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Senate

The Senate met at 9:30 and was called to order by the Honorable JON TESTER, a Senator from the State of Montana.

PRAYER

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

Let us pray.

Everlasting Father, enable us to love You with all our hearts, souls, minds, and strength. Give us humility so we can see Your divine image in the people around us and serve You by serving them. Let this love expressed in service transform our Senate, Nation, and world.

Lord, bless our Senators. Make them kind in thought, gentle in speech, generous in actions. Lift their lives from the battle zone of combative words to a caring community of integrity, respect, and civility. Teach them that it is better to give than to receive, that it is better to serve than to be served. Lead them to a humility that speaks great things for others.

We pray in Your precious Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JON TESTER 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.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, this morning the Senate will conduct morning business, with the time equally divided and controlled between the two sides, with the majority controlling the first half hour.

We are working hard to come up with an agreement on how we can dispose of the Biden and Kyl amendments. We were very close to being there several times yesterday, but we are still not there. Once we reach an agreement, Members will be notified of when the votes will occur.

The Senate has received, it is my understanding, the children's health legislation. We are going to begin the process of getting to a point where this matter will be considered and disposed of in the Senate and sent to the President.

Other matters which need to be considered this week are a continuing resolution and debt limit. I have been in contact with my distinguished colleague, the senior Senator from Kentucky, to see how we are going to work our way through this. Members will be apprised of schedule issues throughout the day.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

MOVING FORWARD

Mr. MCCONNELL. Mr. President, let me just say I will be working with the majority leader to accomplish the goals he just laid out. I think there is broad bipartisan support for going forward as he suggested.

BURMA

Mr. MCCONNELL. Mr. President, there is disheartening news coming out of Burma this morning. Last night, following yet another day of massive peaceful protests demanding political reform in Burma, the repressive Burmese regime imposed a nighttime curfew and banned all public gatherings of more than five people. Despite this brazen effort to muzzle freedom of expression, reports indicate that thousands of Buddhist monks and other protestors courageously defied the prohibition on public assembly and marched again in Rangoon. In response, reports indicate that the security forces of the State Peace and Development Council responded with typical brutality, beating and arresting scores of these brave protestors. It was reported that one person was shot to death and five received gunshot injuries.

Back in 1988, the regime responded to similar peaceful protests by massacring thousands of its own citizens. But the Burmese regime should know that things have changed in the intervening years. Modern technology has permitted photographs of those heroic protesters to be transmitted via the Internet around the entire world. Whereas before the news could be easily muzzled by the junta, today that is no longer the case. The world is watching, and any brutal steps taken in Rangoon are instantly made known in places such as New York, New Delhi, and Beijing. These moving images of heroism have certainly reached us here in Washington, DC.

As I have said before to the regime in Burma, we are watching you. To the people of Burma, we stand with you.

Mr. DURBIN. Mr. President, would the Republican leader yield for a question?

I want to ask a question based on the Senator's statement. First, I commend the Republican leader for his statement on the situation in Burma. It is my understanding now that we anticipate this military junta is likely to engage in repressive tactics against the Buddhist monks and the people of this country. I thank the leader for his statements because I think they validate our mutual concern that first an

election, which came up with a good result, finally be implemented so the people of Burma have a representative government and that those political dissidents—most notably, Nobel Laureate Aung San Suu Kyi—be released from house arrest. She has suffered enough.

I thank the Senator for bringing this up to the floor. I want him to know his sentiments are felt on both sides of the aisle.

Mr. MCCONNELL. Mr. President, if I may just add, my friend from Illinois is absolutely correct. This is a regime which I have been following for a long time, having introduced the first Burma sanctions bill some 4 to 5 years ago.

He is absolutely right. They engaged in this kind of activity back in 1988, killed a significant number of Burmese citizens simply seeking to have an opportunity to express themselves, which they subsequently did in the 1990 election, which Aung San Suu Kyi and the National League for Democracy won overwhelmingly, overwhelmingly, after which she was placed under house arrest and has been there virtually the entire time since then, since 1990. She was under house arrest while her husband passed away in London.

This is a pariah regime. Had they had nuclear weapons, I think the rest of the world would have been a lot more interested in this regime, as we have been, for example, in North Korea and in Iran. But they are now revealing their true colors once again. Technology is much better today than it was back in 1988. They will not be able to engage in these kinds of abuses with no one noticing.

I commend my friend from Illinois for making clear that all of us here in the Senate, regardless of party affiliation, condemn this behavior and look forward to the day when the election of 1990 is finally honored.

I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for 60 minutes, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the second half.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KERRY. Mr. President, against all odds, the long-suffering people of Burma have risen against one of the world's most repressive regimes. What began a month ago as modest, impromptu protests has now mushroomed into a nationwide peaceful democratic groundswell. Tens of thousands of students have joined Buddhist monks in the streets, marching and chanting in unison against Burma's brutal military rulers. I met with some of those rulers a number of years ago when I went to Burma. I also had a chance to meet with Aung San Suu Kyi in her home where she has been under house arrest.

