offer an amendment. We have been alternating. My understanding is he will lay down his amendment tonight, then he will speak on his amendment for some period of time, and then we will pick that up tomorrow morning. There may very well be a side-by-side amendment relative to the Cornyn amendment. We do not know, though, until we see that amendment.

Then I would ask unanimous consent that—I do not have my ranking member here, however, so I am going to withhold the unanimous consent request. It is my intent to ask unanimous consent that after Senator CORNYN lays down his amendment and speaks on it, that we then move into morning business. That is my intent as soon as—all right, it turns out that has been cleared on that side.

Madam President, I ask unanimous consent that after Senator CORNYN is recognized, lays down his amendment, speaks to it, we then go into morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

The Senator from Texas.

Mr. CORNYN. Madam President, I ask unanimous consent to set the pending amendment aside to send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Madam President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DURBIN. If I could say for the record—and I am going to withdraw my objection—we passed a rule that provided something that many Members are not aware of: that before an amendment would be considered at the desk, a copy would be given to both sides of the aisle before the amendment debate begins. I am not picking on my colleague and friend from Texas, but I only object for the purpose of raising that rule so we can start enforcing it. I think it is only fair that both sides see the amendment before the debate begins.

I withdraw my objection because I do not want to prejudice my friend from Texas at this point. But in the future, I hope we can all live by that rule.

Mr. CORNYN. Madam President, I renew my unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Madam President, could the request be restated? I apologize.

Mr. CORNYN. Madam President, I ask unanimous consent that the pending amendment be set aside, that I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

AMENDMENT NO. 2022 WITHDRAWN

Mr. LEVIN. Madam President, reserving the right to object—and I will not object—I understand Senator LEAHY has now authorized me to withdraw his amendment which is pending, so it will avoid, perhaps, that pendency requirement for future amendments.

So I withdraw now the Leahy amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The amendment is withdrawn.

Is there objection to the request of the Senator from Texas?

Mr. LEVIN. I do not object.

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

AMENDMENT NO. 2934 TO AMENDMENT NO. 2011

(Purpose: To express the sense of the Senate that General David H. Petraeus, Commanding General, Multi-National Force-Iraq, deserves the full support of the Senate and strongly condemn personal attacks on the honor and integrity of General Petraeus and all the members of the United States Armed Forces)

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. CORNYN] proposes an amendment numbered 2934:

At the end of subtitle E of title X, add the following:

SEC. 1070. SENSE OF SENATE ON GENERAL DAVID PETRAEUS.

(a) FINDINGS.—The Senate makes the following findings:

(1) The Senate unanimously confirmed General David H. Petraeus as Commanding General, Multi-National Force-Iraq, by a vote of 81-0 on January 26, 2007.

(2) General Petraeus graduated first in his class at the United States Army Command and General Staff College.

(3) General Petraeus earned Masters of Public Administration and Doctoral degrees in international relations from Princeton University.

(4) General Petraeus has served multiple combat tours in Iraq, including command of the 101st Airborne Division (Air Assault) during combat operations throughout the first year of Operation Iraqi Freedom, which tours included both major combat operations and subsequent stability and support operations.

(5) General Petraeus supervised the development and crafting of the United States Army and Marine Corps counterinsurgency manual based in large measure on his combat experience in Iraq, scholarly study, and other professional experiences.

(6) General Petraeus has taken a solemn oath to protect and defend the Constitution of the United States of America.

(7) During his 35-year career, General Petraeus has amassed a distinguished and unvarnished record of military service to the United States as recognized by his receipt of a Defense Distinguished Service Medal, two Distinguished Service Medals, two Defense Superior Service Medals, four Legions of Merit, the Bronze Star Medal for valor, the State Department Superior Honor Award, the NATO Meritorious Service Medal, and other awards and medals.

(8) A recent attack through a full-page advertisement in the New York Times by the liberal activist group, Moveon.org, impugns the honor and integrity of General Petraeus and all the members of the United States Armed Forces.

(b) SENSE OF SENATE.—It is the sense of the Senate—

(1) to reaffirm its support for all the men and women of the United States Armed Forces, including General David H. Petraeus, Commanding General, Multi-National Force-Iraq;

(2) to strongly condemn any effort to attack the honor and integrity of General Petraeus and all the members of the United States Armed Forces; and

(3) to specifically repudiate the unwarranted personal attack on General Petraeus by the liberal activist group Moveon.org.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, if this amendment sounds familiar, it is because I offered this amendment roughly 10 days ago. In response to my colleague from Illinois, this is virtually the same amendment I offered during the consideration of the Transportation and Housing and Urban Development appropriations bill, to which the other side of the aisle raised a point of order, and it was judged not germane.

I respect that ruling on that bill, but we are back here today, 10 days later, on the Defense authorization bill—a bill to which this amendment is clearly germane. I want to make a few points.

First of all, for my colleagues' recollection, I have in the Chamber a copy of the ad that ran on September 9, 2007, immediately before GEN David Petraeus came to testify before the Congress, along with Ambassador Ryan Crocker, the Ambassador to Iraq from the United States.

It is important for colleagues to recognize that this ad ran before the general came to testify, even though it had been well known the general would come back in September 2007 and report on progress on the fight in Iraq, both from a military as well as a diplomatic perspective.

So it is clear, at least to me, the purpose of this ad was to smear the good name of this four-star U.S. Army general, the commander of multinational forces in Iraq, before he even had a chance to make his report to the Congress and to the American people on the progress of the surge of forces and of operations in Iraq.

As the amendment, which has been read, indicates, General Petraeus is the senior commander on the ground for the United States and coalition forces in Iraq. Before the general testified, this ad placed in the New York Times—apparently at a discounted rate below the $167,000 ad rate which ordinarily would be charged for a full-page ad in the Sunday New York Times—this ad, which was sold at a discount by the New York Times to MoveOn.Org, asks the question: ''General Petraeus or General Betray Us?'' and accused this professional soldier of ''Cooking the Books for the White House.''

It goes on—and all of us can read—to further disparage the good reputation of this professional soldier and someone who is responsible for roughly 170,000 American men and women wearing the uniform of the United States military in Iraq.

The reason why MoveOn.org bought this false ad was because they were afraid of what General Petraeus would indeed report when he testified before Congress a week or so ago.

In fact, General Petraeus testified that ''the military objectives of the surge are, in large measure, being met.''

He told us the ''overall number of security incidents in Iraq has declined in 8 of the past 12 weeks,'' preceding his testimony.

He said: ''Coalition and Iraqi forces have dealt significant blows to Al Qaeda-Iraq.''

He said: ''We have also disrupted Shia militia extremists.''

He went on to testify that ''Coalition and Iraqi operations have helped reduce ethno-sectarian violence, as well [as] bringing down the number of ethno-sectarian deaths substantially in Baghdad and across Iraq since the height of the sectarian violence last December.''

He said: ''The number of civilian deaths has also declined during this [same] period.''

If that sounds familiar, it is because General Petraeus's testimony was preceded by the issuance of the National Intelligence Estimate on Iraq, issued just the preceding month, which basically came to the same conclusions as General Petraeus.

The National Intelligence Estimate, of course, represents the considered opinion of the intelligence community of the U.S. Government. It is delivered by the Director of National Intelligence pursuant to requirements of Congress in law.

The National Intelligence Estimate, issued just last month by the U.S. intelligence community, found there have been ''measurable improvements'' in Iraq's security situation since last January before General Petraeus's implementation of the new strategy.

The NIE, or National Intelligence Estimate, found that if our troops continue to execute the current strategy, Iraq's security environment will continue to improve over the next 6 to 12 months; and that changing the U.S. mission in Iraq would erode security gains achieved thus far.

Well, it is not just General Petraeus's testimony. It is not just the National Intelligence Estimate that was rendered last month. We had a commission created by the Congress, headed by former Marine GEN James Jones, and with a group of commissioners whose cumulative military experience exceeds 500 years. Also on this commission were a number of police chiefs and other law enforcement personnel with more than 150 years of law enforcement experience.

So it is clear by virtue of their experience they have a solid basis for the judgment they rendered. Well, it is important to note that not only did General Petraeus testify, as I have indicated, not only has the National Intelligence Estimate said what I quoted, the Jones Commission also found that the Iraqi Armed Forces—the Army, Special Forces, Navy, and Air Force—are increasingly effective and are capable of assuming greater responsibility for the internal security of Iraq.

The commission—we were told before a hearing in the Armed Services Committee, on which I sit—thinks that over the next 12 to 18 months the Iraqi forces will continue to improve their readiness and capability.

I noted during the testimony of General Petraeus that this is one of the first times I can think of where the messenger was shot for delivering good news. In other words, this ad run in the New York Times before the general testified is contradicted by not only his testimony but by the National Intelligence Estimate I mentioned and the Jones Commission, representing more than 500 years of military experience. It is sad to say but true that this ad represents what I would consider to be a sign of the times.

Now, I know the distinguished majority whip is on the floor, and I recall that when I offered this bill on the

Transportation, Housing and Urban Development appropriations bill, we had a colloquy talking about: Well, everybody makes mistakes. Occasionally, people will misspeak and not accurately say what they intend to convey. But since this ad ran, since the time the distinguished majority whip and I had this colloquy, MoveOn.Org has expressed its pride at running this ad. In other words, they said they were glad for what this ad conveys. They are not ashamed of it. They didn't say it was a mistake or they misspoke; they continue to stand behind this slur on the good name of General Petraeus, a man who is sworn to uphold and defend the Constitution of the United States and to do everything in his professional ability to win the conflict in Iraq.

So even before Congress received the Petraeus-Crocker reports, we know some critics had already declared the surge to be a failure. There are those who said they didn't care what General Petraeus had to say.

Now, after General Petraeus and Ambassador Crocker have reported, some of these same people are, such as MoveOn.Org, questioning their judgment—which is their right—but also their motivation, which I think if they are agreeing with the motivation that is expressed in this ad, I respectfully disagree with them.

It is puzzling why some of my colleagues insist on moving the goalpost for our military. In fact, I think what they experience is what happens when anybody bets against the U.S. military. It is dangerous to do because they are going to lose if they are betting against the men and women of the U.S. military. I cannot fathom how the success of our troops in improving the security situation in Iraq could possibly be construed as a bad thing for our Nation, but some apparently, including MoveOn.Org, seem to think it is.

I refuse to stand by while a group such as MoveOn.Org demeans the good name of an American soldier who represents, in turn, 170,000 American soldiers, sailors, marines and airmen and Coast Guard. I refuse to stand by while this group demeans the good name of our men and women in the U.S. military who have given so much for our country. The military service of General Petraeus alone is spotless, and he has proven time and time again, with his blood, his sweat and his tears, his patriotism and his love for our country. As a matter of fact, one would be hard-pressed to find another military officer with the qualifications that are as impressive as General Petraeus. Currently serving his third combat tour in Iraq, he has literally been there and done that, and he has done it with dignity, with honor, and devotion to service.

Today, I offer all my colleagues a chance to clear the air and set the record straight. For some of them, voting for this amendment may represent a chance to show true moral courage and true political courage as well. My amendment expresses the sense of the Senate that GEN David Petraeus and all the members of our Armed Forces are to be supported and honored and that any effort to attack their honor and their integrity should be condemned; particularly before the general was able to even deliver his testimony, where MoveOn.Org and these critics could not have known what he was going to say, and that clearly the goal of this ad and MoveOn.Org was to undermine public confidence in the messenger before the messenger even had a chance to deliver that message. My amendment expresses a sense of the Senate that General Petraeus and all the members of our Armed Forces should be protected and defended against an attack on their honor and integrity.

By introducing this amendment, I call on all Senators to tell America they do not condone such character assassination of those who are sworn to protect the very freedom we enjoy and the very system of government in which we all serve. Our military servicemembers simply deserve better. I hope all Members of the Senate would join with me in supporting this amendment.

Mr. DURBIN. Would the Senator yield for a question?

Mr. CORNYN. I yield for a question.

Mr. DURBIN. Madam President, in the 2004 Presidential campaign, I might ask the Senator from Texas, there was a group from Texas that attacked Senator JOHN KERRY and said he was undeserving of the commendations and decorations he received for his courage in fighting in Vietnam and raised questions about others who served in the military who were part of his swift boat operation. One would have to say, by any stretch, that the Swift Boat Veterans for Truth were attacking the honor and integrity of one of our colleagues who served with honor in the Vietnam war.

I would like to ask the Senator from Texas if he is prepared to remain consistent and if he is also prepared to amend his amendment to repudiate the activities, actions, and statements of the Texas-based Swift Boat Veterans for Truth organization with their unwarranted attacks on our colleague, Senator JOHN KERRY of Massachusetts, during the 2004 campaign.

Mr. CORNYN. Madam President, I am not willing to amend my amendment, as the distinguished majority whip requests. He keeps emphasizing this is a Texas-based group. I have no idea whether it is. But let me tell my colleague what the differences are between this ad and what MoveOn.Org tried to do to this good soldier and the difference between that and a political campaign.

Senator KERRY chose to run for President of the United States. You and I and others may disagree with the tactics employed by third parties in the course of a Presidential campaign, but this is not a Presidential campaign. General Petraeus did not volunteer to run for political office and subject himself to the spears we all sometimes catch as part of the political process. All this general has sworn to do is to uphold and defend the Constitution of the United States and to protect this country from attacks from our enemies.

So I would say it is apples and oranges to compare what happens in a political campaign with the attack on this general in such a premeditated and vicious way as MoveOn.Org did before he was to deliver his testimony before the Congress.

Mr. DURBIN. Madam President, my friend and colleague from Texas, Senator CORNYN, has offered this amendment before. I so stated on the floor before, and I will state again, I respect GEN David Petraeus. I voted to confirm him as the commanding general of our forces in Iraq. He has served our country with distinction. It has been my good fortune to spend time with him in Iraq on two different occasions. Both times I have felt he was forthcoming and answered questions and demonstrated time and again that he was willing to wear our country's uniform and risk his life. I think the language chosen in this ad by this organization was wrong and unfortunate.

Having said that, I am troubled by the conclusion of my colleague from Texas that the Swift Boat Veterans for Truth could attack Senator JOHN KERRY for his valor and courage fighting for America in Vietnam and that for some reason we shouldn't repudiate that attack; that it is OK because it happened, as my colleague said, during a political campaign. If this is about the honor and integrity of our Armed Forces, past and present, whether it takes place during a political campaign or at half time at a football game should make no difference. If the Senator from Texas believes we should stand on a regular basis and condemn those who would attack the honor and integrity of warriors who have served this country with valor in past wars and present wars, then he should be consistent. It is totally inconsistent for him to pick one organization and to ignore the obvious: There are others who have done the same thing.

Swift Boat Veterans for Truth is a classic example of an organization that distorted the truth about Senator JOHN KERRY and others who served our country during the Vietnam war. The fact that they did it during a Presidential campaign should have absolutely nothing to do with it, if this is a matter of principle. However, if it is not a matter of principle and something else, then you would pick and choose those organizations you want to condemn or repudiate. Unfortunately, the Senator from Texas has picked one organization. He doesn't want to talk about the Swift Boat Veterans for Truth. He certainly doesn't want to repudiate them. I think they should be repudiated. What they did cast a shadow on the

combat decorations given to others during the course of that war.

What Senator JOHN KERRY did was to volunteer to serve our country, put his life on the line, face combat, stand up and fight for his fellow sailors on that swift boat, and then come back to the criticism, the chief criticism of a group known as the Swift Boat Veterans for Truth.

Now, if the Senator from Texas is going to be filled with rage over those who would cast any disparaging remarks about our military, he should be consistent. He should amend his amendment—and I will seek to do it for him, incidentally—to add the Swift Boat Veterans for Truth as a group that should be repudiated. If we are going to get into this business of following the headlines, responding to advertisements and repudiating organizations, let's at least be consistent.

Mrs. BOXER. Madam President, will my friend yield?

Mr. DURBIN. I will yield.

Mrs. BOXER. Madam President, I wish to thank my colleague very much for pointing out the inconsistency of an attack on one organization that I guess my friend doesn't admire anyway, and that is his right. It is also our right to speak the truth on this floor. The fact of the matter is the Swift Boat Veterans for Truth went after a war hero and told stories to the American people that were not true and tried to sully a hero's reputation.

But he is not the only Senator who was attacked, as my friend remembers what happened to our colleague, Max Cleland. I know he does. Here is a veteran who gave three limbs for his country—three limbs. It is harder for him, for the first 2 hours of every day, to get ready for the day than it is for the Senator from Texas or myself or the Senator from Illinois to do our work for a month. Yet this man was viciously attacked and his patriotism called into question. Oh, yes, my friend might say, it was during a political campaign. It was disgusting. So we raise these issues.

What I wish to ask my friend is this: I was thinking—as the Senator from Texas, my friend and colleague, was speaking—I was thinking about some retired generals who spoke out against this war and said they were called traitors and worse. So I am looking at ways to incorporate into this a condemnation of anyone who would attack a retired general for speaking out against a war because I think that was low and it was horrible. It was frightening because, in a way, it was saying to these retired generals that they had no voice, no independent voice.

So I wish to thank my colleague, and I wonder if he recalls these generals. I will have more details as I put together my second-degree amendment as well.

Mr. DURBIN. Madam President, I would say in response to my colleague from California that if we are going to get into the business of standing up for members of the military, past and present, who were attacked for their positions on issues, then so be it. Let's be consistent about it. Let's remember our fellow colleague from Georgia, Senator Max Cleland, and remember what happened to him, when someone, during the course of a campaign, ran an ad suggesting he was somehow consorting with Osama bin Laden—a man who had lost three limbs to a grenade in Vietnam and who was attacked in a way that none of us will ever be able to forget.

The Senator from Texas includes in his whereas clauses, his sense-of-the-Senate clauses, to strongly condemn any effort to attack the honor and integrity of all the members of the U.S. Armed Forces. I hope if that is his true goal, he will allow us to amend his resolution to not only include the Swift Boat Veterans for Truth but those who attacked Senator Max Cleland during the course of his campaign.

I don't think the fact that it happens during a campaign absolves anybody from the responsibility of telling the truth and honoring those who served. In this case, two Democrats, Senator Max Cleland and Senator JOHN KERRY, were attacked, and there wasn't a long line of people on the floor to condemn the attackers. Now that the Senator from Texas has decided we should bring this up as part of the Defense authorization bill, I hope he will be consistent, and I hope he will consistently stand up for the reputations of the men and women in uniform, starting with General Petraeus but including those who served in this war and other wars in the past.

Each of them deserves our respect. I might add, parenthetically—it is worth saying—even if we disagree with their political views, they still deserve our respect. To attack their honor and integrity is wrong.

Mr. SMITH. Mr. President, last year the Senate enacted legislation that stripped the courts of jurisdiction to hear pending habeas claims brought by unlawful enemy combatants. It was with sadness then, as it is now, that the Senate failed to restore and protect this great writ. The writ of habeas corpus is a cornerstone of the rule of law. The right of an individual to learn of his or her detention by the government in a court of law is fundamental to our Constitution. Permanent detention of foreigners, without reason or charges, undermines our moral integrity in the world and does violence to our Constitution. It troubles me greatly that we have limited the ability of the judicial branch to ensure that detainees are being held fairly and justly by the American Government. It is my sincere hope that we will take up this amendment again in the near future.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate is now in a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Texas is recognized.

CHARACTER ASSASSINATION

Mr. CORNYN. Mr. President, I will not speak long because I know my friend from Iowa is here to speak in morning business.

I do want to say that Senators certainly have every right to offer any amendment they choose, but they don't have a right to require me to modify my amendment.

I am sorry they don't acknowledge the difference between somebody who has volunteered to become a public figure, a political candidate running for election, and somebody such as General Petraeus who in the performance of his duty is reporting to the Congress on the progress in a war in which 170,000 Americans are exposed to loss of life and limb right now.

To try to resurrect the old political battles of the past with regard to what happened in the Georgia Senate race, or what happened in the race for President of the United States, we are not going to achieve consensus here. Those were political races and those people are public figures. I don't like it when I am criticized any more than my colleagues do, including Senator KERRY or Senator Cleland. But that is an apples-and-oranges comparison to somebody who is wearing the uniform of a U.S. soldier who is performing his duty to report to Congress on the progress of military operations in Iraq.

So we may head down that road. As I said, it is every right of my colleagues to offer other amendments. We will take those as they come. But I hope all of our colleagues will, as an act of solidarity and support for General Petraeus and our men and women in uniform, vote for my resolution and condemn this character assassination on the name of a good man.

I yield the floor.

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

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

ALTERNATIVE MINIMUM TAX

Mr. GRASSLEY. Madam President, I am here to follow through on a promise I made back on June 13. At that time, after several speeches on the alternative minimum tax, I said I was going to continue talking about the alternative minimum tax until Congress took action to protect the roughly 19 million families and individuals who will be hit by it in 2007 who did not have to pay it in 2006—19 million families now affected who weren't affected last year.

I am also here to talk about a promise Congress needs to follow through on, which is to protect these 19 million families and individuals from the alternative minimum tax for the tax year we are in right now, 2007.

In 2006, 4.2 million families and individuals were captured by the AMT. For taxable year 2006, the legislation that temporarily increased the amount of income exempt from the alternative minimum tax expired. So, right now, and for the last 9 months, under current law, we expect around 23 million families and individuals to fall victim to the alternative minimum tax if Congress doesn't act.

This chart illustrates the current situation, using the figures I have already referred to: 4.2 million people were paying the alternative minimum tax last year. But what is submerged underneath the surface there is the 19 million people who are affected because Congress has not taken action yet. Tax year 2007, then, is represented by the boat and is rapidly approaching the AMT iceberg. Right now, most of the iceberg—the part that represents the 19 million additional taxpayers who will be caught by the alternative minimum tax this year—is under water.

The full magnitude of this imminent disaster will become apparent when those 19 million families and individuals start working on their 2007 tax returns starting January 2 of next year. Actually, the situation is worse than I implied—if you can imagine that it can be any worse than that. I wish to say that many families have already fallen victim to the alternative minimum tax. Of course, I am referring to those taxpayers who have to file quarterly returns, quarterly estimated returns.

The last time I spoke to you here on the Senate floor was on the occasion of the estimated tax payments for the second quarter due. I wish to say I am also speaking to my fellow Senators, but I am not sure how many of them might be listening because between June, when I spoke last, and the 3 months since, estimated tax payments for the third quarter were due this past Monday, September 17.

Before I go further, I want to specifically address the size of the population that makes estimated tax payments. In case anyone is thinking this is a very small group of people, the statistics of the income division of the IRS state that for tax year 2004, almost 11 million families and individuals made estimated tax payments. I am not saying each of those filers would be captured this year by the alternative minimum tax, but I surely want to remind everybody of the possibility that the number of people making estimated tax payments is very large, and that those among them hit by the AMT—we have already failed them by not taking care of this before the first payments were made in January.

As I have said, I last addressed the AMT on the Senate floor 3 months ago. In that time, no progress has been made on taking care of the problem of the AMT.

The next chart actually portrays what the Senate leadership has accomplished in the past 3 months in regard to this issue. It shows a giant goose egg. I have served the people in Iowa in Congress for many years. In that time, I have learned that generally things do not happen overnight. It takes time to formulate ideas, and it takes time to build enough support to take action. That is why I am particularly unhappy with this giant goose egg.

The current leadership has indicated that they have much they wish to accomplish this year. Time is rapidly running out and a plan for dealing with the AMT has not been proposed, much less a specific solution. The prospects of the AMT swallowing huge swaths of taxpayers is not a new problem. But until now, we have been able to keep it in check and not be 3 months away from 19 million more taxpayers being hit by it.

Since 2001, the Finance Committee has produced bipartisan packages—I emphasize bipartisan—that have continually increased the amount of income that is exempt from the alternative minimum tax. This was possible thanks to the help of Senator BAUCUS, currently chairman of the Finance Committee. Together, Senator BAUCUS and I were able to minimize the damage caused by the AMT. These increases in exemptions, designed to keep pace with inflation and slow the spread of the alternative minimum tax, were never what I envisioned as a permanent solution. Rather, I consider a permanent solution to be the policies represented in a bill with the number S. 55, called the Individual Alternative Minimum Tax Repeal Act.

Once again, I have to credit Chairman BAUCUS for his advocacy on behalf of tax fairness, as he introduced this bill with me, with Senators CRAPO, KYL, and SCHUMER signing on as cosponsors, and Senators LAUTENBERG, ROBERTS, and SMITH also signed on as cosponsors.

In case any of our friends in the House of Representatives are paying attention, a companion bill exists in H.R. 1366, called the Individual AMT Repeal Act. It was introduced by Congressman PHIL ENGLISH of Pennsylvania. What these bills—the ones I introduced in the Senate and PHIL ENGLISH's bill—accomplish is to completely repeal the AMT without offsetting it. That is, these bills do not replace taxes no longer collected from the AMT by raising taxes someplace else. I think it is very important to ensure that revenues that the Federal Government does not collect as a result of the alternative minimum tax reform are not collected someplace else.

The alternative minimum tax was never meant to raise revenue from the middle class of America and was certainly not meant to bring in the amount of money under existing budget law and, oddly, that the Congressional Budget Office has to count. In other words, it should not be counted in the first place if you weren't intended to tax these middle-income taxpayers, but it happens because the AMT was not indexed. The AMT, then, was conceived as a way to promote basic tax fairness in response to concern about a very small number of wealthy taxpayers who were able to eliminate their entire income tax liability through legal means.

The tax created to deal with this—the AMT—was originally, back in 1969, created with the impact at that time of affecting about 1 person out of 500,000. Now, over the course of 38 years, this small salute to tax fairness has grown into a monstrosity of a revenue raiser.

The next chart is taken from the Long-Term Budget Outlook, a Congressional Budget Office publication. It was last published in December 2005. These are the latest figures I have. This illustrates how the alternative minimum tax will swallow more taxpayers as revenue is collected from the alternative minimum tax, being the green line on the chart, over a period of the next 45 years almost, or any time between now and the next 45 years. You can see how it continually grows.

That is what the CBO, through the present budget laws, has to count. But they count it from people—remember, the middle-income people who were never supposed to pay it as opposed to the superrich, a very small number of people, who would take advantage of every legal loophole—I emphasize ''legal'' loophole—and not pay a regular income tax but pay the AMT. I suppose that is out of the theory that everybody living in this country, particularly the wealthy, ought to pay a little bit of tax as a matter of fairness. You can argue whether that is a good rationale, but that was the rationale back in 1969.

So you can see that there is a massive amount of revenue projected to come in from people who were never supposed to pay it that somehow you are supposed to offset, so that that revenue that was never supposed to come in is not lost. I know that doesn't sound reasonable to the average commonsense American listening to me out there, but that is the way our budget laws are, and that is the way Congress has to respond to it, whether it makes sense or not.

Left alone, the Congressional Budget Office calculates that more than 60 percent of the families and individuals in America will fall prey to the alternative minimum tax as it absorbs more than 15 percent of the total tax liability by the year 2050.

This next chart, which is taken from the same congressional office publication, illustrates how under current law revenues collected by the Government are projected to push above their historical average and keep growing as the AMT brings in more and more money. We can see the historical average into the future for 40 years, but it

follows a historical average going back 40 years before now, and because of the alternative minimum tax mostly but also for other law changes, current law, we are going to see the revenue coming in to the Federal Government growing to almost 25 percent of gross national product.

From a philosophical point of view and economic point of view, what is wrong with that? Philosophically, there is less freedom for the Americans. As we spend more of their money, they have less economic freedom. But more importantly, the economic harm that comes from 535 Members of Congress spending 25 percent of the gross national product instead of using the historical average of about 18 percent, that 7 percent difference means we are going to make decisions on how to spend it instead of the 137 million taxpayers in this country deciding how to spend it, where it will turn over the economy more times than if we spend it and do more economic good and create more jobs and have more economic freedom.

That is what is at stake in this whole debate if we do not do anything about the alternative minimum tax and it continues to grow to 15 percent of the total tax liability by the year 2050. This chart points out the increasing power of Congress through taking more money from the taxpayers without even changing the law if we do not do something about this alternative minimum tax.

Anyone who maintains that the alternative minimum tax reform or repeal needs to be offset is not actually doing anything about the problem these charts illustrate. The problems the alternative minimum tax is responsible for are the ballooning Federal revenues above historical levels and a burden on middle-class taxpayers that keeps increasing over time. Offsetting the alternative minimum tax revenue does absolutely nothing to address these issues, and it seems to me to be an attempt to pretend to solve a real problem by actually trying to hide that problem.

Aside from the long-term problems with the alternative minimum tax that we can solve by repealing it, the alternative minimum tax poses a short-term problem to the taxpayers who will fall into its clutches this year if Congress does not act.

Putting aside the legitimacy of keeping this tax, it is not doing what it was intended to do. Putting aside the long-term solution, we are going to end up right now with 19 million more families and individuals being caught by the AMT this year. That 19 million will probably include many taxpayers making estimated tax payments. Some of these families and individuals may not be taking the AMT into account as they make their quarterly payments simply because they do not realize they ought to take this into consideration.

Additionally, there may be some taxpayers who are required to make estimated tax payments when subject to the alternative minimum tax but are not required to make the estimated payments under the regular income tax system. At the end of this tax year, not only could those well-meaning filers find themselves subject to the alternative minimum tax, but they could also face the increased insult of being fined by the IRS for unintentionally miscalculating their estimated tax payments.

I do not believe these well-intentioned taxpayers ought to be penalized because Congress has not come through on its promise to at least keep the AMT from running wild—in other words, going beyond those 4.5 million taxpayers who are already hit by it and not including the 19 million who are otherwise being hit because of inaction so far.

That is why, on July 23, I dealt with this penalty issue by introducing S. 1855, called the AMT Penalty Protection Act. This legislation protects individuals from a penalty for failing to pay estimated taxes on amounts attributable to the AMT in cases where the taxpayers were not subject to the AMT last year. This is not a giveaway meant to compensate for the AMT, as it does not protect taxpayers who paid the AMT last year. Rather, this bill protects the families and individuals who do not yet appreciate the horrible impact our failure to act is going to have on them.

I am not the only one who thinks this legislation is a good idea. We have these Senators—Senators ALLARD, BROWNBACK, COLLINS, HUTCHISON, SMITH, and SNOWE—agreeing to cosponsor the legislation.

In addition, I have received letters from the Committee on Personal Income Taxation, the New York City Bar, as well as the National Association of Enrolled Agents in support of the provisions of this safe harbor bill so that the IRS cannot apply interest and penalties resulting from the failure to pay estimated taxes on amounts resulting from the AMT in cases where the taxpayers were not liable for the AMT last year.

I ask unanimous consent to have printed in the RECORD these letters to which I just referred.

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

NATIONAL ASSOCIATION
OF ENROLLED AGENTS,
Washington, DC, August 3, 2007.

Hon. CHARLES GRASSLEY,
Senate Finance Committee, Dirksen Senate Office Building, Washington, DC.

DEAR RANKING MEMBER GRASSLEY: As President of the National Association of Enrolled Agents (NAEA), I write on behalf of 40,000 enrolled agents to express our support for S. 1855, the AMT Penalty Protection Act of 2007.

In a June hearing held by the Senate Finance Committee on the alternative minimum tax (AMT), NAEA Government Relations Chair Frank Degen, EA, testified that the current short-term approach to dealing with the AMT creates uncertainty and hinders tax-planning. Many taxpayers are constantly faced with an unpleasant choice when calculating their estimated taxes to either assume that Congress will enact another AMT patch, or follow the letter of the law literally. If Congress fails to act, those who choose the former option will suffer the consequences of underpayment. If Congress extends the patch, those who choose the latter will likely receive a large refund, amounting to an interest-free loan to the IRS.

S. 1855 would prevent taxpayers who didn't pay AMT last year from being punished for assuming Congress will extend the AMT patch to this year. While not a permanent solution to the AMT problem, this is a step in the direction of certainty.

We applaud you for your efforts to ease the burden of the AMT.

Sincerely,

DIANA THOMPSON,
President.

NEW YORK CITY BAR, COMMITTEE ON
PERSONAL INCOME TAXATION,
New York, NY, August 23, 2007.

Re 2007 reform of alternative minimum tax.

Hon. MAX S. BAUCUS,
Chairman, Senate Committee on Finance, Dirksen Senate Office Building, Washington, DC.

Hon. CHARLES B. RANGEL,
Chairman, House Committee on Ways and Means, Longworth House Office Building, Washington, DC.

Hon. CHARLES E. GRASSLEY,
Ranking Member, Senate Committee on Finance, Dirksen Senate Office Building, Washington, DC.

Hon. JIM MCCRERY,
Ranking Member, House Committee on Ways and Means, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN BAUCUS, CHAIRMAN RANGEL, SENATOR GRASSLEY AND REPRESENTATIVE MCCRERY: The Personal Income Tax Committee of the Association of the Bar of the City of New York would like to respectfully offer comments on the important subject of 2007 Reform of the Alternative Minimum Tax. In particular, the areas of main concern addressed by this letter are support of a continued increased AMT exemption amount in 2007 and support of a short term 2007 AMT Estimated Tax Relief provision of safe harbor from IRS interest and penalties (which is particularly relevant for those taxpayers whose estimated tax payments for 2007 have not taken into account an extension of the 2006 increased AMT exemption).

A short term 2007 AMT increased exemption is consistent with the short term AMT relief enacted by Congress between 2003 and 2006. In so doing, Congress has held down the number of AMT taxpayers to less than there would have been under prior law. This patch expired at the end of 2006 and Congress has not yet enacted a patch for 2007. Without the proposed 2007 AMT short term reform, the number of Americans affected by the AMT for 2007 will increase from approximately four million to more than 23 million. The Joint Committee on Taxation projects that most of the 23 million taxpayers affected would earn between $50,000 and $200,000, that is middle income families. The problem with the AMT goes beyond just those paying the tax.

The AMT affects a lot of other taxpayers, as well. The AMT forces many taxpayers to have to calculate their tax liability twice, first under the regular tax system, and then again under the AMT. The IRS estimates that the average taxpayer takes about 30 hours filling out a Form 1040. The AMT increases that burden.

BACKGROUND

The first comprehensive AMT was enacted in 1982. The purpose of the AMT, as stated in the legislative history, was to ensure that no taxpayer with substantial economic income should be able to avoid all tax liability by using exclusions, deductions, and credits. Now, the AMT affects middle income families who are working hard and raising children. The Joint Committee on Taxation estimates that 4.2 million paid AMT in 2006. Among those taxpayers, 25,000 had adjusted gross income of less than $20,000, hardly the category of taxpayer that should have to be subject to increased complexity and taxes due in computing and paying their federal income taxes.

In 2006, approximately 200,000 taxpayers subject to AMT had adjusted gross income between $75,000 and $100,000. Approximately 1.3 million AMT taxpayers had adjusted gross income between $100,000 and $200,000. Only about 80,000 taxpayers had adjusted gross income of $1 million and above. In summary, in 2006 more taxpayers earning less than $100,000 were subject to the AMT than taxpayers earning more than $1 million.

The AMT has strayed from its original purpose. At its inception, the AMT was enacted to insure that upper-income taxpayers would pay some amount of income tax. Now, it is subjecting middle-income taxpayers to an additional tax.

PRESENT LAW

Present law imposes an alternative minimum tax. The alternative minimum tax is the amount by which the tentative minimum tax exceeds the regular income tax. An individual's tentative minimum tax is the sum of (1) 26 percent of so much of the taxable excess as does not exceed $175,000 ($87,500 in the case of a married individual filing a separate return) and (2) 28 percent of the remaining taxable excess. The taxable excess is so much of the alternative minimum taxable income (''AMTI'') as exceeds the exemption amount. The maximum tax rates on net capital gain and dividends used in computing the regular tax are used in computing the tentative minimum tax. Alternative minimum taxable income is the individual's regular taxable income increased by certain adjustments and preference items.

The exemption amounts are: (1) $62,550 for taxable years beginning in 2006, and $45,000 for taxable years beginning after 2006, for married individuals filing jointly and surviving spouses; (2) $42,500 for taxable years beginning in 2006, and $33,750 for taxable years beginning after 2006, for other unmarried individuals; (3) $31,275 for taxable years beginning in 2006, and $22,500 for taxable years beginning after 2006, for married individuals filing separately; and (4) $22,500 in the case of estates and trusts.

The exemption amounts are phased out by an amount equal to 25 percent of the amount by which the individual's AMTI exceeds (1) $150,000 in the case of married individuals filing a joint return and surviving spouses, (2) $112,500 in the case of other unmarried individuals, and (3) $75,000 in the case of married individuals filing separate returns or an estate or a trust. These amounts are not indexed for inflation. The AMT has statutory marginal tax rates of 26 and 28 percent. However, those with alternative minimum taxable income in the phaseout range of the exemption level ($150,000 to $400,200 for married taxpayers filing jointly and $112,500 to $282,500 for unmarried individuals, in 2006) will have an effective marginal tax rate of 32.5 and 35 percent, respectively.

PROPOSED 2007 AMT REFORM

It is our view that Congress should enact an AMT patch for 2007. The exemption amounts in effect for 2006 should be put into effect for 2007, adjusted for inflation. Taxpayers should be provided safe harbor from IRS penalties and interest for failure to include estimated tax payments in 2007 that take into account an extension of the increased AMT exemption provided in 2006. In computing tax for purposes of the penalties dealing with estimated tax, a taxpayer would be permitted to disregard the alternative minimum tax if the individual was not liable for the alternative minimum tax for the preceeding tax year.

The amendments proposed herein should apply to taxable years beginning after December 31, 2006.

A 2007 AMT short term reform with an increased AMT exemption would prevent expansion of the AMT, reduce taxpayers' compliance costs and make routine tax planning simpler. In addition, the short term reform proposed here will enable Congress to address issues related to substantial changes in our income tax system given the large number of important provisions that are currently scheduled to terminate in the next few years.

Respectfully submitted,

BABCOCK MACLEAN,
Chair.

Mr. GRASSLEY. Mr. President, I would like to believe this legislation is not necessary because we are going to prevent the AMT from swallowing 19 million taxpayers in 2000, but I am not optimistic considering the fact we have not acted yet.

In closing, I encourage—and it is meant to encourage—the Democratic leadership to keep our promise with the American taxpayers and at least modify the exemption amounts for 2007. Of course, the best option is to completely repeal the AMT, and I am going to raise this issue with the Finance Committee members, and I am going to raise the issue with Members outside the committee. We ought to just get rid of it. It is stupid to be saying we are going to collect revenue from people who were never intended to pay, but we are counting that revenue. It is a big shell game. So I will be talking with my colleagues about the sensibility of just getting rid of something.

I will tell my colleagues another reason for getting rid of the AMT. It is supposed to hit the super-rich. We are told by the IRS right now that there are about 2,500 of these super-rich who ought to be paying the alternative minimum tax—we would expect them to pay the alternative minimum tax—but they have found ways legally of even avoiding the alternative minimum tax. So we ought to just get rid of it. But for the time being, the only thing the taxpayers can rely on is the same goose egg we have been sitting on all year.

Mr. GRASSLEY. Mr. President, I also wish to use my time to address another issue. I would like to continue, Mr. President.

The PRESIDING OFFICER (Mr. SALAZAR). The Senator is recognized.

SECRET HOLDS

Mr. GRASSLEY. Mr. President, the ethics bill has now been signed into law and, as my colleagues are aware, it contains new requirements about what we in the Senate call holds, meaning an individual Senator can hold up a bill all by himself from coming up.

Senators may be wondering what exactly is required under these new requirements about holds and how it is going to work. As a coauthor of the original measure, I have to tell my colleagues that I don't know how it is going to work. The provisions have been rewritten from what we had originally adopted on the floor of the Senate by a very wide margin. I am not even sure by whom this has been rewritten because it was a closed process and Republicans were not invited to participate in that process.

Now I am trying to understand how these provisions will work. Let me give a little background.

I have been working for some time, along with Senator WYDEN of Oregon, to end the practice of secret holds through a rules change or through what we call in the Senate a standing order. I do not believe there is any legitimate reason a single Senator should be able to anonymously—I emphasize anonymously—block a bill or nomination. I do not argue with an individual Senator blocking a bill. I do that myself. But I do not think it should be secret. We ought to know who is doing it because the public's business—and the Senate is all about the public's business; we are on television—the public's business ought to be public, and we ought to know who that person is. If a Senator has the guts to place a hold, they ought to have the guts to say who they are and why they think that bill ought to be held up. If there is a legitimate reason for a hold, then Senators should have no fear about it being public.

I am not talking hypothetically; I am speaking from my experience. I have voluntarily practiced public holds for a decade or more, and I have had absolutely no cause to regret telling all my colleagues and the whole country why I am holding up a bill and who CHUCK GRASSLEY is so they can come and talk with me if they want to talk with me about it, know what the rationale is, and maybe we will want to work something out.

Through the years, there have been several times when the leaders of the two parties have agreed to work with Senator WYDEN and me to address this issue, albeit in a way different than what maybe we would have proposed. I have approached these opportunities with optimism, only later on to be disappointed.

For instance, in 1999, at the start of the 106th Congress, Majority Leader Lott and Minority Leader Daschle sent a ''Dear Colleague'' letter to all Senators outlining a new policy that any Senators placing a hold must notify the sponsor of the legislation and the committee of jurisdiction. It went on to state that written notification of the holds should be provided to respective leaders, and staff holds—in other

words, staff for the Senator placing holds—would not be honored unless accompanied by a written notification. All that sounds good if it worked out that way. But I want to tell my colleagues, this policy announced in 1999 was quickly forgotten or ignored by Senators, and the people who could enforce it actually did not enforce it.

Then, recognizing that the previous ''Dear Colleague'' letter was not effective, Leaders Frist and Daschle sent another ''Dear Colleague'' letter in 2003 that purported to have some sort of enforcement mechanism. The new policy required notification of the legislation's sponsor if and only if a member was of their party, as well as notification of the senior party member on the committee of jurisdiction. In other words, this new policy required less disclosure than the previous policy since it only affected holds by members of the same party. Nonetheless, the leaders promised that if the disclosure was not made, they would disclose the hold. It also reiterated that staff holds would not be honored unless accompanied by written notification.

That policy had more holes in it than Swiss cheese. I am not sure anyone understood the policy, and it had no effect that I can tell on improving transparency in a public body, the Senate, where we are on television and the public's business—all of the public's business—ought to be public.

No longer willing to settle for half measures such as we had been dealt in 1999 and 2003 that do not end secret holds once and for all, in the last Congress, Senator WYDEN and I then took our own initiative, not waiting for leaders to act. We offered our standing order to require full public disclosure of all holds as an amendment to the lobbying reform bill. It was a well-thought-out measure that was drafted with the help of people who know about how this place operates—Senator LOTT and Senator BYRD. Remember, Senator BYRD has been around here for a half century. We used their insights and their knowledge of Senate procedures as former majority leaders to write our legislation.

Our standing order passed the Senate by a vote of 84 to 13. Now think of that, this Senate making a decision that holds should not be secret anymore by a vote of 84 to 13. But listen to what happened after that 84-to-13 vote. While that bill did not become law, it became a starting point for the ethics bill passed by the Senate last year.

I thought the leaders had finally accepted that we would have full disclosure of holds. In fact, our secret holds provisions remained intact in the version of the ethics bill that originally passed the Senate earlier this year. Then, even though the secret holds provisions related only to the Senate—nothing to do with the other body, the House of Representatives—and had already been passed by the Senate, on a voice vote this time but reflecting the reality of the 84-to-13 vote before, they were rewritten behind closed doors by Members of the majority party.

Once again, I feel like half measures have been substituted for real reform. In other words, the provisions that had passed one time by 84 to 13, only affecting us, went to conference—where they didn't have to go to conference because it only affected us, it didn't affect the other body—and we end up with no real reform.

Under the rewritten provisions, a Senator will only have to disclose a hold ''following the objections to a unanimous consent to proceeding to, and, or passage of, a measure or matter on their behalf.''

Now, that is going to puzzle you like it puzzles me. Obviously, in this case, the hold would already have existed well before any objection. In fact, most holds never even get to this stage because the mere threat of a hold prevents unanimous consent requests from being made in the first place. This is particularly true if the Senator placing the hold is a member of the majority party. In that case, the majority leader would simply not ask unanimous consent, knowing that a member of his party has a hold.

For instance, it is not clear to me what would happen if the minority leader asked unanimous consent to proceed to a bill and the majority leader objected on his own behalf to protect his prerogative to set the agenda but also having the effect of honoring the hold of another member of the majority leader's caucus. Or what if the majority leader asked unanimous consent to proceed to a bill and the minority leader objects but does not specify on whose behalf, even though a member of the minority party has a hold. Would the minority Senator with the hold then be required to disclose the hold? I don't know. It is not very clear.

I asked the Office of the Parliamentarian for an opinion about how the new provision would work in such instances, but with no legislative history—because this was written behind closed doors there is no report to come out—with no legislative history for the changes that were made to the Wyden-Grassley measure, the intent of the rewritten provisions was not evident is what the Parliamentarian said. Therefore, what did I do? I wrote to the Senate Rules Committee to provide insight into the content of the rewritten provisions.

The response referred me to a section-by-section analysis of the bill in the CONGRESSIONAL RECORD that essentially restates the provisions but once again sheds no light on the specific questions about how this works. Perhaps that is because the answer might be a little embarrassing.