It is an extraordinary division that is growing and growing in Burma, where the military junta, unbelievably unpopular, nevertheless clings to power through the force of the military which it controls. The riches of the country are exclusively being diverted to their spoils, while Burma remains now and increasingly becomes poorer and poorer.

The Burmese people need to know that the courage they are demonstrating today and what they are fighting for is being watched by people all over the world, that we admire what they are attempting to achieve, and that we stand in awe of their commitment, of their courage. Their actions follow in the venerable footsteps of Mahatma Gandhi, Nelson Mandela, Lech Walesa, and all of those heroes who understand that nonviolent resistance is humanity's greatest weapon against tyranny and injustice. We, with all of the tools available to us, need to make certain the people of Burma understand that their courage is breaking through and that this moment is one we share with them.

What is happening today in the streets of Rangoon is, however, as tenuous as it is unexpected. Just this morning, we learned that warning shots were fired and tensions are escalating. I do not know how many people realize it, but the Government of Burma, the junta, moved to its own sort of private capital and has created this almost surreal exiled government where they feel safe, as if living in a bunker within the isolation of Burma itself. Just this morning, we also learned that the cabal of generals that is pillaging Burma under the guise of governing it could easily meet these nonviolent protests with a bloodbath, just as they did in 1988. So it is important that none of us allow the scrutiny on Burma to be diminished. This could conceivably become another Tiananmen Square moment, if it does.

No one should doubt the Burmese junta's potential for brutality and large-scale violence. Since taking power, they have killed tens of thousands of Burmese, and they have razed more villages than have been destroyed in Darfur. Over half a million people have been internally displaced, and an additional 1 million refugees have fled the country. The tyrannical thugs who run the country are engaged in the systematic use of forced labor, human trafficking, forcible recruitment of child soldiers, torture and rape—an appalling laundry list of human rights violations. Yet, despite such grave danger, the people of Burma have stood strong in the face of this extraordinary evil. They demand Democratic reforms and basic human rights, and they have done so with dignity, and they have done so peacefully.

The United States and the rest of the free world must find more ways to make it clear that we stand with the people of Burma. The President's decision yesterday to target the top general for financial sanctions is a step in the right direction, but it will not solve the problem, and it is not enough.

The massive prodemocracy demonstrations in Burma represent the best opportunity for genuine political change in nearly years. Burma's Saffron Revolution is also an excellent chance for America to finally show greater diplomatic leadership on the world stage.

The United States needs to lead the international community in pressuring the military junta to release all political prisoners, starting with the venerable Nobel Prize laureate and opposition leader, Aung San Suu Kyi, and take steps down the path from there to more thorough political change.

This week's gathering of world leaders at the United Nations General Assembly is ready made. It is a forum waiting to be utilized properly. My hope is that the United Nations will take the necessary steps to make even more clear the world's condemnation but, more importantly, to create real pressure, and that includes pressure from places such as China, which has been playing a clearly duplicitous game because of their deep investments, their proximity, and other occasional similarities in the way in which they have dealt with democracy uprisings. From the halls of the United Nations to the headquarters of the Association of Southeast Asian Nations, the message to the Burmese military needs to be clear: The world is united behind the people marching in your streets. Do not meet peaceful protest with still more butchering. We are prepared, all of us—and we must make this clear—to act in concert against you unless you immediately embark on serious negotiations toward sharing power with the people of Burma.

Showing diplomatic leadership on Burma also requires that we demand better from those countries that have propped up this brutal regime and are thus the best equipped to help pressure it. India and, in particular, China can make a significant difference in this outcome. The President and the United Nations must engage in strenuous diplomacy with Beijing, which carries the most sway with Burma's generals, and urge the Chinese to press for reform. China has in its grasp a momentous opportunity to demonstrate leadership commensurate with its growing power and status. Beijing can host the 2008 Olympics as an enabler of cruelty and repression or it can do so as a responsible stakeholder in the world community. The Olympics will not

masquerade or cover up for its absence from this challenge. This is an important test. The world is watching.

As the international community exerts greater pressure on the military junta, it must also reach out more aggressively with humanitarian assistance for the Burmese people. The people of Burma have suffered not only the bullets and bayonets of the current regime but also from decades of misrule that have transformed their resource-rich nation into one of the poorest in Asia. All you have to do is go to YouTube, and you can watch footage of the wedding of the general's daughter, one of the junta general's daughters, laden in diamonds the size of pebbles, an example of the excesses of their coercion of power while the country gets poorer and poorer and people suffer as a consequence.

Many of Burma's 52 million people live in abject misery. About one-third are mired in poverty. Nearly half of all the children never get to go to school. Malaria and tuberculosis are widespread. Mortality rates in Burma are among the highest in Asia. At least 37,000 died of HIV/AIDS in 2005 and over 600,000 are infected with HIV. Burma's suffering destabilizes southeast Asia—heroin and methamphetamines, HIV/AIDs, and other infectious diseases, as well as hordes of refugees spilling across Burma's borders into neighboring countries. The international community must respond to this ongoing tragedy by providing humanitarian aid to a desperate and deserving people.

Current levels of international assistance are simply woefully insufficient. We need a network of public and private donors to fund health, education, and infrastructure projects. The resilient and brave Burmese people have shown that they are more than worthy of our support and compassion. They are fighting for democracy. We need to join that fight.

I close by offering a final word of warning. We dare not forget Burma's last great democratic uprising. It occurred in 1988. It was brutally crushed by the military at the cost of over 3,000 innocent lives. That day and the repression that followed show the horrible human toll of our collective failure to act. A peaceful prodemocratic outcome in Burma is actually within reach, if the international community were to seize this moment. The United Nations, ASEAN, India, and especially China must stand with the United States in solidarity with the Burmese people. All of us must not fail the people of Burma again.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

CHIP REAUTHORIZATION

Mrs. LINCOLN. Mr. President, I applaud my colleagues who have come to the floor this morning to speak out about the injustices in Burma and to remind us to not lose sight of the discourse and the injustices that occur across the globe, that we must keep a vigilant focus on those and speak out against them. I also think it is important to lead by example in our country. That is why I come to the floor today in such strong support of the Children's Health Insurance Program reauthorization, the CHIP Reauthorization Act of 2007, and urge my colleagues to support the incredible bipartisan compromise we have all come together to negotiate, to set the example of what our values are so that other countries might see that working together, the values we share and the moral obligation we have to our children can be met as we take these types of steps. That kind of leadership by example is critical not just in our country but to the example we set for the rest of the world.

I have to say, as a working mother, I know all too well the importance of reliable health insurance coverage for all children. I feel blessed that as a Federal employee, I have access to quality coverage. When I am up late at night with a sick child, as I was last week, I have been blessed as a Federal employee to have that access and to be able to know that when the Sun comes up, I can call my doctor. I can get my child the kind of medical care I believe he needs. Having health insurance coverage gives me peace of mind. But that peace of mind should not only belong to those families that can afford private health insurance, it should also belong to the working families that are struggling to make ends meet. That is why Democrats and Republicans worked so hard together to come up with a compromise on a bill this important. I commend my colleagues in this body and in the House of Representatives from both sides, both parties, who have worked diligently to come to this agreement.

Since the inception of SCHIP 10 years ago or, as we call it in Arkansas, ARKids First, because it is a Federal and State partnership to provide this health insurance for our children, the number of children without health care coverage has been reduced by one-third. During that time, I am proud that Arkansas has become a national leader in reducing its number of uninsured children from over 20 percent in 1997 to 10 percent today. Now nearly 65,000 of Arkansas's children currently receive coverage through the ARKids B part of ARKids First.

The bill before us is an important and responsible step forward in reaching the millions of children who remain uninsured. It applies the lesson of the past 10 years and builds upon the success of the program by giving States more of the tools they need while preserving their flexibility to strengthen their programs and ultimately cover more children. In doing so, it would provide an additional $35 billion over 5 years that will allow our States to preserve coverage for children currently enrolled while reaching an additional 3.8 million uninsured, low-income children. This proposal would also provide much needed funding to States for outreach and enrollment efforts to reach many of those currently uninsured but eligible, making sure we are reaching out. For those who are eligible, as we get them on the rolls, it makes a tremendous difference. Because as we begin to bring into the fold those who can be insured, those who are eligible, we begin to mitigate the risk and the balance of the entire cost of what we need to do in covering children. In addition, it takes steps to ensure that they get a healthy start by providing care for expectant mothers and establishing pediatric quality measures to improve the effectiveness, safety, and efficiency of the care they receive. For years we have been putting quality measures into Medicare and other programs. Now we are going to put those same quality measures into pediatric care and children's care so we cannot only be reassured that our children are getting the best of care, but we are going to also see the benefits economically of those quality measures.

Our plan would also invest in the development of evidence-based quality measures for children's health care and provide access to much needed dental care for lower income children. I am sure many of my colleagues have done as I have, visited Head Start facilities or other places where children are learning dental hygiene. It is absolutely essential, because when you visit the places where they are not getting dental care and dental hygiene, you see children who have rotting teeth, who can't pay attention in school, who are malnourished because it hurts to eat when they get the opportunity. Dental care is essential because those children who do get it are going to be paying attention in class. They will be getting better at their education, and they will be healthier individuals because they will be receiving nutrition. They are going to be on a pathway to a healthier lifestyle.

We ensure that children enrolled in this CHIP would also be able to access mental health care that is on par with the level of medical and surgical care they are currently provided. Earlier this month I hosted forums across the State of Arkansas to discuss renewal of this vital program. We had a wonderful opportunity to meet with health care professionals, parents, single working mothers, business individuals who see the productivity of their employees better when they know those parents have that peace of mind when their children are getting health care, others who emphasize just how crucial this program is to Arkansas. They are anxious for us to get this program reauthorized. We have the opportunity, and we must seize it. They know the clock is ticking. If we don't act in some form or fashion by September 30, we could endanger the coverage of 6.6 million children currently receiving care.