Depending upon how the new provisions are interpreted in the first instance I mentioned, it is possible that holds by members of the majority party will never be made public. In the second instance, a literal interpretation of the provision might indicate that either leader could choose to keep a hold by a member of their party secret so long as they do not specify publicly that their objection is on behalf of another Senator.

The Rules Committee letter claims the changes were intended to make the provision ''workable.'' It seems to me it is quite obvious that, unless somebody can answer these questions—I have asked the Parliamentarian and the Rules Committee and no answers yet—I don't see how the new provisions are any more workable than the original. On the contrary, they are not only unworkable, they undermine transparency. They make it more difficult for this body that is on television every day, where everything we do is the public's business. We want the public to know about it or we wouldn't be on television. Don't you think if a Senator has a hold on a bill, we ought to know who that Senator is and why he has a hold?

Under the changes, not only is the disclosure of holds only required after formal objection has been made to a unanimous consent request, but Senators then have a full 6 session days to make their disclosure public. What is more, a new provision was added specifying that holds lasting up to 6 days may remain secret—remain secret—forever.

What is the justification for that? Six days is more than enough time to kill a bill at the end of the session. And we are saying it is okay for Senators to do that in secret?

There are other changes that are puzzling to me. For instance, our original measure required holds to be submitted in writing in order to be honored, to prevent staff from placing holds without the knowledge of the Senator. However, in the rewrite of what Senator WYDEN and I originally put in, Senators now must be given written notice to the respective leaders of their ''intent to object'' only after the leader has already objected on the Senator's behalf. This is not only unworkable, but I think you would agree it sounds very absurd.

I have stated repeatedly and emphatically that as a matter relating to Senate procedure, it would be completely illegitimate to alter in any way the original Senate-passed measure requiring full disclosure of holds. The U.S. Constitution makes clear, ''Each House may determine the rules of its proceedings.''

The hold is a unique feature of the Senate arising out of its own rules and practices, with no equivalent in the House of Representatives. As such, there is no legitimate reason why this provision, having already passed the Senate, should have been altered in the first place and in any way. Nevertheless, it was altered in a very substantial way. In fact, it was altered in a way that I fear will allow secrecy to continue in this institution.

Clearly, the so-called Honest Leadership and Open Government Act was

handled by the majority party in a way that is anything but what the title of the bill implies.

So as you can tell, I have been frustrated so far in my attempts to find answers about how the rewritten provisions will be applied, but we will find out soon enough. Because I can assure you I will not give up until I am satisfied the public's business in this Senate is being done in a public way.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter I wrote to the Rules Committee and the response I got back.

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

AUGUST 24, 2007.

Hon. DIANNE FEINSTEIN,
Chairwoman, Senate Committee on Rules and Administration, Washington, DC.

DEAR CHAIRWOMAN FEINSTEIN: I am seeking clarification of the intent of several changes made to the original Senate-passed provisions on disclosure of Senate holds in S. 1, the Legislative Transparency and Accountability Act. As you know, Senator Wyden and I , along with Senators Lott and Byrd, drafted the original provisions that have previously passed the Senate overwhelmingly. I have contacted the office of the Senate Parliamentarian seeking clarification about how the altered provisions would be interpreted and the initial reaction was that, the legislative intent was not sufficiently clear without more information on the legislative history to determine how the provisions would be applied in many circumstances. This is not surprising given the process by which these provisions were altered behind closed doors and rushed through the Senate without debate or amendments. Ironically, the lack of transparency in the process of considering a bill that is supposed to be about legislative transparency has left no legislative history to assist in interpreting this new language. Therefore, I ask that you provide me with written answers to several questions about the intent of the provisions as rewritten in the final version of the Legislative Transparency and Accountability Act.

New language was added to the original Senate-passed provision stipulating that senators would only be required to disclose their holds, ''following the objection to a unanimous consent (request?) to proceeding to, and, or passage of, a measure or matter on their behalf . . .'' As such, would the disclosure requirements be triggered for a senator who had placed a hold with their leader only if their leader or the leader's designee objects and specifically states that the objection is on behalf of another senator? For instance, if a member of the minority party has previously contacted the minority leader to place a hold, then the majority leader asks unanimous consent to proceed to a matter and the minority leader objects without giving a reason or specifying that the objection was on behalf of someone else, would the minority senator who had placed the hold be required to disclose or remove the hold within six session days? Would the disclosure provisions be triggered if a member of the majority party has previously placed a hold with the majority leader, the minority leader asks unanimous consent to proceed to a matter, and the majority leader objects on his own behalf to protect his prerogative to set the agenda, but also having the effect of honoring the hold of another member of the majority leader's caucus?

Other changes were also made to the original Senate-passed provisions that are more evident in their effect, but where the rationale remains unclear and I would appreciate any insights into the rationale for these changes. For instance, many holds exist for some time without a unanimous consent request and subsequent objection, and they have the effect of dissuading the majority leader from attempting to move to a matter, particularly in the case of hold by members of his own party in which case a unanimous consent request to move to a matter is unlikely ever to be made. Therefore, it isn't clear why a provision was inserted making the disclosure requirements effective only after a unanimous consent request and objection, this allowing holds to remain secret until that time.

The original Senate-passed provision also required that any hold be submitted in writing to the appropriate leader to allow the leaders to distinguish between a formal hold and an offhand comment, as well as to prevent staff holds. However, as currently drafted, a senator is required to submit a hold in writing to his respective party leader only after that leader has already honored the hold by objecting to a unanimous consent request on that senator's behalf, making the requirement irrelevant and even absurd.

Also, while the original Senate-passed provisions included a short time window to give senators a chance to fill out and submit their disclosure forms for the Congressional Record, the intention was never to sanction secrecy for even a short period of time. However, the new language allows six session days before disclosure is required and includes a new provision clarifying that senators never have to disclose holds so long as they are withdrawn within the six day period. I fail to see the justification for sanctioning secret holds for up to six days, which at the end of a session is more than enough time to effectively kill a bill or nominee in complete secrecy.

As I have said repeatedly, the public's business ought to be done in public. Although I believe the altered disclosure requirements for holds are flawed and do not fully eliminate secret holds as I had intended, I hope they will result in some increased transparency. Still, it is not completely clear what is now expected of senators and how these provisions will be interpreted. Therefore, I would appreciate any insights you can provide into the intent of the new, altered language related to disclosure of holds that was inserted into the Legislative Transparency and Accountability Act.

Sincerely,

CHARLES E. GRASSLEY,
U.S. Senator.

U.S. SENATE, COMMITTEE ON RULES AND ADMINISTRATION,
Washington, DC, September 12, 2007.

Hon. CHUCK GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR CHUCK: I appreciate your concern about the provision on Senate holds in S.1, the Honest Leadership and Open Government Act, and I remain deeply committed to ensuring adequate disclosure of Senators who seek to place holds on bills, nominations and other Senate proceedings.

In terms of building a legislative history, I refer you to the Section by Section Analysis and Legislative History, which I submitted to the Congressional Record along with Chairman Lieberman and Majority Leader Reid, Volume 153, Nos. 125–126, August 2, 2007.

''Section 512 relates to the concept of so-called 'secret holds.' Section 512 provides that the Majority Leader or Minority Leader or their designees shall recognize another Senator's notice of intent to object to proceeding to a measure or matter subsequent to the six-day period described below only if that other Senator complies with the provisions of this section. Under the procedure described in section 512, after an objection has been made to a unanimous consent request to proceeding to or passage of a measure on behalf of a Senator, that Senator must submit the notice of intent to object in writing to his or her respective leader, and within 6 session days after that submit a notice of intent to object, to be published in the Congressional Record and on a special calendar entitled 'Notice of Intent to Object to Proceeding.' The Senator may specify the reasons for the objection if the Senator wishes.

''If the Senator notifies the Majority Leader or Minority Leader (as the case may be) that he or she has withdrawn the notice of intent to object prior to the passage of 6 session days, then no notification need be submitted. A notice once filed may be removed after the objecting Senator submits to the Congressional Record a statement that he or she no longer objects to proceeding.''

It is important to note that the revisions in the final bill were based largely on concerns raised by the Senate Parliamentarian and the offices of the Majority and Minority Leader that the original language was not workable, especially since procedures on Senate holds are not written in the Standing Rules of the Senate and are not enforceable by the Parliamentarian.

The final language was developed in consultation with Senator Wyden,the lead sponsor of the provision, and we were not aware of any further objections.

If you have an alternative recommendation, which the Parliamentarian believes is workable and enforceable, I would be interested in reviewing it.

With warm personal regards,

DIANNE FEINSTEIN,
Chairman.

Mr. GRASSLEY. Mr. President, I yield the floor.

HONORING OUR ARMED FORCES

CAPTAIN SCOTT SHIMP

Mr. HAGEL. Mr. President, I wish to express my sympathy over the loss of United States Army CPT Scott Shimp of Nebraska. Captain Shimp was killed in a military helicopter crash during a training exercise in northeastern Alabama on September 11. He was 28 years old.

Captain Shimp grew up in the small town of Bayard, NE. A 1998 graduate and salutatorian of his class at Bayard High School, he also played football, ran track, sang in the choir, and was an Eagle Scout. It was his lifelong dream to serve his country in the U.S. military.

I had the privilege of nominating Captain Shimp to the U.S. Military Academy at West Point. In 2002 he graduated as part of the first post-September 11 class. Captain Shimp served two tours of duty in Iraq and was scheduled to be deployed to Afghanistan in 2009. He was company commander of Company C, 4th Battalion, 101st Aviation Regiment, 159th Combat Aviation Brigade, 101st Airborne Division.

We are proud of Captain Shimp's service to our country, as well as the thousands of brave Americans serving in the Armed Forces.

Our sympathies are with his parents, Curtis and Teri Shimp; his brother Chad; and his sister Misty.

I ask my colleagues to join me and all Americans in honoring CPT Scott Shimp.

NATIONAL PREPAREDNESS MONTH: A TIME TO TAKE STOCK

Mr. AKAKA. Mr. President, this month is National Preparedness Month, and activities are underway that will help educate Americans on actions they can take to safeguard their family and their community. During this time, not only should we be inspired but we should also be mindful that this past August 29 marked the 2-year anniversary of the time in which Hurricane Katrina decimated parts of Louisiana and Mississippi. In addition, we are now in the midst of a record-setting hurricane season, with an unprecedented two hurricanes making landfall simultaneously from the Pacific and Atlantic oceans on the same day. It is also the sixth anniversary of the attack by al-Qaida on our country.

These catastrophic events underscored the need for our country, and each and every one of its citizens, to be prepared for disaster, regardless of its form. Much has been done since these terrible events to do so, but so much more needs to be done. As time separates us from those terrible events, we must not become complacent.

During this month, we should use this time to reflect on how far we have come and how much further we need to go and what should be done to protect ourselves as individuals and as a country. While we may have incident, training, and contingency plans in place to help ensure that certain situations may be appropriately addressed, it is important for us to remember that acts of terror may not always be prevented, and nature continues to show its fury in many ways.

As several reports have indicated, the threats to our homeland have not gone away; they have simply changed form. The July 17, 2007, National Intelligence Estimate, NIE, entitled ''The Terrorist Threat to the U.S. Homeland,'' confirmed that, although many plots to attack the United States after 9/11 have been disrupted, al-Qaida ''is and will remain the most serious terrorist threat to the Homeland'' and that its ''plotting is likely to continue to focus on prominent political, economic, and infrastructure targets with the goal of producing mass casualties . . .'' Furthermore, and of greater concern, the NIE assessed that Hezbollah, which has, until now, only conducted anti-U.S. attacks outside the United States, ''may be more likely to consider attacking the Homeland over the next three years . . .''

In addition to these threats, it is important to note that there are significant number of vulnerabilities at home. Even as memories of the massive August 14, 2003, North American power outage fade, the tragic August 1, 2007, bridge collapse in Minneapolis has provided yet another reminder that the Federal Government can no longer ignore our aging infrastructure. In the words of author Stephen Flynn, ''we depend on complex infrastructure built by the hard labor, capital, and ingenuity of our forbears, but . . . it is aging—and not very gracefully.'' In this regard, we must be focused on training, resources, and contingency plans to ensure that our Nation is prepared.

Another point of concern is the impact severe acute respiratory syndrome, SARS, had on the health infrastructure in Ontario, Canada, that revealed a vulnerable system unable to cope with an epidemic that originated outside its borders. The World Health Organization, WHO, predicted that the deadly H5N1 avian influenza would likely be the source of the next global pandemic. In the United States, a new study published by researchers from the Fred Hutchinson Cancer Research Center and the University of Washington has confirmed the first incidence of human-to-human transmission of H5N1 avian influenza, a beginning step in its becoming a human pandemic. The impact of such a pandemic would be enormous. A February 2006 study by the Lowy Institute for International Policy at the Australian National University concluded that, in a worst-case scenario, a global influenza pandemic would result in 142.2 million deaths and a $4.4 trillion loss in GDP. Given these studies and cases, it is imperative that United States be prepared for such a pandemic. We should not wait for another disaster to hit the United States—we must prepare now.

I commend the Department of Homeland Security for conducting its National Preparedness Month campaign and am pleased that more than 1,700 State- and local-level organizations will be participating in preparedness activities around the country. I urge all Americans to take responsibility for their own preparedness, for that of their families, their businesses, and their schools. As the chairman of the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia under the Homeland Security Committee, I am committed to making sure that the Federal, State and local governments are properly organized for the next natural or manmade disaster and to holding these agencies responsible when they are not. The passage of time since Katrina and 9/11 has done nothing to lessen the threat to the United States either from outside or within. It is not a matter of if such an event will occur but when it will occur. We must take the necessary precautions to be better able to deal with the disasters or incidents that will occur.

ANNOUNCING THE BIRTH OF CHARLES McDONALD LUGAR

Mr. LUGAR. Mr. President, I am pleased to share the news of the birth of Charles McDonald ''Mac'' Lugar on September 5, 2007, at Sibley Memorial Hospital in Washington, DC. Mac was a healthy 8 pounds 6 ounces at birth. His parents are David Riley Lugar, son of Richard and Charlene Lugar, and his wife Katherine Graham Lugar, daughter of Lawrence and Jane Graham. Mac was born at 4:50 p.m. and in the next few hours was joined in the hospital delivery room by Jane Graham, Richard and Charlene Lugar. We shared together a wonderful experience. On the next day, Mac met his sisters, Elizabeth Merrell Lugar, who was born at Sibley Memorial Hospital on May 25, 2004, and Katherine Riley Lugar, born on December 28, 2005, at Sibley Memorial Hospital. Mac and his sisters are now safe and healthy with their parents in their McLean, VA, residence.

Katherine and David were married on June 3, 2000, in St. David's Episcopal Church in Austin, TX. Katherine, a graduate of the University of Colorado, is senior vice president of government affairs for the Retail Industry Leaders Association. David Lugar, who came with us to Washington, along with his three brothers, 30 years ago, graduated from Langley High School in McLean, VA, and Indiana University. He is a partner of Quinn Gillespie & Associates. Both Katherine and David are well known to many of our colleagues and their staff members. We know that you will understand our excitement and our joy that they and we have been given this divine blessing and responsibility for a glorious new chapter in our lives.

ADDITIONAL STATEMENTS

RECOGNITION OF MARINE CORPS LOGISTICS COMMAND MAINTENANCE CENTER

• Mr. CHAMBLISS. Mr. President, today I congratulate the Marine Corps Logistics Command Maintenance Center at the Marine Corps Logistics Base in Albany, GA. The Maintenance Center Albany was the 2007 winner of the Robert T. Mason Depot Maintenance Award, and was also named Marine Logistics Unit of the Year.

This prestigious award, established in 2004, commemorates the former Assistant Deputy Secretary of Defense for Maintenance Policy, Programs, and Resources, Robert T. Mason, a staunch supporter of excellence in organic depot maintenance operations throughout his three decades of Government service. In winning this award, the Maintenance Center Albany has exemplified responsive and effective depot level support to operating units.

The Maintenance Center Albany's Dedicated Design and Prototype Effort Team was singled out for its outstanding support to our men and

women in uniform through their hands-on innovation. I could not provide higher tribute than the Marine Corps itself when it described the Albany team as clearly demonstrating the ability to be responsive, resourceful, agile, and creative by designing and prototyping multiple systems in support of Operation Iraqi Freedom.

This is not the first time the tenant organization of Albany's Marine Corps Logistics Base has received this great honor. In 2005, the Maintenance Center was recognized for its Design and Manufacture Vehicle Armor Protective Kits Program which provided protective armor kits for U.S. Marine Corps combat vehicles, making the Marines a more effective fighting force and profoundly impacting both safety and morale.

I also want to individually recognize Christopher Tipper, a Maintenance Center Albany employee who was named Civilian Marine Logistician of the Year. Through his achievements Mr. Tipper brings great credit upon himself, MCLB Albany, and the U.S. Marine Corps.

The national recognition of the achievements of the team and this individual is extremely well deserved. They comprise a dedicated workforce committed to meeting the needs of the warfighter. I am proud to pay tribute to these men and women and congratulate them and the leadership of the Maintenance Center Albany, as well as the entire Marine Corps Logistics Command on a job well done.●

MONTCLAIR STATE UNIVERSITY'S 100TH ANNIVERSARY

● Mr. MENENDEZ. Mr. President, today I honor Montclair State University of New Jersey as they celebrate 100 years of service to the students of our State.

The 100th anniversary of Montclair State University is a wonderful cause for celebration. However, the real celebration lies in the extraordinary success of the faculty and administration of Montclair State University in preparing some of New Jersey's finest students to be the next leaders of this country and to succeed in a global economy.

While much has changed since Montclair State University first opened its doors as a normal school in 1908, the university has remained true to its mission of providing an exceptional educational experience to a diverse student body that is reflective of the population of New Jersey. Montclair State University has become one of the leading educational institutions in our State, quickly turning into the second-largest and the fastest-growing university in New Jersey.

Montclair State University is leading the way to help develop the next generation of teachers by training promising students to be successful, innovative teachers in schools across the State. The university has also maintained an active and positive role in the local community, by bridging education and community service.

Today, I ask my colleagues to join me as I honor Montclair State University for its extraordinary success in providing 100 years of world-class education to New Jersey's students and for providing service to our communities.●

HONORING WINDOWS ON THE WATER

● Ms. SNOWE. Mr. President, I wish to congratulate the outstanding accomplishments of Windows on the Water, a popular restaurant from my home State of Maine. Windows on the Water's chef and owner, John Hughes, was recently awarded the National Restaurant Association Award for his active role in assisting the local community.

Founded in June 1985, Windows on the Water has been a favorite of locals and visitors to the Kennebunk-Kennebunkport area for over 20 years. Known for its fresh seafood and made-from-scratch desserts, Windows on the Water boasts a diverse menu with something for everyone. Moreover, it is committed to preparing healthy meals for diners. As such, most of the cooking products used are either organic, all-natural, or sustainable. In its 22 years of business, Windows on the Water has received 27 awards for various accomplishments. As patrons of the restaurant will tell you, Windows on the Water is also renowned for its creativity. In addition to providing fresh, quality food, Chef Hughes frequently offers programs such as cooking class dinners, which include a multicourse demonstration and meal, combined with a question-and-answer session.

Chef Hughes's National Restaurant Association award is truly something to be proud of. Dedicating his life to helping others, including by way of his culinary skills, Mr. Hughes cofounded the Community Harvest organization in 1999, a nonprofit community service group that provides food to those in need. The organization's motto, ''people loving people is the heart of the journey, the heart of our community,'' is exemplified well in Chef Hughes's work. Each Thanksgiving and Christmas, he prepares countless dinners for the community, which volunteers then deliver to local underprivileged households and individuals. Mr. Hughes began the home delivery service because he noticed that Meals on Wheels did not deliver on Christmas and Thanksgiving.

While Chef Hughes routinely uses his cooking skills to benefit vulnerable members of his community, he is also at the forefront of numerous other community efforts. He leads an annual scholarship program for select local students who demonstrate a commitment to community service. Moreover, in keeping with his background as a chef, Mr. Hughes spearheads an annual scholarship program for recipients in the greater Kennebunk area who have displayed an interest in the culinary arts. Having begun his culinary studies at age 15, Chef Hughes recognizes that nurturing an ambition from a young age can lead to great success.

Windows on the Water is not only a restaurant; it is also a fount of unbridled service to others, thanks to Chef Hughes. While Chef Hughes has reached the top of his profession, being appointed to the Master Chefs Institute of America, he still sees the crucial role that generosity and giving play in the livelihood of a community. I commend Chef John Hughes and everyone at Windows on the Water who set a valuable example for the Kennebunks, and for all of Maine.●

20TH ANNIVERSARY OF THE SPECIAL OPERATIONS COMMAND

● Mr. DOMENICI. Mr. President. I would like to commemorate the 20th anniversary of the U.S. Special Operations Command, USSOCOM.

In 1987, USSOCOM was officially established to create a unified command structure for the special operations forces of all military branches. Since that time, the special operations forces from the Army, Navy, Air Force, and Marine Corps have deployed to all parts of the globe and participated in every major American military operation in support of USSOCOM missions.

It is with good reason that the soldiers, sailors, airmen and marines of USSOCOM are considered the most elite military forces in the world. These individuals complete extremely rigorous training and are called upon to accomplish the most difficult and dangerous missions in our military.

We in New Mexico are excited that USSOCOM's 16th Special Operations Wing will soon be making the move to Cannon Air Force Base. Though we are sad to see the men and women of the 27th Fighter Wing go, we are proud to be the new home of this elite unit.

Since its inception, the soldiers, sailors, airmen and marines of USSOCOM have served with the utmost distinction. I salute their bravery and dedication to duty, and I hope that New Mexicans will take time to thank the members of USSOCOM who have served and honor the memory of those who have given their lives in our defense.●

HONORING MR. VIRGIL E. BROWN, SR.

● Mr. VOINOVICH. Mr. President, I wish to honor and congratulate an outstanding community and business leader from my hometown of Cleveland, OH. Virgil E. Brown, Sr., has become a well-recognized name in Cleveland after serving our community and great State of Ohio for nearly three decades. On August 12, 2007, Virgil celebrated his 90th birthday. Also this year, his lovely wife Lurtissia celebrated her

87th birthday, and together they celebrated an amazing 68 years of marriage. What an accomplishment.

Virgil grew up in humble beginnings. He was born in Louisville, KY, to George and Sarah Brown. He is the eldest of six children. He moved to Cleveland with his parents and siblings when he was 12 years old. He graduated from Central High School in Cleveland in 1937 and attended Fenn College, now Cleveland State University.

Throughout Virgil's long and distinguished career of public service, he has made history and opened many doors through a number of ''firsts'' he attained. He served as the first African-American to be the director of the Cuyahoga County Board of Elections; the first African-American to be elected as a Cuyahoga County commissioner; and the first African-American to serve as director of the Ohio Lottery Commission.

His political career started in 1966 with an unsuccessful bid for a State representative position. He rebounded quickly, however, and in 1967 he won a seat on the Cleveland City Council, where he served for three terms. In 1972, when there was a breakdown in the countywide election system and the position of director of the Cuyahoga County Board of Elections became available, Virgil resigned his city council seat to accept an appointment as director of the Board of Elections. He served nearly 7 years in this position, and during his tenure he restored the integrity and efficiency of the election process.

When I left the position of Cuyahoga County commissioner to serve as Lieutenant Governor of Ohio in 1979, Virgil was appointed as my replacement. He was reelected and served three additional terms. While in his last term as commissioner, I was serving as Governor, and I asked Virgil if he would serve as the director of the Ohio State Lottery. Virgil graciously accepted, even though he was planning to retire. I appointed him in 1991, and he remained as director until 1995, when he officially retired at the age of 74.

Virgil has had many notable achievements throughout his life. In 1976, he delivered the nominating speech for President Gerald Ford at the Republican National Convention. He was honored by the Cuyahoga County Board of Commissioners when they named their human services building the Virgil E. Brown Center. In 2002, he was inducted by the Cuyahoga County Republicans into the inaugural class of the James A. Garfield Hall of Fame. He was also inducted into the Glenville Hall of Fame, the Senior Citizens Hall of Fame, and the National Forum for Black Public Administrators'—Cleveland chapter—Hall of Fame. He is also a past president of the National Bowling Association.

Virgil has served the greater Cleveland community and the State of Ohio with distinction. Whether it was through his political career, his mentorship of numerous young adults, his tenure on the board of directors for various community based organizations and commissions, through his home church, Bethany Baptist Church, or through his successful insurance company, Virgil Brown has touched and improved the lives of many.

Throughout all of his accomplishments, his loving and supportive wife Lurtissia has been by his side. Without a doubt, she has been his greatest blessing. Together they have two children, Veretta Garrison, who is a businesswoman in Connecticut, and Virgil, Jr., who is an attorney in Cleveland and also a member of the State Board of Education.

Mr. President, I wish to take this opportunity to thank Virgil E. Brown, Sr., for his exceptional leadership and for serving as a stellar role model. Congratulations, Virgil, on all you have and will continue to achieve. Our lives are better as a result of having been touched by you. May God continue to bless you and your family.●

RECOGNIZING DAVID PERRY

● Mr. THUNE. Mr. President, today I recognize SrA David Perry of Ellsworth Air Force Base in South Dakota for his heroic efforts in saving a man's life.

Airman Perry had only been based at Ellsworth for a few weeks before the evening of April 22, 2007. While shopping at a local grocery store a man collapsed in front of him, and Airman Perry responded quickly. Taking control of the situation, Airman Perry directed another bystander to call 9–1-1 while he checked the fallen man's vital signs and then began CPR. Through his quick thinking and swift actions the man's life was saved.

Airman Perry will be awarded the Air Force Commendation Medal. This medal is awarded to Air Force personnel for outstanding achievement or meritorious service rendered specifically on behalf of the Air Force.

Airman Perry volunteered and was selected, to be part of the Air Force Financial Services Center initial cadre. At the time, he was one of six airmen assigned to the Air Force Financial Services Center and was the only airman instructor at Ellsworth.

Airman Perry truly deserves this award and our commendations for his actions; his service is a shining example of the dedication and bravery that makes America's soldiers the greatest in the world.●

IN COMMEMORATION OF SUMMIT ROAD'S 70TH ANNIVERSARY

● Mr. NELSON of Nebraska. Mr. President, I wish to commemorate the 70th anniversary of historic Summit Road, a significant highway which remains in use to this day as a popular tourist attraction and historic site within the State of Nebraska.

It was Sunday, September 19, 1937, that the Summit Road leading to the top of Scotts Bluff National Monument in the Nebraska Panhandle was completed. The Summit Road is believed to be the oldest existing concrete road in the State of Nebraska. The road allows visitors to drive to the top of the bluff through three tunnels for a spectacular view of the valley 800 feet below.

Summit Road was built entirely by the Civilian Conservation Corps, CCC, at a time when dry winds and dust storms were blowing across the western High Plains. The CCC was created by President Franklin D. Roosevelt when the entire country was in the grip of the Great Depression to employ jobless men who were struggling to earn enough money to buy food for their families.

Scotts Bluff National Monument is named for a fur trapper by the name of Hiram Scott, who was wounded and deserted by his companions in 1828. He gained immortality by making his way to a magnificent formation of bluffs along the North Platte River before succumbing to his wounds. It was for Hiram Scott that Scotts Bluff National Monument, Scotts Bluff County, and the city of Scottsbluff have been named.

Scotts Bluff National Monument, which rises 4,649 feet above sea level, was an imposing landmark, guiding wagon trains along the Oregon, Mormon, California, and Pony Express Trails. Native Americans originally called this natural formation Ma-a-pate, which translates into ''hill that is hard to go around.''

Today, Scotts Bluff National Monument is home to an excellent museum providing information about the historic pioneer trails, together with an impressive collection of art from William Henry Jackson, a photographer and painter, best known as the first person to photograph the wonders of Yellowstone National Park.

It was reported that 550 cars drove to the top of Scotts Bluff National Monument when the Summit Road was opened 70 years ago. Since then, thousands of vehicles have made the trip and are still able to do so today, thanks to the efforts of the CCC which built it and the National Park Service which now maintains the road.●

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

The PRESIDENT pro tempore (Mr. BYRD) reported that he had signed the following enrolled bill, which was previously signed by the Speaker of the House:

H.R. 954. An act to designate the facility of the United States Postal Service located at 365 West 125th Street in New York, New York, as the ''Percy Sutton Post Office Building''.

H.R. 3218. An act to designate a portion of Interstate Route 395 located in Baltimore, Maryland, as ''Cal Ripken Way''.

ENROLLED BILL SIGNED

At 9:32 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2669. An act to provide for reconciliation pursuant to section 601 of the concurrent resolution on the budget for fiscal year 2006.

The enrolled bill was subsequently signed by the President pro tempore (Mr. BYRD).

At 3:18 p.m., a message from the House of Representatives, delivered by Mrs. Cole, 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. 1852. An act to modernize and update the National Housing Act and enable the Federal Housing Administration to use risk-based pricing to more effectively reach underserved borrowers, and for other purposes.

H.R. 3096. An act to promote freedom and democracy in Vietnam.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 207. Concurrent resolution recognizing the 60th anniversary of the United States Air Force as an independent military service.

At 4:07 p.m., a message from the House of Representatives; delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3580. An act to amend the Federal Food, Drug, and Cosmetic Act to revise and extend the user-fee programs for prescription drugs and for medical devices, to enhance the postmarket authorities of the Food and Drug Administration with respect to the safety of drugs, and for other purposes.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1852. An act to modernize and update the National Housing Act and enable the Federal Housing Administration to use risk-based pricing to more effectively reach underserved borrowers, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 3096. An act to promote freedom and democracy in Vietnam; to the Committee on Foreign Relations.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 207. Concurrent resolution recognizing the 60th anniversary of the United States Air Force as an independent military service; to the Committee on Armed Services.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2070. A bill to prevent Government shutdowns.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–3275. A communication from the Under Secretary of Defense (Policy), transmitting, pursuant to law, a report relative to U.S. support for Operation Bahamas, Turks and Caicos; to the Committee on Armed Services.

EC–3276. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Potato Cyst Nematode; Quarantine and Regulations'' (Docket No. APHIS–2006–0143) received on September 12, 2007; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3277. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 777 Airplanes'' ((RIN2120–AA64)(Docket No. 2006–NM–178)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3278. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; BAE Systems Limited Model BAe 146 and Avro 146–RJ Airplanes'' ((RIN2120–AA64)(Docket No. 2006–NM–277)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3279. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A330 and A340 Airplanes'' ((RIN2120–AA64)(Docket No. 2006–NM–215)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3280. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 747–400, 747–400D, and 747–400F Series Airplanes'' ((RIN2120–AA64)(Docket No. 2005–NM–238)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3281. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Gulfstream Model GIV–X, GV, and GV–SP Series Airplanes'' ((RIN2120–AA64)(Docket No. 2007–NM–110)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3282. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglas Model 717–200 Airplanes'' ((RIN2120–AA64)(Docket No. 2006–NM–219)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3283. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. Model EMB–145XR Airplanes'' ((RIN2120–AA64)(Docket No. 2007–NM–021)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3284. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; MD Helicopters, Inc., Model 369, YOH–6A, 369A, OH–6A, 369H, 369HM, 369HS, 369HE, 369D, 369E, 369F, and 369FF Helicopters'' ((RIN2120–AA64) (Docket No. 2007–SW–18)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3285. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class D and E Airspace; Aguadilla, PR; Correction'' ((RIN2120–AA66) (Docket No. 07–ASO–3)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3286. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; EADS SOCATA Model TBM 700 Airplanes'' ((RIN2120–AA64) (Docket No. 2006–CE–40)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3287. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 747 Airplanes'' ((RIN2120–AA64) (Docket No. 2005–NM–100)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3288. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 757–200, –200CB, and –300 Series Airplanes'' ((RIN2120–AA64) (Docket No. 2005–NM–077)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3289. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A300 and A310 Airplanes; and Airbus Model A300 B4–600, B4–600R, and F4–600R Series Airplanes, and Model C4–605R Variant F Airplanes'' ((RIN2120–AA64) (Docket No. 2006–NM–122)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3290. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A300 B4–600, B4–600R, and F4–600R Series Airplanes, and Model C4–605R Variant F Airplanes; and Model A310 Series Airplanes'' ((RIN2120–AA64) (Docket No. 2004–NM–117)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3291. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A300 B4–600, B4–600R, and F4–600R Series Airplanes, and Model A300 C4–605R Variant F Airplanes'' ((RIN2120–AA64) (Docket No. 2006–NM–085)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3292. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Rolls-Royce plc RB211 Series Turbofan Engines; Correction'' ((RIN2120–AA64) (Docket No. 2003–NE–12)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3293. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Centreville, AL'' ((RIN2120–AA66) (Docket No. 07–ASO–7)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3294. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment, Modification and Revocation of VOR Federal Airways; East Central United States'' ((RIN2120–AA66) (Docket No. 06–ASW–1)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3295. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model CL–600–2B19 Airplanes'' ((RIN2120–AA64)(Docket No. 2006–NM–088)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3296. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 737–800 Series Airplanes'' ((RIN2120–AA64)(Docket No. 2007–NM–124)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3297. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglas Model DC–10–10 and DC–10–10F Airplanes, and Model DC–10–15 Airplanes, Model DC–10–30 and DC–10–30F Airplanes, Model DC–10–40 and DC–10–40F Airplanes, Model MD–10–10F and MD–10–30F Airplanes, and Model MD–11 and MD–11F Airplanes'' ((RIN2120–AA64)(Docket No. 2007–NM–079)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3298. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A318, A319, A320, and A321 Airplanes'' ((RIN2120–AA64)(Docket No. 2006–NM–190)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3299. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; BAE Systems Limited Model ATP Airplanes'' ((RIN2120–AA64)(Docket No. 2006–NM–275)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3300. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A310 and A300–600 Series Airplanes'' ((RIN2120–AA64)(Docket No. 2006–NM–139)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3301. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; British Aerospace Regional Aircraft Jetstream HP.137 Jetstream Mk.1, Jetstream Series 200, Jetstream Series 3101, and Jetstream Model 3201 Airplanes'' ((RIN2120–AA64)(Docket No. 2007–CE–035)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3302. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Rolls-Royce plc RB211–524 and –535 Series Turbofan Engines'' ((RIN2120–AA64)(Docket No. 2006–NE–10)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3303. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Pacific Aerospace Corporation, Ltd. Model 750XL Airplanes'' ((RIN2120–AA64)(Docket No. 2007–CE–037)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3304. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model CL–600–1A11, CL–600–2A12, CL–600–2B16, Airplanes'' ((RIN2120–AA64)(Docket No. 2006–NM–189)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3305. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A330 and A340 Airplanes'' ((RIN2120–AA64)(Docket No. 2006–NM–174)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3306. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; AEROTECHNIC Vertiebs–u. Service GmbH Model Honeywell CAS67A ACAS II Systems Appliances'' ((RIN2120–AA64)(Docket No. 2007–CE–026)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3307. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Cirrus Design Corporation Models SR20 and SR22 Airplanes'' ((RIN2120–AA64)(Docket No. 2007–CE–042)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3308. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglas Model 717–200 Airplanes'' ((RIN2120–AA64)(Docket No. 2006–NM–108)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3309. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglas DC–10–30 and DC–10–30F Airplanes'' ((RIN2120–AA64)(Docket No. 2006–NM–273)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3310. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; PLAGGIO AERO INDUSTRIES S.p.A. Model P–180 Airplanes'' ((RIN2120–AA64)(Docket No. 2007–CE–029)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3311. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. ERJ 170 Airplanes'' ((RIN2120–AA64)(Docket No. 2006–NM–252)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3312. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglas Model DC–8–62, DC–8–62F, DC–8–63, DC–8–63F, DC–8–72, DC–8–72F, and DC–8–73F Airplanes'' ((RIN2120–AA64)(Docket No. 2006–NM–255)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3313. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A318, A319, A320, and A321 Airplanes'' ((RIN2120–AA64)(Docket No. 2006–NM–154)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3314. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Hartzell Propeller Inc. Model HC–B5MP–3()/M10282A()+6 and HC–B5MP–3()/M10876()()()() Five-Bladed Propellers'' ((RIN2120–AA64)(Docket No. 86–ANE–7)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3315. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Schempp–Hirth GmbH and Co. KG Models Mini–Nimbus B and Mini–Nimbus HS–7 Sailplanes'' ((RIN2120–AA64)(Docket No. 2006–CE–35)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3316. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A318–100 and A319–100 Series Airplanes; Model A320–111 Airplanes; Model A320–200, A321–200, A330–200, A330–300, A340–200, and A340–300 Series Airplanes; Model A340–541 Airplanes; and Model A340–642 Airplanes; Equipped with Certain Sogerma–Services Powered Seats'' ((RIN2120–AA64)(Docket No. 2005–NM–242)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3317. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule

entitled ''Airworthiness Directives; Bombardier Model CL–600–2B16 Airplanes and Model CL–600–2B19 Airplanes'' ((RIN2120–AA64)(Docket No. 2006–NM–178)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3318. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Air Tractor, Inc. Model AT–602 Airplanes'' ((RIN2120–AA64)(Docket No. 2004–CE–50)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3319. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Sayre, PA'' ((RIN2120–AA66)(Docket No. 06–AEA–006)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3320. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Ridgeway, PA'' ((RIN2120–AA66)(Docket No. 06–AEA–03)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3321. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Troy, PA'' ((RIN2120–AA66)(Docket No. 05–AEA–007)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3322. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Jersey Shore Airport, PA'' ((RIN2120–AA66)(Docket No. 06–AEA–02)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3323. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Wellsboro, PA'' ((RIN2120–AA66)(Docket No. 06–AEA–005)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3324. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Wilkes Barre, PA'' ((RIN2120–AA66) (Docket No. 06–AEA–004)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3325. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revocation of Class D Airspace; Elko, NV'' ((RIN2120–AA66) (Docket No. 06–AWP–11)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3326. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments'' ((RIN2120–AA65) (Amdt. No. 3191)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3327. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures, Weather Takeoff Minimums; Miscellaneous Amendments'' ((RIN2120–AA65) (Docket No. 30519)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3328. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures, Weather Takeoff Minimums; Miscellaneous Amendments'' ((RIN2120–AA65) (Docket No. 30521)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3329. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments'' ((RIN2120–AA65) (Docket No. 30522)) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3330. A communication from the Regulatory Ombudsman, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Parts and Accessories Necessary for Safe Operation; Lamps and Reflective Devices'' (RIN2126–AB07) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3331. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Side Impact Protection Upgrade'' (RIN2127–AJ10) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3332. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Vehicles Built in Two or More Stages'' (RIN2127–AI93) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3333. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Insurer Reporting Requirements Update to Appendices A, B, and C'' (RIN2127–AJ98) received on September 17, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3334. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Navigation and Navigable Waters; Technical, Organizational, and Conforming Amendments'' (RIN1625–ZA13) received on September 13, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3335. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Vessel Documentation; Recording of Instruments'' ((RIN1625–AB18) (Docket No. USCG–2007–28098)) received on September 13, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3336. A communication from the Chief of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulations (including six regulations beginning with CGD01–07–093)'' (RIN1625–AA09) received on September 13, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3337. A communication from the Chief of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zone: Waters Surrounding U.S. Forces Vessel SBX–1, HI'' ((RIN1625–AA87) (COTP Honolulu 07–005)) received on September 13, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3338. A communication from the Chief of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zone: Hawaii Super Ferry Arrival/Departure, Nawiliwili Harbor, Kauai, Hawaii'' ((RIN1625–AA87) (COTP Honolulu 07–005)) received on September 13 , 2007; to the Committee on Commerce, Science, and Transportation.

EC–3339. A communication from the Chief of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zone: Oahu, Maui, Hawaii and Kauai, HI'' ((RIN1625–AA87) (CGD14–07–001)) received on September 13, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3340. A communication from the Chief of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulations: Sacramento River, Rio Vista, CA'' ((RIN1625–AA87) (CGD11–07–013)) received on September 13, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3341. A communication from the Chief of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulations (including two regulations beginning with CGD01–07–019)'' (RIN1625–AA09) received on September 13, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3342. A communication from the Chief of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Area: Buzzards Bay, Massachusetts'' (RIN1625–AA17) received on September 13, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3343. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Delaware; Amendments to the Open Burning Regulation'' (FRL No. 8469–4) received on September 13, 2007; to the Committee on Environment and Public Works.

EC–3344. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Extension of the Deferred Effective Date for 8-Hour Ozone National Ambient Air Quality Standards for the Denver Early Action Compact'' (FRL No. 8469–8) received on September 13, 2007; to the Committee on Environment and Public Works.

EC–3345. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting,

pursuant to law, the report of a rule entitled ''National Priorities List, Final Rule'' (FRL No. 8468–4) received on September 13, 2007; to the Committee on Environment and Public Works.

EC–3346. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pendimethalin; Pesticide Tolerance'' (FRL No. 8147–8) received on September 13, 2007; to the Committee on Environment and Public Works.

EC–3347. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pesticide Tolerance Nomenclature Changes; Technical Amendment'' (FRL No. 8126–5) received on September 13, 2007; to the Committee on Environment and Public Works.

EC–3348. A communication from the Director of the Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Materials and Processes Authorized for the Treatment of Wine and Juice'' ((RIN1513–AA96) (T.D. TTB–61)) received on September 12, 2007; to the Committee on Finance.

EC–3349. A communication from the Director of the Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Firearms Excise Tax; Exemption for Small Manufacturers, Producers, and Importers'' ((RIN1513–AB25) (T.D. TTB–62)) received on September 12, 2007; to the Committee on Finance.

EC–3350. A communication from the Assistant Secretary, Employee Benefits Security Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Interpretive Bulletin 95–1'' (RIN1210–AB22) received on September 12, 2007; to the Committee on Health, Education, Labor, and Pensions.

EC–3351. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to a petition filed by the workers from the Hanford Nuclear Reservation requesting their addition to the Special Exposure Cohort; to the Committee on Health, Education, Labor, and Pensions.

EC–3352. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to a petition filed by the workers from the Ames Laboratory in Ames, Iowa, requesting their addition to the Special Exposure Cohort; to the Committee on Health, Education, Labor, and Pensions.

EC–3353. A communication from the Principal Deputy Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the Department's Buy American Reports for fiscal years 2005 and 2006; to the Committee on the Judiciary.

EC–3354. A communication from the Secretary of Veterans Affairs, transmitting, a draft bill intended to assist formerly homeless veterans who reside in permanent housing; to the Committee on Veterans' Affairs.

EC–3355. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Pay Administration Under the Fair Labor Standards Act'' (RIN3206–AK89) received on September 17, 2007; to the Committee on Homeland Security and Governmental Affairs.

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. BAYH:

S. 2068. A bill to amend the Internal Revenue Code of 1986 to provide an additional standard deduction for real property taxes for nonitemizers; to the Committee on Finance.

By Mr. DURBIN (for himself and Mrs. HUTCHISON):

S. 2069. A bill to increase the United States financial and programmatic contributions to promote economic opportunities for women in developing countries; to the Committee on Foreign Relations.

By Mr. DEMINT (for himself, Mr. ALLARD, Mr. COBURN, Mr. KYL, Mr. LOTT, Mr. MCCONNELL, Mr. GREGG, Mr. CRAPO, Mr. HATCH, Mr. COLEMAN, Mr. CRAIG, Mr. CORNYN, Mr. VITTER, Mrs. HUTCHISON, and Mr. SESSIONS):

S. 2070. A bill to prevent Government shutdowns; read the first time.

By Mrs. FEINSTEIN (for herself, Mr. BAUCUS, Mrs. BOXER, Mr. OBAMA, Mrs. CLINTON, and Mr. NELSON of Nebraska):

S. 2071. A bill to enhance the ability to combat methamphetamine; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. FEINSTEIN (for herself, Mr. LUGAR, Mr. DODD, Mr. HAGEL, Mr. AKAKA, Mr. BAUCUS, Mr. BINGAMAN, Mr. BROWN, Mr. BYRD, Mr. BURR, Ms. CANTWELL, Mr. CASEY, Mr. CRAIG, Mr. DURBIN, Mr. FEINGOLD, Mr. HARKIN, Mrs. HUTCHISON, Mr. KENNEDY, Mr. KERRY, Ms. KLOBUCHAR, Mr. KOHL, Mr. LEAHY, Mr. LEVIN, Mr. LOTT, Mr. NELSON of Florida, Mr. REED, Ms. SNOWE, Mr. SUNUNU, Mr. VOINOVICH, Mr. WEBB, Mr. WHITEHOUSE, Mr. WYDEN, Mr. SMITH, Mr. SPECTER, Mrs. MURRAY, and Ms. STABENOW):

S. Res. 321. A resolution expressing the sense of the Senate regarding the Israeli-Palestinian peace process; to the Committee on Foreign Relations.

By Mr. REED (for himself, Mr. WHITEHOUSE, Mrs. CLINTON, and Mr. SCHUMER):

S. Res. 322. A resolution honoring the lifetime achievements of General George Sears Greene on the occasion of the 100th anniversary rededication of the monument in his honor; considered and agreed to.