Further, those I spoke to wanted to see tolerance. They wanted to see us

working together. They had little tolerance, quite frankly, for the political posturing by our President, making this a political issue. They are frustrated that he doesn't seem willing to budge in terms of cost when what we spend in Iraq in only 41 days would provide health care coverage for 10 million children each year. And they, like me, believe that providing health care to our children is not only an investment in our Nation's most precious of resources, but it is a moral issue and, quite simply, the right thing to do.

In Washington we sometimes get in the business of debating policy specifics and losing sight of what it is all about. During my recent trip to Arkansas, I was reminded of what this will mean for real people. It is about a wonderful, hard-working, home-based educator from Benton, Jennifer Brown, and her 6-year-old daughter Elizabeth. Because Elizabeth had a digestive problem that required treatment, her mother would have been forced into the position of choosing between care for her sick child or choosing to feed her family if CHIP were not available. Placing families in that position is completely unacceptable. They deserve so much more. I am proud that CHIP was there for Jennifer and Elizabeth. As Jennifer told me:

Without ARKids First, I don't know how we could have made it.

It is also about a young working mother and a grandmother, Amy Main and Jackie Deuerling, who spoke to me about their daughter and their granddaughter Emily, a 4-month-old blessing I was able to hold in my arms. What a treasured blessing to that family and to this country. Without ARKids First, Emily's family would be unable to provide her with the care she desperately needed. As Amy told me:

The health care coverage provided by ARKids First allows me to feed the kids, afford diapers, and pay for Emily's brother's school supplies. I can make sure the kids have everything they need. If I was paying the medical bills [and if it was me and me alone], we wouldn't be able to afford all of those necessities [or the proper medical treatment].

We cannot lose sight of that. We should all agree that providing health care for our children is certainly one area where partisan politics should be placed aside. These working mothers who were there, the working families who were represented in these town hall meetings were saying what an important thing it was to them, as a value, to be able to make sure their children were able to get the health care they needed. But they also felt it was a value of who we are as Arkansans and as Americans.

I am very proud the Senate has seen the case we have presented. The members of the Senate Finance Committee, of which I am a member, worked hard in a bipartisan spirit to find a common ground to improve this program. Chairman BAUCUS and Ranking Member GRASSLEY, Senators ROCKEFELLER and HATCH, took the challenge. All of us, working together, and others, helped in multiple meetings to produce a bill of which everyone can be proud. Their leadership and vision should be commended by this entire body.

That is why it is so unfortunate the President and the Secretary of Health and Human Services feel so differently. In fact, their proposal to increase CHIP funding by only $5 billion over the next 5 years falls well short of the funding needed to simply maintain coverage for those currently enrolled in the program. That is not right.

In fact, the message sent to me during my meetings in Arkansas was that moving backwards—moving backwards—when it concerns the health care of our children is absolutely unacceptable. Instead of forcing nearly 1.5 million children to be dropped from their current health care providers, shouldn't we all agree, at the very least, absolutely, no child should lose coverage as a result of reauthorization?

The President has been adamant about leaving no child behind when it comes to their education. But shouldn't that also apply to their health care? How you choose to spend your money for your families or for your government most definitely reflects your values and your priorities. I ask my colleagues today, what could be a bigger priority than the well-being of our children—all of our children, the Nation's children, our American family?

In a time when more and more Americans are struggling to find affordable health care, CHIP has been a success story that has allowed us to make coverage more accessible for millions of children in working families. I urge each and every one of my colleagues to explore your conscience, to set aside partisan influences, and to support this critical effort to invest in the health care of our children—not only for the future of our Nation but for the well-being of millions of children and working families. They are depending on us, and it is time to fulfill our commitment.

I urge my colleagues to join me in supporting this legislation to expand health care coverage for the children of our American family.

I yield the floor.

The PRESIDING OFFICER (Ms. KLOBUCHAR). The Senator from New Hampshire is recognized.

Mr. GREGG. Madam President, I wish to speak in morning business.

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

CHILDREN'S HEALTH INSURANCE PROGRAM

Mr. GREGG. Madam President, we are today going to vote on what is euphemistically known as the SCHIP bill. It is clearly incorrectly identified because under that reading one would think it was for children, but it is actually a bill that also covers adults. I think there is a general consensus and no disagreement about the fact that children who are at or near poverty—even considerably above poverty—families who have that type of fiscal constraint should be covered. There is agreement on that.

The issue is whether we should take a program which covers children in poverty, or near poverty, up to 200 percent of the poverty level—which, if we define poverty, it is twice as much as what poverty is—whether we should cover children who are in families who have incomes well above 200 percent of the poverty level and adults who have no children at all, and whether we should do that extra coverage through a nationalized system.

That is what is at issue. The issue is not whether children who come from families who are not that well off—not necessarily poor families but are not well off—those children are covered under the President's proposal, under proposals which I would support, children from families with incomes up to 200 percent of poverty.

The issue is whether we should have States, for example, such as New Jersey, where families who make $71,000 a year—$71,000 a year—should be able to be covered under a federally, totally subsidized, taxpayer-paid-for health care plan, and whether families that are not even families—because they are two adults with no kids—should also be able to be covered under that federally subsidized health care plan, where the taxpayers pick up all the costs, and whether those plans should be structured in a way that they are single-payer, Government-directed, nationalized health care plans.

What is the practical implication of taking a program, which is supposed to be directed at children who come from low-income families, and expanding it radically in the way that the bill we are going to get does?

Well, the first practical implication is it spends a heck of a lot of money: $71 billion over 10 years in additional spending—$71 billion—to cover children in families with up to $71,000 in income. In fact, they go up to 400 percent of the poverty level, with families who make up to $80,000 a year, and they cover adults who do not have children. Yet they claim it is a children-in-need health care program.

So you are going to increase the Federal Government and the size of the Federal Government and the spending of the Federal Government—which, remember, comes from taxpayers—by $71 billion under this proposal.

The President has proposed increasing spending in this area over the baseline—which is about $25 billion—by an additional $5 billion over 5 years. Some of us have proposed we even go a little higher so we make sure every child in that category of 200 percent of poverty can be covered.

But to expand this program to a $71 billion increase is a huge explosion in the Federal program, in the size of the program, and in the cost to the taxpayers. Remember this: Another effect

of this policy of covering families who make up to $80,000 a year with this federally taxpayer-paid health care insurance is that families that presently have their children insured by the private sector are going to move their insurance from the private sector, which is paying for the cost—the business they work for—over to the public sector.

In fact, it is estimated, under the proposal before us, 4.4 million children will be covered who are not covered today by this new SCHIP program which covers families up to $80,000 and spends an extra $71 billion. However, what people do not tell you—at least folks from the other side do not tell you—is 2.4 million of those children who are going to be picked up by this plan are already covered—they are already covered—by private insurers.

So we are basically shifting the burden from the private insurance over to the public side, which means the taxpayers—average working Americans—are going to have to pay more to cover kids who are already covered by the private sector through their taxes.

Does that make sense? Of course it does not make sense. Why would you do something like that? Why would you set up a program like that? Why would you expand a program to families that make $80,000; to adults who do not have children; to children who already are insured and draw them out of the private insurance into the public insurance? Why would you do something like that?

Well, the answer is pretty obvious. This is part of the effort of the other side of the aisle to move us toward a single-payer, nationalized system of health care. There is no hiding that fact. That has been stated as the purpose, even by the chairman of the Finance Committee. So the goal is not necessarily to bring more kids under insurance who need to be insured because they come from families of less means. That is going to be done under either program. The goal is to radically expand the size of a public insurance program to families that are really doing quite well, families making up to $80,000 that may not have children or the children may already be insured by the private sector because you want to move more people onto the public insurance system because you want to have a nationalized system.

Now, I do not happen to support a nationalized system of health care. But I think if we are going to have a nationalized system of health care, we should not do it through the back door. We should not do it through this bait-and-switch approach that this bill represents. We should do it in a very open, honest statement, much as what Senator CLINTON proposed back in the early 1990s: We are going to nationalize the health care system of this country. There is going to be one payer. It is going to be the Federal Government. And all your health care will be provided for by the Federal Government, with the cost being picked up by the American taxpayer.

I oppose that type of an approach for a variety of reasons: first and most honestly because in every other nation that has tried that, it has led to dramatic rationing of care. Depending on your age, you simply are not able to get certain types of care, treatment. You go to Canada, and you wait for months, sometimes years for certain types of procedures or you go to England and you wait for months, years, and you cannot even get certain types of procedures. So you get rationing.

Secondly, you undermine research. You do not get people investing in creating new products and new ways to make people healthy because the cost is not reimbursed.

Thirdly, if you take the private sector out of providing health care, you immediately create huge inefficiencies because you reduce competition, you reduce the forces for cost control that private insurance brings into play.

So I do not support a single-payer plan. But I especially find it inappropriate that the way the other side of the aisle is trying to get to a single-payer program is through this surreptitious back door of taking one chunk of the population—kids who are already insured by the private sector—and moving them over to the public sector in the name of protecting children who are from lower or moderate-income families.

All the proposals that are pending around here—the proposal by the President, the proposal I would support—protect children in families at 200 percent of poverty or less.

One of the ironies, of course, is that as they expand to higher income families, in States such as New Jersey, for example, where people making up to $71,000 are covered under the single-payer plan, they actually leave out low-income kids. For example, in New Jersey, there are about 19,000 kids who are in families that are under 200 percent of poverty and are not covered under the New Jersey plan.

Wouldn't it make a lot more sense, if we were honestly trying to address low-income kids, to put in place a plan which actually covered kids who were in family situations where the income was less than 200 percent of poverty and make sure everybody was covered? That was the proposal from our side of the aisle, by the way, but it was rejected in this rush toward trying to get a big bite on the apple of nationalization, single-payer proposals.

So that is the policy problem with this bill. But there are a lot of other problems. Call them technical, if you want, but they are pretty big technical problems. For example, there is the problem that there is a scam going on, a scam in this bill as to how it is paid for.