ADDITIONAL COSPONSORS

S. 38

At the request of Mr. DOMENICI, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 38, a bill to require the Secretary of Veterans Affairs to establish a program for the provision of readjustment and mental health services to veterans who served in Operation Iraqi Freedom and Operation Enduring Freedom, and for other purposes.

S. 326

At the request of Mrs. LINCOLN, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 326, a bill to amend the Internal Revenue Code of 1986 to provide a special period of limitation when uniformed services retirement pay is reduced as result of award of disability compensation.

S. 400

At the request of Mr. SUNUNU, the names of the Senator from Delaware (Mr. CARPER) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 400, a bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to ensure that dependent students who take a medically necessary leave of absence do not lose health insurance coverage, and for other purposes.

S. 545

At the request of Mr. LOTT, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 545, a bill to improve consumer access to passenger vehicle loss data held by insurers.

S. 674

At the request of Mr. OBAMA, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 674, a bill to require accountability and enhanced congressional oversight for personnel performing private security functions under Federal contracts, and for other purposes.

S. 694

At the request of Mrs. CLINTON, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 694, a bill to direct the Secretary of Transportation to issue regulations to reduce the incidence of child injury and death occurring inside or outside of light motor vehicles, and for other purposes.

S. 702

At the request of Mr. KOHL, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 702, a bill to authorize the Attorney General to award grants to State courts to develop and implement State courts interpreter programs.

S. 772

At the request of Mr. KOHL, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 772, a bill to amend the Federal antitrust laws to provide expanded coverage and to eliminate exemptions from such laws that are contrary to the public interest with respect to railroads.

S. 803

At the request of Mr. ROCKEFELLER, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 803, a bill to repeal a provision enacted to end Federal matching of State spending of child support incentive payments.

S. 988

At the request of Mr. THUNE, his name was added as a cosponsor of S.

988, a bill to extend the termination date for the exemption of returning workers from the numerical limitations for temporary workers.

S. 1014

At the request of Mr. ALEXANDER, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1014, a bill to amend the Elementary and Secondary Education Act of 1965 to provide parental choice for those students that attend schools that are in need of improvement and have been identified for restructuring.

S. 1015

At the request of Mr. COCHRAN, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1015, a bill to reauthorize the National Writing Project.

S. 1084

At the request of Mr. OBAMA, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1084, a bill to provide housing assistance for very low-income veterans.

S. 1175

At the request of Mr. DURBIN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1175, a bill to end the use of child soldiers in hostilities around the world, and for other purposes.

S. 1382

At the request of Mr. REID, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1382, a bill to amend the Public Health Service Act to provide the establishment of an Amyotrophic Lateral Sclerosis Registry.

S. 1430

At the request of Mr. OBAMA, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1430, a bill to authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of $20,000,000 or more in Iran's energy sector, and for other purposes.

S. 1518

At the request of Mr. REED, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 1518, a bill to amend the McKinney-Vento Homeless Assistance Act to reauthorize the Act, and for other purposes.

S. 1543

At the request of Mr. BINGAMAN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1543, a bill to establish a national geothermal initiative to encourage increased production of energy from geothermal resources, and for other purposes.

S. 1627

At the request of Mrs. LINCOLN, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. 1627, a bill to amend the Internal Revenue Code of 1986 to extend and expand the benefits for businesses operating in empowerment zones, enterprise communities, or renewal communities, and for other purposes.

S. 1651

At the request of Mr. KENNEDY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1651, a bill to assist certain Iraqis who have worked directly with, or are threatened by their association with, the United States, and for other purposes.

S. 1661

At the request of Mr. DORGAN, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1661, a bill to communicate United States travel policies and improve marketing and other activities designed to increase travel in the United States from abroad.

S. 1818

At the request of Mr. OBAMA, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1818, a bill to amend the Toxic Substances Control Act to phase out the use of mercury in the manufacture of chlorine and caustic soda, and for other purposes.

S. 1827

At the request of Mr. COCHRAN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1827, a bill to amend title XVIII of the Social Security Act to require prompt payment to pharmacies under part D, to restrict pharmacy co-branding on prescription drug cards issued under such part, and to provide guidelines for Medication Therapy Management Services programs offered by prescription drug plans and MA–PD plans under such part.

S. 1895

At the request of Mr. REED, the names of the Senator from Florida (Mr. MARTINEZ) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1895, a bill to aid and support pediatric involvement in reading and education.

S. 1944

At the request of Mr. LAUTENBERG, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1944, a bill to provide justice for victims of state-sponsored terrorism.

S. 1951

At the request of Mr. BAUCUS, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 1951, a bill to amend title XIX of the Social Security Act to ensure that individuals eligible for medical assistance under the Medicaid program continue to have access to prescription drugs, and for other purposes.

S. 1954

At the request of Mr. BAUCUS, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 1954, a bill to amend title XVIII of the Social Security Act to improve access to pharmacies under part D.

S. 1958

At the request of Mr. CONRAD, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1958, a bill to amend title XVIII of the Social Security Act to ensure and foster continued patient quality of care by establishing facility and patient criteria for long-term care hospitals and related improvements under the Medicare program.

S. 1965

At the request of Mr. STEVENS, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 1965, a bill to protect children from cybercrimes, including crimes by online predators, to enhance efforts to identify and eliminate child pornography, and to help parents shield their children from material that is inappropriate for minors.

S. 2020

At the request of Mr. LUGAR, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2020, a bill to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2010, to rename the Tropical Forest Conservation Act of 1998 as the ''Tropical Forest and Coral Conservation Act of 2007'', and for other purposes.

S. 2037

At the request of Ms. KLOBUCHAR, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2037, a bill to amend the Consumer Product Safety Act to make it unlawful to sell a recalled product, and for other purposes.

S. 2038

At the request of Ms. KLOBUCHAR, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2038, a bill to prohibit the introduction or delivery for introduction into interstate commerce of children's products that contain lead, and for other purposes.

S. 2044

At the request of Mr. OBAMA, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2044, a bill to provide procedures for the proper classification of employees and independent contractors, and for other purposes.

S. 2047

At the request of Mr. COLEMAN, the names of the Senator from Mississippi (Mr. LOTT) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 2047, a bill to require enhanced disclosures to consumers purchasing flood insurance and for other purposes.

S. 2064

At the request of Mr. DURBIN, the names of the Senator from Illinois (Mr. OBAMA), the Senator from New York (Mr. SCHUMER) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of S. 2064, a bill to fund

comprehensive programs to ensure an adequate supply of nurses.

S.J. RES. 18

At the request of Mr. BINGAMAN, the names of the Senator from Michigan (Ms. STABENOW), the Senator from Pennsylvania (Mr. CASEY) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S.J. Res. 18, a joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Centers for Medicare & Medicaid Services within the Department of Health and Human Services relating to a cost limit for providers operated by units of government and other provisions under the Medicaid program.

S. CON. RES. 47

At the request of Mr. NELSON of Nebraska, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. Con. Res. 47, a concurrent resolution recognizing the 60th anniversary of the United States Air Force as an independent military service.

AMENDMENT NO. 2022

At the request of Mr. LEAHY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of amendment No. 2022 proposed to H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 2104

At the request of Mr. OBAMA, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of amendment No. 2104 intended to be proposed to H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 2251

At the request of Mr. LAUTENBERG, the names of the Senator from Georgia (Mr. ISAKSON), the Senator from North Carolina (Mr. BURR) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of amendment No. 2251 intended to be proposed to H. R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 2872

At the request of Mr. KENNEDY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of amendment No. 2872 intended to be proposed to H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 2874

At the request of Mr. DURBIN, his name was added as a cosponsor of amendment No. 2874 intended to be proposed to H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 2880

At the request of Mr. SALAZAR, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of amendment No. 2880 intended to be proposed to H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 2886

At the request of Mrs. FEINSTEIN, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of amendment No. 2886 intended to be proposed to H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 2895

At the request of Mr. CONRAD, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of amendment No. 2895 intended to be proposed to H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 2898

At the request of Mr. LEVIN, the names of the Senator from Oregon (Mr. SMITH), the Senator from Nebraska (Mr. HAGEL), the Senator from Illinois (Mr. DURBIN), the Senator from New York (Mrs. CLINTON) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of amendment No. 2898 intended to be proposed to H. R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN (for himself and Mrs. HUTCHISON):

S. 2069. A bill to increase the United States financial and programmatic contributions to promote economic opportunities for women in developing countries; to the Committee on Foreign Relations.

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:

S. 2069

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 ''Global Resources and Opportunities for Women to Thrive Act of 2007'' or the ''GROWTH Act of 2007''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. FINDINGS AND STATEMENT OF POLICY.

(a) FINDINGS.—Congress finds the following:

(1) Women around the world are especially vulnerable to poverty. They tend to work longer hours, are compensated less, and have less income stability and fewer economic opportunities than men.

(2) Women's share of the labor force is increasing in almost all regions of the world. Women comprise more than 40 percent of the labor force in eastern and southeastern Asia, sub-Saharan Africa, and the Caribbean, nearly a third of the labor force in Central America, and nearly one-third of total employment in South Asia. About 250 million young women will enter the labor force worldwide between 2003 and 2015.

(3) Women are more likely to work in informal employment relationships in poor countries compared to men. In sub-Saharan Africa, 84 percent of female non-agricultural workers are informally employed compared to 63 percent of men. In Latin America, 58 percent of women are informally employed compared to 48 percent of men. Informal employment is characterized by lower wages and greater variability of earnings, less stability, absence of labor organization, and

fewer social protections than formal employment.

(4) Changes in the economy of a poor country affect women and men differently; women are disproportionately affected by long-term recessions, crises, and economic restructuring and they often miss out on many of the benefits of growth.

(5) International trade can be an important tool of economic development and poverty reduction and its benefits should extend to all members of society, particularly the world's poor women.

(6) Promoting fair labor practices for women, and access to information, education, land, credit, physical capital, and social services is a means of boosting productivity and earnings for the economies of developing nations. For example, according to the World Bank, in sub-Saharan Africa, inequality between men and women in employment and education suppressed annual per capita growth during the period 1960–1992 by .8 percentage points per year.

(7) Expanding economic opportunity for women in developing countries can have a positive effect on child nutrition, health, and education, as women often invest their income in their families. Increasing women's income can also decrease women's vulnerability to HIV/AIDS, gender-based violence, and trafficking, and make them more resistant to the impact of natural disasters.

(8) Economic opportunities for women, including microfinance and microenterprise development and the promotion of women's small- and medium-sized businesses, are a means of generating gainful, safe, and dignified employment for the poor.

(9) Women play a vital, but often unrecognized, role in averting violence, resolving conflict, and rebuilding economies in post-conflict societies. Women in conflict-affected areas face even greater challenges in accessing employment, training, property rights, credit, and financial and non-financial resources for business development. Ensuring economic opportunity for women in conflict-affected areas plays a significant role in economic rehabilitation and consolidation of peace.

(10) Given the important role of women in the economies of poor nations, poverty alleviation programs funded by the Government of the United States in poor countries should seek to enhance the level of economic opportunity available to women in those countries.

(b) STATEMENT OF POLICY.—It is, therefore, the policy of the United States to actively promote development and economic opportunities for women, including programs and policies to—

(1) promote women's ability to start micro, small, or medium-sized business enterprises, and enable women to grow such enterprises, particularly from micro to small enterprises and from small to medium-sized enterprises, or sustain current business capacity;

(2) promote the rights of women to own, manage, and inherit property, including land, encourage adoption of laws and policies that support the rights of women to enforce these claims in administrative and judicial tribunals, and address conflicts with customary laws and practices to increase the security of women's tenure;

(3) increase women's access to employment, enable women to access higher quality jobs with better remuneration and working conditions in both informal and formal employment, and improve the quality of jobs in sectors dominated by women by improving the remuneration and working conditions of those jobs; and

(4) bring the benefits of international trade policy to women in developing countries and continue to ensure that trade policies and agreements adequately reflect the respective needs of poor women and men.

SEC. 3. MICROENTERPRISE DEVELOPMENT ASSISTANCE FOR WOMEN IN DEVELOPING COUNTRIES.

(a) AUTHORIZATION; IMPLEMENTATION; TARGETED ASSISTANCE.—

(1) AUTHORIZATION.—Section 252(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2211a(a)) is amended—

(A) in paragraph (1), by adding at the end before the semicolon the following: '', including specific activities to enhance the empowerment of women, such as leadership training, basic health and HIV/AIDS education, and literacy skills'';

(B) in paragraph (3)—

(i) by adding at the end before the semicolon the following: '', including women''; and

(ii) by striking ''and'' at the end;

(C) in paragraph (4)—

(i) by adding at the end before the period the following: '', including initiatives to eliminate legal and institutional barriers to women's ownership of assets, access to credit, access to information and communication technologies, and engagement in business activities within or outside of the home''; and

(ii) by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following new paragraph:

''(5) microfinance and microenterprise development programs that—

''(A) specifically target women with respect to outreach and marketing; and

''(B) provide products specifically to address women's assets, needs, and the barriers women encounter with respect to participation in enterprise and financial services.''.

(2) IMPLEMENTATION.—Section 252(b)(2)(C) of the Foreign Assistance Act of 1961 (22 U.S.C. 2211a(b)(2)(C)) is amended—

(A) in clause (ii)—

(i) by striking ''microenterprise development field'' and inserting ''microfinance and microenterprise development field''; and

(ii) by striking ''and'' at the end;

(B) in clause (iii)—

(i) by inserting after ''competitive'' the following: '', take into consideration the anticipated impact of the proposals on the empowerment of women and men, respectively,''; and

(ii) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new clause:

''(iv) give preference to proposals from providers of assistance that demonstrate the greatest knowledge of clients' needs and capabilities, including proposals that ensure that women are involved in the design and implementation of services and programs.''.

(3) TARGETED ASSISTANCE.—Section 252(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2211a(c)) is amended—

(A) in the first sentence by adding at the end before the period the following: '', particularly women''; and

(B) in the second sentence, by striking ''2006'' and inserting ''2008''.

(b) MONITORING SYSTEM.—Section 253(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2211b(b)) is amended in paragraph (1), by inserting after ''performance goals for the assistance'' the following: ''on a sex-disaggregated basis''.

(c) MICROENTERPRISE DEVELOPMENT CREDITS.—Section 256(b)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2212(b)(2)) is amended by adding at the end before the semicolon the following: '', with an emphasis on clients who are women''.

(d) REPORT.—

(1) CONTENTS.—Section 258(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2214(b)) is amended by adding at the end the following new paragraph:

''(12) An estimate of the potential global demand for microfinance and microenterprise development for women, determined in collaboration with practitioners in a cost-effective manner, and a description of the Agency's plan to help meet such demand.''.

(2) ADDITIONAL REQUIREMENT.—Section 258 of the Foreign Assistance Act of 1961 (22 U.S.C. 2214) is amended—

(A) by redesignating subsection (c) as subsection (d); and

(B) by inserting after subsection (b) the following new subsection:

''(c) ADDITIONAL REQUIREMENT.—All information in the report required by this section relating to beneficiaries of assistance authorized by this title shall be disaggregated by sex to the maximum extent practicable.''.

SEC. 4. SUPPORT FOR WOMEN'S SMALL- AND MEDIUM-SIZED ENTERPRISES IN DEVELOPING COUNTRIES.

(a) IN GENERAL.—The Secretary of State, acting through the Director of United States Foreign Assistance, shall—

(1) where appropriate, carry out programs, projects, and activities for enterprise development for women in developing countries that meet the requirements of subsection (b); and

(2) ensure that such programs, projects, and activities that are carried out pursuant to assistance provided under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) meet the requirements of subsection (b).

(b) REQUIREMENTS.—The requirements referred to in subsection (a) are the following:

(1) In coordination with developing country governments and interested individuals and organizations, encourage or enhance laws, regulations, enforcement, and other practices that promote access to banking and financial services for women-owned small- and medium-sized enterprises, and eliminate or reduce regulatory barriers that may exist in this regard.

(2) Promote access to information and communication technologies (ICT) with training in ICT for women-owned small- and medium-sized enterprises.

(3) Provide training, through local associations of women-owned enterprises or nongovernmental organizations in record keeping, financial and personnel management, international trade, business planning, marketing, policy advocacy, leadership development, and other relevant areas.

(4) Provide resources to establish and enhance local, national, and international networks and associations of women-owned small- and medium-sized enterprises.

(5) Provide incentives for nongovernmental organizations and regulated financial intermediaries to develop products, services, and marketing and outreach strategies specifically designed to facilitate and promote women's participation in small and medium-sized business development programs by addressing women's assets, needs, and the barriers they face to participation in enterprise and financial services.

(6) Seek to award contracts to qualified indigenous women-owned small and medium-sized enterprises, including for post-conflict reconstruction and to facilitate employment of indigenous women, including during post-conflict reconstruction in jobs not traditionally undertaken by women.

SEC. 5. SUPPORT FOR PRIVATE PROPERTY RIGHTS AND LAND TENURE SECURITY FOR WOMEN IN DEVELOPING COUNTRIES.

(a) IN GENERAL.—The Secretary of State, acting through the Director of United States Foreign Assistance, shall—

(1) where appropriate, carry out programs, projects, and activities for the promotion of

private property rights and land tenure security for women in developing countries that—

(A) are implemented by local, indigenous nongovernmental and community-based organizations dedicated to addressing the needs of women, especially women's organizations; and

(B) otherwise meet the requirements of subsection (b); and

(2) ensure that such programs, projects, and activities that are carried out pursuant to assistance provided under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) meet the requirements of subparagraphs (A) and (B) of paragraph (1).

(b) REQUIREMENTS.—The requirements referred to in subsection (a) are the following:

(1) Advocate to amend and harmonize statutory and customary law to give women equal rights to own, use, and inherit property.

(2) Promote legal literacy among women and men about property rights for women and how to exercise such rights.

(3) Assist women in making land claims and protecting women's existing claims.

(4) Advocate for equitable land titling and registration for women.

(c) AMENDMENT.—Section 103(b)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151a(b)(1)) is amended by inserting after ''establishment of more equitable and more secure land tenure arrangements'' the following: '', especially for women''.

SEC. 6. SUPPORT FOR WOMEN'S ACCESS TO EMPLOYMENT IN DEVELOPING COUNTRIES.

The Secretary of State, acting through the Director of United States Foreign Assistance, shall, where appropriate, carry out the following:

(1) Support activities to increase women's access to employment and to higher quality employment with better remuneration and working conditions in developing countries, including access to insurance and other social safety nets, in informal and formal employment relative to core labor standards determined by the International Labor Organization. Such activities should include—

(A) public education efforts to inform poor women and men of their legal rights related to employment;

(B) education and vocational training tailored to enable poor women to access opportunities in potential growth sectors in their local economies and in jobs within the formal and informal sectors where women are not traditionally highly represented;

(C) efforts to support self-employed poor women or wage workers to form or join independent unions or other labor associations to increase their income and improve their working conditions; and

(D) advocacy efforts to protect the rights of women in the workplace, including—

(i) developing programs with the participation of civil society to eliminate gender-based violence; and

(ii) providing capacity-building assistance to women's organizations to effectively research and monitor labor rights conditions.

(2) Provide assistance to governments and organizations in developing countries seeking to design and implement laws, regulations, and programs to improve working conditions for women and to facilitate their entry into and advancement in the workplace.

SEC. 7. TRADE BENEFITS FOR WOMEN IN DEVELOPING COUNTRIES.

In order to ensure that poor women in developing countries are able to benefit from international trade, the President, acting through the Secretary of State (acting through the Director of United States Foreign Assistance) and the heads of other appropriate departments and agencies of the Government of the United States, shall, where appropriate, carry out the following in developing countries:

(1) Provide training and education to women in civil society, including those organizations representing poor women, and to women-owned enterprises and associations of such enterprises, on how to respond to economic opportunities created by trade preference programs, trade agreements, or other policies creating market access, including training on United States market access requirements and procedures.

(2) Provide capacity building for women entrepreneurs, including microentrepreneurs, on production strategies, quality standards, formation of cooperatives, market research, and market development.

(3) Provide capacity building to women, including poor women, to promote diversification of products and value-added processing.

(4) Provide training to official government negotiators representing developing countries in order to enhance the ability of such negotiators to formulate trade policy and negotiate agreements that take into account the respective needs and priorities of a country's poor women and men.

(5) Provide training to local, indigenous women's groups in developing countries in order to enhance their ability to collect information and data, formulate proposals, and inform and impact official government negotiators representing their country in international trade negotiations of the respective needs and priorities of a country's poor women and men.

SEC. 8. EXCHANGES BETWEEN UNITED STATES ENTREPRENEURS AND WOMEN ENTREPRENEURS IN DEVELOPING COUNTRIES.

(a) DEPARTMENT OF COMMERCE.—The Secretary of Commerce shall, where appropriate, encourage United States business participants on trade missions to developing countries to—

(1) meet with representatives of women-owned small- and medium-sized enterprises in such countries; and

(2) promote internship opportunities for women owners of small- and medium-sized businesses in such countries with United States businesses.

(b) DEPARTMENT OF STATE.—The Secretary of State shall promote exchange programs that offer representatives of women-owned small- and medium-sized enterprises in developing countries an opportunity to learn skills appropriate to promoting entrepreneurship by working with business counterparts in the United States.

SEC. 9. ASSISTANCE UNDER THE MILLENNIUM CHALLENGE ACCOUNT.

The Chief Executive Officer of the Millennium Challenge Corporation (MCC) shall seek to ensure that contracts and employment opportunities resulting from assistance provided by the MCC to the governments of developing countries be fairly and equitably distributed to qualified women-owned small and medium-sized enterprises and other civil society organizations led by women, including nongovernmental and community-based organizations, including for infrastructure projects, and that such projects facilitate employment of women in jobs not traditionally undertaken by women.

SEC. 10. GROWTH FUND.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of State, acting through the Director of United States Foreign Assistance, shall establish the Global Resources and Opportunities for Women to Thrive (GROWTH) Fund (hereinafter in this section referred to as the ''Fund'') for the purpose of enhancing economic opportunities for very poor, poor, and low-income women in developing countries with a focus on—

(A) increasing women-owned enterprise development;

(B) increasing property rights for women;

(C) increasing women's access to financial services;

(D) increasing women in leadership in implementing organizations, such as indigenous nongovernmental organizations, community-based organizations, and regulated financial intermediaries;

(E) improving women's employment benefits and conditions; and

(F) increasing women's ability to benefit from global trade.

(2) ROLE OF USAID MISSIONS.—The Fund shall be available to USAID missions to apply for additional funding to support specific additional activities that enhance women's economic opportunities or to integrate gender into existing economic opportunity programs.

(b) ACTIVITIES SUPPORTED.—The Fund shall be available to USAID missions to support—

(1) activities described in title VI of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2211 et seq.), as amended by section 3 of this Act;

(2) activities described in sections 4 through 7 of this Act; and

(3) technical assistance and capacity-building to local, indigenous civil society, particularly to carry out activities that are covered under paragraphs (1) and (2), for—

(A) local indigenous women's organizations to the maximum extent practicable; and

(B) nongovernmental organizations and regulated financial intermediaries that demonstrate a commitment to gender equity in their leadership either through current practice or through specific programs to increase the representation of women in their governance and management.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $40,000,000 for fiscal year 2008 and such sums as may be necessary for each of the fiscal years 2009 and 2010.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1)—

(A) are authorized to remain available until expended; and

(B) are in addition to amounts otherwise available for such purposes.

SEC. 11. DATA COLLECTION.

(a) IN GENERAL.—The Secretary of State, acting through the Director of United States Foreign Assistance, shall—

(1) provide support for tracking indicators on women's employment, property rights for women, women's access to financial services, and women's enterprise development, including microenterprises, in developing countries; and

(2) where practicable track all United States foreign assistance funds to local indigenous nongovernmental, community-based organizations, and regulated financial intermediaries in developing countries, including through subcontractors and grantees, disaggregated by the sex of the head of the organization, senior management, and composition of the boards of directors;

(3) encourage United States statistical agencies in their work with statistical agencies in other countries to provide support to collect data on the share of women in wage and self-employment by type of employment; and

(4) provide funding to the International Labor Organization (ILO) for technical assistance activities to developing countries and for the ILO to consolidate indicators into cross-country data sets.

(b) AUTHORIZATION OF APPROPRIATIONS.—Amounts made available to carry out section 10 of this Act are authorized to be made available to carry out this section.

SEC. 12. SUPPORT FOR LOCAL, INDIGENOUS WOMEN'S ORGANIZATIONS IN DEVELOPING COUNTRIES.

(a) AMENDMENTS.—Section 102 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151–1) is amended—

(1) in subsection (a) by inserting after the ninth sentence the following new sentences: ''Because men and women generally occupy different economic niches in poor countries, activities must address those differences in ways that enable both women and men to contribute to and benefit from development. Throughout the world, indigenous, local, nongovernmental and community-based organizations and regulated financial intermediaries are essential to addressing many of the development challenges facing countries and to creating stable, functioning democracies. Investing in the capacity of such organizations and in their role in the development process, including that of women's organizations, shall be an important, crosscutting objective of United States bilateral development assistance.''; and

(2) in subsection (b)—

(A) in paragraph (1), by adding at the end the following new sentence: ''The principles described in this paragraph shall, among other strategies, be accomplished through partnerships with local, indigenous nongovernmental and community-based organizations and regulated financial intermediaries that represent the interests of poor women and poor men.''; and

(B) in paragraph (6), by adding at the end the following new sentence: ''Investing in the capacity and participation of local, indigenous nongovernmental and community-based organizations dedicated to addressing the needs of women, especially women's organizations, shall be an important strategy for achieving the principle described in this paragraph.''.

(b) ASSISTANCE.—The Secretary of State, acting through the Director of United States Foreign Assistance, shall, where appropriate—

(1) improve the integration of capacity building and technical assistance activities for local, indigenous nongovernmental organizations and community-based organizations in developing countries within project proposals that will include the participation of locally based partners, especially women's organizations and other organizations leading women's empowerment initiatives, to promote the long-term sustainability of projects;

(2) provide information and training to local indigenous organizations focused on women's empowerment, especially women's organizations, in countries in which USAID missions are located in order to—

(A) provide technical assistance regarding availability of United States international assistance procurement procedures; and

(B) undertake culturally-appropriate outreach measures to contact such organizations;

(3) encourage cooperating agencies, implementing partners, and subcontractors, to the maximum extent practicable, to provide subgrants to local indigenous organizations that focus on women's empowerment, including women's organizations and other organizations that may not have previously worked with the Government of the United States or one of its partners, in fulfilling project objectives;

(4) work with local governments where appropriate to conduct outreach campaigns to formally register unofficial local nongovernmental and community-based organizations, especially women's organizations; and

(5) support efforts of indigenous organizations focused on women's empowerment, especially women's organizations, to network with other indigenous women's groups to collectively access funding opportunities to implement United States international assistance programs.

SEC. 13. REPORT.

(a) REPORT REQUIRED.—Not later than June 30, 2009, the Secretary of State, acting through the Director of United States Foreign Assistance, shall submit to Congress a report on the implementation of this Act and the amendments made by this Act.

(b) UPDATE.—Not later than June 30, 2010, the Secretary of State, acting through the Director of United States Foreign Assistance, shall submit to Congress an update of the report required by subsection (a).

(c) AVAILABILITY TO PUBLIC.—The report required by subsection (a) and the update required by subsection (b) shall be made available to the public on the Internet websites of the Department of State and the United States Agency for International Development.

By Mrs. FEINSTEIN (for herself, Mr. BAUCUS, Mrs. BOXER, Mr. OBAMA, Mrs. CLINTON, and Mr. NELSON of Nebraska):

S. 2071. A bill to enhance the ability to combat methamphetamine; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I am pleased to introduce, along with Senators BAUCUS, BOXER, OBAMA, CLINTON, and BEN NELSON, the Combat Methamphetamine Enhancement Act.

This act is designed to address problems that the Drug Enforcement Administration, DEA, has identified in the implementation of the Combat Methamphetamine Epidemic Act of 2005. I was pleased to join former Senator Talent in drafting, introducing and securing the passage of the original bill. I am pleased to introduce this legislation today to ensure that it operates as Congress intended.

The bill that I introduce today would: clarify that all retailers, including mail order retailers, who sell products that contain chemicals often used to make methamphetamine—like ephedrine, pseudoepedrine and phenylpropanolamine—must self-certify that they have trained their personnel and will comply with the Combat Meth Act's requirements; require distributors to sell these products only to retailers who have certified that they will comply with the law; require the DEA to publish the list of all retailers who have filed self-certifications, on the DEA's website; and clarify that any retailer who negligently fails to file self-certification as required, may be subject to civil fines and penalties.

The Combat Methamphetamine Epidemic Act that we passed last year has been a resounding success. The number of methamphetamine labs in the United States has declined dramatically now that the ingredients used to make methamphetamine are harder to get.

The Combat Meth Act that became effective in September 2006 included important new provisions for retailer self-certification, employee training, requiring products to be placed behind counters, packaging requirements, required sales logbooks, and limits on the amounts that a person can purchase in a given day and over a 30-day period.

Now, because of that law's implementation, the number of methamphetamine labs decreased from about 12,000 labs to about 7,300 labs—a 41 percent decrease in just one year. Once the bill was enacted into law, the number of meth ''super labs'' in my home State of California declined from 30 in 2005 to only 17 in 2006.

Fewer meth labs means more than just less illegal drug production. As the Fresno Bee reported today, the DEA has noted that in 2003, 3663 children were reported exposed to toxic meth labs nationwide—but so far this year, the number of exposed children is only 319.

So things are moving in the right direction, and that is good news. But with more than 7,000 methamphetamine labs in the U.S., and children still being exposed to their toxins, it is also clear that there is still work to be done.

After the Combat Meth Act became law, DEA examined how the retailer self-certification process was working. On May 16, 2007, DEA sent letters to the 1600 distributors who they believed were selling products that contained ephedrine or pseudoephedrine, asking them to turn over lists of the retail stores that they sell to, so that DEA could check to see how many of those retailers had self-certified as that law requires.

Rather than actively assisting the DEA in its efforts, about ¾ of the distributors failed or declined to provide any information about the retail stores.

The distributors who did cooperate provided DEA with the names of 12,375 retail customers. When DEA checked those out, it found that about 8,300 of those retail stores had never self-certified as the law requires.

Based on these findings, the DEA estimates that nationwide, as many as 30,000 additional retail sellers of products are not complying with the law.

In short, retailers' noncompliance with the self-certification requirement appears to be widespread, and undercuts the effectiveness of the Combat Meth Act.

Unfortunately, there is no effective way for law enforcement to determine the universe of who is, and who is not, obeying the law. Currently, there is no requirement that retailers notify the DEA before they start selling products with these listed chemicals.

Retailers can likely avoid negative consequences if they are ever confronted with their failure to self-certify. Currently, the law imposes sanctions only for willful and reckless refusals to self-certify. There is no punishment available if a retailer negligently fails to self-certify as required. Not even civil sanctions are available.

In short, without distributors restricting the supply of these products to retailers who have self-certified, retailers may simply take their chances, rather than self-certifying as the law intended, figuring that they will never get caught, or if they do get caught, that they will never be punished.

It is unacceptable that, a year after the Combat Meth Act imposed this requirement and became fully effective, tens of thousands of retailers still are not following the law. It is unacceptable that distributors of these products can continue to profit off of their sales to retailers who are not complying, or are even refusing to comply with the law.

So this bill is designed to make the Combat Meth Act more effective, by putting in place a process that will ensure that every retailer who orders these products that can be used to make methamphetamine must comply with the law before they can get and resell the products.

First, it will require that all retail sellers of products with these listed chemicals must file self-certifications, closing a loophole that now exists for mail-order retailers.

Second, the DEA will be required to post all self-certified retailers on its website, so that advocacy groups and others who are concerned about methamphetamine in their communities can identify retailers who are selling these products without complying with the law, and can notify the authorities.

Third, distributors of these products will only be allowed to sell to retailers who have self-certified which they will be able to verify by checking the DEA's public website. Once recalcitrant retailers are faced with the real and immediate economic consequence of a possible cut-off of their desire to purchase these products, I am confident that most will file self-certifications as the law requires.

Finally, the bill clarifies that even a negligent failure to self-certify, if proven, can give rise to civil sanctions.

This is a common-sense bill, designed to strengthen the implementation of the Combat Methamphetamine Epidemic Act. This bill would create incentives to ensure that the self-certification process of the law is made both effective and enforceable.

I urge my colleagues to support this legislation.

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.

S. 2071

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 ''Combat Methamphetamine Enhancement Act of 2007''.

SEC. 2. REQUIREMENT OF SELF-CERTIFICATION BY ALL REGULATED PERSONS SELLING SCHEDULED LISTED CHEMICALS.

The first sentence of section 310(e)(1)(B)(i) of the Controlled Substances Act (21 U.S.C. 830(e)(1)(B)(i)) is amended by striking ''A regulated seller'' and inserting ''A regulated seller or regulated person referred to in subsection (b)(3)(B)''.

SEC. 3. PUBLICATION OF SELF-CERTIFIED REGULATED SELLERS AND REGULATED PERSONS LISTS.

Section 310(e)(1)(B) of the Controlled Substances Act (21 U.S.C. 830(e)(1)(B)) is amended by inserting at the end the following:

''(v) PUBLICATION OF LIST OF SELF-CERTIFIED PERSONS.—The Attorney General shall publish a list of all persons who are currently self-certified in accordance with this section. This list shall be made available on the website of the Drug Enforcement Administration.''.

SEC. 4. REQUIREMENT THAT DISTRIBUTORS OF LISTED CHEMICALS SELL ONLY TO SELF-CERTIFIED REGULATED SELLERS AND REGULATED PERSONS.

Section 402(a) of the Controlled Substances Act (21 U.S.C. 842(a)) is amended—

(1) in paragraph (13), by striking ''and'' after the semicolon;

(2) in paragraph (14), by striking the period and inserting ''; and''; and

(3) by inserting at the end the following:

''(15) to distribute a scheduled listed chemical product to a regulated seller, or to a regulated person referred to in section 310(b)(3)(B) (21 U.S.C. 830(b)(3)(B)), unless such regulated seller or regulated person is, at the time of such distribution, on the list of persons referred to under section 310(e)(1)(B)(v) (21 U.S.C. 830(e)(1)(B)(v)).''.

SEC. 5. NEGLIGENT FAILURE TO SELF-CERTIFY AS REQUIRED.

Section 402(a) of the Controlled Substances Act (21 U.S.C. 842(a)(10)) is amended by inserting before the semicolon the following: ''or negligently to fail to self-certify as required under section 310 (21 U.S.C. 830)''.

SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 60 days after the date of enactment of this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 321—EXPRESSING THE SENSE OF THE SENATE REGARDING THE ISRAELI-PALESTINIAN PEACE PROCESS

Mrs. FEINSTEIN (for herself, Mr. LUGAR, Mr. DODD, Mr. HAGEL, Mr. AKAKA, Mr. BAUCUS, Mr. BINGAMAN, Mr. BROWN, Mr. BYRD, Mr. BURR, Ms. CANTWELL, Mr. CASEY, Mr. CRAIG, Mr. DURBIN, Mr. FEINGOLD, Mr. HARKIN, Mrs. HUTCHISON, Mr. KENNEDY, Mr. KERRY, Ms. KLOBUCHAR, Mr. KOHL, Mr. LEAHY, Mr. LEVIN, Mr. LOTT, Mr. NELSON of Florida, Mr. REED, Ms. SNOWE, Mr. SUNUNU, Mr. VOINOVICH, Mr. WEBB, Mr. WHITEHOUSE, Mr. WYDEN, Mr. SMITH, Mr. SPECTER, Mrs. MURRAY, and Ms. STABENOW) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 321

Whereas ending the violence and terror that have devastated the State of Israel, the West Bank, and Gaza since September 2000 is in the vital interests of the United States, Israel, and the Palestinian people;

Whereas the ongoing Israeli-Palestinian conflict strengthens extremists and opponents of peace throughout the region;

Whereas more than 7 years of violence, terror, and military engagement have demonstrated that armed force alone will not solve the Israeli-Palestinian dispute;

Whereas the vast majority of Israelis and Palestinians want to put an end to decades of confrontation and conflict and live in peaceful coexistence, mutual dignity, and security, based on a just, lasting, and comprehensive peace;

Whereas on May 24, 2006, addressing a Joint Session of the United States Congress, Prime Minister of Israel Ehud Olmert reiterated the Government of Israel's position that ''In a few years, [the Palestinians] could be living in a Palestinian state, side by side in peace and security with Israel, a Palestinian state which Israel and the international community would help thrive'';

Whereas, in his speech before the Palestinian Legislative Council on February 18, 2006, Palestinian Authority President Mahmoud Abbas said, ''We are confident that there is no military solution to the conflict. Negotiations between us as equal partners should put a long-due end to the cycle of violence . . . Let us live in two neighboring states'';

Whereas, in June 2002, the President of the United States presented his vision of ''two states, living side by side in peace and security'', and has since repeatedly reaffirmed this position;

Whereas events of the past 18 months, including the victory of Hamas in Palestinian legislative elections, the continued firing of rockets from Gaza into Israel, and the escalating intra-Palestinian violence and chaos, culminating in the June 2007 brutal takeover of Gaza by Hamas, make the achievement of President Bush's vision even more difficult;

Whereas, on June 27, 2007, the Quartet (the United States, Russia, the European Union, and the United Nations) appointed former British Prime Minister Tony Blair special envoy to the Middle East with a focus on mobilizing assistance to the Palestinians and promoting economic development and institutional governance;

Whereas a robust and high-level American diplomatic presence on the ground is critical to bringing Israelis and Palestinians together to make the tough decisions necessary to achieving a permanent resolution to the conflict;

Whereas June 2007 marked the 40th anniversary of the Six-Day War between Israel and a coalition of Arab states;

Whereas all parties should use the occasion of this anniversary to redouble their efforts to achieve peace; and

Whereas achieving Israeli-Palestinian peace could have significant positive impacts on security and stability in the region: Now, therefore, be it

Resolved, That the Senate—

(1) reaffirms its commitment to a true and lasting solution to the Israeli-Palestinian conflict, based on the establishment of 2 states, the State of Israel and Palestine, living side by side in peace and security, and with recognized borders;

(2) denounces the use of violence and terror and reaffirms its unwavering commitment to Israel's security;

(3) calls on President Bush to pursue a robust diplomatic effort to engage the State of Israel and the Palestinian Authority, begin negotiations, and make a 2-state settlement a top priority;

(4) urges President Bush to consider appointing as Special Envoy for Middle East Peace an individual who has held cabinet rank or someone equally qualified, with an extensive knowledge of foreign affairs generally and the Middle East region in particular;

(5) calls on Hamas to recognize the State of Israel's right to exist, to renounce and end all terror and incitement, and to accept past agreements and obligations with the State of Israel;

(6) calls on moderate Arab states in the region to intensify their diplomatic efforts toward a 2-state solution and welcomes the Arab League Peace Initiative; and

(7) calls on Israeli and Palestinian leaders to embrace efforts to achieve peace and refrain from taking any actions that would prejudice the outcome of final status negotiations.

SENATE RESOLUTION 322—HONORING THE LIFETIME ACHIEVEMENTS OF GENERAL GEORGE SEARS GREENE ON THE OCCASION OF THE 100TH ANNIVERSARY REDEDICATION OF THE MONUMENT IN HIS HONOR

Mr. REED (for himself, Mr. WHITEHOUSE, Mrs. CLINTON, and Mr. SCHUMER) submitted the following resolution; which was considered and agreed to:

S. RES. 322

Whereas George Sears Greene was one of 9 children born to Caleb and Sarah Robinson Wicks Greene in Apponaug, Rhode Island, attended grammar school in Warwick, Rhode Island, and moved to New York as a teenager;

Whereas Greene attended the United States Military Academy at West Point, where he graduated 2nd in his class in 1823;

Whereas Greene entered the Army as a 2nd lieutenant in the 3rd United States Artillery regiment, and, due to his superb scholarship, was appointed to teach mathematics at the Military Academy following his graduation;

Whereas, after resigning his commission in the Army in 1836, Greene worked as a civil engineer, became a founder of the American Society of Civil Engineers and Architects, and constructed railroads and canals in several states and designed aqueducts and municipal sewage and water systems for New York, Providence, and several other cities;

Whereas, at the outset of the Civil War, Greene returned to the defense of the Nation and, at the age of 60, was appointed colonel of the 60th New York Infantry regiment;

Whereas, on April 28, 1862, Greene was promoted to Brigadier General, United States Volunteers;

Whereas, on July 2, 1863, on the 2nd day of the Battle of Gettysburg, Greene led the 3rd Brigade of New Yorkers on Culp's Hill, and his regiment's defense of the Union right flank at Culp's during the battle was a contributing factor in the Union's victory;

Whereas Greene passed away at the age of 97 in 1899 and, in 1907, a monument on Culp's Hill was erected in Greene's honor; and

Whereas the General George Sears Greene monument will be rededicated on September 22, 2007: Now, therefore, be it

Resolved, That the Senate, in honor of the 100th anniversary rededication of the General George Sears Greene monument at Gettysburg, Pennsylvania, commends the lifetime achievements of General Greene, his commitment to public service, and his decisive and heroic defense of Culp's Hill in the crucial Battle of Gettysburg.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2909. Mr. WEBB (for himself, Mr. REID, Mr. HAGEL, Mr. LEVIN, Ms. SNOWE, Mr. SMITH, Mr. OBAMA, Mrs. CLINTON, Mr. BYRD, Mr. KENNEDY, Mr. SALAZAR, Mr. HARKIN, Mr. BROWN, Mrs. LINCOLN, Ms. KLOBUCHAR, Mr. DODD, Mr. BIDEN, Mr. LAUTENBERG, Mr. KERRY, Mr. DURBIN, Mr. TESTER, Mrs. MCCASKILL, Mr. SCHUMER, Mr. PRYOR, Mr. SANDERS, Ms. MIKULSKI, Ms. CANTWELL, Ms. STABENOW, Ms. LANDRIEU, Mr. JOHNSON, Mr. CARPER, Mr. ROCKEFELLER, Mrs. MURRAY, Mrs. FEINSTEIN, Mr. AKAKA, Mr. MENENDEZ, Mrs. BOXER, and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

SA 2910. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 2067 submitted by Mr. KENNEDY (for himself and Mr. SMITH) and intended to be proposed to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2911. Mr. CASEY (for himself and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2912. Mr. LAUTENBERG (for himself and Mr. HAGEL) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2913. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2914. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2915. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2916. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2917. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2918. Mr. MCCAIN (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra.

SA 2919. Mr. DURBIN (for himself, Mr. HAGEL, Mr. LUGAR, and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2920. Mr. SALAZAR (for himself and Mr. ALLARD) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2921. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2922. Mr. COLEMAN submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2923. Mr. MARTINEZ submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2924. Mr. FEINGOLD (for himself, Mr. REID, Mr. LEAHY, Mrs. BOXER, Mr. WHITEHOUSE, Mr. HARKIN, Mr. SANDERS, Mr. SCHUMER, Mr. DURBIN, and Mr. MENENDEZ) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2925. Mr. REID submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2926. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2927. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2928. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2929. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2930. Mr. ISAKSON (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2931. Mr. CASEY (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2932. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2933. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2934. Mr. CORNYN proposed an amendment to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra.

SA 2935. Mr. CHAMBLISS (for himself, Mr. PRYOR, and Mr. ISAKSON) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2936. Mr. CHAMBLISS (for himself and Mr. ISAKSON) submitted an amendment intended to be proposed to amendment SA 2011

proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2937. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2938. Mr. SMITH (for himself and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2939. Mrs. McCASKILL submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2940. Mrs. McCASKILL submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2941. Mr. REED (for himself and Mrs. DOLE) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2942. Mr. SALAZAR submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2943. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2944. Mrs. CLINTON (for herself, Mr. KERRY, Mr. LAUTENBERG, Mr. BROWN, and Mr. BYRD) submitted an amendment intended to be proposed by her to the bill H.R. 1585, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2909. Mr. WEBB (for himself, Mr. REID, Mr. HAGEL, Mr. LEVIN, Ms. SNOWE, Mr. SMITH, Mr. OBAMA, Mrs. CLINTON, Mr. BYRD, Mr. KENNEDY, Mr. SALAZAR, Mr. HARKIN, Mr. BROWN, Mrs. LINCOLN, Ms. KLOBUCHAR, Mr. DODD, Mr. BIDEN, Mr. LAUTENBERG, Mr. KERRY, Mr. DURBIN, Mr. TESTER, Mrs. McCASKILL, Mr. SCHUMER, Mr. PRYOR, Mr. SANDERS, Ms. MIKULSKI, Ms. CANTWELL, Ms. STABENOW, Ms. LANDRIEU, Mr. JOHNSON, Mr. CARPER, Mr. ROCKEFELLER, Mrs. MURRAY, Mrs. FEINSTEIN, Mr. AKAKA, Mr. MENENDEZ, Mrs. BOXER, and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

At the end of subtitle C of title X, add the following:

SEC. 1031. MINIMUM PERIODS BETWEEN DEPLOYMENT FOR UNITS AND MEMBERS OF THE ARMED FORCES DEPLOYED FOR OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM.