You can see this chart I have in the Chamber. This reflects the increased costs of the bill as it goes forward. But in order to make their own budget rules, which they claim so aggressively to be following, such as pay-go, they have to take the program, in the year 2013, from a $16 billion annual spending level down to essentially zero. In other words, they are zeroing out this program in the year 2013. They are not spending any money on it at all so they can hit their budget numbers. That is called a scam. That is called a scam. It is a budget scam. And it is being played against a background of claiming they are going to do all these wonderful things with all of this extra money, such as nationalize the system for people making $80,000 or less, but they are simply not going to claim how they are going to pay for it. This big, white area in here, they have no idea how they are going to pay for that. None. None. I will tell you how they are going to pay for it: by raising taxes on the rest of working Americans. That is how they are going to pay for it. Working Americans are going to pay for it so they can nationalize the system.

Then, on top of that, they have set up a verification system which uses Social Security numbers which the Social Security Administration says will lead to illegal immigrants being the people who get the benefit of this program, primarily—or not primarily but in part—because the Social Security Administration is incapable of accurately monitoring whether these numbers are correct. So you are going to have a lot of illegal immigrants getting coverage, claiming they are legal, because the system has been set up to accomplish that. Maybe this was the back-door approach toward some level of amnesty or something, but if it was going to be done, it should have been done more openly than the system that is being used in this bill. This is a fundamental flaw of this bill. It is a bill which, in its present form, is not paid for and has a huge cap.

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

Mr. GREGG. Madam President, I ask unanimous consent for 1 additional minute.

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

Mr. GREGG. Madam President, it has a huge gap in the way it is paid for. Secondly, it sets up a system of verification which the Social Security system says it can't accomplish, and, therefore, presumes that a large number of people who are in this country illegally will end up in this program.

I ask unanimous consent to have printed in the RECORD the response of the Social Security Administration on this point and a letter to JIM MCCRERY, who is a Congressman and the ranking member of the Ways and Means Committee.

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

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington DC, September 21, 2007.

Commissioner MICHAEL J. ASTRUE,
Social Security Administration, Office of the Commissioner, Baltimore, MD.

DEAR COMMISSIONER ASTRUE: As Congress prepares to debate the reauthorization of the State Children's Health Insurance Program (SCHIP), I am writing to request your assistance in clarifying an issue raised by a provision in the Senate passed bill. Specifically, I would request that the Social Security Administration provide technical assistance to explain the impact of Section 301 of H.R. 976, which was passed by the Senate on August 2, 2007.

Concerns have been raised that the implementation of this provision could make it easier for illegal aliens to qualify for government funded healthcare programs including SCHIP and Medicaid. In order to better assess the accuracy of these claims, I would request that you provide answers to the following questions by no later than the evening of Monday, September 24, 2007.

1. If implemented as written, would the name and Social Security number verification process in section 301 of the Senate SCHIP bill allow the Social Security Administration (SSA) to verify whether someone is a naturalized citizen?

2. Would Section 301 require SSA to perform any verification of a person's status as a naturalized citizen?

3. Would the implementation of this provision detect and/or prevent a legal alien who is not a naturalized citizen (and therefore generally ineligible for Medicaid), from receiving Medicaid?

4. Would the name and Social Security number verification system in Section 301 verify that the person submitting the name and Social Security number is who they say they are?

5. Would the name and Social Security number verification system in Section 301 prevent an illegal alien from fraudulently using another person's valid name and matching Social Security number to obtain Medicaid or SCHIP benefits?

6. Would the name and Social Security number verification system in Section 301 prevent an individual who has illegally overstayed a work visa permit from qualifying for Medicaid or SCHIP?

7. Based on the accuracy of your database, please comment as to the volume of false positives or false negatives that could occur under the Social Security number verification process in section 301 of the Senate SCHIP bill.

Thank you for your prompt attention to this matter. If you should have questions about any of the requests in this letter, please contact Chuck Clapton of the Ways and Means Committee Republican staff.

Sincerely,

JIM MCCRERY,
Ranking Member,
Committee on Ways and Means.

SOCIAL SECURITY ADMINISTRATION,
Baltimore, MD, September 24, 2007.

Congressman JIM MCCRERY,
Longworth House Office Building,
Washington, DC.

DEAR CONGRESSMAN MCCRERY: Thank you for your letter of September 21, 2007, concerning Section 301 of H.R. 976 passed by the Senate.

I have enclosed answers to your seven questions. Please feel free to contact me if you need any additional information. The Office of Management and Budget advises that there is no objection to the transmittal of this letter from the standpoint of the President's program.

Sincerely,

MICHAEL J. ASTRUE,
Commissioner.

1. If implemented as written, would the name and Social Security number verification process in Section 301 of the Senate SCHIP bill allow SSA to verify whether someone is a naturalized citizen?

No, the name/SSN verification process only indicates whether this information matches SSA's records. Our understanding of Section 301 is that it would provide States with the option of using a match as a conclusive presumption that someone is a citizen, whether naturalized or not. Since we have no data specific to this particular population, we have no basis for estimating how many noncitizens would match if this language were passed by Congress.

2. Would Section 301 require SSA to perform any verification of a person's status as a naturalized citizen?

Section 301 would not provide for verification of citizenship but would create a conclusive presumption based on less reliable data that a person is a citizen. As we read Section 301, it would not require use of DHS data to make a verification of citizenship.

3. Would the implementation of this provision detect and/or prevent a legal alien who is not a naturalized citizen (and therefore generally ineligible for Medicaid), from receiving Medicaid?

No. Our current name/SSN verification procedures will not detect legal aliens who are not naturalized citizens.

4. Would the name and Social Security number verification system in Section 301 verify that the person submitting the name and Social Security number is who they say they are?

No.

5. Would the name and Social Security number verification system in Section 301 prevent an illegal alien from fraudulently using another person's valid name and matching SSN to obtain Medicaid or SCHIP benefits?

No.

6. Would the name and Social Security number verification system in Section 301 prevent an individual who has illegally overstayed a work visa permit from qualifying for Medicaid or SCHIP?

The name/SSN verification system in Section 301 would not identify individuals who have illegally overstayed a work visa permit.

7. Based on the accuracy of your database, please comment as to the volume of false positives or false negatives that could occur under the Social Security number verification process in section 301 of the Senate SCHIP bill.

Due to a lack of data specific to this particular population defined in section 301, we have no basis for projecting how many ''false negatives'' or ''false positives'' would be produced by enactment of Section 301, but they will occur.

Mr. GREGG. Madam President, to summarize, everybody around here is supportive of a plan which would fully fund what is necessary to take care of children whose families make 200 percent of poverty or less. But what we on our side don't want to see is an expansion of this program as a method of taking people out of private insurance and putting them on the public system, creating a single-payer plan and, as a result, moving down the road toward the nationalization of the entire health care industry. It would be at a cost of $71 billion to the American taxpayer, a cost which isn't accounted for in this bill and which is not paid for. The program has a fundamental flaw in it as to how they verify who is participating so we don't even know if we are going to have citizens participating in this program versus illegals. It is a bill which is flawed. It should be opposed, and it should be vetoed.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

DEFENSE AUTHORIZATION

Mr. CORNYN. Madam President, I rise to express my grave concern about the misplaced agenda we appear to be pursuing in the Senate: Taking us off of a Defense authorization bill that we have spent 15 days on—more than 2 weeks—to take up special interest legislation that has nothing to do with providing the equipment and the pay raises and the dignified treatment to our wounded warriors that the Defense authorization bill is designed to provide.

Unfortunately, we see the distinguished majority leader has now introduced an amendment relating to hate crimes on a Defense authorization bill. We are told the majority whip now plans to introduce a bill with regard to immigration, the so-called DREAM Act.

I would submit there is a time and a place for everything. This is a deliberative body, where we are happy to talk about and debate and air our differences on any piece of legislation any Senator might want to propose that comes to the floor, but there is a time and a place for everything. This is not the time and not the place to divert our attention from the important provision of pay raises, the important provision of equipment, and the important public policy changes with regard to how we treat our wounded warriors.

One of the Hill newspapers has reported that today, a Government report is being released that concludes the wounded warriors from Iraq and Afghanistan are still getting the runaround from the Pentagon and Department of Veterans Affairs, despite big promises of change made after last February's revelations about the scandalous conditions at Walter Reed Army Medical Center. As a member of the Senate Armed Services Committee, I am proud of the work we have been able to do on a bipartisan basis to move legislation forward that would address the causes for concern first uncovered as a result of those sad and embarrassing revelations at Walter Reed Army Medical Center.

Today, it is reported the Government Accountability Office, the investigative arm of Congress, says that delays for disability payments for veterans still average 177 days—nearly 6 months—with no indication that any dramatic improvement is in the offing. The General Accounting Office also

found continuing frustrations and shortfalls in care for the increasing number of military returnees from Iraq. Delayed decisions, confusing policies, and the perception that the Department of Defense and Veterans' Administration disability ratings result in inequitable outcomes and have eroded the credibility of the system, according to the General Accounting Office. Thus, it is imperative, the GAO concludes, that the Department of Defense and Veterans Affairs take prompt steps to address fundamental system weaknesses.

Well, I agree. This is intolerable. That is the reason why we need to pass the Defense authorization bill, which has previously been pulled from the floor for consideration and has returned and now is being hijacked for special interest legislation that has nothing to do with providing help to our men and women in uniform during a time of war.

Let me talk briefly about what the Defense authorization bill would do if we ever get it passed. It would authorize increases in end strengths to the Army and U.S. Marine Corps. As my distinguished colleague from Arkansas knows, that has been one of the major concerns we have all had about the stress and strain on our military that is too small for the challenges we have today, resulting in lengthy deployments and absences away from family members. This bill would authorize an increase of 13,000 in end strength for the Army and 9,000 for the Marine Corps. But what do we do instead of passing the legislation that would provide that additional authorization? We hijack this Defense authorization bill to talk about hate crimes and perhaps immigration and other unrelated issues. This bill authorizes a pay increase of $135 billion for our men and women in uniform, people who deserve everything we can do for them when it comes to providing for them or reducing some of their financial burdens. This bill authorizes $135 billion in additional pay.