(a) FINDINGS.—Congress makes the following findings:

(1) Congress expresses its grateful thanks to the men and women of the Armed Forces of the United States for having served their country with great distinction under enormously difficult circumstances since September 11, 2001.

(2) The all-volunteer force of the Armed Forces of the United States is bearing a disproportionate share of national wartime sacrifice, and, as stewards of this national treasure, Congress must not place that force at unacceptable risk.

(3) The men and women members of the Armed Forces of the United States and their families are under enormous strain from multiple, extended combat deployments to Iraq and Afghanistan.

(4) Extended, high-tempo deployments to Iraq and Afghanistan have adversely affected the readiness of non-deployed Army and Marine Corps units, thereby jeopardizing their capability to respond quickly and effectively to other crises or contingencies in the world, and complicating the all-volunteer policy of recruitment, as well as the retention, of career military personnel.

(5) Optimal time between operational deployments, commonly described as ''dwell time'', is critically important to allow members of the Armed Forces to readjust from combat operations, bond with families and friends, generate more predictable operational tempos, and provide sufficient time for units to retrain, reconstitute, and assimilate new members.

(6) It is the goal of the Armed Forces of the United States to achieve an optimal minimum period between the previous deployment of a unit or member of a regular component of the Armed Forces and a subsequent deployment of such a unit or member that is equal to or longer than twice the period of such previous deployment, commonly described as a 1:2 deployment-to-dwell ratio.

(7) It is the goal of the Department of Defense that units and members of the reserve components of the Armed Forces of the United States should not be mobilized continuously for more than one year, and that a period of five years should elapse between the previous deployment of such a unit or member and a subsequent deployment of such unit or member.

(8) In support of continuous operations in Iraq, Afghanistan, and other contested areas, the Army has been required to deploy units and members to Iraq for 15 months with a 12-month dwell-time period between deployments, resulting in a less than 1:1 deployment-to-dwell ratio.

(9) In support of continuous operations in Iraq, Afghanistan, and other contested areas, the Marine Corps currently is deploying units and members to Iraq for approximately seven months, with a seven-month dwell-time period between deployments, but it is not unusual for selected units and members of the Marine Corps to be deployed with less than a 1:1 deployment-to-dwell ratio.

(10) In support of continuous operations in Iraq, Afghanistan, and other contested areas, the Department of Defense has relied upon the reserve components of the Armed Forces of the United States to a degree that is unprecedented in the history of the all-volunteer force. Units and members of the reserve components are frequently mobilized and deployed for periods beyond the stated goals of the Department.

(11) The Commander of the Multi-National Force-Iraq recently testified to Congress that he would like Soldiers, Marines, and other forces have more time with their families between deployments, a reflection of his awareness of the stress and strain placed on United States ground forces, in particular, and on other high-demand, low-density assets, by operations in Iraq and Afghanistan.

(b) MINIMUM PERIOD FOR UNITS AND MEMBERS OF THE REGULAR COMPONENTS.—

(1) IN GENERAL.—No unit or member of the Armed Forces specified in paragraph (3) may be deployed for Operation Iraqi Freedom or Operation Enduring Freedom (including participation in the NATO International Security Assistance Force (Afghanistan)) unless the period between the deployment of the unit or member is equal to or longer than the period of such previous deployment.

(2) SENSE OF CONGRESS ON OPTIMAL MINIMUM PERIOD BETWEEN DEPLOYMENTS.—It is the sense of Congress that the optimal minimum period between the previous deployment of a unit or member of the Armed Forces specified in paragraph (3) to Operation Iraqi Freedom or Operation Enduring Freedom and a subsequent deployment of the unit or member to Operation Iraqi Freedom or Operation Enduring Freedom should be equal to or longer than twice the period of such previous deployment.

(3) COVERED UNITS AND MEMBERS.—The units and members of the Armed Forces specified in this paragraph are as follows:

(A) Units and members of the regular Army.

(B) Units and members of the regular Marine Corps.

(C) Units and members of the regular Navy.

(D) Units and members of the regular Air Force.

(E) Units and members of the regular Coast Guard.

(c) MINIMUM PERIOD FOR UNITS AND MEMBERS OF THE RESERVE COMPONENTS.—

(1) IN GENERAL.—No unit or member of the Armed Forces specified in paragraph (3) may be deployed for Operation Iraqi Freedom or Operation Enduring Freedom (including participation in the NATO International Security Assistance Force (Afghanistan)) if the unit or member has been deployed at any time within the three years preceding the date of the deployment covered by this subsection.

(2) SENSE OF CONGRESS ON MOBILIZATION AND OPTIMAL MINIMUM PERIOD BETWEEN DEPLOYMENTS.—It is the sense of Congress that—

(A) the units and members of the reserve components of the Armed Forces should not be mobilized continuously for more than one year; and

(B) the optimal minimum period between the previous deployment of a unit or member of the Armed Forces specified in paragraph (3) to Operation Iraqi Freedom or Operation Enduring Freedom and a subsequent deployment of the unit or member to Operation Iraqi Freedom or Operation Enduring Freedom should be five years.

(3) COVERED UNITS AND MEMBERS.—The units and members of the Armed Forces specified in this paragraph are as follows:

(A) Units and members of the Army Reserve.

(B) Units and members of the Army National Guard.

(C) Units and members of the Marine Corps Reserve.

(D) Units and members of the Navy Reserve.

(E) Units and members of the Air Force Reserve.

(F) Units and members of the Air National Guard.

(G) Units and members of the Coast Guard Reserve.

(d) INAPPLICABILITY TO SPECIAL OPERATIONS FORCES.—The limitations in subsections (b) and (c) shall not apply with respect to forces that are considered special operations forces for purposes of section 167(i) of title 10, United States Code.

(e) WAIVER BY THE PRESIDENT.—The President may waive the limitation in subsection (b) or (c) with respect to the deployment of a unit or member of the Armed Forces specified in such subsection if the President certifies to Congress that the deployment of the unit or member is necessary to meet an operational emergency posing a threat to vital national security interests of the United States.

(f) WAIVER BY MILIARY CHIEF OF STAFF OR COMMANDANT FOR VOLUNTARY MOBILIZATIONS.—

(1) ARMY.—With respect to the deployment of a member of the Army who has voluntarily requested mobilization, the limitation in subsection (b) or (c) may be waived by the Chief of Staff of the Army (or the designee of the Chief of Staff of the Army).

(2) NAVY.—With respect to the deployment of a member of the Navy who has voluntarily requested mobilization, the limitation in subsection (b) or (c) may be waived by the Chief of Naval Operations (or the designee of the Chief of Naval Operations).

(3) MARINE CORPS.—With respect to the deployment of a member of the Marine Corps who has voluntarily requested mobilization, the limitation in subsection (b) or (c) may be waived by the Commandant of the Marine Corps (or the designee of the Commandant of the Marine Corps).

(4) AIR FORCE.—With respect to the deployment of a member of the Air Force who has voluntarily requested mobilization, the limitation in subsection (b) or (c) may be waived by the Chief of Staff of the Air Force (or the designee of the Chief of Staff of the Air Force).

(5) COAST GUARD.—With respect to the deployment of a member of the Coast Guard who has voluntarily requested mobilization, the limitation in subsection (b) or (c) may be waived by the Commandant of the Coast Guard (or the designee of the Commandant of the Coast Guard).

(g) EFFECTIVE DATE.—In order to afford the Department of Defense sufficient time to plan and organize the implementation of the provisions of this section, the provisions of this section shall go into effect 120 days after the date of the enactment of this Act.

SA 2910. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 2067 submitted by Mr. KENNEDY (for himself and Mr. SMITH) and intended to be proposed to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

(j) CONSTRUCTION AND APPLICATION.—Nothing in this section or an amendment made by this section shall be construed or applied in a manner that substantially burdens any exercise of religion (regardless of whether compelled by, or central to, a system of religious belief), speech, expression, or association, if such exercise of religion, speech, expression, or association was not intended to—

(1) plan or prepare for an act of physical violence; or

(2) incite an imminent act of physical violence against another.

SA 2911. Mr. CASEY (for himself and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title X, add the following:

SEC. 1070. SENSE OF CONGRESS ON A MEMORIAL FOR MEMBERS OF THE ARMED FORCES WHO DIED IN AN AIR CRASH IN BAKERS CREEK, AUSTRALIA.

(a) FINDINGS.—Congress makes the following findings:

(1) During World War II, the United States Army Air Corps established rest and recreation facilities in Mackay, Queensland, Australia.

(2) From the end of January 1943 until early 1944, thousands of United States servicemen were ferried from jungle battlefields in New Guinea to Mackay.

(3) These servicemen traveled by air transport to spend an average of 10 days on a rest and relaxation furlough.

(4) They usually were carried by two B–17C Flying Fortresses converted for transport duty.

(5) On Monday, June 14, 1943, at about 6 a.m., a B–17C, Serial Number 40–2072, took off from Mackay Airport for Port Moresby, New Guinea.

(6) There were 6 crew members and 35 passengers aboard.

(7) The aircraft took off into fog and soon made two left turns at low altitude.

(8) A few minutes after takeoff, when it was five miles south of Mackay, the plane crashed at Bakers Creek, killing everyone on board except Corporal Foye Kenneth Roberts of Wichita Falls, Texas, the sole survivor of the accident.

(9) The cause of the crash remains a mystery, and the incident remains relatively unknown outside of Australia.

(10) United States officials, who were under orders not to reveal the presence of Allied troops in Australia, kept the crash a military secret during the war.

(11) Due to wartime censorship, the news media did not report the crash.

(12) Relatives of the victims received telegrams from the United States War Department stating little more than that the serviceman had been killed somewhere in the South West Pacific.

(13) The remains of the 40 crash victims were flown to Townsville, Queensland, where they were buried in the Belgian Gardens United States military cemetery on June 19, 1943.

(14) In early 1946, they were disinterred and shipped to Hawaii, where 13 were reburied in the National Memorial Cemetery of the Pacific, and the remainder were returned to the United States mainland for reburial.

(15) 15 years ago, Robert S. Cutler was reading his father's wartime journal and found a reference to the tragic B–17C airplane accident.

(16) This discovery inspired Mr. Cutler to embark upon a research project that would consume more than a decade and take him to Australia.

(17) Retired United States Air Force Chief Master Sergeant Teddy W. Hanks, of Wichita Falls, Texas, who lost 4 of his World War II buddies in the crash, compiled a list of the casualties from United States archives in 1993 and began searching for their families.

(18) The Bakers Creek Memorial Association, in conjunction with the Washington Post and retired United States Army genealogy experts Charles Gailey and Arvon Staats, located 23 additional families of victims of the accident during the past 2 years.

(19) The commander of the United States Fifth Air Force officially had notified the relatives of 36 of the 40 victims.

(b) SENSE OF CONGRESS.—It is the sense of Congress that an appropriate site in Arlington National Cemetery should be provided for a memorial marker to honor the memory of the 40 members of the Armed Forces of the United States who lost their lives in the air crash at Bakers Creek, Australia, on June 14, 1943, provided that the Secretary of the Army has exclusive authority to approve the design and site for the memorial marker.

SA 2912. Mr. LAUTENBERG (for himself and Mr. HAGEL) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII, add the following:

SEC. 703. ONE-YEAR EXTENSION OF PROHIBITION ON INCREASES IN CERTAIN HEALTH CARE COSTS FOR MEMBERS OF THE UNIFORMED SERVICES.

(a) CHARGES UNDER CONTRACTS FOR MEDICAL CARE.—Section 1097(e) of title 10, United States Code, is amended by striking ''September 30, 2007'' and inserting ''September 30, 2008''.

(b) CHARGES FOR INPATIENT CARE.—Section 1086(b)(3) of such title is amended by striking ''September 30, 2007'' and inserting ''September 30, 2008''.

(c) PREMIUMS UNDER TRICARE COVERAGE FOR CERTAIN MEMBERS IN THE SELECTED RESERVE.—Section 1076d(d)(3) of such title is amended by striking ''September 30, 2007'' and inserting ''September 30, 2008''.

(d) PREMIUMS UNDER TRICARE COVERAGE FOR MEMBERS OF THE READY RESERVE.—Section 1076b(e)(3) of such title is amended by striking ''September 30, 2007'' and inserting ''September 30, 2008''.

SEC. 704. TEMPORARY PROHIBITION ON INCREASE IN COPAYMENTS UNDER RETAIL PHARMACY SYSTEM OF PHARMACY BENEFITS PROGRAM.

During the period beginning on October 1, 2007, and ending on September 30, 2008, the cost sharing requirements established under paragraph (6) of section 1074g(a) of title 10, United States Code, for pharmaceutical agents available through retail pharmacies covered by paragraph (2)(E)(ii) of such section may not exceed amounts as follows:

(1) In the case of generic agents, $3.

(2) In the case of formulary agents, $9.

(3) In the case of nonformulary agents, $22.

SEC. 705. SENSE OF CONGRESS ON FEES AND ADJUSTMENTS UNDER THE TRICARE PROGRAM.

It is the sense of Congress that—

(1) career members of the uniformed services and their families endure unique and extraordinary demands, and make extraordinary sacrifices, over the course of 20-year to 30-year careers in protecting freedom for all Americans;

(2) these demands and sacrifices are such that few Americans are willing to accept them for a multi-decade career;

(3) a primary benefit of enduring the extraordinary sacrifices inherent in a military career is a system of exceptional retirement benefits that a grateful Nation provides for those who choose to subordinate much of their personal life to the national interest for so many years;

(4) proposals to compare cash fees paid by retired military members and their families to fees paid by civilians fail to recognize adequately that military members prepay the equivalent of very large advance premiums for health care in retirement through their extended service and sacrifice, in addition to cash fees, deductibles, and copayments;

(5) the Department of Defense and the Nation have a committed obligation to provide health care benefits to active duty, National Guard, Reserve and retired members of the uniformed services and their families and survivors that considerably exceeds the obligation of corporate employers to provide health care benefits to their employees; and

(6) the Department of Defense has options to constrain the growth of health care spending in ways that do not disadvantage retired members of the uniformed services, and should pursue any and all such options as a first priority.

SA 2913. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At page 304, strike line 24 and all that follows through page 305, line 21.

SA 2914. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At page 304, strike lines 16 through 23.

SA 2915. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At page 302, strike line 18 and all that follows through page 303, line 14.

SA 2916. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At page 306, strike line 23 and all that follows through the remainder of the section and insert the following:

''(G) the detainee shall bear the burden of proof and production that evidence that the United States seeks to introduce against him is inadmissible pursuant to this paragraph.

''(5) SCHEDULING.—The Secretary shall ensure that a Tribunal is scheduled for a detainee described in paragraph (2) not later than 180 days after the date on which a Tribunal becomes required for such detainee under paragraph (1), except that—

''(A) the Secretary shall schedule a Tribunal for a detainee who is eligible for such a Tribunal on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008 not later than one year after the date on which procedures are required to be prescribed by paragraph (4); and

''(B) the Secretary shall not be required to schedule a Tribunal for—

''(i) a detainee upon whom charges have been served in accordance with section 948s of title 10, United States Code, until after final judgment has been reached on such charges; or

''(ii) a detainee who has been convicted by a military commission under chapter 47 A of such title of an offense under subchapter VII of that chapter.''.

(b) MODIFICATIONS OF MILITARY COMMISSION AUTHORITIES.—

(1) Congress finds that terrorists and other combatants serving in the forces of Al Qaeda, the Taliban, and associated forces are unlawful enemy combatants that they are subject to trial by military commission.

(2) STATEMENTS OBTAINED THROUGH CRUEL, INHUMAN, OR DEGRADING TREATMENT.—Section 948r of title 10, United States Code, is amended—

(A) by striking subsections (c) and (d); and

(B) by adding after subsection (b) the following new subsection (c):

''(c) STATEMENTS OBTAINED THROUGH CRUEL, INHUMAN, OR DEGRADING TREATMENT.—A statement in which the degree of coercion is disputed may be admitted if the military judge finds that—

''(1) the totality of the circumstances renders the statement reliable and possessing sufficient probative value;

''(2) the interests of justice would best be served by admission of the statement into evidence; and

''(3) one of the following circumstances is met:

''(A) The alleged coercion was incident to the lawful conduct of military operations at the point of apprehension.

''(B) The statement was voluntary.

''(C) 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 (42 U.S.C. 2000dd).

''(4) the detainee shall bear the burden of proof and production that evidence that the United States seeks to introduce against him is inadmissible pursuant to this subsection.''.

(4) ADMITTANCE OF HEARSAY EVIDENCE.—Subparagraph (E) of section 949a(b)(2) of such title is amended to read as follows:

''(E) Hearsay evidence not otherwise admissible under the rules of evidence applicable in trial by general courts-martial may be admitted in a trial by military commission if—

''(i) the proponent of the evidence makes known to the adverse party, sufficiently in advance of trial or hearing to provide the adverse party with a fair opportunity to meet the evidence, the proponent's intention to offer the evidence, and the particulars of the evidence (including information on the circumstances under which the evidence was obtained); and

''(ii) the military judge finds that the totality of the circumstances render the evidence more probative on the point for which it is offered than other evidence which the proponent can procure through reasonable efforts, taking into consideration the unique circumstances of the conduct of military and intelligence operations during hostilities; or

''(iii) the evidence is admissible pursuant to the standards and procedures employed by recent United Nations war crimes tribunals or by the Nuremberg War Crimes Tribunal.''.

(5) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) TECHNICAL AMENDMENT.—The heading of section 950j of such title is amended by striking ''Finality or'' and inserting ''Finality of''.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter VI of chapter 47A of such title is amended to read as follows:

''950j. Finality of proceedings, findings, and sentences.''.

SA 2917. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title VI, add the following:

SEC. 604. EXTENSION AND ENHANCEMENT OF AUTHORITY FOR TEMPORARY LODGING EXPENSES FOR MEMBERS OF THE ARMED FORCES IN AREAS SUBJECT TO MAJOR DISASTER DECLARATION OR FOR INSTALLATIONS EXPERIENCING SUDDEN INCREASE IN PERSONNEL LEVELS.

(a) MAXIMUM PERIOD OF RECEIPT OF EXPENSES.—Section 404a(c)(3) of title 37, United States Code, is amended by striking ''20 days'' and inserting ''60 days''.

(b) EXTENSION OF AUTHORITY FOR INCREASE IN CERTAIN BAH.—Section 403(b)(7)(E) of such title is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2007.

SA 2918. Mr. MCCAIN (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

At the end of subtitle C of title X, add the following:

SEC. 1031. SENSE OF CONGRESS ON DEPARTMENT OF DEFENSE POLICY REGARDING DWELL TIME RATIO GOALS FOR MEMBERS OF THE ARMED FORCES DEPLOYED IN SUPPORT OF OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the wartime demands in support of Operation Iraqi Freedom (OIF) and Operation Enduring Freedom (OEF) placed on the men and women of the Armed Forces, both in the

regular and reserve components, and on their families and loved ones, have required the utmost in honor, courage, commitment, and dedication to duty, and the sacrifices they have made and continue to make in the defense of our nation will forever be remembered and revered;

(2) members of the Armed Forces who have completed combat deployments in Iraq and Afghanistan should be afforded as much ''dwell time'' as possible at their home stations prior to re-deployment; and

(3) consistent with wartime requirements, the Department of Defense should establish a force management policy for deployments of units and members of the Armed Forces in support of Operation Iraqi Freedom or Operation Enduring Freedom (including participation in the NATO International Security Assistance Force (Afghanistan)) as soon as practicable that achieves the goal of—

(A) for units and members of the regular components of the Armed Forces, providing for a period between the deployment of the unit or member that is equal to or longer than the period of the previous deployment of the unit or member;

(B) for units and members of the reserve components of the Armed Forces, and particularly for units and members in the ground forces, limiting deployment if the unit or member has been deployed at any time within the three years preceding the date of the deployment; and

(C) ensuring the capability of the Armed Forces to respond to national security needs.

(b) CERTIFICATIONS REQUIRED.—The Secretary of Defense may not implement any force management policy regarding mandatory ratios of deployed days and days at home station for members of the Armed Forces deployed in support of Operation Iraqi Freedom or Operation Enduring Freedom until the Secretary submits to Congress certifications as follows:

(1) That the policy would not result in extension of deployment of units and members of the Armed Forces already deployed in Iraq or Afghanistan beyond their current scheduled rotations.

(2) That the policy would not cause broader and more frequent mobilization of National Guard and Reserve units and members in order to accomplish operational missions.

(c) NATIONAL SECURITY WAIVER AUTHORITY.—The Secretary of Defense may waive the provisions of any force management policy and any attendant certification requirement under subsection (a) or (b), and the applicability of such a policy to a member of the Armed Forces or any group of members, if the Secretary determines that the waiver is necessary in the national security interests of the United States.

SA 2919. Mr. DURBIN (for himself, Mr. HAGEL, Mr. LUGAR, and Mr. HATCH) submitted an amendement intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE XXXIII—DREAM ACT OF 2007

SEC. 3301. SHORT TITLE.

This title may be cited as the ''Development, Relief, and Education for Alien Minors Act of 2007'' or the ''DREAM Act of 2007''.

SEC. 3302. DEFINITIONS.

In this title:

(1) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(2) UNIFORMED SERVICES.—The term ''uniformed services'' has the meaning given that term in section 101(a) of title 10, United States Code.

SEC. 3303. CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS OF CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

(a) SPECIAL RULE FOR CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as otherwise provided in this title, the Secretary of Homeland Security may cancel removal of, and adjust to the status of an alien lawfully admitted for permanent residence, subject to the conditional basis described in section 3305, an alien who is inadmissible or deportable from the United States, if the alien demonstrates that—

(A) the alien has been physically present in the United States for a continuous period of not less than 5 years immediately preceding the date of enactment of this title, and had not yet reached the age of 16 years at the time of initial entry;

(B) the alien has been a person of good moral character since the time of application;

(C) the alien—

(i) is not inadmissible under paragraph (2), (3), (6)(E), or (10)(C) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)); and

(ii) is not deportable under paragraph (1)(E), (2), or (4) of section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a));

(D) the alien, at the time of application, has been admitted to an institution of higher education in the United States, or has earned a high school diploma or obtained a general education development certificate in the United States;

(E) the alien has never been under a final administrative or judicial order of exclusion, deportation, or removal, unless the alien—

(i) has remained in the United States under color of law after such order was issued; or

(ii) received the order before attaining the age of 16 years; and

(F) the alien is under 30 years of age on the date of the enactment of this Act.

(2) WAIVER.—Notwithstanding paragraph (1), the Secretary of Homeland Security may waive the ground of ineligibility under section 212(a)(6)(E) of the Immigration and Nationality Act and the ground of deportability under paragraph (1)(E) of section 237(a) of that Act for humanitarian purposes or family unity or when it is otherwise in the public interest.

(3) PROCEDURES.—The Secretary of Homeland Security shall provide a procedure by regulation allowing eligible individuals to apply affirmatively for the relief available under this subsection without being placed in removal proceedings.

(b) TERMINATION OF CONTINUOUS PERIOD.—For purposes of this section, any period of continuous residence or continuous physical presence in the United States of an alien who applies for cancellation of removal under this section shall not terminate when the alien is served a notice to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

(c) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—

(1) IN GENERAL.—An alien shall be considered to have failed to maintain continuous physical presence in the United States under subsection (a) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days.

(2) EXTENSIONS FOR EXCEPTIONAL CIRCUMSTANCES.—The Secretary of Homeland Security may extend the time periods described in paragraph (1) if the alien demonstrates that the failure to timely return to the United States was due to exceptional circumstances. The exceptional circumstances determined sufficient to justify an extension should be no less compelling than serious illness of the alien, or death or serious illness of a parent, grandparent, sibling, or child.

(d) EXEMPTION FROM NUMERICAL LIMITATIONS.—Nothing in this section may be construed to apply a numerical limitation on the number of aliens who may be eligible for cancellation of removal or adjustment of status under this section.

(e) REGULATIONS.—

(1) PROPOSED REGULATIONS.—Not later than 180 days after the date of enactment of this title, the Secretary of Homeland Security shall publish proposed regulations implementing this section. Such regulations shall be effective immediately on an interim basis, but are subject to change and revision after public notice and opportunity for a period for public comment.

(2) INTERIM, FINAL REGULATIONS.—Within a reasonable time after publication of the interim regulations in accordance with paragraph (1), the Secretary of Homeland Security shall publish final regulations implementing this section.

(f) REMOVAL OF ALIEN.—The Secretary of Homeland Security may not remove any alien who has a pending application for conditional status under this title.

SEC. 3304. CONDITIONAL PERMANENT RESIDENT STATUS.

(a) IN GENERAL.—

(1) CONDITIONAL BASIS FOR STATUS.—Notwithstanding any other provision of law, and except as provided in section 3305, an alien whose status has been adjusted under section 3303 to that of an alien lawfully admitted for permanent residence shall be considered to have obtained such status on a conditional basis subject to the provisions of this section. Such conditional permanent resident status shall be valid for a period of 6 years, subject to termination under subsection (b).

(2) NOTICE OF REQUIREMENTS.—

(A) AT TIME OF OBTAINING PERMANENT RESIDENCE.—At the time an alien obtains permanent resident status on a conditional basis under paragraph (1), the Secretary of Homeland Security shall provide for notice to the alien regarding the provisions of this section and the requirements of subsection (c) to have the conditional basis of such status removed.

(B) EFFECT OF FAILURE TO PROVIDE NOTICE.—The failure of the Secretary of Homeland Security to provide a notice under this paragraph—

(i) shall not affect the enforcement of the provisions of this title with respect to the alien; and

(ii) shall not give rise to any private right of action by the alien.

(b) TERMINATION OF STATUS.—

(1) IN GENERAL.—The Secretary of Homeland Security shall terminate the conditional permanent resident status of any alien who obtained such status under this title, if the Secretary determines that the alien—

(A) ceases to meet the requirements of subparagraph (B) or (C) of section 3303(a)(1);

(B) has become a public charge; or

(C) has received a dishonorable or other than honorable discharge from the uniformed services.

(2) RETURN TO PREVIOUS IMMIGRATION STATUS.—Any alien whose conditional permanent resident status is terminated under paragraph (1) shall return to the immigration status the alien had immediately prior to receiving conditional permanent resident status under this title.

(c) REQUIREMENTS OF TIMELY PETITION FOR REMOVAL OF CONDITION.—

(1) IN GENERAL.—In order for the conditional basis of permanent resident status obtained by an alien under subsection (a) to be removed, the alien must file with the Secretary of Homeland Security, in accordance with paragraph (3), a petition which requests the removal of such conditional basis and which provides, under penalty of perjury, the facts and information so that the Secretary may make the determination described in paragraph (2)(A).

(2) ADJUDICATION OF PETITION TO REMOVE CONDITION.—

(A) IN GENERAL.—If a petition is filed in accordance with paragraph (1) for an alien, the Secretary of Homeland Security shall make a determination as to whether the alien meets the requirements set out in subparagraphs (A) through (E) of subsection (d)(1).

(B) REMOVAL OF CONDITIONAL BASIS IF FAVORABLE DETERMINATION.—If the Secretary determines that the alien meets such requirements, the Secretary shall notify the alien of such determination and immediately remove the conditional basis of the status of the alien.

(C) TERMINATION IF ADVERSE DETERMINATION.—If the Secretary determines that the alien does not meet such requirements, the Secretary shall notify the alien of such determination and terminate the conditional permanent resident status of the alien as of the date of the determination.

(3) TIME TO FILE PETITION.—An alien may petition to remove the conditional basis to lawful resident status during the period beginning 180 days before and ending 2 years after either the date that is 6 years after the date of the granting of conditional permanent resident status or any other expiration date of the conditional permanent resident status as extended by the Secretary of Homeland Security in accordance with this title. The alien shall be deemed in conditional permanent resident status in the United States during the period in which the petition is pending.

(d) DETAILS OF PETITION.—

(1) CONTENTS OF PETITION.—Each petition for an alien under subsection (c)(1) shall contain information to permit the Secretary of Homeland Security to determine whether each of the following requirements is met:

(A) The alien has demonstrated good moral character during the entire period the alien has been a conditional permanent resident.

(B) The alien is in compliance with section 3303(a)(1)(C).

(C) The alien has not abandoned the alien's residence in the United States. The Secretary shall presume that the alien has abandoned such residence if the alien is absent from the United States for more than 365 days, in the aggregate, during the period of conditional residence, unless the alien demonstrates that alien has not abandoned the alien's residence. An alien who is absent from the United States due to active service in the uniformed services has not abandoned the alien's residence in the United States during the period of such service.

(D) The alien has completed at least 1 of the following:

(i) The alien has acquired a degree from an institution of higher education in the United States or has completed at least 2 years, in good standing, in a program for a bachelor's degree or higher degree in the United States.

(ii) The alien has served in the uniformed services for at least 2 years and, if discharged, has received an honorable discharge.

(E) The alien has provided a list of each secondary school (as that term is defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) that the alien attended in the United States.

(2) HARDSHIP EXCEPTION.—

(A) IN GENERAL.—The Secretary of Homeland Security may, in the Secretary's discretion, remove the conditional status of an alien if the alien—

(i) satisfies the requirements of subparagraphs (A), (B), and (C) of paragraph (1);

(ii) demonstrates compelling circumstances for the inability to complete the requirements described in paragraph (1)(D); and

(iii) demonstrates that the alien's removal from the United States would result in exceptional and extremely unusual hardship to the alien or the alien's spouse, parent, or child who is a citizen or a lawful permanent resident of the United States.

(B) EXTENSION.—Upon a showing of good cause, the Secretary of Homeland Security may extend the period of conditional resident status for the purpose of completing the requirements described in paragraph (1)(D).

(e) TREATMENT OF PERIOD FOR PURPOSES OF NATURALIZATION.—For purposes of title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.), in the case of an alien who is in the United States as a lawful permanent resident on a conditional basis under this section, the alien shall be considered to have been admitted as an alien lawfully admitted for permanent residence and to be in the United States as an alien lawfully admitted to the United States for permanent residence. However, the conditional basis must be removed before the alien may apply for naturalization.

SEC. 3305. RETROACTIVE BENEFITS.

If, on the date of enactment of this title, an alien has satisfied all the requirements of subparagraphs (A) through (E) of section 3303(a)(1) and section 3304(d)(1)(D), the Secretary of Homeland Security may adjust the status of the alien to that of a conditional resident in accordance with section 3303. The alien may petition for removal of such condition at the end of the conditional residence period in accordance with section 3304(c) if the alien has met the requirements of subparagraphs (A), (B), and (C) of section 3304(d)(1) during the entire period of conditional residence.

SEC. 3306. EXCLUSIVE JURISDICTION.

The Secretary of Homeland Security shall have exclusive jurisdiction to determine eligibility for relief under this title, except where the alien has been placed into deportation, exclusion, or removal proceedings either prior to or after filing an application for relief under this title, in which case the Attorney General shall have exclusive jurisdiction and shall assume all the powers and duties of the Secretary until proceedings are terminated, or if a final order of deportation, exclusion, or removal is entered the Secretary shall resume all powers and duties delegated to the Secretary under this title.

SEC. 3307. STAY OF REMOVAL OF CERTAIN ALIENS ENROLLED IN PRIMARY OR SECONDARY SCHOOL.

(a) STAY OF REMOVAL.—The Attorney General shall stay the removal proceedings of any alien who—

(1) meets all the requirements of subparagraphs (A), (B), (C), and (E) of section 3303(a)(1);

(2) is at least 12 years of age; and

(3) is enrolled full time in a primary or secondary school.

(b) EMPLOYMENT.—An alien whose removal is stayed pursuant to subsection (a) may be engaged in employment in the United States consistent with the Fair Labor Standards Act (29 U.S.C. 201 et seq.) and State and local laws governing minimum age for employment.

(c) LIFT OF STAY.—The Attorney General shall lift the stay granted pursuant to subsection (a) if the alien—

(1) is no longer enrolled in a primary or secondary school; or

(2) ceases to meet the requirements of subsection (a)(1).

SEC. 3308. PENALTIES FOR FALSE STATEMENTS IN APPLICATION.

Whoever files an application for relief under this title and willfully and knowingly falsifies, misrepresents, or conceals a material fact or makes any false or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false or fraudulent statement or entry, shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.

SEC. 3309. CONFIDENTIALITY OF INFORMATION.

(a) PROHIBITION.—Except as provided in subsection (b), no officer or employee of the United States may—

(1) use the information furnished by the applicant pursuant to an application filed under this title to initiate removal proceedings against any persons identified in the application;

(2) make any publication whereby the information furnished by any particular individual pursuant to an application under this title can be identified; or

(3) permit anyone other than an officer or employee of the United States Government or, in the case of applications filed under this title with a designated entity, that designated entity, to examine applications filed under this title.

(b) REQUIRED DISCLOSURE.—The Attorney General or the Secretary of Homeland Security shall provide the information furnished under this section, and any other information derived from such furnished information, to—

(1) a duly recognized law enforcement entity in connection with an investigation or prosecution of an offense described in paragraph (2) or (3) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), when such information is requested in writing by such entity; or

(2) an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

(c) PENALTY.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

SEC. 3310. EXPEDITED PROCESSING OF APPLICATIONS; PROHIBITION ON FEES.

Regulations promulgated under this title shall provide that applications under this title will be considered on an expedited basis and without a requirement for the payment by the applicant of any additional fee for such expedited processing.

SEC. 3311. HIGHER EDUCATION ASSISTANCE.

Notwithstanding any provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), with respect to assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), an alien who adjusts status to that of a lawful permanent resident under this title shall be eligible only for the following assistance under such title:

(1) Student loans under parts B, D, and E of such title IV (20 U.S.C. 1071 et seq., 1087a et seq., 1087aa et seq.), subject to the requirements of such parts.

(2) Federal work-study programs under part C of such title IV (42 U.S.C. 2751 et seq.), subject to the requirements of such part.

(3) Services under such title IV (20 U.S.C. 1070 et seq.), subject to the requirements for such services.

SEC. 3312. GAO REPORT.

Not later than seven years after the date of enactment of this title, the Comptroller General of the United States shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives setting forth—

(1) the number of aliens who were eligible for cancellation of removal and adjustment of status under section 3303(a);

(2) the number of aliens who applied for adjustment of status under section 3303(a);

(3) the number of aliens who were granted adjustment of status under section 3303(a); and

(4) the number of aliens whose conditional permanent resident status was removed under section 3304.

SA 2920. Mr. SALAZAR (for himself and Mr. ALLARD) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XXVIII, add the following:

SEC. 2864. REPORT ON THE PINON CANYON MANEUVER SITE, COLORADO.

(a) REPORT ON THE PINON CANYON MANEUVER SITE.—

(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the congressional defense committees a report on the Pinon Canyon Maneuver Site (referred to in this section as ''the Site'').

(2) CONTENT.—The report required under paragraph (1) shall include the following:

(A) An analysis of whether existing training facilities at Fort Carson, Colorado, and the Site are sufficient to support the training needs of units stationed or planned to be stationed at Fort Carson, including the following:

(i) A description of any new training requirements or significant developments affecting training requirements for units stationed or planned to be stationed at Fort Carson since the 2005 Defense Base Closure and Realignment Commission found that the base has ''sufficient capacity'' to support four brigade combat teams and associated support units at Fort Carson.

(ii) A study of alternatives for enhancing training facilities at Fort Carson and the Site within their current geographic footprint, including whether these additional investments or measures could support additional training activities.

(iii) A description of the current training calendar and training load at the Site, including—

(I) the number of brigade-sized and battalion-sized military exercises held at the Site since its establishment;

(II) an analysis of the maximum annual training load at the Site, without expanding the Site; and

(III) an analysis of the training load and projected training calendar at the Site when all brigades stationed or planned to be stationed at Fort Carson are at home station.

(B) A report of need for any proposed addition of training land to support units stationed or planned to be stationed at Fort Carson, including the following:

(i) A description of additional training activities, and their benefits to operational readiness, which would be conducted by units stationed at Fort Carson if, through leases or acquisition from consenting landowners, the Site were expanded to include—

(I) the parcel of land identified as ''Area A'' in the Potential PCMS Land expansion map;

(II) the parcel of land identified as ''Area B'' in the Potential PCMS Land expansion map;

(III) the parcels of land identified as ''Area A'' and ''Area B'' in the Potential PCMS Land expansion map;

(IV) acreage sufficient to allow simultaneous exercises of a light infantry brigade and a heavy infantry brigade at the Site;

(V) acreage sufficient to allow simultaneous exercises of two heavy infantry brigades at the Site;

(VI) acreage sufficient to allow simultaneous exercises of a light infantry brigade and a battalion at the Site; and

(VII) acreage sufficient to allow simultaneous exercises of a heavy infantry brigade and a battalion at the Site.

(ii) An analysis of alternatives for acquiring or utilizing training land at other installations in the United States to support training activities of units stationed at Fort Carson.

(iii) An analysis of alternatives for utilizing other federally owned land to support training activities of units stationed at Fort Carson.

(C) An analysis of alternatives for enhancing economic development opportunities in southeastern Colorado at the current Site or through any proposed expansion, including the consideration of the following alternatives:

(i) The leasing of land on the Site or any expansion of the Site to ranchers for grazing.

(ii) The leasing of land from private landowners for training.

(iii) The procurement of additional services and goods, including biofuels and beef, from local businesses.

(iv) The creation of an economic development fund to benefit communities, local governments, and businesses in southeastern Colorado.

(v) The establishment of an outreach office to provide technical assistance to local businesses that wish to bid on Department of Defense contracts.

(vi) The establishment of partnerships with local governments and organizations to expand regional tourism through expanded access to sites of historic, cultural, and environmental interest on the Site.

(vii) An acquisition policy that allows willing sellers to minimize the tax impact of a sale.

(viii) Additional investments in Army missions and personnel, such as stationing an active duty unit at the Site, including—

(I) an analysis of anticipated operational benefits; and

(II) an analysis of economic impacts to surrounding communities.

(3) POTENTIAL PCMS LAND EXPANSION MAP DEFINED.—In this subsection, the term ''Potential PCMS Land expansion map'' means the June 2007 map entitled ''Potential PCMS Land expansion''.

(b) COMPTROLLER GENERAL REVIEW OF REPORT.—Not later than 180 days after the Secretary of Defense submits the report required under subsection (a), the Comptroller General of the United States shall submit to Congress a review of the report and of the justification of the Army for expansion at the Site.

(c) PUBLIC COMMENT.—After the report required under subsection (b) is submitted to Congress, the Army shall solicit public comment on the report for a period of not less than 90 days. Not later than 30 days after the public comment period has closed, the Secretary shall submit to Congress a written summary of comments received.

SA 2921. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title VI, add the following:

SEC. 683. PLAN FOR PARTICIPATION OF MEMBERS OF THE NATIONAL GUARD AND THE RESERVES IN THE BENEFITS DELIVERY AT DISCHARGE PROGRAM.

(a) PLAN TO MAXIMIZE PARTICIPATION.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Veterans Affairs shall jointly submit to Congress a plan to maximize access to the benefits delivery at discharge program for members of the reserve components of the Armed Forces who have been called or ordered to active duty at any time since September 11, 2001.

(b) ELEMENTS.—The plan submitted under subsection (a) shall include a description of efforts to ensure that services under the benefits delivery at discharge program are provided, to the maximum extent practicable—

(1) at appropriate military installations;

(2) at appropriate armories and military family support centers of the National Guard;

(3) at appropriate military medical care facilities at which members of the Armed Forces are separated or discharged from the Armed Forces;

(4) in the case of a member on the temporary disability retired list under section 1202 or 1205 of title 10, United States Code, who is being retired under another provision of such title or is being discharged, at a location reasonably convenient to the member; and

(5) that services described in the plan can be provided within resources available to the Secretary of Defense and the Secretary of Veterans Affairs in the appropriate fiscal year.

(c) BENEFITS DELIVERY AT DISCHARGE PROGRAM DEFINED.—In this section, the term ''benefits delivery at discharge program'' means a program administered jointly by the Secretary of Defense and the Secretary of Veterans Affairs to provide information and assistance on available benefits and other transition assistance to members of the Armed Forces who are separating from the Armed Forces, including assistance to obtain any disability benefits for which such members may be eligible.

SA 2922. Mr. COLEMAN submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of

Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title XV, add the following:

SEC. 1535. MODIFICATION OF AUTHORITIES RELATED TO THE OFFICE OF THE SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION.

(a) TERMINATION DATE.—Subsection (o)(1) of section 3001 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1238; 5 U.S.C. App., note to section 8G of Public Law 95–452), as amended by section 1054(b) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2397), section 2 of the Iraq Reconstruction Accountability Act of 2006 (Public Law 109–440), and section 3801 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28; 121 Stat. 147) is amended to read as follows:

''(1) The Office of the Inspector General shall terminate on December 31, 2009.''.

(b) JURISDICTION OVER RECONSTRUCTION FUNDS.—Such section is further amended by adding at the end the following new subsection:

''(p) RULE OF CONSTRUCTION.—For purposes of carrying out the duties of the Special Inspector General for Iraq Reconstruction, any United States funds appropriated or otherwise made available for fiscal years 2006 through 2008 for the reconstruction of Iraq, irrespective of the designation of such funds, shall be deemed to be amounts appropriated or otherwise made available to the Iraq Relief and Reconstruction Fund.''.

(c) HIRING AUTHORITY.—Subsection (h)(1) of such section is amended by inserting after ''pay rates'' the following: '', and may exercise the authorities of subsections (b) through (i) of section 3161 of title 5, United States Code (without regard to subsection (a) of such section)''.

SA 2923. Mr. MARTINEZ submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title II, add the following:

SEC. 256. STUDY AND REPORT ON STANDARD SOLDIER PATIENT TRACKING SYSTEM.

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study on the feasibility of developing a joint soldier tracking system for recovering service members.

(b) MATTERS COVERED.—The study under subsection (a) shall include the following:

(1) Review of the feasibility of allowing each recovering service member, each family member of such a member, each commander of a military installation retaining medical holdover patients, each patient navigator, and ombudsman office personnel, at all times, to be able to locate and understand exactly where a recovering service member is in the medical holdover process.

(2) A determination of whether the tracking system can be designed to ensure that—

(A) the commander of each military medical facility where recovering service members are located is able to track appointments of such members to ensure they are meeting timeliness and other standards that serve the member; and

(B) each recovering service member is able to know when his appointments and other medical evaluation board or physical evaluation board deadlines will be and that they have been scheduled in a timely and accurate manner.

(3) Any other information needed to conduct oversight of care of the member through out the medical holdover process.

(4) Information that will allow the Secretaries of the military departments and the Assistant Secretary of Defense for Health Affairs to monitor trends and problems.

(5) Safeguards to ensure that patient privacy and confidentiality concerns are addressed.

(c) REPORT.—Not later than 180 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 on the results of the study, with such findings and recommendations as the Secretary considers appropriate.

SA 2924. Mr. FEINGOLD (for himself, Mr. REID, Mr. LEAHY, Mrs. BOXER, Mr. WHITEHOUSE, Mr. HARKIN, Mr. SANDERS, Mr. SCHUMER, Mr. DURBIN, and Mr. MENENDEZ) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title XV, add the following:

SEC. 1535. SAFE REDEPLOYMENT OF UNITED STATES TROOPS FROM IRAQ.

(a) TRANSITION OF MISSION.—The President shall promptly transition the mission of the United States Armed Forces in Iraq to the limited and temporary purposes set forth in subsection (d).

(b) COMMENCEMENT OF SAFE, PHASED REDEPLOYMENT FROM IRAQ.—The President shall commence the safe, phased redeployment of members of the United States Armed Forces from Iraq who are not essential to the limited and temporary purposes set forth in subsection (d). Such redeployment shall begin not later than 90 days after the date of the enactment of this Act, and shall be carried out in a manner that protects the safety and security of United States troops.

(c) USE OF FUNDS.—No funds appropriated or otherwise made available under any provision of law may be obligated or expended to continue the deployment in Iraq of members of the United States Armed Forces after June 30, 2008.

(d) EXCEPTION FOR LIMITED AND TEMPORARY PURPOSES.—The prohibition under subsection (c) shall not apply to the obligation or expenditure of funds for the following limited and temporary purposes:

(1) To conduct targeted operations, limited in duration and scope, against members of al Qaeda and affiliated international terrorist organizations.

(2) To provide security for United States Government personnel and infrastructure.

(3) To provide training to members of the Iraqi Security Forces who have not been involved in sectarian violence or in attacks upon the United States Armed Forces, provided that such training does not involve members of the United States Armed Forces taking part in combat operations or being embedded with Iraqi forces.

(4) To provide training, equipment, or other materiel to members of the United States Armed Forces to ensure, maintain, or improve their safety and security.

SA 2925. Mr. REID submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title VI, insert the following:

SEC. 656. INCLUSION OF VETERANS WITH SERVICE-CONNECTED DISABILITIES RATED AS TOTAL BY REASON OF UNEMPLOYABILITY UNDER TERMINATION OF PHASE-IN OF CONCURRENT RECEIPT OF RETIRED PAY AND VETERANS' DISABILITY COMPENSATION.

(a) INCLUSION OF VETERANS.—Section 1414(a)(1) of title 10, United States Code, is amended by striking ''except that'' and all that follows and inserting ''except that payment of retired pay is subject to subsection (c) only during the period beginning on January 1, 2004, and ending on December 31, 2004, in the case of the following:

''(A) A qualified retiree receiving veterans' disability compensation for a disability rated as 100 percent.

''(B) A qualified retiree receiving veterans' disability compensation at the rate payable for a 100 percent disability by reason of a determination of individual unemployability.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on December 31, 2004.

SA 2926. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title X, add the following:

Subtitle F—National Security With Justice

SEC. 1081. SHORT TITLE.

This subtitle may be cited as the ''National Security with Justice Act of 2007''.

SEC. 1082. DEFINITIONS.

In this subtitle—

(1) the term ''aggrieved person''—

(A) means any individual subject by an officer or agent of the United States either to extraterritorial detention or rendition, except as authorized in this subtitle; and

(B) does not include any individual who is an international terrorist;

(2) 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));

(3) the term ''extraterritorial detention'' means detention of any individual by an officer or agent of the United States outside the territorial jurisdiction of the United States;

(4) the term ''Foreign Intelligence Surveillance Court'' means the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a));

(5) the term ''Geneva Conventions'' means—

(A) 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 3114);

(B) 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 Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(D) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516);

(6) the term ''international terrorist'' means—

(A) any person, other than a United States person, who engages in international terrorism or activities in preparation therefor; and

(B) any person who knowingly aids or abets any person in the conduct of activities described in subparagraph (A) or knowingly conspires with any person to engage in activities described in subparagraph (A);

(7) the terms ''international terrorism'' and ''United States person'' have the meanings given those terms in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801);

(8) the term ''officer or agent of the United States'' includes any officer, employee, agent, contractor, or subcontractor acting for or on behalf of the United States; and

(9) the terms ''render'' and ''rendition'', relating to an individual, mean that an officer or agent of the United States transfers that individual from the legal jurisdiction of the United States or a foreign country to a different legal jurisdiction (including the legal jurisdiction of the United States or a foreign country) without authorization by treaty or by the courts of either such jurisdiction, except under an order of rendition issued under section 1085C.

PART I—EXTRATERRITORIAL DETENTION AND RENDITION

SEC. 1085. PROHIBITION ON EXTRATERRITORIAL DETENTION.

(a) IN GENERAL.—Except as provided in subsection (b), no officer or agent of the United States shall engage in the extraterritorial detention of any individual.

(b) EXCEPTIONS.—This section shall not apply to—

(1) an individual detained and timely transferred to a foreign legal jurisdiction or the legal jurisdiction of the United States under an order of rendition issued under section 1085C or an emergency authorization under section 1085D;

(2) an individual—

(A) detained by the Armed Forces of the United States in accordance with United States Army Regulation 190–8 (1997), or any successor regulation certified by the Secretary of Defense; and

(B) detained by the Armed Forces of the United States—

(i) under circumstances governed by, and in accordance with, the Geneva Conventions;

(ii) in accordance with United Nations Security Council Resolution 1546 (2004) and United Nations Security Council Resolution 1723 (2004);

(iii) at the Bagram, Afghanistan detention facility; or

(iv) at the Guantanamo Bay, Cuba detention center on the date of enactment of this Act;

(3) an individual detained by the Armed Forces of the United States under circumstances governed by, and in accordance with chapter 47 of title 10, United States Code (the Uniform Code of Military Justice);

(4) an individual detained by the Armed Forces of the United States subject to an agreement with a foreign government and in accordance with the relevant laws of that foreign country when the Armed Forces of the United States are providing assistance to that foreign government; or

(5) an individual detained pursuant to a peacekeeping operation authorized by the United Nations Security Council acting under Chapter VII of the Charter of the United Nations.

SEC. 1085A. PROHIBITION ON RENDITION.

(a) IN GENERAL.—Except as provided in subsection (b), no officer or agent of the United States shall render or participate in the rendition of any individual.

(b) EXCEPTIONS.—This section shall not apply to—

(1) an individual rendered under an order of rendition issued under section 1085C;

(2) an individual detained and transferred by the Armed Forces of the United States under circumstances governed by, and in accordance with, the Geneva Conventions;

(3) an individual—

(A) for whom an attorney for the United States or for any State has filed a criminal indictment, criminal information, or any similar criminal charging document in any district court of the United States or criminal court of any State; and

(B) who is timely transferred to the United States for trial;

(4) an individual—

(A) who was convicted of a crime in any State or Federal court;

(B) who—

(i) escaped from custody prior to the expiration of the sentence imposed; or

(ii) violated the terms of parole, probation, or supervised release; and

(C) who is promptly returned to the United States—

(i) to complete the term of imprisonment; or

(ii) for trial for escaping imprisonment or violating the terms of parole or supervised release; or

(5) an individual detained by the United States at the Guantanamo Bay, Cuba detention center on the date of enactment of this Act who is transferred to a foreign legal jurisdiction.

SEC. 1085B. APPLICATION FOR AN ORDER OF RENDITION.

(a) IN GENERAL.—A Federal officer or agent may make an application for an order of rendition in writing, upon oath or affirmation, to a judge of the Foreign Intelligence Surveillance Court, if the Attorney General of the United States or the Deputy Attorney General of the United States determines that the requirements under this part for such an application have been satisfied.

(b) CONTENTS.—Each application under subsection (a) shall include—

(1) the identity of the Federal officer or agent making the application;

(2) a certification that the Attorney General of the United States or the Deputy Attorney General of the United States has approved the application;

(3) the identity of the specific individual to be rendered;

(4) a statement of the facts and circumstances relied upon by the applicant to justify the good faith belief of the applicant that—

(A) the individual to be rendered is an international terrorist;

(B) the country to which the individual is to be rendered will not subject the individual to torture or cruel, inhuman, or degrading treatment, within the meaning of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York on December 10, 1984;

(C) the country to which the individual is to be rendered will timely initiate legal proceedings against that individual that comport with fundamental notions of due process; and

(D) rendition of that individual is important to the national security of the United States; and

(5) a full and complete statement regarding—

(A) whether ordinary legal procedures for the transfer of custody of the individual to be rendered have been tried and failed; or

(B) the facts and circumstances that justify the good faith belief of the applicant that ordinary legal procedures reasonably appear to be—

(i) unlikely to succeed if tried; or

(ii) unlikely to adequately protect intelligence sources or methods.

(c) TECHNICAL AND CONFORMING AMENDMENT.—Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended by adding at the end the following:

''(g) The court established under subsection (a) may hear an application for and issue, and the court established under subsection (b) may review the issuing or denial of, an order of rendition under section 1085C of the National Security with Justice Act of 2007.''.

SEC. 1085C. ISSUANCE OF AN ORDER OF RENDITION.

(a) IN GENERAL.—Upon filing of an application under section 1085B, a judge of the Foreign Intelligence Surveillance Court shall enter an ex parte order as requested or as modified approving the rendition, if the judge finds that—

(1) the Attorney General of the United States or the Deputy Attorney General of the United States has approved the application for rendition;

(2) the application has been made by a Federal officer or agent;

(3) the application establishes probable cause to believe that the individual to be rendered is an international terrorist;

(4) ordinary legal procedures for transfer of custody of the individual have been tried and failed or reasonably appear to be unlikely to succeed for any of the reasons described in section 1085B(b)(5)(B);

(5) the application, and such other information as is available to the judge, including reports of the Department of State and the United Nations Committee Against Torture and information concerning the specific characteristics and circumstances of the individual, establish a substantial likelihood that the country to which the individual is to be rendered will not subject the individual to torture or to cruel, inhuman, or degrading treatment, within the meaning of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York on December 10, 1984;

(6) the application, and such other information as is available to the judge, establish reason to believe that the country to which the individual is to be rendered will timely initiate legal proceedings against that individual that comport with fundamental notions of due process; and

(7) the application establishes reason to believe that rendition of the individual to be rendered is important to the national security of the United States.

(b) APPEAL.—The Government may appeal the denial of an application for an order under subsection (a) to the court of review established under section 103(b) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(b)), and further proceedings with respect to that application shall be conducted in a manner consistent with that section 103(b).

SEC. 1085D. AUTHORIZATIONS AND ORDERS FOR EMERGENCY DETENTION.

(a) IN GENERAL.—Notwithstanding any other provision of this part, and subject to subsection (b), the President or the Director of National Intelligence may authorize the Armed Forces of the United States or an element of the intelligence community, acting within the scope of existing authority, to detain an international terrorist in a foreign jurisdiction if the President or the Director of National Intelligence reasonably determines that—

(1) failure to detain that individual will result in a risk of imminent death or imminent serious bodily injury to any individual or imminent damage to or destruction of any United States facility; and

(2) the factual basis for issuance of an order of rendition under paragraphs (3) and (7) of section 1085C(a) exists.

(b) NOTICE AND APPLICATION.—The President or the Director of National Intelligence may authorize an individual be detained under subsection (a) if—

(1) the President or the Director of National Intelligence, or the designee of the President or the Director of National Intelligence, at the time of such authorization, immediately notifies the Foreign Intelligence Surveillance Court that the President or the Director of National Intelligence has determined to authorize that an individual be detained under subsection (a); and

(2) an application in accordance with this part is made to the Foreign Intelligence Surveillance Court as soon as practicable, but not more than 72 hours after the President or the Director of National Intelligence authorizes that individual to be detained.

(c) EMERGENCY RENDITION PROHIBITED.—The President or the Director of National Intelligence may not authorize the rendition to a foreign jurisdiction of, and the Armed Forces of the United States or an element of the intelligence community may not render to a foreign jurisdiction, an individual detained under this section, unless an order under section 1085C authorizing the rendition of that individual has been obtained.

(d) NONDELEGATION.—Except as provided in this section, the authority and duties of the President or the Director of National Intelligence under this section may not be delegated.

SEC. 1085E. UNIFORM STANDARDS FOR THE INTERROGATION OF INDIVIDUALS DETAINED BY THE GOVERNMENT OF THE UNITED STATES.

(a) IN GENERAL.—No individual in the custody or under the effective control of an officer or agent of the United States or detained in a facility operated by or on behalf of the Department of Defense, the Central Intelligence Agency, or any other agency of the Government of the United States shall be subject to any treatment or technique of interrogation not authorized by and listed in United States Army Field Manual 2–22.3, entitled ''Human Intelligence Collector Operations''.

(b) APPLICABILITY.—Subsection (a) shall not apply with respect to any individual in the custody or under the effective control of the Government of the United States based on—

(1) an arrest or conviction for violating Federal criminal law; or

(2) an alleged or adjudicated violation of the immigration laws of the United States.

(c) CONSTRUCTION.—Nothing in this section may be construed to diminish the rights under the Constitution of the United States of any individual in the custody or within the physical jurisdiction of the Government of the United States.

SEC. 1085F. PROTECTION OF UNITED STATES GOVERNMENT PERSONNEL ENGAGED IN AN INTERROGATION.

(a) PROTECTION OF UNITED STATES GOVERNMENT PERSONNEL.—In a civil action or criminal prosecution against an officer or agent of the United States relating to an interrogation, it shall be a defense that such officer or agent of the United States complied with section 185E.

(b) APPLICABILITY.—Subsection (a) shall not apply with respect to any civil action or criminal prosecution relating to the interrogation of an individual in the custody or under the effective control of the Government of the United States based on—

(1) an arrest or conviction for violating Federal criminal law; or

(2) an alleged or adjudicated violation of the immigration laws of the United States.

(c) PROVISION OF COUNSEL.—In any civil action or criminal prosecution arising from the alleged use of an authorized interrogation practice by an officer or agent of the United States, the Government of the United States may provide or employ counsel, and pay counsel fees, court costs, bail, and other expenses incident to representation.

(d) CONSTRUCTION.—Nothing in this section may be construed—

(1) to limit or extinguish any defense or protection from suit, civil or criminal liability, or damages otherwise available to a person or entity; or

(2) to provide immunity from prosecution for any criminal offense by the proper authorities.

SEC. 1085G. MONITORING AND REPORTING REGARDING THE TREATMENT, CONDITIONS OF CONFINEMENT, AND STATUS OF LEGAL PROCEEDINGS OF INDIVIDUALS RENDERED TO FOREIGN GOVERNMENTS.

(a) IN GENERAL.—The Secretary of State shall—

(1) regularly monitor the treatment of, the conditions of confinement of, and the progress of legal proceedings against an individual rendered to a foreign legal jurisdiction under section 1085C; and

(2) not later than 6 months after the date of enactment of this Act, and every 6 months thereafter, submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives a report detailing the treatment of, the conditions of confinement of, and the progress of legal proceedings against any individual rendered to a foreign legal jurisdiction under section 1085C.

(b) APPLICABILITY.—The Secretary of State shall include in the reports required under subsection (a)(2) information relating to the treatment of, the conditions of confinement of, and the progress of legal proceedings against an individual rendered to a foreign legal jurisdiction under section 1085C during the period beginning on the date that individual was rendered to a foreign legal jurisdiction under section 1085C and ending on the date that individual is released from custody by that foreign legal jurisdiction.

SEC. 1085H. REPORT TO CONGRESS.

The Attorney General shall—

(1) submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives an annual report that contains—

(A) the total number of applications made for an order of rendition under section 1085C;

(B) the total number of such orders granted, modified, or denied;

(C) the total number of emergency authorizations issued under section 1085D; and

(D) such other information as requested by the Select Committee on Intelligence of the Senate or the Permanent Select Committee on Intelligence of the House of Representatives; and

(2) make available to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives a copy of each application made and order issued under this part.

SEC. 1085I. CIVIL LIABILITY.

(a) IN GENERAL.—An aggrieved person shall have a cause of action against the head of the department or agency that subjected that aggrieved person to extraterritorial detention or a rendition in violation of this part and shall be entitled to recover—

(1) actual damages, but not less than liquidated damages of $1,000 for each day of the violation;

(2) punitive damages; and

(3) reasonable attorney's fees.

(b) JURISDICTION.—The United States District Court for the District of Columbia shall have original jurisdiction over any claim under this section.

SEC. 1085J. ADDITIONAL RESOURCES FOR FOREIGN INTELLIGENCE SURVEILLANCE COURT.

(a) AUTHORITY FOR ADDITIONAL JUDGES.—Section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)) is amended—

(1) by inserting ''(1)'' after ''(a)'';

(2) in paragraph (1), as so designated, by inserting ''at least'' before ''seven of the United States judicial circuits'';

(3) by striking ''If any judge so designated'' and inserting the following:

''(3) If any judge so designated''; and

(4) by inserting after paragraph (1), as so designated, the following:

''(2) In addition to the judges designated under paragraph (1), the Chief Justice of the United States may designate as judges of the court established by paragraph (1) such judges appointed under article III of the Constitution of the United States as the Chief Justice determines appropriate in order to provide for the prompt and timely consideration of applications under sections 1085B of the National Security with Justice Act of 2007 for orders of rendition under section 1085C of that Act. Any judge designated under this paragraph shall be designated publicly.''.

(b) ADDITIONAL LEGAL AND OTHER PERSONNEL FOR FOREIGN INTELLIGENCE SURVEILLANCE COURT.—There is authorized for the Foreign Intelligence Surveillance Court such additional staff personnel as may be necessary to facilitate the prompt processing and consideration by that Court of applications under section 1085B for orders of rendition under section 1085C approving rendition of an international terrorist. The personnel authorized by this section are in addition to any other personnel authorized by law.

SEC. 1085K. RULE OF CONSTRUCTION.

Nothing in this part may be construed as altering or adding to existing authorities for the extraterritorial detention or rendition of any individual.

SEC. 1085L. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out

this part and the amendments made by this part.

PART II—ENEMY COMBATANTS

SEC. 1090. MODIFICATION OF DEFINITION OF "UNLAWFUL ENEMY COMBATANT" FOR PURPOSES OF MILITARY COMMISSIONS.

Section 948a(1)(A) of title 10, United States Code, is amended—

(1) in the matter preceding clause (i), by striking ''means''; and

(2) by striking clauses (i) and (ii) and inserting the following:

''(i) means a person who is not a lawful enemy combatant and who—

''(I) has engaged in hostilities against the United States; or

''(II) has purposefully and materially supported hostilities against the United States (other than hostilities engaged in as a lawful enemy combatant); and

''(ii) does not include any person who is—

''(I) a citizen of the United States or legally admitted to the United States; and

''(II) taken into custody in the United States.''.

PART III—HABEAS CORPUS

SEC. 1095. EXTENDING STATUTORY HABEAS CORPUS TO DETAINEES.

(a) IN GENERAL.—Section 2241 of title 28, United States Code, is amended by striking subsection (e) and inserting the following:

''(e)(1) The United States District Court for the District of Columbia shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of any person detained by the United States who has been—

''(A) determined by the United States to have been properly detained as an enemy combatant; or

''(B) detained by the United States for more than 90 days without such a determination.

''(2) The United States District Court for the District of Columbia shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of any person detained by the United States who has been tried by military commission established under chapter 47A of title 10, United States Code, and has exhausted the appellate procedure under subchapter VI of that chapter.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Subchapter VI of chapter 47A of title 10, United States Code, is amended—

(A) by striking section 950g;

(B) in section 950h—

(i) in subsection (a), by adding at the end the following: ''Appointment of appellate counsel under this subsection shall be for purposes of this chapter only, and not for any proceedings relating to an application for a writ of habeas corpus relating to any matter tried by a military commission.''; and

(ii) in subsection (c), by striking '', the United States Court of Appeals for the District of Columbia, and the Supreme Court,'';

(C) in section 950j—

(i) by striking ''(a) FINALITY.—''; and

(ii) by striking subsection (b); and

(D) in the table of sections at the beginning of that subchapter, by striking the item relating to section 950g.

(2) DETAINEE TREATMENT ACTS.—

(A) IN GENERAL.—Section 1005(e) of the Detainee Treatment Act of 2005 (Public Law 109-148; 119 Stat. 2742; 10 U.S.C. 801 note) is amended—

(i) in subsection (e)—

(I) by striking paragraph (2); and

(II) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(ii) in subsection (h)(2)—

(I) by striking ''Paragraphs (2) and (3)'' and inserting ''Paragraph (2)''; and

(II) by striking ''one of such paragraphs'' and inserting ''that paragraph''.

(B) OTHER AMENDMENTS.—Section 1405 of the Detainee Treatment Act of 2005 (Public Law 109-163; 119 Stat. 3475; 10 U.S.C. 801 note) is amended—

(i) in subsection (e)—

(I) by striking paragraph (2); and

(II) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(ii) in subsection (h)(2)—

(I) by striking ''Paragraphs (2) and (3)'' and inserting ''Paragraph (2)''; and

(II) by striking ''one of such paragraphs'' and inserting ''that paragraph''.

(c) RULE OF CONSTRUCTION.—Notwithstanding subsection (a), no court, justice, or judge shall have jurisdiction to consider an action described in subparagraph (a) brought by an alien who is in the custody of the United States, in a zone of active hostility involving the United States Armed Forces, and where the United States is implementing United States Army Reg 190–8 (1997) or any successor, as certified by the Secretary of Defense.

SA 2927. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1044. REPORT ON WORKFORCE REQUIRED TO SUPPORT THE NUCLEAR MISSIONS OF THE NAVY AND THE DEPARTMENT OF ENERGY.

(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Energy shall jointly submit to Congress a report on the requirements for a workforce to support the nuclear missions of the Navy and the Department of Energy during the 10-year period beginning on the date of the report.

(b) ELEMENTS.—The report shall address anticipated changes to the nuclear missions of the Navy and the Department of Energy during the 10-year period beginning on the date of the report, anticipated workforce attrition, and retirement, and recruiting trends during that period and knowledge retention programs within the Department of Defense, the Department of Energy, the national laboratories, and federally funded research facilities.

SA 2928. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 354, after line 24, add the following:

SEC. 1070. LIABILITY OF PARENT COMPANIES FOR VIOLATIONS OF SANCTIONS BY FOREIGN ENTITIES.

(a) SHORT TITLE.—This section may be cited as the ''Stop Business with Terrorists Act of 2007''.

(b) DEFINITIONS.—In this section:

(1) ENTITY.—The term ''entity'' means a partnership, association, trust, joint venture, corporation, or other organization.

(2) PARENT COMPANY.—The term ''parent company'' means an entity that is a United States person and—

(A) the entity owns, directly or indirectly, more than 50 percent of the equity interest by vote or value in another entity;

(B) board members or employees of the entity hold a majority of board seats of another entity; or

(C) the entity otherwise controls or is able to control the actions, policies, or personnel decisions of another entity.

(3) UNITED STATES PERSON.—The term ''United States person'' means—

(A) a natural person who is a citizen of the United States or who owes permanent allegiance to the United States; and

(B) an entity that is organized under the laws of the United States, any State or territory thereof, or the District of Columbia, if natural persons described in subparagraph (A) own, directly or indirectly, more than 50 percent of the outstanding capital stock or other beneficial interest in such entity.

(c) LIABILITY OF PARENT COMPANIES FOR VIOLATIONS OF SANCTIONS BY FOREIGN ENTITIES.—

(1) IN GENERAL.—In any case in which an entity engages in an act outside the United States that, if committed in the United States or by a United States person, would violate the provisions of Executive Order 12959 (50 U.S.C. 1701 note) or Executive Order 13059 (50 U.S.C. 1701 note), or any other prohibition on transactions with respect to Iran imposed under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the parent company of the entity shall be subject to the penalties for the act to the same extent as if the parent company had engaged in the act.

(2) APPLICABILITY.—Paragraph (1) shall not apply to a parent company of an entity on which the President imposed a penalty for a violation described in paragraph (1) that was in effect on the date of the enactment of this Act if the parent company divests or terminates its business with such entity not later than 90 days after such date of enactment.

SA 2929. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1044. REPORT ON FACILITIES AND OPERATIONS OF DARNALL ARMY MEDICAL CENTER, FORT HOOD MILITARY RESERVATION, TEXAS.

(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report assessing the facilities and operations of the

Darnall Army Medical Center at Fort Hood Military Reservation, Texas.

(b) CONTENT.—The report required under subsection (a) shall include the following:

(1) A specific determination of whether the facilities currently housing Darnall Army Medical Center meet Department of Defense standards for Army medical centers.

(2) A specific determination of whether the existing facilities adequately support the operations of Darnall Army Medical Center, including the missions of medical treatment, medical hold, medical holdover, and Warriors in Transition.

(3) A specific determination of whether the existing facilities provide adequate physical space for the number of personnel that would be required for Darnall Army Medical Center to function as a full-sized Army medical center.

(4) A specific determination of whether the current levels of medical and medical-related personnel at Darnall Army Medical Center are adequate to support the operations of a full-sized Army medical center.

(5) A specific determination of whether the current levels of graduate medical education and medical residency programs currently in place at Darnall Army Medical Center are adequate to support the operations of a full-sized Army medical center.

(6) A description of any and all deficiencies identified by the Secretary.

(7) A proposed investment plan and timeline to correct such deficiencies.

SA 2930. Mr. ISAKSON (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 354, after line 24, add the following:

SEC. 1070. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECT OF THE DEPARTMENT OF VETERANS AFFAIRS, ATLANTA, GEORGIA.

The Secretary of Veterans Affairs may carry out a major medical facility project for modernization of inpatient wards at the Department of Veterans Affairs Medical Center, Atlanta, Georgia, in an amount not to exceed $20,534,000.

SA 2931. Mr. CASEY (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XV, add the following:

SEC. 1535. SENSE OF THE SENATE ON NEED FOR COMPREHENSIVE DIPLOMATIC OFFENSIVE TO HELP BROKER NATIONAL RECONCILIATION EFFORTS IN IRAQ.

(a) FINDINGS.—The Senate makes the following findings:

(1) The men and women of the United States Armed Forces have performed with honor and distinction in executing Operation Iraqi Freedom and deserve the gratitude of the American people.

(2) General David H. Petraeus, Commander of the Multinational Force-Iraq, stated on March 8, 2007, ''There is no military solution to a problem like that in Iraq.''

(3) President George W. Bush reiterated on July 12, 2007, that the United States troop surge implemented in 2007 ''seeks to open space for Iraq's political leaders to advance the difficult process of national reconciliation, which is essential to lasting security and stability''.

(4) Greater involvement and diplomatic engagement by Iraq's neighbors and key international actors can help facilitate the national political reconciliation so essential to sustainable success in Iraq.

(5) The United States troop surge carried out in 2007 has not, as of yet, been matched by a comparable diplomatic surge designed to ensure that Iraqi national leaders carry through on the process of national reconciliation.

(6) The final report of the Iraq Study Group, released in December 2006, declared, ''The United States must build a new international consensus for stability in Iraq and the region. In order to foster such consensus, the United States should embark on a robust diplomatic effort to establish an international support structure intended to stabilize Iraq and ease tensions in other countries in the region. This support structure should include every country that has an interest in averting a chaotic Iraq, including all of Iraq's neighbors.''

(7) On August 10, 2007, the United Nations Security Council voted unanimously to expand the mandate of its mission in Iraq to assist the national government with political reconciliation, bring together Iraq's neighbors to discuss border security and energy access, and facilitate much needed humanitarian assistance.

(8) The United States Ambassador to Iraq, the Honorable Ryan C. Crocker, asserted on September 11, 2007, in testimony before the Committee on Foreign Relations of the Senate, ''With respect, again, to [Iraq's] neighbors and others, that is exactly our intent to have a more intensive, positive, more regulated engagement between Iraq and its neighbors.... The United Nations is now positioned to play a more active and involved role.''

(9) General Petraeus said on September 11, 2007, in response to a question on the need for greater civilian activity in Iraq, ''I agree with the chairman of the Joint Chiefs of Staff who has said repeatedly that certain elements of our government are at war, DoD, State, AID, but not all of the others.... We can use help in those areas. Some of the areas are quite thin, agriculture, health, and some others.''

(10) The United States troop surge carried out in 2007 has not, as of yet, been matched by a comparable civilian surge designed to help the Government of Iraq strengthen its capabilities in providing essential government services.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the United States Government should take the lead in organizing a comprehensive diplomatic offensive, consisting of bilateral, regional, and international initiatives, to assist the Government of Iraq in achieving national reconciliation and successfully meeting key security, political, and economic benchmarks;

(2) it is in the interest of the United States and the people of Iraq that Iraq is not seen as a uniquely ''American'' problem, but rather as of enduring importance to the security and prosperity of its neighbors, the entire Middle East region, and the broader international community;

(3) the greater involvement in a constructive fashion of Iraq's neighbors, whether through a regional conference or another mechanism, can help stabilize Iraq and end the outside flows of weapons, explosive materials, foreign fighters, and funding that contribute to the current sectarian warfare in Iraq;

(4) the President and the Secretary of State should invest their personal time and energy in these diplomatic efforts to ensure that they receive the highest priority within the United States Government and are viewed as a serious effort in the region and elsewhere;

(5) the President, in order to demonstrate that a regional diplomacy strategy enjoys attention at the highest levels of the United States Government, should appoint a seasoned, high-level Presidential envoy to the Middle East region to supplement the efforts of Ambassador Crocker and focus on the establishment of a regional framework to help stabilize Iraq;

(6) the United States Government should build upon tentative progress achieved by the International Compact for Iraq and the Iraq Neighbors Conference to serve as the basis for a more intensive and sustained effort to construct an effective regional mechanism;

(7) the President should direct the United States Permanent Representative to the United Nations to use the voice and vote of the United States at the United Nations to seek the appointment of an international mediator in Iraq, under the auspices of the United Nations Security Council, to engage political, religious, ethnic, and tribal leaders in Iraq to foster national reconciliation efforts;

(8) the United States Government should begin planning for a wide-ranging dialogue on the mandate governing international support for Iraq when the current United Nations mandate authorizing the United States-led coalition expires at the end of 2007;

(9) the United States Government should more directly press Iraq's neighbors to open fully operating embassies in Baghdad and establish inclusive diplomatic relations with the Government of Iraq to help ensure the Government is viewed as legitimate throughout the region;

(10) the United States Government should strongly urge the governments of those countries that have previously pledged debt forgiveness and economic assistance to the Government of Iraq to fully carry through on their commitments on an expedited basis;

(11) a key objective of any diplomatic offensive should be to ameliorate the suffering and deprivation of Iraqi refugees, both those displaced internally and those who have fled to neighboring countries, through coordinated humanitarian assistance and the development of a regional framework to establish long-term solutions to the future of displaced Iraqi citizens;

(12) the United States Government should reallocate diplomats and Department of State funds as required to ensure that any comprehensive diplomatic offensive to stabilize Iraq on an urgent basis has the needed resources to succeed; and

(13) the United States Government should reallocate civilian expertise to help governmental entities in Iraq strengthen their ability to provide essential government services to the people of Iraq.

SA 2932. Mr. LIEBERMAN submitted an amendment intended to be proposed

to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title X, add the following:

SEC. 1031. PROVISION OF CONTACT INFORMATION ON SEPARATING MEMBERS OF THE ARMED FORCES TO STATE VETERANS AGENCIES.

For each member of the Armed Forces pending separation from the Armed Forces or who detaches from the member's regular unit while awaiting medical separation or retirement, not later than the date of such separation or detachment, as the case may be, the Secretary of Defense shall, upon the request of the member, provide the address and other appropriate contact information of the member to the State veterans agency in the State in which the member will first reside after separation or in the State in which the member resides while so awaiting medical separation or retirement, as the case may be.

SA 2933. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title X, add the following:

SEC. 1070. NO ACCRUAL OF INTEREST ON FEDERAL DIRECT LOANS FOR ACTIVE DUTY SERVICE MEMBERS AND THEIR SPOUSES.

(a) SHORT TITLE.—This section may be cited as the ''Interest Relief Act''.

(b) NO ACCRUAL OF INTEREST FOR ACTIVE DUTY SERVICE MEMBERS AND THEIR SPOUSES.—Section 455 of the Higher Education Act of 1965 (20 U.S.C. 1087e) is amended by adding at the end the following:

''(m) NO ACCRUAL OF INTEREST FOR ACTIVE DUTY SERVICE MEMBERS AND THEIR SPOUSES.—

''(1) IN GENERAL.—Notwithstanding any other provision of this part, and except as provided in paragraph (3), interest on a loan made under this part shall not accrue for an eligible borrower.

''(2) ELIGIBLE BORROWER.—In this subsection, the term 'eligible borrower' means an individual—

''(A) who is—

''(i) serving on active duty during a war or other military operation or national emergency; or

''(ii) performing qualifying National Guard duty during a war or other military operation or national emergency; or

''(B) who is the spouse of an individual described in subparagraph (A).

''(3) LIMITATION.—An individual who qualifies as an eligible borrower under this subsection may receive the benefit of this subsection for not more than 60 months.''.

(c) CONSOLIDATION LOANS.—Section 428C(b)(5) of the Higher Education Act of 1965 (20 U.S.C. 1078–3(b)(5)) is amended by inserting after the first sentence the following: ''In addition, in the event that a borrower chooses to obtain a consolidation loan for the purposes of using the no accrual of interest for active duty service members and their spouses program offered under section 455(m), the Secretary shall offer any such borrower who applies for it, a Federal Direct Consolidation loan.''.

SA 2934. Mr. CORNYN proposed an amendment to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

At the end of subtitle E of title X, add the following:

SEC. 1070. SENSE OF SENATE ON GENERAL DAVID PETRAEUS.

(a) FINDINGS.—The Senate makes the following findings:

(1) The Senate unanimously confirmed General David H. Petraeus as Commanding General, Multi-National Force-Iraq, by a vote of 81-0 on January 26, 2007.

(2) General Petraeus graduated first in his class at the United States Army Command and General Staff College.

(3) General Petraeus earned Masters of Public Administration and Doctoral degrees in international relations from Princeton University.

(4) General Petraeus has served multiple combat tours in Iraq, including command of the 101st Airborne Division (Air Assault) during combat operations throughout the first year of Operation Iraqi Freedom, which tours included both major combat operations and subsequent stability and support operations.

(5) General Petraeus supervised the development and crafting of the United States Army and Marine Corps counterinsurgency manual based in large measure on his combat experience in Iraq, scholarly study, and other professional experiences.

(6) General Petraeus has taken a solemn oath to protect and defend the Constitution of the United States of America.

(7) During his 35-year career, General Petraeus has amassed a distinguished and unvarnished record of military service to the United States as recognized by his receipt of a Defense Distinguished Service Medal, two Distinguished Service Medals, two Defense Superior Service Medals, four Legions of Merit, the Bronze Star Medal for valor, the State Department Superior Honor Award, the NATO Meritorious Service Medal, and other awards and medals.

(8) A recent attack through a full-page advertisement in the New York Times by the liberal activist group, Moveon.org, impugns the honor and integrity of General Petraeus and all the members of the United States Armed Forces.

(b) SENSE OF SENATE.—It is the sense of the Senate—

(1) to reaffirm its support for all the men and women of the United States Armed Forces, including General David H. Petraeus, Commanding General, Multi-National Force-Iraq;

(2) to strongly condemn any effort to attack the honor and integrity of General Petraeus and all the members of the United States Armed Forces; and

(3) to specifically repudiate the unwarranted personal attack on General Petraeus by the liberal activist group Moveon.org.

SA 2935. Mr. CHAMBLISS (for himself, Mr. PRYOR, and Mr. ISAKSON) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XXVIII, add the following:

SEC. 2864. REPORT ON HOUSING PRIVATIZATION INITIATIVES.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on housing privatization projects initiated by the Department of Defense that are behind schedule or have defaulted.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A list of current housing privatization projects initiated by the Department of Defense that are behind schedule or in default.

(2) In each case in which a project is behind schedule or in default, a description of —

(A) the reasons for schedule delays, cost overruns, or default;

(B) how bid solicitations and competitions were conducted for the project;

(C) how financing, partnerships, legal arrangements, leases, or contracts in relation to the project were structured;

(D) which entities, including Federal entities, that are bearing financial risk for the project, and to what extent;

(E) the remedies available to the Federal Government to restore the project to schedule or ensure completion of the housing units in question at the earliest possible time;

(F) the extent to which the Federal Government has the ability to effect the performance of various parties involved in the project;

(G) remedies available to subcontractors to recoup liens in the case of default, non-payment by the developer or other party to the project or lease agreement, or re-structuring;

(H) remedies available to the Federal Government to affect receivership actions or transfer of ownership of the project; and

(I) names of the developers for the project and any history of previous defaults or bankruptcies by these developers or their affiliates.

(3) In each case in which a project is behind schedule or in default, recommendations regarding—

(A) what actions the Federal Government can take, to include project termination and restart, to ensure the project is completed according to the original schedule and budget;

(B) the leverage the Federal Government has to improve the performance of various parties to the project or lease agreement; and

(C) how the Federal Government can interject competition into the project to stimulate improved performance.

SA 2936. Mr. CHAMBLISS (for himself, Mr. ISAKSON) submitted an amendment intended to be proposed to

amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 354, after line 24, add the following:

SEC. 1070. DESIGNATION OF CHARLIE NORWOOD DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.

(a) FINDINGS.—Congress makes the following findings:

(1) Charlie Norwood volunteered for service in the United States Army Dental Corps in a time of war, providing dental and medical services in the Republic of Vietnam in 1968, earning the Combat Medical Badge and two awards of the Bronze Star.

(2) Captain Norwood, under combat conditions, helped develop the Dental Corps operating procedures, that are now standard, of delivering dentists to forward-fire bases, and providing dental treatment for military service dogs.

(3) Captain Norwood provided dental, emergency medical, and surgical care for United States personnel, Vietnamese civilians, and prisoners-of-war.

(4) Dr. Norwood provided military dental care at Fort Gordon, Georgia, following his service in Vietnam, then provided private-practice dental care for the next 25 years for patients in the greater Augusta, Georgia, area, including care for military personnel, retirees, and dependents under Department of Defense programs and for low-income patients under Georgia Medicaid.

(5) Congressman Norwood, upon being sworn into the United States House of Representatives in 1995, pursued the advancement of health and dental care for active duty and retired military personnel and dependents, and for veterans, through his public advocacy for strengthened Federal support for military and veterans' health care programs and facilities.

(6) Congressman Norwood co-authored and helped pass into law the Keep our Promises to America's Military Retirees Act, which restored lifetime healthcare benefits to veterans who are military retirees through the creation of the Department of Defense TRICARE for Life Program.

(7) Congressman Norwood supported and helped pass into law the Retired Pay Restoration Act providing relief from the concurrent receipt rule penalizing disabled veterans who were also military retirees.

(8) Throughout his congressional service from 1995 to 2007, Congressman Norwood repeatedly defeated attempts to reduce Federal support for the Department of Veterans Affairs Medical Center in Augusta, Georgia, and succeeded in maintaining and increasing Federal funding for the center.

(9) Congressman Norwood maintained a life membership in the American Legion, the Veterans of Foreign Wars, and the Military Order of the World Wars.

(10) Congressman Norwood's role in protecting and improving military and veteran's health care was recognized by the Association of the United States Army through the presentation of the Cocklin Award in 1998, and through his induction into the Association's Audie Murphy Society in 1999.

(b) DESIGNATION.—

(1) IN GENERAL.—The Department of Veterans Affairs Medical Center located at 1 Freedom Way in Augusta, Georgia, shall after the date of the enactment of this Act be known and designated as the ''Charlie Norwood Department of Veterans Affairs Medical Center''.

(2) REFERENCES.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the medical center referred to in paragraph (1) shall be considered to be a reference to the Charlie Norwood Department of Veterans Affairs Medical Center.

SA 2937. Mr. DOMENICI (for himself, Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title II, add the following:

SEC. 256. COST-BENEFIT ANALYSIS OF PROPOSED FUNDING REDUCTION FOR HIGH ENERGY LASER SYSTEMS TEST FACILITY.

(a) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report containing a cost-benefit analysis of the proposed reduction in Army research, development, test, and evaluation funding for the High Energy Laser Systems Test Facility.

(b) EVALUATION OF IMPACT ON OTHER MILITARY DEPARTMENTS.—The report required under subsection (a) shall include an evaluation of the impact of the proposed reduction in funding on each Department of Defense organization or activity that utilizes the High Energy Laser Systems Test Facility.

(c) ACTIONS TO SIGNIFICANTLY DIMINISH THE ABILITY OF FACILITY TO FUNCTION AS MAJOR RANGE AND TEST BASE FACILITY.—Prior to the delivery of the report required by subsection (a) to the congressional defense committees, the Secretary of the Army may not take any action that significantly diminishes the capabilities of the High Energy Laser Systems Test Facility until after a proposal detailing the action is reviewed by the Director of the Test Resource Management Center to determine risk and impact to the Department of Defense, alternatives considered, rationale, and implementation plans.

SA 2938. Mr. SMITH (for himself and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III, add the following:

SEC. 358. SENSE OF THE SENATE ON TOWBARLESS CAPTURE VEHICLES.

(a) FINDINGS.—The Senate makes the following findings:

(1) The Air Force is currently evaluating the use of towbarless aircraft ground support equipment, including revision of regulations to allow for the use of towbarless vehicles on jet and cargo aircraft.

(2) The use of aircraft ground support equipment has the potential to allow for safer and labor reducing towing of jet and cargo aircraft.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary of the Air Force should modify regulations as appropriate to allow for the use of towbarless aircraft ground support equipment, which promotes safety and reduces labor.

SA 2939. Mrs. MCCASKILL submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title VIII, add the following:

SEC. 847. INDEPENDENT MANAGEMENT REVIEWS OF CONTRACTS FOR SERVICES.

(a) GUIDANCE AND INSTRUCTIONS.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall issue guidance, with detailed implementation instructions, for the Department of Defense to provide for periodic independent management reviews of contracts for services. The independent management review procedures issued pursuant to this section shall be designed to evaluate, at a minimum—

(1) contract performance in terms of cost, schedule, and requirements;

(2) the use of contracting mechanisms, including the use of competition, the contract structure and type, the definition of contract requirements, cost or pricing methods, the award and negotiation of task orders, and management and oversight mechanisms;

(3) the contractor's use, management, and oversight of subcontractors; and

(4) the staffing of contract management and oversight functions.

(b) ELEMENTS.—The guidance and instructions issued pursuant to subsection (a) shall address, at a minimum—

(1) the contracts subject to independent management reviews, including any applicable thresholds and exceptions;

(2) the frequency with which independent management reviews shall be conducted;

(3) the composition of teams designated to perform independent management reviews;

(4) any phase-in requirements needed to ensure that qualified staff are available to perform independent management reviews;

(5) procedures for tracking the implementation of recommendations made by independent management review teams; and

(6) procedures for developing and disseminating lessons learned from independent management reviews.

(c) REPORTS.—

(1) REPORT ON GUIDANCE AND INSTRUCTION.—Not later than 150 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report setting forth the guidance and instructions issued pursuant to subsection (a).

(2) GAO REPORT ON IMPLEMENTATION.—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees a report on the implementation of the guidance and instructions issued pursuant to subsection (a).

SA 2940. Mrs. MCCASKILL submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title VIII, add the following:

SEC. 847. IMPLEMENTATION AND ENFORCEMENT OF REQUIREMENTS APPLICABLE TO UNDEFINITIZED CONTRACTUAL ACTIONS.

(a) GUIDANCE AND INSTRUCTIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall issue guidance, with detailed implementation instructions, for the Department of Defense to ensure the implementation and enforcement of requirements applicable to undefinitized contractual actions.

(b) ELEMENTS.—The guidance and instructions issued pursuant to subsection (a) shall address, at a minimum—

(1) the circumstances in which it is, and is not, appropriate for Department of Defense officials to use undefinitized contractual actions;

(2) approval requirements (including thresholds) for the use of undefinitized contractual actions;

(3) procedures for ensuring that schedules for the definitization of undefinitized contractual actions are not exceeded;

(4) procedures for ensuring compliance with limitations on the obligation of funds pursuant to undefinitized contractual actions (including, where feasible, the obligation of less than the maximum allowed at time of award);

(5) procedures (including appropriate documentation requirements) for ensuring that reduced risk is taken into account in negotiating profit or fee with respect to costs incurred before the definitization of an undefinitized contractual action; and

(6) reporting requirements for undefinitized contractual actions that fail to meet required schedules or limitations on the obligation of funds.

(c) REPORTS.—

(1) REPORT ON GUIDANCE AND INSTRUCTIONS.—Not later than 150 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report setting forth the guidance and instructions issued pursuant to subsection (a).

(2) GAO REPORT.—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees a report on the extent to which the guidance and instructions issued pursuant to subsection (a) have resulted in improvements to—

(A) the level of insight that senior Department of Defense officials have into the use of undefinitized contractual actions;

(B) the appropriate use of undefinitized contractual actions;

(C) the timely definitization of undefinitized contractual actions; and

(D) the negotiation of appropriate profits and fees for undefinitized contractual actions.

SA 2941. Mr. REED (for himself and Mrs. DOLE) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title XIV, add the following:

SEC. 1434. MODIFICATION OF TERMINATION OF ASSISTANCE TO STATE AND LOCAL GOVERNMENTS AFTER COMPLETION OF THE DESTRUCTION OF THE UNITED STATES CHEMICAL WEAPONS STOCKPILE.

Subparagraph (B) of section 1412(c)(5) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(c)(5)) is amended to read as follows:

''(B) Assistance may be provided under this paragraph for capabilities to respond to emergencies involving an installation or facility as described in subparagraph (A) until the earlier of the following:

''(i) The date of the completion of all grants and cooperative agreements with respect to the installation or facility for purposes of this paragraph between the Federal Emergency Management Agency and the State and local governments concerned.

''(ii) The date that is 180 days after the date of the completion of the destruction of lethal chemical agents and munitions at the installation or facility.''.

SA 2942. Mr. SALAZAR submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1044. REPORT AND MASTER INFRASTRUCTURE RECAPITALIZATION PLAN REGARDING CHEYENNE MOUNTAIN AIR STATION, COLORADO.

(a) REPORT ON RELOCATION OF NORTH AMERICAN AEROSPACE DEFENSE COMMAND CENTER.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the relocation of the North American Aerospace Defense command center and related functions from Cheyenne Mountain Air Station, Colorado, to Peterson Air Force Base, Colorado.

(2) CONTENT.—The report required under paragraph (1) shall include—

(A) an analysis comparing the total costs associated with the relocation, including costs determined as part of ongoing security-related studies of the relocation, to anticipated operational benefits from the relocation;

(B) an analysis of what additional missions could be performed at the Cheyenne Mountain Air Station, including anticipated operational benefits or cost savings of moving additional functions to the Cheyenne Mountain Air Station; and

(C) a detailed explanation of those backup functions that will remain located at Cheyenne Mountain Air Station, and how those functions planned to be transferred out of Cheyenne Mountain Air Station, including the Space Operations Center, will maintain operational connectivity with their related commands and relevant communications centers.

(b) MASTER INFRASTRUCTURE RECAPITALIZATION PLAN.—

(1) IN GENERAL.—Not later than March 16, 2008, the Secretary of the Air Force shall submit to Congress a master infrastructure recapitalization plan for Cheyenne Mountain Air Station.

(2) CONTENT.—The plan required under paragraph (1) shall include—

(A) A description of the projects that are needed to improve the infrastructure required for supporting current and projected missions associated with Cheyenne Mountain Air Station; and

(B) a funding plan explaining the expected timetable for the Air Force to support such projects.

SA 2943. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1044. REPORT ON WORKFORCE REQUIRED TO SUPPORT THE NUCLEAR MISSIONS OF THE NAVY AND THE DEPARTMENT OF ENERGY.

(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Energy shall each submit to Congress a report on the requirements for a workforce to support the nuclear missions of the Navy and the Department of Energy during the 10-year period beginning on the date of the report.

(b) ELEMENTS.—The report shall address anticipated changes to the nuclear missions of the Navy and the Department of Energy during the 10-year period beginning on the date of the report, anticipated workforce attrition, and retirement, and recruiting trends during that period and knowledge retention programs within the Department of Defense, the Department of Energy, the national laboratories, and federally funded research facilities.

SA 2944. Mrs. CLINTON (for herself, Mr. KERRY, Mr. LAUTENBERG, Mr. BROWN, and Mr. BYRD) submitted an amendment intended to be proposed by her to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title XV, add the following:

SEC. 1535. REPORT ON CONTINGENCY PLANNING FOR THE REDEPLOYMENT OF UNITED STATES FORCES FROM IRAQ.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States Government should be well prepared for the eventual redeployment of United States forces from Iraq.

(2) The redeployment of United States forces from Iraq will take careful planning in order to ensure the safety and security of members of the Armed Forces.

(3) The United States Government should take into account various contingencies that might impact the redeployment of United States forces from Iraq.

(4) Congressional oversight plays a valuable role in ensuring the national security of the United States and the safety and security of the men and women of the Armed Forces.

(b) REPORT REQUIRED.—Not later than 45 days after the date of the enactment of this Act, the Secretary of Defense shall, in coordination with the Secretary of State and the Joint Chiefs of Staff, submit to Congress a report on contingency planning for the redeployment of United States forces from Iraq.

(c) ELEMENTS.—

(1) IN GENERAL.—The report required by subsection (b) shall include the following:

(A) A detailed description of the process by which contingency planning by the United States Government for the redeployment of United States forces from Iraq is occurring.

(B) A detailed description and assessment of the various contingencies for the redeployment of United States forces from Iraq that are being considered for planning purposes.

(C) A detailed description and assessment of the possible impact of each contingency described in subparagraph (B) on United States forces in Iraq.

(D) A detailed description of the resources and capabilities required to redeploy United States forces from Iraq under each of the contingencies described in subparagraph (B).

(E) A detailed description of the diplomatic efforts that will be required in support of each contingency described in subparagraph (B).

(F) A detailed description of the information operations and public affairs efforts that will be required in support of each contingency described in subparagraph (B).

(G) A detailed description of the evolving mission profile of United States forces under each contingency described in subparagraph (B).

(H) A cost estimate for each contingency described in subparagraph (B), including a cost estimate for the replacement of United States military equipment left in Iraq after redeployment.

(I) A detailed description of the results of any modeling and simulation efforts by the departments and agencies of the United States Government on each contingency described in subparagraph (B).

(2) CERTAIN SCENARIOS.—The report shall include contingency planning for each of the scenarios as follows:

(A) The commencement of the reduction of the number of United States forces in Iraq not later than 120 days after the date of the enactment of this Act.

(B) The transition of the United States military mission in Iraq to—

(i) training Iraqi security forces;

(ii) conducting targeted counter-terrorism operations; and

(iii) protecting United States facilities and personnel.

(C) The completion of the transition of United States forces to a limited presence and missions in Iraq as described in subparagraph (B) not later than April 30, 2008.

(d) FORM.—The report required by subsection (b) shall be submitted in classified form, but shall include an unclassified summary.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. OBAMA. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on September 19, 2007, at 10 a.m., to mark up H.R. 835, the Hawaiian Homeownership Opportunity Act of 2007; S. 1518, the Community Partnership to End Homelessness Act of 2007; and an original bill entitled the FHA Modernization Act of 2007.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. OBAMA. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 19, 2007, at 9:30 a.m., to hold a nomination hearing.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. OBAMA. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 19, 2007, at 3 p.m., to hold a hearing on protecting natural treasures through international organizations.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. OBAMA. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, September 19, 2007, at 9:30 a.m., in room 628 of the Dirksen Senate Office Building to conduct a hearing on the process of Federal recognition of Indian tribes.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. OBAMA. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, September 19, 2007, at 9:30 a.m., to conduct a hearing on S. 1905, the Regional Presidential Primary and Caucus Act of 2007, to provide for a rotating schedule for regional selection of delegates to a national nominating convention, and for other purposes.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. OBAMA. Mr. President, I ask unanimous consent for the Committee on Veterans' Affairs to be authorized to meet during the session of the Senate on Wednesday, September 19, 2007, in order to conduct an oversight hearing on information technology within the Department of Veterans Affairs. The Committee will meet in Dirksen 562, at 9:30 a.m.

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

JOINT ECONOMIC COMMITTEE

Mr. OBAMA. Mr. President, I ask unanimous consent that the Joint Economic Committee be authorized to conduct a hearing entitled, ''Evolution of an Economic Crisis?: The Subprime Lending Disaster and the Threat to the Broader Economy'', in Room 216 of the Hart Senate Office Building, on Wednesday, September 19, 2007, from 9:30 a.m. to 1 p.m.

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

SPECIAL COMMITTEE ON AGING

Mr. OBAMA. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on, Wednesday, September 19, 2007, from 10:30 a.m.–12:30 p.m., in room SD–106 of the Dirksen Senate Office Building for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON HUMAN RIGHTS AND THE LAW

Mr. OBAMA. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary, Subcommittee on Human Rights and the Law, be authorized to conduct a hearing entitled ''The 'Material Support' Bar: Denying Refuge to the Persecuted?'' on Wednesday, September 19, 2007 at 2:30 p.m., in the Dirksen Senate Office Building room 226.

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

SUBCOMMITTEE ON TRANSPORTATION SAFETY, INFRASTRUCTURE SECURITY, AND WATER QUALITY

Mr. OBAMA. Mr. President, I ask unanimous consent that the Subcommittee on Transportation Safety, Infrastructure Security, and Water Quality be authorized to meet during the session of the Senate on Wednesday, September 19, 2007, at 10 a.m., in room 406 of the Dirksen Senate Office Building in order to conduct a hearing entitled, ''Meeting America's Wastewater Infrastructure Needs in the 21st Century.''

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

PRIVILEGES OF THE FLOOR

Mr. DORGAN. Madam President, I ask unanimous consent that Deron Waldron be permitted floor privileges for this debate.

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

TO PROVIDE SEPARATION PAY FOR HOST COUNTRY RESIDENT PERSONAL SERVICES CONTRACTORS OF THE PEACE CORPS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3528, received from the House and at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3528) to provide authority to the Peace Corps to provide separation pay for host country resident personal services contractors of the Peace Corps.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. Mr. President, I ask unanimous consent that the bill be read a third time, passed, the motion to reconsider be laid on the table, and that any statements be printed in the RECORD without further intervening action or debate.

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

The bill (H.R. 3528) was ordered to be read a third time, was read the third time and passed.

HONORING GENERAL GEORGE SEARS GREENE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 322, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 322) honoring the lifetime achievements of General George Sears Greene on the occasion of the 100th anniversary of the rededication of the monument in his honor.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REED. Mr. President, I have submitted this resolution with my colleagues, Senator WHITEHOUSE and Senator CLINTON, to honor the life and accomplishments of George Sears Greene, the distinguished general from Rhode Island who helped lead the Union to victory at the Battle of Gettysburg.

General Greene was born and raised in Apponaug, RI before moving to pursue work in New York. At the age of 18, he was appointed to the United States Military Academy at West Point and excelled in his studies there, graduating second in his class.

After resigning his commission in the Army in 1836, Greene went on to become a founder of the American Society of Civil Engineers and Architects. As an engineer, Greene designed projects throughout the United States including a reservoir in Manhattan's Central Park and municipal water and sewage systems for several cities, including Providence.

But General Greene is perhaps best known for his heroism at Gettysburg. Greene returned voluntarily to the defense of the Nation at the age of 60, when the governor of New York appointed him colonel of the New York 60th Infantry regiment. At Gettysburg, General Greene led the 3rd Brigade of New York at Culp's Hill. His regiment's defense of the Union army's right flank helped secure victory for the Nation at that decisive battle.

General Greene's memory will be honored this Saturday at the 100th anniversary rededication ceremony of his monument on Culp's Hill. I ask that you join Senators WHITEHOUSE, CLINTON and me in recognizing his exemplary public service.

Mr. DURBIN. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid on the table, en bloc, and any statements be printed in the RECORD.

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

The resolution (S. Res. 322) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 322

Whereas George Sears Greene was one of 9 children born to Caleb and Sarah Robinson Wicks Greene in Apponaug, Rhode Island, attended grammar school in Warwick, Rhode Island, and moved to New York as a teenager;

Whereas Greene attended the United States Military Academy at West Point, where he graduated 2nd in his class in 1823;

Whereas Greene entered the Army as a 2nd lieutenant in the 3rd United States Artillery regiment, and, due to his superb scholarship, was appointed to teach mathematics at the Military Academy following his graduation;

Whereas, after resigning his commission in the Army in 1836, Greene worked as a civil engineer, became a founder of the American Society of Civil Engineers and Architects, and constructed railroads and canals in several states and designed aqueducts and municipal sewage and water systems for New York, Providence, and several other cities;

Whereas, at the outset of the Civil War, Greene returned to the defense of the Nation and, at the age of 60, was appointed colonel of the 60th New York Infantry regiment;

Whereas, on April 28, 1862, Greene was promoted to Brigadier General, United States Volunteers;

Whereas, on July 2, 1863, on the 2nd day of the Battle of Gettysburg, Greene led the 3rd Brigade of New Yorkers on Culp's Hill, and his regiment's defense of the Union right flank at Culp's during the battle was a contributing factor in the Union's victory;

Whereas Greene passed away at the age of 97 in 1899 and, in 1907, a monument on Culp's Hill was erected in Greene's honor; and

Whereas the General George Sears Greene monument will be rededicated on September 22, 2007: Now, therefore, be it

Resolved, That the Senate, in honor of the 100th anniversary rededication of the General George Sears Greene monument at Gettysburg, Pennsylvania, commends the lifetime achievements of General Greene, his commitment to public service, and his decisive and heroic defense of Culp's Hill in the crucial Battle of Gettysburg.

MEASURE READ THE FIRST TIME—S. 2070

Mr. DURBIN. Mr. President, I understand there is a bill at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title for the first time.

The assistant legislative clerk read as follows:

A bill (S. 2070) to prevent Government shutdowns.

Mr. DURBIN. I now ask for a second reading, and in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will be read for its second time on the next legislative day.

ORDERS FOR THURSDAY, SEPTEMBER 20, 2007

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m., Thursday, September 20; that on Thursday, following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders reserved for their use later in the day; that there be a period of morning business until 10:30 a.m., with the time equally divided and controlled between the two sides, the majority controlling the first half and the Republicans controlling the final half; that at 10:30 a.m., the Senate then resume consideration of H.R. 1585, the Department of Defense Authorization Act.

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

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DURBIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 7:29 p.m., adjourned until Thursday, September 20, 2007, at 9:30 a.m.

EXTENSIONS OF REMARKS

A TRIBUTE TO JIRAIR S. HOVNANIAN

HON. ROBERT E. ANDREWS
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. ANDREWS. Madam Speaker, I rise today to honor Jirair S. Hovnanian, a successful family and businessman who started a construction company in New Jersey over 40 years ago.

Mr. Hovnanian is a graduate of the University of Pennsylvania's Wharton School in 1952, after emigrating from Kirkuk, Iraq. His company, J.S. Hovnanian & Sons, built more than 6,000 homes, mainly in Burlington, Camden, and Gloucester counties. To his family he was known as a generous nurturer, who pursued the American dream. Mr. Hovnanian started his company in 1964 after splitting with a company he started with his three brothers. In recognition of his success, the National Ethnic Coalition of Organizations presented Mr. Hovnanian with the Ellis Island Medal of Honor in 2006 for his numerous contributions to the country.

Mr. Hovnanian's life of service is worthy of admiration, and in addition to being a constituent and colleague, I am proud to call Mr. Hovnanian a friend. Madam Speaker, I commend Mr. Hovnanian today for all that he has done for the First Congressional District of New Jersey and our country.

ON THE FAIR HOME HEALTH CARE ACT OF 2007

HON. LYNN C. WOOLSEY
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Ms. WOOLSEY. Madam Speaker, on June 11 of this year, the Supreme Court decided the case of Long Island Care at Home Ltd. v. Coke. It held that home health care workers employed by third-party agencies are not eligible for the overtime and minimum wage protections provided under the Fair Labor Standards Act (FLSA). At issue in the Coke case was a narrow exemption to the FLSA created in 1974 for ''companionship services'' for babysitters and caretakers for seniors and the disabled.

In 1974, when the exemption was enacted, homecare, like babysitting, was largely provided by family and friends. Today we live in a different world, and caregiving is one of the fastest growing industries in the United States. Today about 2.4 million workers are employed by nursing homes, home health care agencies, assisted living, and other residential facilities.

Low wages and high turnover contribute to the shortage of workers in this fast-growing field. In 2003, direct-care workers earned an average of $9.20 per hour, significantly less than the average U.S. wage of $13.53 for all workers. Nearly 20 percent of all direct-care workers earn annual incomes below the poverty level, and they are twice as likely as other workers to receive food stamps and to lack health insurance. In addition, most home health care workers are minority women, likely to be single heads of households.

When Congress created this exemption, it never intended to exclude those workers who were ''regular breadwinners,'' and there is substantial evidence that the exemption was directed to only ''casual basis'' workers.

The ''Fair Home Health Care Act is a narrow bill clarifying that home health care workers are entitled to labor protections under the FLSA so long as they are not employed on a ''casual basis.''

These workers provide valuable services to our Nation's older Americans and people with disabilities and help them maintain their independence. Currently, 1.3 million Americans require long-term assistance in their home, and this need is expected to double as baby boomers age. Providing workers with FLSA wage protections will not only provide them with a living wage but will help attract workers to this rapidly growing occupation.

INTRODUCTION OF THE VOTER PROTECTION ACT

HON. RON PAUL
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. PAUL. Mr. Speaker, I rise to introduce the Voter Protection Act. Unlike most so-called ''campaign reform'' proposals, the Voter Protection Act enhances fundamental liberties and expands the exchange of political ideas. The Voter Protection Act accomplishes this goal by lowering and standardizing the requirements for, and the time required to get, signatures to qualify a Federal candidate for the ballot. Many states have unfair rules and regulations that make it virtually impossible for minor party and independent candidates to get on the ballot.

I want to make 4 points about this bill. First, it is constitutional. Article I, section 4, explicitly authorizes the U.S. Congress to, ''At any time by law make or alter such regulations regarding the manner of holding elections.'' This is the authority that was used for the Voter Rights Act of 1965.

The second point I would like to make is an issue of fairness. Because so many states require independent candidates to collect an excessive amount of signatures in a short period of time, many individuals are excluded from the ballot. For instance, there has not been one minor party candidate in a regularly scheduled election for the U.S. House of Representatives on the Georgia ballot since 1943, because of Georgia's overly strict ballot access requirements. This is unfair. The Voter Protection Act corrects this.

My third point addresses those who worry about overcrowding on the ballot. In fact, there have been statistical studies made of states that have minimal signature requirements and generous grants of time to collect the signatures. Instead of overcrowding, these states have an average of 3.3 candidates per ballot.

The fourth point that I would like to make is that complying with ballot access rules drains resources from even those minor party candidates able to comply with these onerous rules. This obviously limits the ability of minor party candidates to communicate their message and ideas to the general public. Perhaps the ballot access laws are one reason why voter turnout has been declining over the past few decades. After all, almost 42 percent of eligible voters have either not registered to vote or registered as something other than Democrat or Republican.

The Voter Protection Act is a constitutional way to reform campaign laws to increase voter participation by making the election process fairer and open to new candidates and ideas. I hope all my colleagues will join me in supporting this true campaign reform bill.

IN HONOR OF ANGELICA BERRIE, FOUNDING MEMBER OF THE BOARD OF DIRECTORS FOR THE ADLER APHASIA CENTER

HON. SCOTT GARRETT
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. GARRETT of New Jersey. Madam Speaker, I rise to join the more than 20,000 families in the New York-New Jersey metropolitan area that have been impacted by aphasia, an isolating loss of words, but not intelligence, that often follows stroke or brain injury, in paying tribute to their very own angel, Angelica Berrie.

Angelica is a founding member of the Board of Directors of the Adler Aphasia Center, opened in 2003 in Maywood, New Jersey to provide education, training, advocacy, and research hope to those suffering from aphasia. Since then she has been an active member of the Board. Angelica is also a driving force behind a number of other charitable organizations: the Board Chair for Gilda's Club Worldwide, a free cancer support community; Board Chair for the Center for Inter-Religious Understanding; and a Board member of American Friends of Shalom Hartman Institute in Jerusalem. She formerly was a Board member of the Arnold P. Gold Foundation for Humanism in Medicine and a former member of Columbia's College of Physicians and Surgeons' Diabetes Advisory Committee. Her well-rounded pursuits bring hope and help to so many people in North Jersey and, indeed, around the world.

Her late husband, Russ, founded the world renowned gift company, Russ Berrie and Company. His philanthropic gifts live on

through the Russell Berrie Foundation, which Angelica serves as President. Amongst its many accomplishments, the Foundation has created the Naomi Berrie Diabetes Center at New York Presbyterian Hospital, the Berrie Fellows Program for community leadership, the Berrie Humanistic Care Center at Englewood Hospital, and the Berrie Performing Arts Center at Ramapo College.

Angelica has been a generous benefactor, a compassionate voice, and a dedicated advocate for so many. In her lifetime, she has touched a million lives in overwhelmingly positive ways. Tonight the Adler Aphasia Center is honoring Angelica Berrie for her service to her fellow man, and I join them in commending her for giving so much of herself to make the world around her a better place.

A TRIBUTE TO JIMMY FIFIS

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. ANDREWS. Madam Speaker, I rise today to honor Jimmy Fifis, a family man and successful business owner of Ponzio's Restaurant in Cherry Hill. Mr. Fifis recently passed away and his restaurant, Ponzio's, was widely regarded as a Southern New Jersey dining tradition.

Born on the Greek Island of Andros in 1939, Mr. Fifis immigrated to Southern New Jersey in 1966. He began as a dishwasher in a restaurant owned by his two brothers and rose through the ranks to become the owner and operator of Ponzio's. Mr. Fifis has three sons who currently run the family business, which serves 10 to 12 thousand loyal customers per week. Mr. Fifis was loved and respected by all of his employees for his willingness to do any task, whether it was peeling potatoes or managing the restaurant.

Madam Speaker, I commend Mr. Fifis today for all he has done for The First Congressional District of New Jersey and our country. Mr. Fifis's presence will surely be missed at Ponzio's and throughout the entire Southern New Jersey community. In addition to being a constituent, I am proud to call Mr. Fifis a friend.

EXPANDING AMERICAN HOMEOWNERSHIP ACT OF 2007

SPEECH OF

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 2007

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1852) to modernize and update the National Housing Act and enable the Federal Housing Administration to use risk-based pricing to more effectively reach underserved borrowers, and for other purposes:

Ms. WOOLSEY. Madam Chairman, I rise today in support of this bill, which will help hundreds of thousands of families realize the American Dream of homeownership. This bill helps protect those vulnerable to unscrupulous subprime lending, and helps those who are currently struggling to make their payments by refinancing their loans at a more affordable rate.

It is not right for anyone to be struggling to meet his or her mortgage payments due to the unfair lending practices of predatory lenders. Putting lower-income families on the path to homeownership helps them become more financially solvent, and helps them have more of a stake in the health of their community. Homeownership leads to healthy families, healthy communities, and rosier financial situations for all.

I also applaud the passage of an amendment introduced by Chairman FRANK that will help more families, in my district specifically, afford homes. This amendment raises the Federal Housing Administration's single-family loan limits so that lower-income families are not barred from buying homes in the higher-cost markets where they may work. Why should a firefighter who works in my district be forced to commute a long way to her or his home instead of buying an affordable home near the fire station? This amendment will allow potential residents of high-price home markets to afford homes.

This is a good bill that will help America's families in numerous ways. I thank my colleague MAXINE WATERS for introducing it and look forward to benefits it will bring to the hard-working families in my district.

INTRODUCING THE TELEVISION CONSUMER FREEDOM ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. PAUL. Madam Speaker, I rise to introduce the Television Consumer Freedom Act, legislation repealing regulations that interfere with a consumer's ability to obtain desired television programming. The Television Consumer Freedom Act also repeals federal regulations that would increase the cost of a television.

My office has received numerous calls from rural satellite and cable TV customers who are upset because their satellite or cable service providers have informed them that they will lose access to certain network and cable programming. The reason my constituents cannot obtain their desired satellite and cable services is that the satellite and cable ''marketplace'' is fraught with government interventionism at every level. Local governments have historically granted cable companies franchises of monopoly privilege. Government has previously intervened to invalidate ''exclusive dealings'' contracts between private parties, namely cable service providers and program creators, and has most recently imposed price controls. The Library of Congress has even been delegated the power to determine prices at which program suppliers must make their programs available to cable and satellite programming service providers.

It is, of course, within the constitutionally enumerated powers of Congress to ''promote the progress of Science and Useful Arts by securing for limited Times to Authors and Inventors the Exclusive Right to their respective Writings and Discoveries.'' However, operating a clearing-house for the subsequent transfer of such property rights in the name of setting a just price or ''instilling competition'' via ''central planning'' seems to be neither economically prudent nor justifiable under this enumerated power. This process is one best reserved to the competitive marketplace.

It is impossible for the government to set the just price for satellite programming. Overregulation of the cable industry has resulted in competition among service providers for government privilege rather than free market competition among providers to offer a better product at a lower price. While federal regulation does leave satellite programming service providers free to bypass the governmental royalty distribution scheme and negotiate directly with owners of programming for program rights, there is a federal prohibition on satellite service providers making local network affiliates' programs available to nearby satellite subscribers. This bill repeals that federal prohibition so satellite service providers may freely negotiate with program owners for programming desired by satellite service subscribers. Technology is now available by which viewers could view network programs via satellite as presented by their nearest network affiliate. This market-generated technology will remove a major stumbling block to negotiations that should currently be taking place between network program owners and satellite service providers.

This bill also repeals Federal laws that force cable companies to carry certain programs. These Federal ''must carry'' mandates deny cable companies the ability to provide the programming their customers' desire. Decisions about what programming to carryon a cable system should be made by consumers, not Federal bureaucrats.

The Television Consumer Freedom Act also repeals Federal regulations that mandate that all TVs sold in the United States contain ''digital technology.'' In complete disregard of all free market and constitutional principles, the FCC actually plans to forbid consumers from buying TVs, after 2006, that are not equipped to carry digital broadcasts. According to economist Stephen Moore, this could raise the price of a TV by as much as $250 dollars. While some television manufacturers and broadcasters may believe they will benefit from this government-imposed price increase, they will actually lose business as consumers refrain from purchasing new TVs because of the government-mandated price increase.

Madam Speaker, the Federal Government should not interfere with a consumer's ability to purchase services such as satellite or cable television in the free market. I therefore urge my colleagues to take a step toward restoring freedom by cosponsoring my Television Consumer Freedom Act.

HONORING ART DONOVAN

HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. RUPPERSBERGER. Madam Speaker, I rise before you today to honor Art Donovan, a member of the National Football League Hall of Fame and American sports hero.

Art Donovan, Jr., was born in the Bronx, New York, on June 5, 1925. He first played

football at Mount St. Michael's High School in the Bronx. The son of a famed boxing referee Arthur Donovan, Sr., who supervised many of professional boxing's Joe Louis's matches, Donovan postponed completing his education and served as an aircraft gunner on the USS *San Jacinto* during World War II, participating in actions in the Pacific Theater.

Art joined professional football as a rookie defensive tackle in 1950 for the Baltimore Colts at the age of 26. The early Colts franchise folded after one season, and Art joined the New York Yanks in 1951, played for the Dallas Texans in 1952 and finally joined the next Colts franchise in 1953. Art became a hugely popular player and was considered one of the best defensive tackles in league history. He was an All-NFL selection five times and played in five Pro Bowls and the world championship for two years. The first Colts player elected to the Pro Football Hall of Fame, Donovan played 12 seasons in the National Football League.

Donovan's Baltimore Colts jersey No. 70 was retired by the team in 1962 and he was elected to the Football Hall of Fame in 1968. Donovan is presently the owner of the Valley Country Club in Baltimore, where my parents were original members. Since 1955, the club has been owned and managed by Art Donovan, his wife, Dorothy, and his family. In 1987, he published his memoir, titled Fatso, and has been a frequent and popular guest on talk shows such as the David Letterman Show.

Art has been a friend to me and the entire Ruppersberger family for many years. After Baltimore Colts football games, I enjoyed going to Valley Country Club and talking football with Art and other Colts players. He would delight us with stories of the Baltimore Colts' championship teams of 1958 and 1959 which featured Hall of Fame defensive end Gino Marchetti, Don Joyce, ''Big Daddy'' Lipscomb, and Donovan. His sharp wit, contagious laughter, and wonderful stories made all of us his friends. I was amazed at how many Salami sandwiches and kosher hot dogs he could eat in one setting and wash it down with a Schlitz beer. Art played football with his friend George Young, who was my football coach at City College in Baltimore and later went on to become general manager of the New York Giants.

Madam Speaker, I ask that you join with me today to honor Arthur Donovan, Jr. It has been a great honor for me to call Art my friend. He is a true American sports hero in Maryland, the United States of America, and around the world.

HONORING JUDGE JOSEPH H. RODRIGUEZ

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. ANDREWS. Madam Speaker, I rise today to recognize the Honorable Joseph H. Rodriguez for winning the 2007 Judge John F. Gerry Award. The Camden County Bar Association marks Judge Gerry's life for his outstanding humanitarian spirit and integrity, in which Mr. Rodriguez greatly exemplifies.

The Honorable Joseph H. Rodriguez is a Senior Judge of the United States District Court for the District of New Jersey. He is currently a member of the board of trustees for LaSalle University. In addition, he has been a lecturer for the past 37 years for the Professional Trial Lawyers Seminar. He has been distinguished in an impressive amount of honorary doctor of law degrees from St. Peter's College, 1972; Rutgers University, 1974; Seton Hall University, 1974; Montclair State College, 1985; and Kean College, 1985. Furthermore, for ''Distinguished Service in the Cause of Justice,'' Judge Rodriguez received the Trial Bar Award in 1981 from the Trial Attorneys of New Jersey. In 1985, he accepted the Karen Ann Quinlan Center of Hope Award, ''Friend of Hospice.'' His Honor was named ''Man of the Year'' in 1992 from the National Hispanic Bar Association. The Camden County Bar Association has previously bestowed another award upon him, the ''Peter J. Devine Award'' in 1992. Judge Rodriguez was also the recipient of the ''Spirit of Edison'' Award in 1997 from Thomas Edison State College. The ''Medal of Honor Award'' was awarded to him in 1999 from the New Jersey State Bar Foundation. That same year, the Association of Federal Bar of State of New Jersey awarded this astounding individual the ''William J. Brennan Jr. Award.'' Recently, in 2001, Judge Rodriguez was named Knight by Order of St. Gregory the Great in receiving the ''St. Thomas More Society Award.''

Madam Speaker, I commend the Honorable Joseph H. Rodriguez. His dedication and selfless public service to the first district of New Jersey is greatly treasured and respected. I want to sincerely thank Mr. Rodriguez and wish Judge Rodriguez the best in all his future endeavors.

TRIBUTE TO DR. JANE ADAMS SPAHR

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Ms. WOOLSEY. Madam Speaker, I rise today to honor Rev. Dr. Jane Adams Spahr, a Presbyterian minister committed to justice for the lesbian, gay, bisexual and transgender community. A self-described lesbian and feminist, Janie is retiring after 33 years.

Born in Pittsburgh, PA, with her twin sister Joanie to Chet and Susanna Adams, Janie was ordained a Presbyterian minister in December 1974, to the Hazelwood Presbyterian Church in Pittsburgh. From 1975 to 1979 she served as assistant pastor of First Presbyterian in San Rafael, CA, and in 1979–1980 was the executive director of Oakland Council of Presbyterian Churches where she was encouraged to resign after coming out as a lesbian.

Janie began her ''out'' liberation work with and for LGBT people as the minister of pastoral care in the Castro area of Metropolitan Community Church in San Francisco from 1980 to 1982. In 1982, this ''lesbyterian'' founded the Ministry of Light, which later became the Spectrum Center for Lesbian, Gay, Bisexual and Transgender Concerns. She served for 10 years as the executive director of Spectrum.

In 1991, Rev. Spahr was called to serve as a copastor at the Downtown United Presbyterian Church in Rochester, NY, marking the first time a Presbyterian Church had chosen an ''out'' pastor. The call, however, was challenged, and the Judicial Commission of the Presbyterian Church refused to allow Rev. Spahr to assume the coposition. In response to the ruling Janie was hired by the Downtown United Presbyterian Church and the Westminster Presbyterian Church in Tiburon, CA, who formed the ''That All May Freely Serve'' project. She was employed to work within the denomination to end discrimination and increase inclusiveness for all people.

In 2006, Rev. Spahr made national headlines when the Commission of the Presbytery of the Redwoods ruled she acted within her ''right of conscience'' as a Christian when she performed commitment ceremonies for two lesbian couples. The Presbyterian Church's highest court ruled in 2000 that ministers could ''bless'' same-sex unions but not preside over them or call them marriages. Janie challenged the church's constitution and won a victory for justice and inclusion, but the battle is not yet over as the Prosecuting Committee has filed an appeal.

During her undergraduate years at Penn State, Jane met Jim Spahr whom she later married and had two sons, Jim and Chet. Jim now fondly refers to Janie as his ''wife emerita'' and the ''sister-in-love'' of Jackie Spahr, Jim's partner, and Bill Fenton, her sister Joanie's partner.

Madam Speaker, it is my pleasure to honor Rev. Dr. Jane Adams Spahr whose courageous passion for justice and inclusion for LGBT people has left a legacy that is paving the way to a better future. Rev. Spahr has touched so many lives as a minister, and though she is retiring she will remain a mentor and role model to all.

HONORING THE LIFE OF DR. JAMES ROSS

HON. MICHAEL H. MICHAUD

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. MICHAUD. Madam Speaker, I rise today in commemoration of the life of Dr. James Ross of Houlton, ME.

As a distinguished senior member of Family Health International, FHI, Dr. Ross made substantial contributions toward the global fight against HIV and AIDS.

During his time at FHI, Dr. Ross became a mentor to many, and a benefactor to many more.

Before becoming FHI's senior director of Global Operations for the Asia-Pacific Region, Dr. Ross had served as a country program director for nations in both Africa and Asia.

My sincere condolences go to his wife, Cheryl, his son, Benjamin James, and all of those who have also been personally touched by Dr. Ross's life and work.

While he is no longer with us, his memory and his contributions live on. It is with the utmost gratitude that I salute Dr. Ross.

The citizens of the State of Maine, the United States of America and individuals across the globe are extremely fortunate to have had such a wonderful friend and advocate.

EXPANDING AMERICAN HOMEOWNERSHIP ACT OF 2007

SPEECH OF

HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 2007

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1852) to modernize and update the National Housing Act and enable the Federal Housing Administration to use risk-based pricing to more effectively reach underserved borrowers, and for other purposes:

Mr. HINOJOSA. Madam Chairman, today the House passed H.R. 1852, the "Expanding American Homeownership Act of 2007." I am in favor of the bill and am submitting the following letters in support of the legislation for the RECORD: A letter from the National Association of Realtors; a letter from the Mortgage Bankers Association; and a letter from the National Association of Mortgage Brokers.

NATIONAL ASSOCIATION OF REALTORS,
Washington, DC, September 14, 2007.

HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVE: On behalf of the 1.3 million members of the National Association of REALTORS, I urge you to support H.R. 1852, the ''Expanding American Homeownership Act of 2007'', when the bill is considered by the full House. This is an important measure that will allow FHA to function in the 21st century. Equally important and worthy of your strongest support is an amendment to be offered by Representatives Barney Frank (D–MA), Gary Miller (R–CA) and Dennis Cardoza (D–CA) that is vital to improving the stability of mortgage markets, a critical component of our national economy.

The Frank/Miller/Cardoza amendment would increase the Federal Housing Administration (FHA) loan limits beyond the language originally included in H.R. 1852. Such an increase is now needed in light of the significant housing and mortgage market turmoil that has severely limited the ability of families to refinance a problematic existing loan or, alternatively, purchase a home in a high cost market with a safe and affordable mortgage.

As you well know, many American homeowners now have mortgages with payments that will soon increase dramatically, putting them at risk of foreclosure. Raising the FHA loan limits will provide many of these homeowners living in the nation's high housing cost markets with a safe FHA loan alternative. In addition, with the even more recent tightening of the jumbo market, many homebuyers may not be able to find a safe, affordable financing option without an increase in the FHA loan limits.

Although the underlying bill would increase the loan limits, we strongly believe that the Frank/Miller/Cardoza amendment is needed to effect real change. H.R. 1852 creates a new loan ceiling of $417,000. Many markets are significantly higher than this limit. Median home prices of communities in New York, New Jersey, Connecticut, California, Massachusetts, and Pennsylvania are already far above this limit. The Frank/Miller/Cardoza amendment creates geographic fairness by raising the loan limit to 125% of the area median home price. Under the amendment working families in Newark, NJ can buy a home for $512,000, and families in Los Angeles, CA can buy homes for $650,000—both median price homes for their area.

FHA reform is needed now, more than ever. Please vote for H.R. 1852 and the Frank/Miller/Cardoza amendment when these measures come to the Floor.

Thank you,

PAT V. COMBS,
2007 President,
National Association of Realtors.

MORTGAGE BANKERS ASSOCIATION,
Washington, DC, September 17, 2007.

Hon. STENY H. HOYER,
Majority Leader, House of Representatives, Washington, DC.

Hon. JOHN A. BOEHNER,
Republican Leader, House of Representatives, Washington, DC.

DEAR LEADER HOYER AND LEADER BOEHNER: On behalf of the Mortgage Bankers Association (MBA), I am writing to express our strong support for H.R. 1852, the Expanding American Homeownership Act of 2007, and strongly urge Members of the House of Representatives to support the legislation when it comes to the House floor. At the same time, MBA is also concerned about a provision that would liberalize the requirements for mortgage broker participation in FHA, as well as certain amendments that may be offered. Passage of a strong and workable FHA bill is critical in addressing the current market situation and consumer needs.

H.R. 1852, introduced by Representative Maxine Waters, passed the Committee on Financial Services by a bipartisan vote of 45–19 on May 3, 2007. The legislation has been under consideration for several years now, and similar legislation passed the House of Representatives in 2006 by a vote of 415–7.

The Expanding American Homeownership Act of 2007 would achieve several key public policy goals. The bill will make it easier for first-time homebuyers and lower-income Americans to purchase a home by modernizing the Federal Housing Administration (FHA) and giving it the ability to offer viable products in today's changing mortgage market. The bill ensures investment in FHA's personnel and technology, bringing this important mortgage insurer into the 21st century.

The bill would increase FHA's loan limits, allowing FHA-insured lending in states and communities where today's housing prices make FHA mortgage products unavailable to borrowers. The bill also gives FHA's management additional flexibility to offer new mortgage products without getting Congress' blessing each time. Since FHA's programs actually generate more funds for the U.S. Treasury than it pays out in claims and administrative costs, the bill would establish that a portion of the excess funds be put aside for new affordable housing production through an affordable housing trust fund, which we support.

Since this bill last passed the House in 2006, we have seen significant disruptions in the nation's housing market. In particular, many homeowners are finding themselves in distress, unable to pay their adjustable rate mortgages after interest rates have steadily increased and home values have declined in some areas. FHA can be an important tool to help these consumers get out of financial trouble. If this bill should become law, many more borrowers will be able to use FHA's products to avoid foreclosure.

A significant area of concern we continue to have with this legislation deals with how mortgage brokers will qualify to sell FHA-insured products. Under current guidelines, all mortgage brokers and loan correspondents must submit audited financial statements that are in accordance with the Government Accountability Office's Government Auditing Standards. HUD program managers, in turn, use these audits to determine if these entities use internal controls to provide reasonable assurance that FHA requirements are followed, expend federal funds properly with supporting documentation and meet fair housing and nondiscrimination requirements. At a time of rising defaults, it is critical to both FHA and its customers that adequate supervisory processes remain in place. In Committee, MBA opposed the bill's provisions that would eliminate this important audit requirement and thereby weaken the FHA's safety and soundness. We hope to continue to work with the Committee and the House on this issue as the bill moves through the legislative process.

We understand that a series of amendments to the legislation may be made in order. We believe that it would be unwise to require counseling for borrowers as provided for in an amendment filed by Representative Patrick Tiberi. First, it is expensive, and for many homebuyers, completely unnecessary. Second, many real estate agents and mortgage brokers will push homebuyers away from an FHA product if a home purchase could fall through because the potential buyer has to wait several weeks or more to arrange a counseling session. Counseling should be targeted to those who need it, and we believe the bill, as written, strikes the right balance in giving the HUD Secretary significant tools to help consumers get the counseling they need. The point of this bill is to empower FHA to make its products more useful to the market and borrowers. Mandating counseling would have the opposite effect.

Another possible amendment, expected to be offered by Financial Services Chairman Barney Frank, Representative Gary Miller and Representative Dennis Cardoza, would increase the FHA loan limit to a level above the GSE conforming loan limit in certain high-cost areas. We believe that FHA should continue to focus on helping low- and moderate-income borrowers purchase or refinance housing. Without further study on the impacts of such a change, we do not believe it would be wise to allow FHA loan limits to exceed GSE conforming loan limits.

Finally, an amendment may be proposed that would allow qualified downpayment assistance programs to continue if certain conditions are met. Downpayment assistance programs are an important part of the FHA program, but some changes are needed to avoid continued abuses. We believe that the changes made by Representative Gary Miller's amendment would mark a significant improvement in how these programs operate.

Thank you for the opportunity to share our views on this legislation. We urge Members of the House of Representatives to support this important legislation.

Sincerely,

JOHN M. ROBBINS, CMB,
MBA Chairman.

NATIONAL ASSOCIATION OF MORTGAGE BROKERS,
September 17, 2007.

DEAR REPRESENTATIVE: On Tuesday, the United States House of Representatives will vote on H.R. 1852, the ''Expanding American Homeownership Act of 2007'' introduced by Rep. Maxine Waters (D-CA) and House Financial Services Committee Chairman Barney Frank (D-MA). On behalf of the National Association of Mortgage Brokers (NAMB), its 49 state affiliates, 25,000 members/member companies, and hundreds of thousands of mortgage brokers, I respectfully urge you to support passage of this much-needed legislation to help the millions of Americans who are in need of safe and affordable mortgage products.

The need to reform and enhance the Federal Housing Administration (FHA) is critical so that it can respond adequately to the needs of consumers and the market today. H.R. 1852 includes provisions that will:

Strengthen the FHA program by raising FHA mortgage limits nationwide in all communities, but especially in high-cost areas where consumers are most often in need of affordable mortgage financing options;

Allow FHA to offer flexible down payment terms and simplify the down payment process to aid homebuyers in overcoming a significant barrier to homeownership;

Allow FHA to price loans according to a borrower's risk;

Update FHA's successful reverse mortgage program; and

Increase the availability of FHA loan products to first-time, minority and low- to moderate income homebuyers by expanding the distribution channels that serve FHA.

NAMB supports H.R. 1852 as approved by the House Financial Services Committee earlier this year, but also favors a further increase in the FHA loan limits as proposed by an amendment expected to be offered by Chairman Frank (D-MA) and Reps. Miller (R-CA) and Cardoza (D-CA). Unfortunately, because FHA has been driven from those parts of the country where consumers are most in need of affordable financing, such as California, millions of borrowers have been forced to turn to high-cost financing and other non-traditional loan products. I urge you to support the bi-partisan amendment offered that calls for a further increase in FHA loan limits from $417,000 to $500,000, in order to better accommodate those borrowers living in high-cost areas of the country.

NAMB believes the reforms contained in H.R. 1852 will provide long-overdue modernization to the FHA, which will revitalize and increase participation in the FHA program. Please take this opportunity to restore confidence and stability in the mortgage market and once again make FHA loans a real choice for borrowers by voting in support of H.R. 1852.

Sincerely,

GEORGE HANZIMANOLIS, CRMS,
President of NAMB.

PERSONAL EXPLANATION

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. ANDREWS. Madam Speaker, I was meeting with constituents and was detained from voting during Thursday, September 6, 2007. Had I been present I would have voted "yea" on the following rollcall vote: rollcall 876.

TRIBUTE TO THE TOWN OF SAN ANSELMO, CALIFORNIA

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Ms. WOOLSEY. Madam Speaker, I rise with pride today to invite you to join me in congratulating the Town of San Anselmo, California, on its official centennial.

This charming town in one of the most beautiful counties in California derived its name from the Mexican designation of the area as La Laguna y Cañada de Anselm, or the Waters and Valley of Anselm—after a Miwok Indian who was buried there. His tribe, the Coastal Miwoks, inhabited the land for thousands of years before Mexicans and Europeans arrived, surviving on the bounty of its creeks and forests.

Since the early 19th century when it was formally established as a land grant under the Mexican government, the town has served as a transportation hub for the area and an intersection between rural West Marin and the county's municipal centers to the east. To this day, in fact, downtown San Anselmo is still referred to as The Hub.

After California became the 31st of the United States of America, in 1850, the southern part of town including The Hub, was purchased from its Mexican owners by James Ross, whose descendents still live and work there. Since then, San Anselmo has grown to become everything that epitomizes small-town America—welcoming to strangers, benevolent to neighbors, supportive to businesses and education, and environmentally friendly to the habitat.

For example, when the Transcendental poet Ralph Waldo Emerson visited his niece in San Anselmo in 1871, he noticed of her husband's acreage that "Three or four wild deer still feed on his land, and now and then come near the house. The trees of his wood were almost all new to us—live-oak, madrona, redwood, and other pines than ours; and our garden flowers wild in all the fields." Even now, the wild deer still come to San Anselmo to feed in the gardens under the diverse arbors, verdant and prolific in what is one of Marin County's largest watersheds.

Indeed, San Anselmo retained its pastoral quality even after the North Pacific Coast Railroad laid rails through the town beginning in 1874. Already a transportation hub, the town went on the map as Junction, California. The coming of the industrial age did not, however, despoil the area's beauty.

But San Anselmo is not just another idyllic town. Since 1892, it has been the home of the San Francisco Theological Seminary, which is known because of its architecture as San Anselmo's "castle in the sky." With the establishment of this key Presbyterian institution, the town began to grow, and grew even more after the San Francisco earthquake of 1906, when refugees from the City's North Beach transplanted their homes to the hills around San Anselmo, planted grapevines and gave the neighborhood the nickname "Little Italy."

The next year, the town incorporated under the name Junction.

Another institution that establishes San Anselmo as more than just a pretty place is the Carnegie Library, built in 1915. A gift of Andrew Carnegie, the "patron saint of libraries," it is one of only 1,940 such libraries in the nation. Its Spanish revival style building still serves this town where more than 96 percent of the adult population have earned a high school diploma, and 60 percent have one or more college degrees.

With the opening of the Golden Gate Bridge in 1937, many of those who had previously come to San Anselmo only to escape the cold San Francisco summers decided to make the town their permanent home. Schools and churches replaced ranch and farm land, and by 1974, when it officially became the Town of San Anselmo, thousands of families called it home.

But San Anselmo is not just a propitious town for its residents. It welcomes visitors with equal neighborliness. In fact, Marin County newspaper readers recently chose San Anselmo as the "Best town other than your own." A town without a single shopping mall, San Anselmo has also been voted "Best in the West" by Sunset magazine for antiques, offered for sale in 130 boutiques that line the two main streets of this small town.

Despite the routine flooding of San Anselmo Creek, the weather in San Anselmo is "nearly perfect," says Connie Rodgers, president of the San Anselmo Chamber of Commerce. She adds that "You can't find a better place to live in the whole United States."

Indeed, where else can you find less than three square miles containing a castle, a creek, a series of world-class antique shops and five of the top 100 Bay Area restaurants?

Madam Speaker, I offer my congratulations to San Anselmo on its first 100 years and a wish for many happy returns of the occasion.

COMMEMORATING THE 25TH ANNIVERSARY OF THE VIETNAM VETERANS MEMORIAL

SPEECH OF

HON. DAVID LOEBSACK

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 2007

Mr. LOEBSACK. Mr. Speaker, I rise today in commemoration of the 25th anniversary of the Vietnam Veterans Memorial.

This memorial stands as one of the finest tributes to a generation of veterans our country has ever created.

No person who has visited the memorial has been left untouched by the experience. It is an eloquent statement of gratitude to a generation of men and women who wore our country's uniform during a time of angst and uncertainty.

As the memorial's designer, Maya Ying Lin, stated ". . . this memorial is for those who have died, and for us to remember them." The Wall of Names, with 58,249 names inscribed on its face, is truly a place where all Americans—regardless of background, age, and personal beliefs—are able to come together to honor and remember those who served.

Today, with this resolution, the House of Representatives once again pays tribute to those who served our Nation and remembers their sacrifice.

HONORING FATHER ROBERT DONLAN'S 40 YEARS OF SERVICE TO THE CATHOLIC CHURCH

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Ms. GINNY BROWN-WAITE of Florida. Madam Speaker, I rise today to honor the Reverend Robert R. Donlan, Pastor at St. Anthony Catholic Church in Brooksville, Florida, on the 40th anniversary of his ordination into the priesthood. For the past 40 years, Father Donlan has served the Catholic Church with honor and distinction, all in the name of Jesus Christ.

Born in Amsterdam, New York, Father Donlan has dedicated his life to serving the

Church. Earning his B.A. at Kilroe Seminary of the Sacred Heart in Honesdale, Pennsylvania, his Bachelor of Sacred Theology Degree from Sacred Heart Monastery in Hales Corners, Wisconsin, and his Masters in Religious Education from the University of Detroit, Father Donlan spent an early part of his career as Pastor of St. Margaret Mary Church in Detroit, Michigan. He then moved on to serve the Church in Mississippi and Florida, eventually moving to Brooksville, Florida where he has been Pastor at St. Anthony's Catholic Church in Brooksville for the past 14 years.

Father Donlan joined St. Anthony's Parish following service as the Parochial Administrator at St. Jerome Church in Indian Rocks Beach, Florida. Loved by his parishioners from throughout Hernando County, Father Donlan has fostered a spirit of unity throughout the Church with his good deeds and kind words. In fact, since his appointment 14 years ago, the number of registered families in the parish has grown to more than one thousand three hundred, including this member of Congress and her husband. Having listened to his homilies for many years, I can tell you that he preaches from the heart and speaks the true word of Jesus Christ.

In addition to his decades of service, Father Donlan has been very involved in local church and civic organizations. This volunteerism includes service as the Secretary and Treasurer of the Brooksville Ministerial Association for 10 years, the Vicar Forane of the Hernando Deanery of Catholic Churches, and volunteer efforts at area nursing homes and health care facilities.

For the past 40 years, Father Donlan has tended to the needs of his congregation. As a part of his ministry, he has gone above and beyond the call of duty to help his Church grow and prosper. One example of his devotion was the creation of a Wailing Wall in the Church. Designed after the original Western Wall of the old temple in Jerusalem, the wall is designed to receive petitions that are burned each month during the celebration of Mass.

Madam Speaker, Father Donlan's dedication to the Lord and to the Catholic Church has served as an inspiration to thousands throughout Hernando County. His ministry has touched the hearts of many, and the Church has continued to grow under his leadership. Father Donlan is to be commended for his years of service, his commitment to the Lord, and for serving the men and women who rely on his counsel and wisdom. Father Donlan is a shining example of the good that serving Jesus Christ can bring to our friends and families, and he is to be commended on the 40th anniversary of his ordination into the Catholic Church.

PERSONAL EXPLANATION

HON. CHRISTOPHER S. MURPHY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. MURPHY of Connecticut. Madam Speaker, on September 18, 2007, I inadvertently missed the vote on Passage of H.R. 1852, The Expanding American Homeownership Act of 2007, rollcall vote 876. It was my strong intention to vote "aye" on Passage.

PATENT REFORM ACT OF 2007

SPEECH OF

HON. RUSS CARNAHAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, September 7, 2007

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1908) to amend title 35, United States Code, to provide for patent reform:

Mr. CARNAHAN. Mr. Chairman, for purposes of the record, I would like to register my opposition to H.R. 1908, the Patent Reform Act of 2007.

I would like the record to further reflect that while I do support comprehensive patent reform, I cannot support legislation that so dramatically picks winners and losers.

My opposition to H.R. 1908, the Patent Reform Act of 2007, stems from concerns raised that this legislation could actually undermine the value of patents, as well as innovative work conducted by universities, biotech facilities, and other companies.

Many Missourians understand that research could be impeded by the passage of this bill.

Indeed, a growing number of researchers and businesses agree that greater protections need to be put in place, but not in a way that risks existing patents or denies access for judicial relief.

A strict one size fits all approach to this problem creates more problems than it cures, and puts companies in certain industries at an unfair disadvantage.

I hope that as this bill moves through the legislative process, the disadvantages placed on certain industries are remedied, and that we have a patent reform bill that protects all U.S. businesses.

PERSONAL EXPLANATION

HON. TIMOTHY V. JOHNSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. JOHNSON of Illinois. Madam Speaker, unfortunately last night, September 18, 2007, I was unable to cast my votes on approving the Journal, on ordering the Previous Question on H. Res. 650, and H. Res. 650 and wish the RECORD to reflect my intentions had I been able to vote.

Had I been present for rollcall No. 870 on approving the Journal, I would have voted "nay."

Had I been present for rollcall No. 871 on ordering the Previous Question on H. Res. 650, providing for consideration of H.R. 1852, Expanding American Homeownership Act of 2007, I would have voted "nay."

Had I been present for rollcall No. 872 on H. Res. 650, Providing for consideration of H.R. 1852, Expanding American Homeownership Act of 2007, I would have voted "nay."

TRIBUTE TO THE CUSIMANO FAMILY

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Ms. ZOE LOFGREN of California. Madam Speaker, I rise to pay tribute to the Cusimano family as they and our community gather this month to celebrate the 50th anniversary of the Cusimano Family Colonial Mortuary.

The Cusimano Family Colonial Mortuary was founded in 1957 by Joseph and Sue Cusimano in Mountain View, California. Joseph and Sue devoted their entire lives to the work of their business, and to the service of their community. For 50 years, Cusimano Family Colonial Mortuary has maintained a family-oriented approach to providing mortuary services to the community—a commitment that has been carried on by their children. In 1980, in recognition of the exemplary professional standards and extensive community involvement, the mortuary was invited to join the distinguished association of Selected Independent Funeral Homes.

Joseph and Sue lived their broad and continuing commitment to the service of their community—ranging from the Mortuary's 50-year sponsorship of the local Babe Ruth Little League team to Joseph's service as the Mayor of Mountain View. The generosity of the Cusimanos also extended beyond our community to others in need, as exemplified by their gift of children's caskets to the victims of the 1995 Oklahoma City tragedy.

Joseph and Sue bequeathed both their business and their sense of responsibility to their children. The Cusimano Family Colonial Mortuary is now managed by Matthew and Sherri, who have maintained the spirit of service and community participation that began with their parents 50 years ago. Madam Speaker, it is my honor to congratulate the Cusimano family as they celebrate this special anniversary.

IN HONOR OF MR. DENNIS PLANN

HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. COSTA. Madam Speaker, I rise today to pay tribute to the distinguished career of Dennis Plann. After decades of dedication to the agriculture industry serving the Fresno County Department of Agriculture, Deputy Agricultural Commissioner Dennis Plann decided to retire in August of 2007.

A native of California's Central Valley, Dennis attended Fresno State University. While attending school, Dennis harvested oat, hay, cotton and alfalfa on 90 acres of his family's land. After graduation, Dennis quickly found work as an agricultural inspector, and through this experience he continued to move up the ladder in his career.

During his tenure at the Fresno County Department of Agriculture, Dennis worked to ensure regulations were being followed, helped farmers to handle crises effectively, and interacted with the media extensively. The Central Valley as well as the entire California agricultural community benefited from Mr.

Plann's service and appreciated his knowledge in the field. His dedication to his work and to his community is to be commended.

Dennis was also instrumental in the development of the Fresno County hazardous material spill response plan and was the primary responder for the Department of Agriculture. His drive, dedication and attention to detail were certainly an asset to the county.

Throughout his career in agriculture, Dennis Plann has proven to be a highly effective professional who was always committed to excellence in his work and service to others. As he gets ready to spend much more time with his wife Connie and enjoy other relaxing activities, I wish him good health and a happy retirement.

TRIBUTE TO OFFICER JOHN BOGA

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. STARK. Madam Speaker, I rise today to pay tribute to Officer John Boga on his retirement from the City of Newark, California, after serving over 20 years as a police officer and sergeant and over 25 years as a member of the Newark Police Department.

Officer Boga began his career with the Newark Police Department as a reserve police officer in April 1982 and served in this capacity until his promotion to the rank of police officer on June 1, 1987.

Officer Boga was most recently assigned to his third term as the Drug Abuse Resistance Education (D.A.R.E.) Officer. As a D.A.R.E. Officer, Boga has taught a structured D.A.R.E. curriculum to the students in various grades of the eight public elementary schools and one private elementary school in Newark. In 2001, he also became a Gang Resistance Education and Training (G.R.E.A.T.) instructor, which he also taught at the elementary school level.

In addition to his D.A.R.E. and G.R.E.A.T. duties, Officer Boga has also served as an executive board member of the California D.A.R.E. Officers Association, a member of the hostage negotiation and trauma support teams, a member of the California Association of Hostage Negotiators, field training officer, and citizen police academy instructor. He had also held numerous assignments during his tenure including patrol officer, school resource officer, tri-city gang task force officer, Alameda County gang task force officer, reserve coordinator, and first aid/CPR instructor.

Officer Boga has been recognized with many awards, the most recent being the police department's Distinguished Service Medal for his devotion to the department, the community, and the youth in Newark. He was also chosen to become the department's Police Officer of the Year in 1992. Officer Boga was selected as the 2006 California D.A.R.E. Officer of the Year by the members of the California D.A.R.E. Officers Association for his hard work and dedication to the D.A.R.E. program. He was also named the City of Newark Employee of the Year for 2005 for his commitment to the city and for all of his hard work and positive attitude.

I join the Newark Police Department in thanking Officer John Boga for his years of commendable service and devotion to the City of Newark and the community.

515TH FIELD ARTILLERY BATTALION OF WWII

HON. TED POE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. POE. Madam Speaker, today I wish to extend my appreciation to the 515th Field Artillery Battalion of World War II as they reunite for the first time since the end of the war. These men of the 515th represent the best of the greatest generation.

Composed of officers and enlisted men from various units around the United States, the 515th was trained to operate the 155mm ''Long Tom'' guns. From the time that it fired its first rounds in combat until nearly the end of the war, the unit was constantly on the move and involved in combat, supporting various units. Moving steadily northward, the unit finally crossed the Rhine River on a heavy pontoon bridge at Worms, Germany. From here the battalion moved south to the area of Heidelberg and then north again toward the area of Birkenfeld. It was reported that during the month of March the battalion traveled a distance of 557 miles, 153 miles of which were during combat. The 515th fired 3,122 rounds of ammunition during this time.

The 515th rarely stayed in any one place for more than a day or two. Movement was not fast and generally cumbersome since the tractors pulling the ''Long Toms'' moved at only about 30 miles per hour. Once an area was designated it would sometimes take as much as a day to set up all three gun batteries, coordinate their positions and lay communication lines between the individual guns and battery commands, and then from the battery commands to Headquarters. These men met monumental challenges every day, and courageously faced their obstacles and overcame them.

The 515th Field Artillery Battalion will be remembered for their pivotal role in the United States achieving victory in World War II. These soldiers gave their heart and soul for our country. Their efforts will never be forgotten and their actions will always be remembered. And that's just the way it is.

TRIBUTE TO DR. JOHN HESTIR

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. BERRY. Madam Speaker, I rise today to pay tribute to a great Arkansan and a fine citizen of DeWitt, Arkansas. I am proud to recognize Dr. John Hestir in the United States Congress for his 50 years of service as the leading medical professional in DeWitt, Arkansas. He has made numerous invaluable contributions to his community, his state and our Nation.

Originally from Des Arc, Arkansas, John Hestir attended University of Arkansas and later the University of Texas Medical Branch in Galveston, Texas for graduate school. While attending school in Texas, he accepted an offer to serve as the primary doctor of DeWitt, Arkansas.

When Hestir first moved to the small town, DeWitt had limited capacity for medical services. The town had no hospital or ambulance and the closest emergency medical facility was a 12 bed hospital in Stuttgart, which is over a half an hour away by car. However, the sparse amenities did not discourage Hestir from providing the citizens of DeWitt the medical care they needed. With some perseverance and ingenuity Dr. Hestir engineered miracles that went beyond medicine.

Dr. Hestir knew that in order for him to better serve the people of DeWitt he needed an improved medical facility. In 1962, Hestir convinced the mayor, Jim Colvert, to apply for a government grant to build an 18 bed hospital. Today, the hospital has been expanded to a 35 bed facility, serving DeWitt and the surrounding areas. Hospital capacity is not the only expansion happening in DeWitt. With this new hospital and other improved medical care, people are living much longer. When Dr. Hestir first arrived in DeWitt, the life expectancy was 58 for men and 62 for women, today the average stands at 78 for men and 84 for women.

Dr. Hestir embodies the old fashion values of service, leadership and commitment to his community that have made our State and our Nation great. He has dedicated his life to serving the people of DeWitt as a leader in both his profession and his community. On behalf of the United States Congress, I extend congratulations and best wishes to my good friend Dr. John Hestir, for 50 years of outstanding personal and professional achievements.

STATEMENT ON INTRODUCTION OF THE COST OF GOVERNMENT AWARENESS ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. PAUL. Madam Speaker, I rise to introduce the Cost of Government Awareness Act, which repeals one of the most deceptive practices of the federal government—income tax withholding. Withholding keeps many Americans ignorant about the true size of the federal tax burden. Withholding is also the reason millions of Americans overpay their income taxes, granting the United States Government interest-free loans. Many of these taxpayers are further misled into thinking the U.S. Government is acting benevolently when they receive ''refunds'' of money improperly taken from them through withholding!

Collecting taxes via withholding damages the economy because it forces every business in America to waste valuable resources complying with the withholding tax requirements. The Internal Revenue Service is so fanatical about forcing employers to act as de facto federal agents that it once confiscated the assets of a church because the church refused to violate the church's religious beliefs by acting as a tax collector. The IRS sent armed federal agents in this house of worship, even though the church's employees regularly paid taxes.

When the United States Government implemented withholding in 1943, it promised the American people that this would be a ''temporary'' measure. I am sure my colleagues agree that 64 years is a sufficient lifespan for any ''temporary'' measure. It is time to end the deceptive practice of withholding and empower taxpayers to reflect upon their tax bill

each month and ask, ''What are they getting for their money.'' An honest answer to that question may lead to a groundswell for true tax reform.

In conclusion, Madam Speaker, I urge my colleagues to let the American people know their tax burden by cosponsoring the Cost of Government Awareness Act.

ENDO PHARMACEUTICALS INC. 10TH ANNIVERSARY

HON. JOE SESTAK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. SESTAK. Madam Speaker, today I rise to recognize Endo Pharmaceuticals Inc., on the occasion of the company's 10 Year Anniversary. Endo, whose corporate headquarters are located in Chadds Ford, Pennsylvania, in the heart of the 7th Congressional District, is an American success story on many important levels.

The company's roots as a pharmaceutical enterprise actually run quite deep, dating back to the 1920s when a family-run pharmaceutical business named Intravenous Products of America was established in New York. Its name was changed to Endo Products in 1935. In 1969 E.I. du Pont de Nemours and Company (DuPont) acquired since renamed Endo Labs. In the early 1990s DuPont, in a joint venture with Merck and Company, formed DuPont Merck Pharmaceuticals, and named its generics business Endo Laboratories LLC.

In 1997, Endo Pharmaceuticals, Inc., an independent company, was formed through the vision of former DuPont Merck executives led by Carol Ammon and Mariann MacDonald. The vision they shared was to create a leading pain management company focused on the needs of patients and physicians. Leaping ten years forward to today, it is plain to see that Endo has already accomplished its initial goal and is looking toward new horizons, and bolder challenges.

Endo's initial success came on the heels of meeting physician and patient pain management needs by introducing new dosage strengths of its well-known pain reliever PERCOCET®, and in-licensing LIDODERM®, the first FDA-approved topical patch for pain associated with post-herpetic neuralgia, a dreaded complication from shingles.

And recently, Endo launched the newest strong opioid for patients with chronic moderate-to-severe pain, OPANA® ER, together with a comprehensive risk management plan to ensure appropriate physician prescribing and patient education of pain medicines.

As Endo continued to grow throughout the late 1990s and into this decade, the company, with the help of employees at its research and development laboratories in New York, began developing new, novel products, including those for the treatment of acute pain and moderate-to-severe chronic pain. As it did so, Endo also created an internal specialty sales force. By 2003, the company grew to nearly 500 employees. This growth and the company's success in the pharmaceutical industry did not go unnoticed. During that same year, co-founders Carol Ammon and Mariann MacDonald were honored with the Greater Philadelphia Ernst & Young ''Entrepreneur of the Year'' award in the Health Sciences category, and Endo was named ''Company of the Year'' by the Eastern Technology Council.

Endo Pharmaceuticals Inc. has further distinguished itself by being voted one of the ''100 Best Corporate Citizens'' by Business Ethics Magazine and reaching #35 on Business Weeks' ''Hot Growth Companies'' list. Endo's mission clearly incorporates a humanitarian as well as a corporate vision. The company contributes to Community Volunteers in Medicine, a Chester County, PA organization that provides health care to people who don't qualify for Medicaid and do not have health care insurance. Endo began contributing to this organization in 2004 at the $15,000 level and has increased their contribution each year. In addition, the company has given over $300,000 to the Susan G. Komen Foundation; and been a sponsor of the Komen Pink Tie Ball and Komen Race for the Cure. Also, since 2002, Endo employees have participated in the MS150, a 150 mile bicycle race to raise funds for the Multiple Sclerosis Society. Individual pledges, a corporate contribution and matching gift from Carol Ammon, one of Endo's co-founders, also have contributed to this event.

Now in its tenth year, the company employs more than 1,300 individuals in the United States, including laboratories in Westbury, New York, and Boulder, Colorado. Endo's is a highly skilled workforce, as 98 percent of its employees hold a bachelor's degree or higher. The company is further solidifying its presence in Pennsylvania and Chadds Ford, in particular, recently breaking ground on a new 48,600-square-foot building at its headquarters. This new building in Chadds Ford will have space for an additional 175 employees, and is expected to be completed next year.

However, Endo is growing in other areas, too, and positioning itself to be the leading pain company in the world. Endo's President and CEO, Peter Lankau, says the company is indeed focused on the future and continuing to provide patients and physicians with clinically innovative pain therapy products.

Madam Speaker, again, I would like to congratulate Endo Pharmaceuticals Inc., and especially its employees at the Chadds Ford headquarters, for the company's accomplishments. In just ten years Endo has realized the vision of its founders. It is an entrepreneurial success and is recognized as an outstanding corporate citizen. It is now the world leader in developing pain therapy products focused on patients' and physicians' needs. I, for one, look forward to the promise of the next ten years for Endo Pharmaceuticals Inc., and its talented individuals in Chadds Ford and throughout the nation.

FREEDOM FOR LÁZARO ALEJANDRO GARCÍA FARAH

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I rise today to speak about Lázaro Alejandro García Farah, a prisoner of conscience in totalitarian Cuba.

Mr. García Farah is a pro-democracy activist currently imprisoned in the tyrant's gulag because of his belief in freedom, democracy, and human rights. Unfortunately, because Mr. García Farah has been a supporter of the cause of bringing liberty to an island shackled by a tyrant's brutal machinery of repression, and has attempted to shed light on the vicious crimes committed against the Cuban people, he has been persecuted by the totalitarian regime.

Mr. García Farah's aspirations for freedom and a better future were cut short when he and others attempted to divert a boat, the ''Baraguá'', in an attempt to escape the suffocating grasp of the maniacal regime that maintains Cuba enchained. On August 4, 1994, Mr. García Farah was arrested and in a sham trial ''sentenced'' to 25 years confinement in the infernal totalitarian dungeons on charges of ''piracy'' and attempting to exit the country without ''proper permission''.

In 1998, Pope John Paul II visited Cuba and brought with him a list of political prisoners for which he asked clemency. The petition was ignored. Mr. García Farah, whose name was on the list, denounced and protested the manner in which the totalitarian regime ignored the Pope's petition. The regime's thugs immediately placed Mr. García Farah into solitary confinement in an attempt to silence his calls for justice.

Mr. García Farah is in constant danger of being placed in solitary confinement while in the gulag, yet he rejects allowing himself to be silenced. In 2000 he refused to participate in political ''indoctrination'' classes and was consequently denied visitation rights from November 2000 until February 2001. More recently, in a communication with the Cuban Foundation for Human Rights, Mr. García Farah denounced the horrific conditions to which political prisoners are subjected and explained that prisoners are given drinking water infested with parasites and filthy residues and are incessantly denied their rights to correspondence and religious assistance.

Madam Speaker, Lázaro Alejandro García Farah languishes within the confines of hellish squalor and the injustice of the dictatorship's gulag, although he has done nothing other than desire that the long-suffering people of Cuba live in freedom with fundamental human rights and dignity. My Colleagues, we must demand the immediate and unconditional release of Lázaro Alejandro García Farah and every political prisoner in totalitarian Cuba.

HONORING CURTIS BAXTER

HON. PATRICK J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. PATRICK J. MURPHY of Pennsylvania. Madam Speaker, it is with great sadness that I rise today to pay tribute to Curtis ''Lumpy'' Baxter, a much beloved icon of Levittown, Pennsylvania. Over the last year as I traveled to events across Bucks County, it seemed that wherever I went, ''Lumpy'' would be there, with a big sandwich and an even bigger smile.

Far and wide, ''Lumpy'' was known for slinging the best barbeque around. Madam Speaker, while it may have been the delicious barbeque that won him so many awards, it was his warmth and friendliness that endeared him to thousands. One glimpse of him beaming in front of his trophies would always be

enough to lift my spirits and the spirits of so many others. Madam Speaker, no event at the beautiful Bristol waterfront will ever feel quite complete without his cart and long lines of people waiting for his delicious food.

A devoted grandfather, father, and husband, as well as a member of the Hope Lutheran Church, Lumpy was always someone who put the community first. Madam Speaker, please join me in honoring this kind man, whose big smile and seemingly limitless strength will be loved and remembered in the hearts of many.

HONORING THE CITY OF HUGHSON, CALIFORNIA

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. RADANOVICH. Madam Speaker, I rise today to congratulate the City of Hughson upon celebrating their 100th Anniversary.

In 1882 Hiram Hughson purchased 1,000 acres in Stanislaus County, in the heart of the San Joaquin Valley. Over the years the Hughson land grew to about 5,000 acres, and small towns were erected all around his parcel. The San Joaquin railroad purchased a piece of the land and built a new railroad station, Hughson Station.

The City of Hughson was founded in 1907 when Hiram Hughson placed his 5,000 acres in the hands of the Hughson Town Company. From there the land was opened up for settlement and this small community became a small town.

The township of Hughson became a city when it was incorporated December 9, 1972. The city has continued to thrive. The city has grown around a strong agriculture center; with orchards of Almonds, Walnuts and Peaches. In the past five years Hughson has grown from 4,920 residents in 2002 to about 6,127 in 2007. However, it is still the smallest city in Stanislaus County. The people of Hughson pride themselves on the small, hometown feel. The city demonstrates its small town pride with the Annual Fruit and Nut Festival. The festival allows the city to come together to showcase their home grown fruits and nuts.

Madam Speaker, I rise today to commend and congratulate the City of Hughson on 100 years. I invite my colleagues to join me in wishing Hughson many years of continued growth and success.

HONORING THE NASA SCIENCE, ENGINEERING, MATHEMATICS AND AEROSPACE ACADEMY (SEMAA)

HON. CAROLYN C. KILPATRICK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Ms. KILPATRICK. Madam Speaker, I respectfully submit the following resolution, this 19th Day of September, in the Year of Our Lord, Two Thousand and Seven.

RESOLUTION IN HONOR OF THE NASA SCIENCE, ENGINEERING, MATHEMATICS AND AEROSPACE ACADEMY (SEMAA) SEPTEMBER 19, 2007

Whereas, the NASA Science, Engineering, Mathematics and Aerospace Academy (SEMAA) is transforming the lives of historically underserved and underrepresented K–12 students, families and communities across America every day; and in many cases is saving the lives of America's youth by getting them off of the streets and supporting them inside the classroom. As an innovative national program designed to increase the participation and retention of historically underserved and underrepresented K–12 youth in the areas of Science, Technology, Engineering, and Mathematics (STEM), NASA SEMAA has inspired, engaged and educated over 450,000 students, families, and teachers in as many as 18 states, the District of Columbia, Puerto Rico and the Virgin Islands;

Whereas, established in 1993 as a joint venture between NASA Glenn Research Center and Cuyahoga Community College, NASA SEMAA has grown from a single site started in Cleveland, Ohio by former Congressman, the Honorable Louis Stokes, to a national organization that is supported by a network of 200+ partners and stakeholders dedicated to improving the academic success of children nationwide. Today, NASA SEMAA can be found at 14 sites located in 11 states and the District of Columbia serving the educational needs in my district and other urban and rural districts. NASA SEMAA site locations include community colleges, four-year colleges and universities, Historically Black Colleges and Universities (HBCUs), Hispanic Serving Institutions (HSIs), Tribal Colleges and Universities (TCUs), elementary and secondary schools, science centers and museums;

Whereas, NASA SEMAA harnesses the collective resources of NASA, institutions of higher education, science centers, museums, and primary and secondary schools to bridge the education gap for historically underserved and underrepresented K–12 youth in STEM. America is facing a serious shortage of young people entering STEM fields today. This fact, coupled with the high-tech workforce needs of the 21st Century and the lagging test scores indicating a lack of STEM proficiency amongst the next generation of leaders and explorers, poses a bleak picture of an America left behind. SEMAA is addressing this critical need by increasing K–12 student exposure and interest in STEM by delivering three core components, a K–12 hands-on/minds-on curriculum, a state-of-the-art Aerospace Education Laboratory (AEL) and an innovative Family Café;

Whereas, the inquiry based classroom curriculum is aligned with national standards, and encompasses the research and technology of each of NASA's four Mission Directorates. NASA SEMAA graduates who have participated in the entire K–12 curriculum will have completed 441 hours of advanced studies in STEM prior to their enrollment in a post-secondary institution. The AEL is a state-of-the-art, electronically enhanced, computerized classroom that puts cutting-edge technology at the fingertips of NASA SEMAA middle and high school students. The AEL consists of ten computerized research stations that provide NASA SEMAA students with real-life aerospace challenges involving science, engineering, mathematics, and NASA technology. The Family Café is an interactive forum that provides STEM education and parenting information to parents, guardians, relatives and any supportive, adult role models that the student might have;

Whereas, the NASA SEMAA program has been ranked as a 2007 Innovations in American Government Award Finalist. NASA SEMAA shares this honor with 17 distinguished projects, which collectively represent the top 2% of applicants for this prestigious national award. The award is sponsored by the Harvard University John F. Kennedy School of Government's Ash Institute for Democratic Governance and Innovation, and is funded by the Ford Foundation. The purpose of the Innovations in American Government Award Program is to strengthen American democracy by increasing public trust. The annual awards competition recognizes programs that provide concrete evidence that government can work to improve the quality of life for citizens. Of special significance is the fact that NASA SEMAA was the only educational initiative to be recognized as a 2007 finalist. NASA SEMAA's success in elevating the education of America's youth to this platform is profound; a platform that addresses such critical issues as fostering renewable energy, improving health care access, promoting affordable housing, and fourteen other extraordinary and deserving innovations; and

Whereas, we the members of the Congressional Black Caucus extend our sincere appreciation and congratulations to the NASA SEMAA program as well as to their participants and partners: therefore, be it

Resolved, That we celebrate and honor NASA SEMAA as one of the Nation's premier K–12 STEM educational programs; be it finally

Resolved, That a copy of this resolution be presented to the Education Office at NASA Headquarters, Educational Programs Office at NASA Glenn Research Center and the National SEMAA Office.

RECOGNIZING SEPTEMBER 11 AS A DAY OF REMEMBRANCE

SPEECH OF

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 10, 2007

Mr. NADLER. Mr. Speaker, I was unable to be in Washington, DC on September 10, 2007 when the House considered H. Res. 643, commemorating the terrorist attacks of September 11, 2001. I ask that the RECORD reflect that had I been present, I would have voted "aye" on rollcall vote No. 866.

It is hard to believe that 6 years have passed since that fateful day when terrorists struck the World Trade Center in my district in New York, and hijacked planes that crashed into the Pentagon and in Pennsylvania. September 11th exposed significant vulnerabilities in our homeland security, and much of the last 6 years has been spent trying to fill these holes and make us more secure.

I am proud of the progress we have made to address homeland security, Earlier this year, Congress passed H.R. 1 finally implementing all of the 9/11 Commission recommendations. Included in that bill was a provision I championed to fill the gaps in our port security system. This provision requires that within five years every shipping container must be scanned before coming to the United States so that terrorists cannot smuggle deadly weapons into this country through our ports. H.R. 1 also created a new rail and transit security program, increased risk-based homeland security grant funding, included measures to secure loose nuclear material overseas, and required 100 percent screening of air cargo.

Despite the progress that has been made, we still have not fulfilled our moral obligation to the victims of the September 11th terrorist attack, which includes not just the people who

live and work and go to school in the area around Ground Zero, but also the emergency response workers who came from all over the country to aid in the recovery and who are now sick as a result of exposure to World Trade Center toxic dust.

This week, I, along with Congresswoman MALONEY and Congressman FOSSELLA introduced essential, new legislation that ensures that everyone exposed to World Trade Center toxins, no matter where they may live now or in the future, would have a right to high-quality medical monitoring and treatment, and access to a re-opened Victim Compensation Fund for their losses. Whether you are a first responder who toiled without proper protection; or an area resident, worker or student who was caught in the plume or subject to ongoing indoor contamination; if you were harmed by 9/11, you would be eligible. This bill builds on the best ideas brought to Congress thus far and on the infrastructure already in place providing critical treatment and monitoring.

What is also troubling is that 6 years have passed, and the Environmental Protection Agency has yet to conduct a comprehensive testing and cleanup program to remove World Trade Center dust from area buildings. A recent GAO report confirms the horrible reality that to this day, due to their negligence and inaction, the EPA cannot say with certainty that even a single building in the area is free of World Trade Center contamination. As such, we cannot know how many more people will become sick because of lingering environmental toxins in their homes, workplaces and schools. The Administration must act immediately to design and implement a new, proper testing and cleaning program.

For many of us, the effects of 9/11 are always present in our hearts and minds. But I hope that the 9/11 anniversary will serve as a reminder to others that we must fulfill our moral obligation to remove the threat of 9/11 contamination and to provide health care for those who are sick as a result of it. My colleagues and I will not stop fighting until this obligation is met.

PERSONAL EXPLANATION

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mrs. JONES of Ohio. Madam Speaker, on rollcall No. 879, I actually attempted to vote with a malfunctioning voting card. I was present and on the floor. I would have voted ''yes.''

EXPANDING AMERICAN HOMEOWNERSHIP ACT OF 2007

SPEECH OF

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 18, 2007

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1852) to modernize and update the National Housing Act and enable the Federal Housing Administration to use risk-based pricing to more effectively reach underserved borrowers, and for other purposes:

Mr. UDALL of Colorado. Madam Chairman, I rise in support of the Expanding American Homeownership Act. Homeowners in Colorado and nationwide are facing a crisis and passage of this bill will ensure continued access to responsible, safe, and affordable mortgage options.

There are serious problems with our country's mortgage lending market. Foreclosure rates are rising, housing prices are stagnating and too many Americans are surprised to find their monthly payments on the rise. While the difficulties in the lending market have so far been concentrated in subprime loans, which generally go to borrowers with limited or damaged credit, these problems have caused serious and sometimes irreparable economic damage to families and communities of all income levels throughout the Nation.

I am pleased that this legislation modernizes the Federal Housing Administration, FHA, to provide lower monthly payments for borrowers who make on-time payments, raises the loan limits on FHA loans and allows the FHA to vary premiums based on their credit risk. These provisions, among others, will allow consumers to choose a more reliable mortgage as opposed to other mortgages that could impose excessive rates and fees, prepayment penalties, and reset terms that can result in exorbitant interest rate increases.

While this bill is not a complete fix for the problem, it is an important step in the right direction. It is vital to provide FHA with the flexibility to respond to the mortgage crisis to help families in Colorado and the Nation to retain and purchase or a home. I urge a ''yea'' vote.

IN MEMORY OF MELVIN SCHEXNAYDER

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. ROSS. Madam Speaker, I rise today to honor the memory of my dear friend Melvin Schexnayder of Dumas, AR, who passed away September 12, 2007, at the age of 87.

Melvin Schexnayder spent his lifetime dedicated to his family, his community and the newspaper business. After returning from World War II and completing a degree in chemical engineering, he went to work for Texas Pacific Railroad. However, the job forced him to travel frequently, which kept him away from his wife. For the sake of spending more time together, the two decided to try their hand in the newspaper business. His wife Charlotte, a journalism major, served as the editor and Melvin served as the advertising manager. What they thought would be a 1-year experiment working at the McGehee Semi-Weekly Times, uncovered a passion for reporting news that turned into a lifelong career path for both of them. After working at the Times, they bought their own newspaper, the Dumas Clarion, near Charlotte's hometown of Tillar. With the Schexnayders working as a team, the Dumas Clarion won over 500 State and national awards for its excellence in journalism.

If owning and publishing a weekly newspaper was not a big enough task, Melvin devoted his life selflessly to serve others for the sake of making Dumas and Desha County a better place to live and raise a family. He was an active participant in the community where he served as president of the Dumas Chamber of Commerce and the Dumas Lion's Club, and just this year, he was awarded the esteemed Lion's Club Citizenship Award. He held the post of chairman of the Desha County Hospital Board and served as chairman of the Chicot-Desha Boy Scout District. He also worked in numerous roles with the Red Cross and March of Dimes over the years.

In addition to his civic leadership, Schexnayder was also a man of devout faith. He was a member of Holy Child Catholic Church where he served as a lay reader and building committee member.

I give my deepest condolences to his wife, Charlotte; his two sons, M. John Schexnayder, Jr. and Dr. Stephen Schexnayder; his daughter Sarah Steen; and to his numerous grandchildren and great-grandchildren. Melvin Schexnayder will be greatly missed in Dumas, Desha County and throughout the State of Arkansas, and I am truly saddened by this loss.

TRIBUTE TO HARRY ''MOO'' MOORE

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mrs. CAPITO. Madam Speaker, I rise today to recognize the induction of Harry ''Moo'' Moore into the West Virginia University Athletic Hall of Fame. A standout on the men's basketball team, Moore joins a distinguished collection of student-athletes continuing West Virginia University's rich athletic tradition.

Moore perfected his soft shooting touch by practicing in the dark on a basket outside his family's home. During his three seasons, Moore averaged seven points per game, leading the Mountaineers to a 60–20 record and a Southern Conference Championship in 1951. Impressively, his 84 percent free throw percentage still remains second on the all-time Mountaineer record books.

After college Moore was drafted by the Syracuse Nationals of the National Basketball Association but opted to serve as a lieutenant in the Army infantry. Nonetheless, Moore continued to excel on the basketball court. In 1954 he was selected to play in the Armed Forces Pan Am Games in Mexico and the International Games in Germany.

Although his playing days are long over, Moore's legacy on the court continues to grow. The State of West Virginia congratulates ''Moo'' and the rest of the 2007 Hall of Fame inductees.

''WE DON'T SERVE TEENS''

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. ROGERS of Michigan. Madam Speaker, I rise today to express my support for the ''We Don't Serve Teens,'' national campaign to fight underage drinking.

As Members of Congress, we have a responsibility to do everything in our power to protect teens from the dangers of alcohol abuse.

The "We Don't Serve Teens" will raise awareness of the important role retailers and private citizens play in making sure alcohol is not accessible to teenagers. Their website, www.dontserveteens.gov, clearly outlines the proactive measures we can all take to limit teens' access to alcohol. This will ensure a safer environment that is free of the unnecessary dangers of alcohol, including binge drinking, and drunk driving.

I believe we should applaud the alcohol wholesalers, brewers, distillers, their advertisement agencies, and the private and State-owned retailers for their willingness to cooperate and support this cause. Without their assistance it would be very difficult to get this campaign off the ground.

The FTC is successfully uniting all adults in one organized effort that agrees not to serve those under the legal drinking age. I wholeheartedly support this movement and hope to be an advocate for "We Don't Serve Teens." If we can all understand the benefits of the drinking age and believe it when we say, "We Don't Serve Teens. It's unsafe, illegal and irresponsible," we will create a safer today and a more responsible tomorrow. Please join me in supporting the "We Don't Serve Teens" effort.

TRIBUTE TO GIL MORGAN

HON. DAN BOREN

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. BOREN. Madam Speaker, I rise today to congratulate one of Oklahoma's own Gil Morgan, for his first-place finish at the 2007 Champions Tour Wal-Mart First Tee Open.

Gil's victory at Pebble Beach is quite an accomplishment in and of itself, but I am proud to say that he is no stranger to the winner's podium. During his career in the world of golf, Gil has amassed nearly 40 championship wins. In fact, Gil had managed to claim his first professional victory of his 35–year career when he succeeded in winning the PGA Tour's 1977 B.C. Open. His career also reflects six other PGA Tour wins, including the Danny Thomas Memphis Classic in 1979 and the Kemper Open in 1990. More impressive is Gil's 25 Champions tour wins, which include the 2003 Kroger Classic, the 2006 Allianz Championship, and his most recent feat at the Wal-Mart First Tee Open.

While many around the nation know Gil as a professional golf champion whose career has taken him around the world, those of us from Oklahoma know him as one of our own. It all started for Gil in the small town of Wewoka, Oklahoma. From Wewoka, Gil went on to graduate from East Central State College in Ada, Oklahoma before earning his Doctor of Optometry from Southern College of Optometry in 1972. A short while after completion of his education, Gil began his long and illustrious career as a professional golfer.

Madam Speaker, I think that Gil's story is an inspiring one and provides many good lessons for the rest of us to follow. First, it doesn't matter where you begin in life. With a little effort and determination, we can all accomplish victories in our lives. Second, I see Gil's determination to finish both an undergraduate degree and a doctoral degree before beginning his professional sporting career to be an inspiration to both young and old. Some of us may have extraordinary talents, such as golf, that we are born in possession of; however, knowledge is something that cannot be taken away should our talents fail us. While Gil's talent as a professional golfer has never failed him, he has always had the comfort of his education to fall back upon should he need to do so.

For these reasons, Madam Speaker, I am proud to salute Gil Morgan and I join with all of my fellow Oklahomans in giving him praise and congratulations for his most recent accomplishment at the Wal-Mart First Tee Open at Pebble Beach. As you know, Oklahoma is usually known for its love of football; however, on Sunday, September 2, 2007, we were all golf fans because of Gil.

PURPOSES OF THE FOREIGN TAX CREDIT

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. UDALL of New Mexico. Madam Speaker, I rise today to introduce legislation to correct an outdated tax law that is forcing a husband and wife of almost 30 years from my district to live thousands of miles apart during what should be the golden years of their retirement together. In introducing this legislation, however, I seek to not only assist my constituents who have brought this inequity to my attention, but also to assist any other families facing the same problem.

Madam Speaker, I first introduced this legislation during the 109th Congress. I also had an opportunity to testify before the House Ways and Means Committee, Subcommittee on Select Revenue Measures last Congress. Unfortunately that was as far as my bill progressed.

Today, however, I introduce this legislation with great optimism for, and a continued commitment to, its passage. At issue is what I believe is an outdated provision of the tax code that is preventing one of my constituents, Mrs. Novella Wheaton Nied, a U.S. citizen and native New Mexican, from enjoying her retirement years with her husband Veit Nied, a German citizen.

The Nieds have been married almost 30 years and have lived overseas in various countries for the length of their marriage until September 2001. Mr. Nied, an economist, retired in September 2001 from the European Commission in Brussels, Belgium. The couple decided to return to Taos, New Mexico, Novella's home, for their retirement years, but learned upon Veit's approval of permanent resident status in the United States that his pension from the European Commission would be subject to double taxation—the initial tax by the European Commission, and again by the U.S. should he choose to make his residency here.

Double taxation on his pension will create a hardship for the Nieds in their retirement—both financially and emotionally. As a result, Mr. Nied did not accept the permanent resident status and has been traveling back and forth between Germany and the United States, being very cognizant and diligent about following U.S. immigration and taxation laws, and therefore has not stayed longer than 120 days per annum in the United States, which would render him liable for taxes in this country. This unfortunate living situation has been ongoing since 2001 when they learned of the double taxation and have been seeking a solution that would allow them to once again live together.

The United States has tax agreements with many countries to prevent double taxation, as well as provisions in the tax code that allow resident aliens who pay taxes to a foreign country to claim the foreign tax credit that reduces their U.S. income taxes. Unfortunately, the EU does not qualify as a foreign country for purposes of the foreign tax credit.

The bill I introduce today amends the Internal Revenue Code to treat employment taxes paid to the European Union by employees of the European Union as income taxes paid to a foreign country, for purposes of the foreign tax credit. This bill will allow Mr. Nied, and others in his situation, to qualify for the foreign tax credit.

This is a simple bill that brings a section of the tax code up to date with the changes in international political institutions. While it certainly will help Mr. and Mrs. Nied, this legislation will also help other families who face the same situation. The sooner we pass this legislation, the sooner the Nieds, and others, can be reunited and enjoy their retirement years in the company of their loved ones.

HONORING THE LIFE OF ARMY SERGEANT NICK PATTERSON OF ROCHESTER, INDIANA

HON. JOE DONNELLY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. DONNELLY. Madam Speaker, I rise today to honor the courage, humility, compassion and selflessness of U.S. Army Sergeant Nicholas Patterson, native son of Rochester, Indiana. A member of the 1st Squadron, 73rd Cavalry Regiment, 2nd Brigade Combat Team, 82nd Airborne Division, Nick was killed on September 10, 2007 following a raid in western Baghdad in a tragic accident involving the armored truck in which Nick was riding. Nearing the end of the most dangerous assignment of his second deployment to Iraq, Nick left us to mourn a life lived to the fullest.

Like many people in the Army, Nick was a skilled athlete. A 2001 graduate of Rochester High School, he led his basketball team in scoring his senior year and played second base for the baseball team, proudly wearing number ten in both sports. His former teacher, Rob Malchow, said, "Nick had such an outgoing personality. He had so much energy that you had to get to know him."

When Nick joined the army shortly after graduation from high school, he set his sights on being a paratrooper. He was thrilled to be part of the storied 82nd Airborne Division and treasured the camaraderie of his men, his brothers. His widow, Jayme, said Nick was "very, very proud to be in the unit he was in," which he described as "high-speed." Fellow soldier Sgt. Blake Bagbay noted, "Nick could

always be counted on to pick you up and make you smile. His concern for his soldiers and friends will be missed by all.''

Nick and Jayme shared their love with a four-year-old son, Reilly, and he valued the daily contact with his family by phone, e-mail, and even Web cam. If nothing else, he made sure to e-mail Jayme every day, and even if it was short, he said what mattered, ''I love you.''

Nick was also close to his father, Jim, whom he affectionately called Pops. Father and son shared a love of the Chicago Cubs, the Indianapolis Colts, Indiana University basketball and fishing in Nyona Lake. Sharing in the grief of their loss are Nick's mother and stepfather, Jane and Scott Holmes, his stepmother Virginia Patterson, sister, Tai Johnson, and stepbrother Kyle McLochlin as well as the close knit community of Rochester.

According to Nick's family, the Army helped him grow up, become more focused, and develop into a leader who earned admiration for his toughness, yet showed compassion. His father noted that Nick didn't want to be a hero to anybody, except for his son and his family. Today, I recognize Nick as a hero to us all, a brave man, respected by his peers, loved by his family and friends, devoted to his duty. Jim expressed it well, ''I'm just so proud. He's a hero. But it hurts.'' I echo those words as I recognize the honor the Nation holds for Nick, yet at the same time, acknowledge our grief. May God bless Nick, his family, his fellow soldiers, and his fellow countrymen as we share this collective sorrow.

IN MEMORY OF DR. MARY ESTHER GAULDEN JAGGER

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. BURGESS. Madam Speaker, I rise today in memory of Dr. Mary Esther Gaulden Jagger from Highland Village, Texas in the 26th Congressional District of Texas. Dr. Jagger passed away September 1, 2007 from Alzheimer's disease complications. She was 86 years of age.

Mary Esther Gaulden Jagger was a scholarly woman who earned a bachelor's of science degree from Winthrop College and a doctorate in biology from the University of Virginia.

Dr. Jagger began working in 1949 at the Oak Ridge National Laboratory in Oak Ridge, Tennessee as a senior radiation biologist. The Jagger's relocated to Dallas from Tennessee in the mid-1960s, where Ms. Jagger took a position as professor of radiology at UT Southwestern Medical Center. She officially retired in 1992, but continued to visit her office until 2004.

Mary Esther Gaulden Jagger helped found the National Organization for Women in 1966. She was president of the Association of Southeastern Biologists in 1959. She was also a member of the Committee on Toxicology and the U.S. National Research Council, as well as being involved in the Radiation Research Society and the Environmental Mutagen Society.

I know from my time in residency at Parkland Hospital, that Dr. Jagger was revered as an expert. When in doubt or if any questions arose, you could always turn to the wisdom of Dr. Jagger.

While this woman was an accomplished biologist and successful author of scientific literature, she always made her family a priority. Relatives will remember her most for her personality and her devotion to her family.

Dr. Jagger is survived by her husband, children, and three grandchildren. It was my honor to represent Dr. Mary Esther Gaulden Jagger, and I extend my deepest sympathies to her family and friends. She will be deeply missed.

PATENT REFORM ACT OF 2007

SPEECH OF

HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 7, 2007

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1908) to amend title 35, United States Code, to provide for patent reform:

Mr. CAPUANO. Mr. Chairman, I rise today to express my opposition to H.R. 1908—the Patent Reform Act of 2007. I do so reluctantly, and hope to work with my colleagues when this bill moves to conference to produce a final product that will adequately address the concerns of all sectors of our innovation economy.

As the Representative of the 8th Congressional District of Massachusetts, I feel immensely privileged to represent many of the nation's leading innovators. The 8th District is home to some of the best institutions of higher learning in the nation, teaching hospitals, high tech businesses, financial services firms, and biotechnology companies big and small. I recognize how absolutely vital the strength and efficiency of our patent system is to each of them and I take the reform of that system very seriously.

H.R. 1908 is the most comprehensive update to the patent system in generations. The bill makes changes to our patent system that are important to improving the business environment for many sectors of our economy. However, the bill also alters our current system in a way that could potentially prove damaging to other sectors. I oppose this legislation reluctantly because the committee, in particular Chairman BERMAN, has worked diligently to improve this legislation at every stage.

I was very pleaser, for example, to see the in the manager's amendment wording to strike the ''prior use'' sections of the bill. This change was important to ensuring that those who infringe on patents continue to have to meet a reasonable threshold if they assert a ''prior use'' defense. I was also pleased that the bill as reported from committee eliminated the ''second window'' of review after patents are granted. While this section may need additional changes, significant progress has been made to improve it.

I remain concerned, however, about the ramifications of the damages section of H.R. 1908. While I understand that the Chairman and the Committee have made several improvements to this section as well, as it is currently constituted in the bill the damages section will unnecessarily elevate apportionment as a method of determining damages when a patent has been infringed. This provision could produce devastating consequences for some innovators. I believe we must be cautious when implementing such a serious change, and that ensuring flexibility is of paramount importance.

I look forward to working with my colleagues on the Judiciary Committee in order to produce the most balanced Patent Reform bill possible.

PERSONAL EXPLANATION

HON. TOM COLE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. COLE of Oklahoma. Madam Speaker, on Tuesday, September 18, 2007, I was unavoidably detained due to a prior obligation.

Had I been present and voting, I would have voted ''Aye'' on rollcall No. 873.

TRIBUTE TO MR. RADCLIFFE KILLAM

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. CUELLAR. Madam Speaker, I rise today to honor Mr. Radcliffe Killam, one of the greatest members of the community of Laredo, Texas, who passed away at the age of 97 on September 8, 2007.

Mr. Radcliffe Killam was born on July 1, 1910, to Oliver Winfield and Harriet Smith Killam in Grove, Oklahoma. He came to Laredo with his family when he was nine years old. His father established the Mirando Oil Company in South Texas, which would later become Killam Oil Company under the leadership of his son, Radcliffe. Mr. Killam grew up working on oil rigs, and attended Laredo High School. He then received a Bachelor's degree from the University of Texas at Austin and earned a law degree from Harvard Law School in 1935. During World War II, Radcliffe was among those in the greatest generation to answer the call of duty by serving in the U.S. Naval Service overseas in the Atlantic and then in the Pacific.

When the war was over, Mr. Killam returned back to his oil business in Laredo, Texas, with his wife, the former Sue Spivey of Bonham, Texas, whom he had married in 1942. He was extensively involved in the community, and served on the boards and councils of banks, foundations, and educational institutions such as Texas A&M International University whose founding he had helped make possible through his donation of 300 acres for the campus. Mr. Killam truly believed that education was the key to success for the future of the community in Laredo, and endeavored through his various partnerships with TAMIU to ensure the continued success of TAMIU in South Texas. Mr. Killam also extended his philanthropic interests to Mercy Hospital in Laredo, M.D. Anderson Cancer Center in Houston, and to the South Texas Health Sciences Center.

Mr. Killam was also known for his love of the outdoors. He owned several large ranches, and implemented a game management program which allowed hunters to hunt wild game on his ranch. The City of Laredo benefited a great deal from the philanthropy of Mr. Killam. He left behind a remarkable legacy that continues to inspire those who knew and loved him. Mr. Radcliffe Killam truly led by example and it is to his credit that Laredo has advanced a great deal as one of the leading trade ports and economies in South Texas, with more opportunities for higher education for the youth of the community due to his investments in TAMIU.

Mr. Killam is survived by his wife, Sue, of sixty-five years, his son David and his wife, Hayley, his daughter, Adrian Kathleen, his daughter Tracy DiLeo and her husband, Michael, and four grandsons, Radcliffe Killam II, David Killam, Nicholas and Joseph DiLeo. Mr. Killam was preceded in death by his daughter Terry Killam Wilber, his brother Winfield Killam, and his sister Patricia Louise Killam Hurd.

Madam Speaker, I am honored to have this time to recognize Mr. Radcliffe Killam, and I thank you for this time.

UPON THE RETIREMENT OF LARRY WEISS

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Ms. KAPTUR. Madam Speaker, I rise today to honor the distinguished career of Larry Weiss upon his retirement following nearly forty years of service to build and advance Bowling Green State University.

Most recently, Larry has served as Bowling Green's Vice President for University Relations and Governmental Affairs. He has worked closely with the university's presidents, including its current President, Dr. Sidney Ribeau, always demonstrating honesty, skill, and integrity. During his career, Larry met notables such as Bob Hope, Red Skelton, and Doc Severinsen, but never failed to treat all people with equanimity—affording respect to students, university staff, families, and visitors alike.

A native of Canton, Ohio, Larry graduated from Bowling Green State University in 1967 with a Bachelor of Science Degree in Journalism and a specialization in public relations. Following graduation, he began his business career in the Press Relations Department of Libbey-Owens-Ford Glass Company in Toledo.

In 1973, Larry returned to his alma mater as Assistant Director of Alumni Affairs where he undertook a $2.2 million campaign to build an alumni center on campus. Five years later, he was promoted to Director of Alumni Affairs. In 1998, Larry incorporated state government relations into his job responsibilities while still serving as alumni director. In August, 2000, he moved to the President's Office where he continued to serve the President and the community.

During his tenure in the Alumni Office, Larry served as chair of the University's 7th Anniversary celebration. He was one of three alumni administrators in the United States selected by the Asian Institute of Management for travel to Manila, Philippines to train Filipino educators. He also served as host of a weekly television show called ''Time Out'' on the local PBS affiliate.

In addition to his responsibilities at BGSU, Larry served on the boards of trustees for the Bowling Green Chamber of Commerce, the Bowling Green Community Development Foundation and the United Way of Greater Toledo. He is also a University representative on the Toledo Symphony Board.

One of Larry's avocations is baseball. As an 18-year-old standout, he had a scheduled tryout for the Baltimore Orioles organization. It appeared as though Larry was destined to be a professional baseball player. However, the week before his tryout, he broke his wrist and was unable to tryout. With a broken wrist, his life path changed and he decided to go to college at Bowling Green State University. At BGSU he fell in love and married Frances Greiger and also fell in love with BGSU. Not only has the marriage thrived in 42 years, but Larry's love for baseball still continues. Since 1995 Larry has played in an adult baseball league and annually plays in the Legends of Baseball League in Cooperstown, New York. This past August, Larry was inducted into the Legends of Baseball Hall of Fame.

His family jokes that while on family vacations in other states people would recognize Larry—''Larry Weiss, Bowling Green State University'' and his relationship with Bowling Green State University will continue. He will lead the University's 100th anniversary celebration.

Upon Larry Weiss' official retirement from Bowling Green State University, I wish him time to spend with family and friends doing that which he most enjoys as he travels this new road of life. We know that his lifetime of dedication to building Bowling Green State University into one of the largest recognized universities in the state will not end with retirement. Let us express to Larry and his family our sincerest gratitude and Godspeed in the years ahead.

HONORING WILLIAM MURDOCK AND ELBEN CHARITIES

HON. HEATH SHULER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 2007

Mr. SHULER. Madam Speaker, I rise today to recognize the exceptional service of a most distinguished constituent, William Murdock. Mr. Murdock serves as Executive Director of the Eblen Charities and Eblen Center for Social Enterprise, an Asheville-based non-profit organization that assists low-income children, adults, and families battling illnesses and disabilities.

Mr. Murdock is a graduate of Asheville Buncombe Technical Community College, Mars Hill College, Duke University, and the Harvard Business School. Along with his work at Eblen Charities, Mr. Murdock lectures at Duke University and has been named an outstanding scholar in social enterprise by the International Biographical Centre of Cambridge, England.

Growing up in Asheville, North Carolina, Mr. Murdock developed a passion for wrestling which he pursued as a student-athlete and then as a high school coach. He is widely regarded as one of wrestling's preeminent historians and was most recently honored as the first recipient of the Lou Thesz World Heavyweight Championship Award. The award recognizes an individual connected with wrestling who has ''taken the skills, courage and mental toughness that are the essentials of the sport and has applied those characteristics to the realm of public service.'' In nearly two decades of service at the Eblen Charities, Mr. Murdock has done that and more.

Under his leadership, Eblen Charities has grown from a two-person partnership that assisted 300 families in 1991 to a world-class organization that served 65,000 in 2006. Mr. Murdock currently oversees roughly 60 programs designed to help families in western North Carolina secure health care coverage, low-cost prescription drugs, heating and cooling for their homes, and other life essentials. In so doing, Mr. Murdock delivers hope in trying times and the wherewithal to meet whatever challenges might lie ahead.

His example serves to remind us that a single individual, armed with compassion, ingenuity, and resolve, can do extraordinary things. I am honored to represent Mr. Murdock in the United States Congress, and I ask my colleagues to join me in applauding his outstanding work.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, September 20, 2007 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 24

3 p.m.
Energy and Natural Resources
To hold an oversight hearing to examine scientific assessments of the impacts of global climate change on wildfire activity in the United States.
SD–366

SEPTEMBER 25

9:30 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine two years after Hurricanes Katrina and Rita, focusing on housing needs in the Gulf Coast.
SD–538

Judiciary
To hold hearings to examine streghtening the Foreign Intelligence Surveillance Act (FISA).
SD–226

Veterans' Affairs
To hold oversight hearings to examine Persian Gulf War research.
SD–562

10 a.m.
Energy and Natural Resources
To hold hearings to examine S. 1756, to provide supplemental ex gratia compensation to the Republic of the Marshall Islands for impacts of the nuclear testing program of the United States.
SD–366

Finance
To hold hearings to examine home and community based care, focusing on expanding options for long-term care.
SD–G50

2 p.m.
Environment and Public Works
To hold hearings to examine green jobs created by global warming initiatives.
SD–406

2:30 p.m.
Commerce, Science, and Transportation
To hold hearings to examine the digital television transition, focusing on government and industry perspectives.
SR–253

Foreign Relations
To hold hearings to examine the nominations of David T. Johnson, of Georgia, to be an Assistant Secretary of State (International Narcotics and Law Enforcement Affairs), P. Robert Fannin, of Arizona, to be Ambassador to the Dominican Republic, and Paul E. Simons, of Virginia, to be Ambassador to the Republic of Chile.
SD–419

Judiciary
To hold hearings to examine pending judicial nominations.
SD–226

SEPTEMBER 26

9:30 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine the role and impact of credit ratings agencies on the subprime credit markets.
SD–538

Environment and Public Works
To hold hearings to examine the impacts of global warming on the Chesapeake Bay.
SD–406

10 a.m.
Energy and Natural Resources
To hold hearings to examine S. 1543, to establish a national geothermal initiative to encourage increased production of energy from geothermal resources.
SD–366

Finance
To hold hearings to examine offshore tax issues, focusing on reinsurance and hedge funds.
SD–215

Homeland Security and Governmental Affairs
Business meeting to consider the nomination of Julie L. Myers, of Kansas, to be Assistant Secretary of Homeland Security.
SD–342

Small Business and Entrepreneurship
To hold hearings to examine improving internet access to help small business compete in a global economy.
SR–428A

2:30 p.m.
Judiciary
To hold hearings to examine the nomination of Michael J. Sullivan, of Massachusetts, to be Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives.
SD–226

SEPTEMBER 27

9:30 a.m.
Energy and Natural Resources
To hold hearings to examine hard-rock mining on federal lands.
SD–366

Veterans' Affairs
To hold hearings to examine the nomination of Paul J. Hutter, of Virginia, to be General Counsel, Department of Veterans Affairs.
SD–562

10 a.m.
Commerce, Science, and Transportation
Aviation Operations, Safety, and Security Subcommittee
To hold hearings to examine congestion and delays impacting travelers, focusing on possible solutions.
SR–253

2 p.m.
Judiciary
Antitrust, Competition Policy and Consumer Rights Subcommittee
To hold hearings to examine the Google-DoubleClick merger and the online advertising industry, focusing on the risks for competition and privacy.
SD–226

2:30 p.m.
Foreign Relations
To hold hearings to examine the United Nations Convention on the Law of the Sea (T.Doc.103–39).
SD–419

Energy and Natural Resources
National Parks Subcommittee
To hold hearings to examine S. 128, to amend the Cache La Poudre River Corridor Act to designate a new management entity, make certain technical and conforming amendments, enhance private property protections, S. 148, to establish the Paterson Great Falls National Park in the State of New Jersey, S. 189, to decrease the matching funds requirements and authorize additional appropriations for Keweenaw National Historical Park in the State of Michigan, S. 697, to establish the Steel Industry National Historic Site in the State of Pennsylvania, S. 1341, to provide for the exchange of certain Bureau of Land Management land in Pima County, Arizona, S. 1476, to authorize the Secretary of the Interior to conduct special resources study of the Tule Lake Segregation Center in Modoc County, California, to determine suitability and feasibility of establishing a unit of the National Park System, S. 867, to adjust the boundary of Lowell National Historical Park, S. 1709 and H.R. 1239, bills to amend the National Underground Railroad Network to Freedom Act of 1998 to provide additional staff and oversight of funds to carry out the Act, S. 1808, to authorize the exchange of certain land in Denali National Park in the State of Alaska, and S. 1969, to authorize the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of designating Estate Grange and other sites related to Alexander Hamilton's life on the island of St. Croix in the United States Virgin Islands as a unit of the National Park System.
SD–366

OCTOBER 2

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine issues and challenges facing current mine safety disasters.
SD–430

Daily Digest
Senate

Chamber Action

Routine Proceedings, pages S11687–S11774

Measures Introduced: Four bills and two resolutions were introduced, as follows: S. 2068–2071, and S. Res. 321–322. **Page S11751**

Measures Passed:

Peace Corps: Senate passed H.R. 3528, to provide authority to the Peace Corps to provide separation pay for host country resident personal services contractors of the Peace Corps, clearing the measure for the President. **Pages S11773–74**

Honoring General George Sears Greene: Senate agreed to S. Res. 322, honoring the lifetime achievements of General George Sears Greene on the occasion of the 100th anniversary rededication of the monument in his honor. **Page S11774**

Measures Considered:

National Defense Authorization Act: Senate continued consideration of H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel, taking action on the following amendments proposed thereto: **Pages S11688–S11739**

Withdrawn:

By 56 yeas and 44 nays (Vote No. 341), Webb Amendment No. 2909 (to Amendment No. 2011), to specify minimum periods between deployment of units and members of the Armed Forces deployed for Operation Iraqi Freedom and Operation Enduring Freedom. (A unanimous-consent agreement was reached providing that the amendment, having failed to achieve 60 affirmative votes, be withdrawn). **Pages S11699–S11735**

By 55 yeas and 45 nays (Vote No. 342), McCain/Graham Amendment No. 2918 (to Amendment No. 2011), to express the sense of Congress on Department of Defense policy regarding dwell time. (A unanimous-consent agreement was reached providing that the amendment, having failed to achieve 60 affirmative votes, be withdrawn). **Pages S11732, S11735–36**

Levin (for Specter/Leahy) Amendment No. 2022 (to Amendment No. 2011), to restore habeas corpus for those detained by the United States. **Pages S11688–99**

Pending:

Nelson (NE) (for Levin) Amendment No. 2011, in the nature of a substitute. **Page S11688**

Warner (for Graham/Kyl) Amendment No. 2064 (to Amendment No. 2011), to strike section 1023, relating to the granting of civil rights to terror suspects. **Page S11688**

Cornyn Amendment No. 2934 (to Amendment No. 2011), to express the sense of the Senate that General David H. Petraeus, Commanding General, Multi-National Force-Iraq, deserves the full support of the Senate and strongly condemn personal attacks on the honor and the integrity of General Petraeus and all the members of the United States Armed Forces. **Pages S11736–39**

During consideration of this measure today, Senate also took the following action:

By 56 yeas to 43 nays (Vote No. 340), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to close further debate on Levin (for Specter/Leahy) Amendment No. 2022 (listed above). **Page S11697**

A unanimous-consent agreement was reached providing for further consideration of the bill at 10:30 a.m., on Thursday, September 20, 2007. **Page S11774**

Messages from the House: **Pages S11747–48**

Measures Referred: **Page S11748**

Measures Read the First Time: **Page S11748**

Executive Communications: **Pages S11748–51**

Additional Cosponsors: **Pages S11751–53**

Statements on Introduced Bills/Resolutions: **Pages S11753–58**

Additional Statements: **Pages S11745–46**

Amendments Submitted: **Pages S11758–73**

Authorities for Committees to Meet: **Page S11773**

Privileges of the Floor: **Page S11773**

Record Votes: Three record votes were taken today. (Total—342) **Pages S11697, S11735, S11736**

Adjournment: Senate convened at 10 a.m. and adjourned at 7:29 p.m., until 9:30 a.m. on Thursday, September 20, 2007. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S11774.)

Committee Meetings

(Committees not listed did not meet)

BUSINESS MEETING

Committee on Banking, Housing, and Urban Affairs: Committee ordered favorably reported the following:

S. 1518, to amend the McKinney-Vento Homeless Assistance Act to reauthorize the Act, with an amendment in the nature of a substitute;

H.R. 835, to reauthorize the programs of the Department of Housing and Urban Development for housing assistance for Native Hawaiians; and

An original bill entitled, "FHA Modernization Act of 2007."

WASTEWATER INFRASTRUCTURE

Committee on Environment and Public Works: Subcommittee on Transportation Safety, Infrastructure Security, and Water Quality concluded a hearing to examine America's wastewater infrastructure needs in the 21st century, after receiving testimony from Benjamin H. Grumbles, Assistant Administrator for Water, Environmental Protection Agency; Mayor Douglas H. Palmer, Trenton, New Jersey, on behalf of the U.S. Conference of Mayors; Mayor Glenn Brasseaux, Carencro, Louisiana; Joe S. Freeman, Oklahoma Water Resources Board, Oklahoma City, on behalf of the Council of Infrastructure Financing Authorities; Christopher M. Westhoff, City of Los Angeles, Los Angeles, California, on behalf of the National Association of Clean Water Agencies and the Water Infrastructure Network; and Nancy K. Stoner, Natural Resources Defense Council, Washington, D.C.

NOMINATIONS

Committee on Foreign Relations: Committee concluded a hearing to examine the nominations of Barry Leon Wells, of Ohio, to be Ambassador to the Republic of The Gambia, Robin Renee Sanders, of New York, to be Ambassador to the Federal Republic of Nigeria, Mark M. Boulware, of Texas, to be Ambassador to the Islamic Republic of Mauritania, James D. McGee, of Florida, to be Ambassador to the Republic of Zimbabwe, Ronald K. McMullen, of Iowa, to be Ambassador to the State of Eritrea, and Louis John Nigro, Jr., of Florida, to be Ambassador to the Republic of Chad, after the nominees testified and answered questions in their own behalf.

EVERGLADES

Committee on Foreign Relations: Subcommittee on International Operations and Organizations, Democracy and Human Rights concluded a hearing to examine the Everglades, focusing on protecting natural treasures through international organizations, after receiving testimony from Gerald C. Anderson, Deputy Assistant Secretary of State for International Organization Affairs; Todd Willens, Deputy Assistant Secretary of the Interior for Fish and Wildlife and Parks; and Anu K. Mittal, Director, Natural Resources and Environment, Government Accountability Office.

FEDERAL RECOGNITION OF INDIAN TRIBES

Committee on Indian Affairs: Committee concluded a hearing to examine the process of federal recognition of Indian tribes, after receiving testimony from Senators Dole and Levin; Representative McIntyre; R. Lee Fleming, Director, Office of Federal Acknowledgment, Office of the Assistant Secretary of Indian Affairs, Department of the Interior; James Ernest Goins, Lumbee Tribe of North Carolina, Pembroke; John Sinclair, Little Shell Tribe of Chippewa Indians of Montana, Great Falls; Ann Denson Tucker, Muscogee Nation of Florida, Bruce; and Ron Yob, Grand River Bands of Ottawa Indians of Michigan, Grand Rapids.

MATERIAL SUPPORT TO TERRORIST ORGANIZATIONS

Committee on the Judiciary: Subcommittee on Human Rights and the Law concluded a hearing to examine the "material support to terrorist organizations" bar to admission to asylum and resettlement in the United States, focusing on the denial of refuge to the persecuted, after receiving testimony from Paul Rosenzweig, Deputy Assistant Secretary of Homeland Security for Policy; Anwen Hughes, Human Rights First Refugee Protection Program, New York, New York; and Thomas G. Wenski, United States Conference of Catholic Bishops (USCCB), Orlando, Florida.

PRESIDENTIAL NOMINATING CONVENTION

Committee on Rules and Administration: Committee concluded a hearing to examine S. 1905, to provide for a rotating schedule for regional selection of delegates to a national Presidential nominating convention, after receiving testimony from Senators Klobuchar, Alexander, and Lieberman; Iowa Secretary of State Michael Mauro, Des Moines; Kentucky Secretary of State Trey Grayson, Frankfort, on behalf of the National Association of Secretaries of State; William G. Mayer, Northeastern University,

Boston, Massachusetts; and Richard L. Hasen, Loyola Law School, Los Angeles, California.

INFORMATION TECHNOLOGY WITHIN VETERANS AFFAIRS

Committee on Veterans' Affairs: Committee concluded a hearing to examine the current state of affairs for information technology within the Department of Veterans Affairs, after receiving testimony from Robert T. Howard, Assistant Secretary for Information and Technology, Paul A. Tibbits, Deputy Chief Information Officer, Office of Enterprise Development, Office of Information and Technology, Stephen M. Lucas, Director, Tampa Veterans Affairs Medical Center, Veterans Health Administration, and Kim Graves, Special Assistant to the Under Secretary for Benefits, Veterans Benefits Administration, all of the Department of Veterans Affairs; Valerie C. Melvin, Director, Human Capital and Management Information Systems Issues, and Gregory Wishusen, Director, Information Security Issues, both of the Government Accountability Office; and John Glaser, Partners Healthcare, Boston, Massachusetts.

DIGITAL TELEVISION TRANSITION FOR SENIORS

Special Committee on Aging: Committee concluded a hearing to examine preparing for the digital television transition, focusing on how senior citizens will be affected, after receiving testimony from Mark L. Goldstein, Director, Physical Infrastructure Issues, Government Accountability Office; Jonathan S. Adelstein, Commissioner, Federal Communications Commission; John M.R. Kneuer, Assistant Secretary of Commmerce for Communications and Information, National Telecommunications and Information Administration; Nelda Barnett, AARP, Owensboro, Kentucky; and Amina Fazlullah, United States Public Interest Research Group, Marcellus Alexander, Jr., National Association of Broadcasters (NAB), and Sandy Markwood, National Association of Area Agencies on Aging (n4a), all of Washington, D.C.

House of Representatives

Chamber Action

Public Bills and Resolutions Introduced: 28 public bills, H.R. 3579–3606; and 4 resolutions, H. Con. Res. 215; and H. Res. 663, 665–666 were introduced. **Pages H10624–25**

Additional Cosponsors: **Pages H10625–27**

Reports Filed: Reports were filed today as follows:

H.R. 3539, to amend the Internal Revenue Code of 1986 to extend financing for the Airport and Airway Trust Fund, with an amendment (H. Rept. 110–334, Pt. 1);

H. Res. 664, providing for consideration of the bill (H.R. 2881) to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, and to provide stable funding for the national aviation system (H. Rept. 110–335); and

H.R. 2095, to amend title 49, United States Code, to prevent railroad fatalities, injuries, and hazardous materials releases and to authorize the Federal Railroad Safety Administration, with an amendment (H. Rept. 110–336). **Page H10624**

Chaplain: The prayer was offered by the guest Chaplain, Rev. Richard Estrada, Executive Director, Jovenes, Inc., Los Angeles, California. **Page H10513**

Journal: The House agreed to the Speaker's approval of the Journal by a yea-and-nay vote of 228 yeas to 192 nays, Roll No. 878. **Pages H10513, H10524**

Terrorism Risk Insurance Revision and Extension Act of 2007: The House passed H.R. 2761, to extend the Terrorism Insurance Program of the Department of the Treasury, by a yea-and-nay vote of 312 yeas to 110 nays, Roll No. 884. **Pages H10516–51**

Rejected the Dreier motion to recommit the bill to the Committee on Financial Services with instructions to report the same back promptly without the changes made by the amendment printed in part A of H. Rept. 110–333, by a yea-and-nay vote of 196 yeas to 228 nays, Roll No. 883. **Pages H10549–51**

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Financial Services now printed in the bill, modified by the amendment printed in part A of H. Rept. 110–333, shall be considered as adopted in the House and in the Committee of the Whole and shall be considered as the original bill for the purpose of further amendment. **Pages H10516–17**

Accepted:

Frank (MA) manager's amendment (No. 1 printed in part B of H. Rept. 110–333) that clarifies the certification process for acts of NBCR (nuclear, biological, chemical, or radiological) terrorism; applies the reset mechanism to the NBCR deductible, and

provides that the Consumer Price Index will be used to adjust for inflation the dollar amounts used in TRIA. The amendment also makes technical and conforming changes (by a recorded vote of 426 ayes to 1 no, Roll No. 881). **Pages H10544–45, H10547–48**

Rejected:

Pearce amendment (No. 2 printed in part B of H. Rept. 110–333) that sought to raise the deductible set at 5% above $1,000,000,000 by 1% each program year, rather than by .5% as the bill is written (by a recorded vote of 194 ayes to 230 noes, Roll No. 882). **Pages H10545–47, H10548–49**

Agreed that the Clerk be authorized to make technical and conforming changes to reflect the actions of the House. **Page H10551**

H. Res. 660, the rule providing for consideration of the bill, was agreed to by a recorded vote of 223 ayes to 195 noes, Roll No. 880, after agreeing to order the previous question by a yea-and-nay vote of 224 yeas to 197 nays, Roll No. 879. **Pages H10524–26**

Suspension: The House agreed to suspend the rules and pass the following measure:

Amending the Federal Food, Drug, and Cosmetic Act to revise and extend the user-fee programs for prescription drugs and for medical devices and enhancing the postmarket authorities of the Food and Drug Administration with respect to the safety of drugs: H.R. 3580, to amend the Federal Food, Drug, and Cosmetic Act to revise and extend the user-fee programs for prescription drugs and for medical devices and to enhance the postmarket authorities of the Food and Drug Administration with respect to the safety of drugs, by a ⅔ yea-and-nay vote of 405 yeas to 7 nays, Roll No. 885. **Pages H10551–99**

Senate Message: Message received from the Senate today appears on page H10513.

Senate Referral: S. 558 was referred to the Committee on Energy and Commerce and the Committee on Education and Labor. **Page H10623**

Quorum Calls—Votes: Five yea-and-nay votes and three recorded votes developed during the proceedings of today and appear on pages H10524, H10524–25, H10525, H10547–48, H10548–49, H10550, H10551, H10599. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 7:26 p.m.

Committee Meetings

RE-EMPOWERMENT OF SKILLED AND PROFESSIONAL EMPLOYEES AND CONSTRUCTION TRADESWORKERS ACT

Committee on Education and Labor: Ordered reported, as amended, H.R. 1644, Re-Empowerment of Skilled and Professional Employees and Construction Tradesworkers (RESPECT) Act.

PROTECTING CHILDREN FROM LEADED-TAINTED IMPORTS

Committee on Energy and Commerce: Subcommittee on Commerce, Trade, and Consumer Protection held a hearing entitled ''Protecting Children From Lead-Tainted Imports.'' Testimony was heard from the following officials of the Consumer Product Safety Commission: Nancy A. Nord, Acting Chairman; and Thomas H. Moore, Commissioner; and public witness.

Hearings continue tomorrow.

EMERGENCY COMMUNICATIONS

Committee on Energy and Commerce: Subcommittee on Telecommunications and the Internet, hearing entitled ''Issues in Emergency Communications: A Legislative Hearing on H.R. 3403, 911 Modernization and Public Safety Act of 2007.'' Testimony was heard from public witnesses.

U.S. POLITICAL AND MILITARY EFFORTS IN IRAQ

Committee on Foreign Affairs: Held a hearing on Assessment of the Administration's September Report on the Status of U.S. Political and Military Efforts in Iraq. Testimony was heard from Senator Graham and Richard C. Holbrooke, former U.S. Ambassador to the United Nations, Department of State.

U.S.-BRAZIL RELATIONS

Committee on Foreign Affairs: Subcommittee on the Western Hemisphere approved for full Committee, as amended, H. Res. 651, Recognizing the warm friendship and expanding strategy relations between the United States and Brazil, commending Brazil on successfully reducing its dependence on oil by finding alternative ways to satisfy its energy needs. And recognizing the importance of the March 9, 2007, United States-Brazil Memorandum of Understanding (MOU) on biofuels cooperation.

The Subcommittee also held a hearing on U.S.-Brazil Relations. Testimony was heard from public witnesses.

REGULATORY IMPROVEMENT ACT

Committee on the Judiciary: Subcommittee on Commercial and Administrative Law approved for full

Committee action H.R. 3564, Regulatory Improvement Act of 2007.

Prior to this action, the Subcommittee held a hearing on this legislation. Testimony was heard from the following officials of the Congressional Research, Library of Congress: Mort Rosenberg, Specialist in American Public Law; and Curtis Copeland, Specialist in American National Government; and public witnesses.

OVERSIGHT—DIVERSIFYING NATIVE ECONOMIES

Committee on Natural Resources: Held an oversight hearing on Diversifying Native Economies. Testimony was heard from Robert Middleton, Director, Office of Indian Energy and Economic Development, Department of the Interior; William H. Largent, Assistant Administrator, Office of Native American Affairs, SBA; Katherine V. Schinasi, Managing Director, Acquisition and Sourcing Management, GAO; and public witnesses.

FAA REAUTHORIZATION ACT OF 2007

Committee on Rules: Committee granted, by a voice vote, a structured rule providing 1 hour of general debate on H.R. 2881, FAA, Reauthorization Act of 2007, equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure.

The rule waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI. The rule provides that, in lieu of the amendment in the nature of a substitute recommended by the Committee on Transportation and Infrastructure now printed in the bill, the amendment in the nature of a substitute printed in part A of the Rules Committee report, modified by the amendment printed in part B of the Rules Committee report, shall be considered as adopted in the House and in the Committee of the Whole. The bill, as amended, shall be considered as the original bill for purpose of further amendment and shall be considered as read. The rule waives all points of order against provisions in the bill, as amended.

The rule makes in order only those amendments printed in part C of the Rules Committee report. Amendments so printed may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by a proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The rule waives all points of order against such amendments except those arising under clause 9 or 10 of rule XXI.

The rule provides one motion to recommit H.R. 2881 with or without instructions. Finally, notwithstanding the operation of the previous question, during consideration in the House of H.R. 2881, the Chair may postpone further consideration until at time designated by the Speaker. Testimony was heard from Chairman Oberstar and Representatives Costello, Lipinski, Lampson, Payne, Klein of Florida, Petri, Poe, Shays, Garrett and Neugebauer.

BRIDGE SAFETY

Committee on Science and Technology: Held a hearing on Bridge Safety: Next Steps to Protect the Nation's Critical Infrastructure. Testimony was heard from Dennis Judycki, Associate Administrator, Research, Development and Technology, Federal Highway Administration, Department of Transportation; and public witnesses.

SBA'S CONTRACTING PROGRAM

Committee on Small Business: Held a hearing to examine the Small Business Administration's contracting programs. Testimony was heard from Jovita Carranza, Deputy Administrator, SBA; and public witnesses.

CRUISE SHIP SAFETY

Committee on Transportation and Infrastructure: Subcommittee on Coast Guard and Maritime Transportation held a hearing on Cruise Ship Security Practices and Procedures. Testimony was heard from RADM Wayne Justice, USCG, Assistant Commandant for Response, USCG, Department of Homeland Security; Salvador Hernandez, Deputy Assistant Director, Criminal Investigative Division, FBI, Department of Justice; and public witnesses.

WOUNDED SERVICE MEMBER CARE

Committee on Veterans' Affairs: Held a hearing on the findings of the President's Commission on Care for America's Returning Wounded Warriors. Testimony was heard from the following officials of the President's Commission on Care for America's Returning Wounded Warriors: Donna E. Shalala, Co-Chair; and Bob Dole, Co-Chair.

PAUL WELLSTONE MENTAL HEALTH AND ADDICTION EQUITY ACT OF 2007

Committee on Ways and Means: Subcommittee on Health approved for full Committee action, as amended, H.R. 1424, Paul Wellstone Mental Health and Addiction Equity Act of 2007.

UNEMPLOYMENT INSURANCE ACCESS

Committee on Ways and Means: Subcommittee on Income Security and Family Support held a hearing on Unemployment Insurance to Reduce Barriers for

Jobless Workers. Testimony was heard from Cynthia Fagnoni, Managing Director, Education, Workforce and Income Security, GAO; Lynette Hammond, Deputy Secretary of Commerce and Trade, State of Virginia; and public witnesses.

BRIEFING—HOT-SPOTS

Permanent Select Committee on Intelligence: Met in executive session to receive a briefing on Hot-Spots. The Committee was briefed by departmental witnesses.

Joint Meetings

SUBPRIME LENDING DISASTER AND THE THREAT TO THE BROADER ECONOMY

Joint Economic Committee: Committee concluded a hearing to examine the evolution of an economic crisis, focusing on the subprime lending disaster and the threat to the broader economy, after receiving testimony from Peter R. Orszag, Director, Congressional Budget Office; Robert J. Shiller, Yale University, New Haven, Connecticut; and Martin Eakes, Center for Responsible Lending, and Alex J. Pollock, American Enterprise Institute, both of Washington, D.C.

COMMITTEE MEETINGS FOR THURSDAY, SEPTEMBER 20, 2007

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Energy and Natural Resources: Subcommittee on Public Lands and Forests, to hold hearings to examine S. 1143, to designate the Jupiter Inlet Lighthouse and the surrounding Federal land in the State of Florida as an Outstanding Natural Area and as a unit of the National Landscape System, S. 2034, to amend the Oregon Wilderness Act of 1984 to designate the Copper Salmon Wilderness and to amend the Wild and Scenic Rivers Act to designate segments of the North and South Forks of the Elk River in the State of Oregon as wild or scenic rivers, S. 1377, to direct the Secretary of the Interior to convey to the City of Henderson, Nevada, certain Federal land located in the City, S. 1608 and H.R. 815, bills to provide for the conveyance of certain land in Clark County, Nevada, for use by the Nevada National Guard, S. 1740, to amend the Act of February 22, 1889, and the Act of July 2, 1862, to provide for the management of public land trust funds in the State of North Dakota, S. 1802, to adjust the boundaries of the Frank Church River of No Return Wilderness in the State of Idaho, S. 1939, to provide for the conveyance of certain land in the Santa Fe National Forest, New Mexico, S. 1940, to reauthorize the Rio Puerco Watershed Management Program, and S. 1433, to amend the Alaska National Interest Lands Conservation Act to provide competitive status to certain Federal employees in the State of Alaska, 2:30 p.m., SD–366.

Committee on Environment and Public Works: business meeting to consider S. 589, to provide for the transfer of certain Federal property to the United States Paralympics, Incorporated, a subsidiary of the United States Olympic Committee, and General Services Administration resolutions, 9:55 a.m., SD–406.

Full Committee, to hold an oversight hearing to examine the condition of our nation's bridges, 10 a.m., SD–406.

Committee on Finance: to hold hearings to examine a review of bank treatment of social security benefits, 10 a.m., SD–215.

Full Committee, business meeting to consider original bills entitled, ''American Infrastructure Investment and Improvement Act'', ''The Habitat and Land Conservation Act of 2007'', and to review and make recommendations on proposed legislation implementing the U.S.-Peru Trade Promotion Agreement, 4 p.m., SD–215.

Committee on Homeland Security and Governmental Affairs: Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security, to hold hearings to examine the Office of Management and Budget's oversight on ongoing information systems projects, focusing on the efficacy of the management practices used by agencies to ensure the success of the projects, 2:30 p.m., SD–342.

Committee on Small Business and Entrepreneurship: to hold hearings to examine expanding opportunities for women entrepreneurs, focusing on the future of women's small business programs, 10 a.m., SR–428A.

Committee on Veterans' Affairs: to hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation by the American Legion, 9:30 a.m., 345, Cannon Building.

Select Committee on Intelligence: to hold closed hearings to examine certain intelligence matters, 2:30 p.m., SH–219.

House

Committee on Armed Services, hearing on Accountability During Contingency Operations: Preventing and Fighting Corruption in Contracting and Establishing and Maintaining Appropriate Controls on Materiel, 11:30 a.m., 2118 Rayburn.

Committee on the Budget, hearing on Using Taxpayers' Dollars Most Efficiently: Perspectives on Performance Budgeting, 10 a.m., 210 Cannon.

Committee on Energy and Commerce, Subcommittee on Commerce, Trade, and Consumer Protection to continue hearings entitled ''Protecting Children From Lead-Tainted Imports,'' 9:30 a.m., 2123 Rayburn.

Committee on Financial Services, hearing entitled ''Legislative and Regulatory Options for Minimizing and Mitigating Mortgage Foreclosures,'' 10 a.m., 2128 Rayburn.

Committee on Foreign Affairs, Subcommittee on Asia, the Pacific, and the Global Environment, hearing on U.S. Assistance in East Asia and the Pacific: An Overview, 2 p.m., 2172 Rayburn.

Committee on Homeland Security, hearing entitled ''Protecting the Protectors: Ensuring the Health and Safety of Our First Responders in the Wake of Catastrophic Disasters,'' 10 a.m., 311 Cannon.

Committee on the Judiciary, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, hearing on the United States Citizenship and Immigration Services Fee Increase Rule, 2141 Rayburn.

Committee on Natural Resources, Subcommittee on Insular Affairs, to mark up H.R. 53, Virgin Islands National Park School Lease Act, 3 p.m., 1324 Longworth.

Committee on Oversight and Government Reform, to mark up the following measures: H. Con. Res. 193, Recognizing all hunters across the United States for their continued commitment to safety; H. Res. 303, Expressing the sense of the House of Representatives that a day ought to be established to bring awareness to the issue of missing persons; H. Res. 584, Supporting the goals and ideals of "National Life Insurance Awareness Month"; H. Res. 605, Supporting the goals and ideals of Gold Star Mothers Day; H. Res. 641, Acknowledging the importance of understanding the history of the United States of America and recognizing the need to foster civic responsibilty in all citizens; H.R. 2089, To designate the facility of the United States Postal Service located at 701 Loyola Avenue in New Orleans, Louisiana, as the "Louisiana Armed Services Veterans Post Office"; H.R. 2276, To designate the facility of the United States Postal Service located at 203 North Main Street in Vassar, Michigan, as the "Corporal Christopher E. Esckelson Post Office Building"; H.R. 3233, To designate the facility of the United States Postal Service located at Highway 49 South in Piney Woods, Mississippi, as the "Laurence C. and Grace M. Jones Post Office Building"; H.R. 3297, To designate the facility of the United States Postal Service located at 950 West Trenton Avenue in Morrisville, Pennsylvania, as the "Nate DeTample Post Office Building"; H.R. 3307, To designate the facility of the United States Postal Service located at 570 Broadway, Bayonne, New Jersey, as the "Dennis P. Collins Post Office Building"; H.R. 3308, To designate the facility of the United States Postal Service located at 216 Main Street in Atwood, Indiana, as the "Lance Corporal David K. Fribley Post Office; H.R. 3325, to designate the facility of the United States Postal Service located at 235 Mountain Road in Suffield, Connecticut, as the "Corporal Stephen B. Bixler Post Office"; H.R. 3382, To designate the facility of the United States Postal Service located at 299 North William Street in Goldsboro, North Carolina, as the "Philip A. Baddour, Sr. Post Office"; H.R. 3518, To designate the facility of the United States Postal Service located at 1430 South Highway 29 in Cantonment, Florida, as the "Charles H. Hendix Post Office Building"; H.R. 1236, To make permanent the authority of the United States Postal Service to issue a special postage stamp to support breast cancer research; H.R. 1110, 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; H.R. 3530, To designate the facility of the United States Postal Service located at 1400 Highway 41 North in Inverness, Florida, as the "Chief Warrant Officer Aaron Weaver Post Office Building"; H. Con. Res. 210, Supporting the goals and ideals of Sickle Cell Disease Awareness Month; and a resolution Supporting the goals and ideals of Veterans of Foreign Wars day, 10 a.m., 2154 Rayburn.

Committee on Small Business, September 20, to mark up H.R. 3567, Small Business Investment Expansion Act of 2007, 10 a.m., 2360 Rayburn.

Committee on Veterans' Affairs, Subcommittee on Economic Opportunity, oversight hearing on Licensure and Certification of Transitioning Veterans, 2 p.m., 334 Cannon.

Permanent Select Committee on Intelligence, hearing on FISA with the DNI, 9 a.m., 1300 Longworth.

Select Committee on Energy Independence and Global Warming, hearing entitled "Renewable Electricity Standards: Lighting the Way," 9 a.m., 2175 Rayburn.

Joint Meetings

Joint Hearing: Senate Committee on Veterans' Affairs, to hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation by the American Legion, 9:30 a.m., 345, Cannon Building.

Next Meeting of the **SENATE**

9:30 a.m., Thursday, September 20

Senate Chamber

Program for Thursday: After the transaction of any morning business (not to extend beyond 10:30 a.m.), Senate will continue consideration of H.R. 1585, National Defense Authorization Act.

Next Meeting of the **HOUSE OF REPRESENTATIVES**

10 a.m., Thursday, September 20

House Chamber

Program for Thursday: Consideration of H.R. 2881—FAA Reauthorization Act of 2007 (Subject to a Rule).

Extensions of Remarks, as inserted in this issue

HOUSE

Congressional Record The *Congressional Record* (USPS 087–390). The Periodicals postage is paid at Washington, D.C. The public proceedings of each House of Congress, as reported by the Official Reporters thereof, are printed pursuant to directions of the Joint Committee on Printing as authorized by appropriate provisions of Title 44, United States Code, and published for each day that one or both Houses are in session, excepting very infrequent instances when two or more unusually small consecutive issues are printed one time. ¶Public access to the *Congressional Record* is available online through *GPO Access*, a service of the Government Printing Office, free of charge to the user. The online database is updated each day the *Congressional Record* is published. The database includes both text and graphics from the beginning of the 103d Congress, 2d session (January 1994) forward. It is available through *GPO Access* at www.gpo.gov/gpoaccess. Customers can also access this information with WAIS client software, via telnet at swais.access.gpo.gov, or dial-in using communications software and a modem at 202–512–1661. Questions or comments regarding this database or *GPO Access* can be directed to the *GPO Access* User Support Team at: E-Mail: gpoaccess@gpo.gov; Phone 1–888–293–6498 (toll-free), 202–512–1530 (D.C. area); Fax: 202–512–1262. The Team's hours of availability are Monday through Friday, 7:00 a.m. to 5:30 p.m., Eastern Standard Time, except Federal holidays. ¶The *Congressional Record* paper and 24x microfiche edition will be furnished by mail to subscribers, free of postage, at the following prices: paper edition, $252.00 for six months, $503.00 per year, or purchased as follows: less than 200 pages, $10.50; between 200 and 400 pages, $21.00; greater than 400 pages, $31.50, payable in advance; microfiche edition, $146.00 per year, or purchased for $3.00 per issue payable in advance. The semimonthly *Congressional Record Index* may be purchased for the same per issue prices. To place an order for any of these products, visit the U.S. Government Online Bookstore at: bookstore.gpo.gov. Mail orders to: Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954, or phone orders to 866–512–1800 (toll free), 202–512–1800 (D.C. area), or fax to 202–512–2250. Remit check or money order, made payable to the Superintendent of Documents, or use VISA, MasterCard, Discover, American Express, or GPO Deposit Account. ¶Following each session of Congress, the daily *Congressional Record* is revised, printed, permanently bound and sold by the Superintendent of Documents in individual parts or by sets. ¶With the exception of copyrighted articles, there are no restrictions on the republication of material from the *Congressional Record*.

POSTMASTER: Send address changes to the Superintendent of Documents, *Congressional Record*, U.S. Government Printing Office, Washington, D.C. 20402, along with the entire mailing label from the last issue received.