But what does the majority leader do? He says we are going to take another timeout after 15 days and we are going to talk about hate crimes, potentially immigration, and who knows what else, further burdening this bill with amendments which may jeopardize our ability to pass it in the end.

This bill also provides for a 3.5-percent increase in pay for all our troops. To the point of the GAO report, which I cited that has been reported in one of the Hill newspapers today, this bill would authorize $24.6 billion for the Defense health program, including a $1.9 billion adjustment to fund TRICARE benefits for fiscal year 2008.

That is exactly what we ought to be doing. I, similar to my other colleagues, have visited our wounded warriors at Walter Reed and Bethesda, places such as the Brooks Army Medical Center in San Antonio, and places such as Darnall Medical Center at Fort Hood and Killeen. We need to make sure we do everything in our power to take care of our wounded warriors. But what are we doing? We are apparently taking a timeout from that important work that is urgently needed and diverting our attention to other matters that have nothing to do with taking care of our troops.

What else would this Defense authorization bill do? Well, it would authorize $4 billion for Mine Resistant Ambush Protected vehicles. As my colleagues know, these are the V-shaped hull vehicles that have a way of dispersing improvised explosive device attacks in a way that will save lives and protect our troops from further injury as a result of improvised explosive devices. But what do we do? We dillydally around after 15 days of not taking care of our business and divert our attention to other unrelated matters that have nothing to do with protecting our troops. I think it is shameful.

Further evidence the agenda is misplaced in the Senate is the fact that we will, this week, have to consider a continuing resolution. That means passing legislation to keep the doors of Government open until November 16 because this Congress has not passed, nor has the President signed, appropriations bills to pay Congress's bills. Now, this is not a surprise. September 30 we know is the end of the fiscal year. What would happen if we were a small business—or a big business, for that matter—that didn't take care of its affairs and didn't pay its bills? Well, it would shut down. But not the Federal Government, because we have the power to wave a magic wand and pass a continuing resolution. But 13 appropriations bills affecting the lives of each and every one of 300 million Americans in this country has simply been neglected, pushed to the back burner, because we are diverting our attention to matters that we should leave for a later date.

So I implore the majority leader, I implore the new management of this Senate that was elected to the majority status after the last election, let's take care of business. Let's take care of our troops. Let's take care of our military families that, in an all-volunteer military, are absolutely essential to our ability to protect and defend the United States. I think it is shameful we are changing the subject to take care of special interest legislation at a time such as this, when it is so critical, at a time of war. I implore the majority leader to reconsider his misguided agenda for the Senate.

I yield the floor.

Mrs. LINCOLN. Madam President, how much time remains in morning business on each side?

The PRESIDING OFFICER. The Republican side has 6 minutes 41 seconds, and the Majority side has 5 minutes 57 seconds.

The Senator from Florida is recognized.

SCHIP

Mr. MARTINEZ. Madam President, I wish to shift the discussion, while I concur completely with the Senator from Texas and his assessment of floor management time, and I do believe we need to get about the business of a Defense authorization bill and not be sidetracked by other side issues.

I wish to talk about another important issue that is coming before the Senate, which is the SCHIP program, one that I support, one that I want to see reauthorized, and one that I want to see expanded. To my colleagues on the other side of this debate, let's talk about expanding SCHIP. I support a $5 billion expansion. If that is not enough to cover the children this program is intended to cover, let's talk. Let's discuss what amount would cover these children: $5 billion, $10 billion; I am in favor of opening that discussion.

What I am against, what I oppose is expanding this program beyond the needs of the poor.

The bill before us today expands the program beyond its original intent. It expands it to the point where we are making Government-sponsored health care available beyond the intent and to include those in the middle class.

For those who claim otherwise, let me read a quote from the chairman of the Senate Finance Committee. The chairman recently noted:

> Everyone realized that the goal of this legislation moves us a giant step further down the road to nationalizing health care.

Nationalizing health care. Let's call it what it is. This is not a debate over whether we are going to provide health insurance for our Nation's low-income children—because we all agree we should do that—this is a debate over whether we should nationalize health care.

This is a significant ideological debate. Do we in this body—in this Nation—want a system of government versus private health insurance? Is it right to dramatically expand this program to middle-class families for the sake of being able to say we are insuring more? I support SCHIP. I support the program with the original mission of covering low-income children who do not have health insurance. This bill we are debating today is not that program; it is not even close. It is bad policy. To take a program designed to help poor children and create a new entitlement for middle and upper income families, especially when this group already has access to private coverage, money set aside for low-income children should be used to cover low-income children.

Make no mistake. This bill takes us down a one-way path. The bill takes the money intended for SCHIP and uses it as money to begin a program of socialized health care. For this reason, I cannot support this bill.

Beyond the ideological shift of socializing health care, the funding portions of this bill will essentially eliminate health coverage for low-income children after 5 years.

Under this plan, SCHIP outlays increase every year for the next 5 years. But in the year 2013, they drop dramatically—to levels that will not sustain even the existing population of kids on SCHIP.

The proposal, as written, will require the Government to either drop millions of children from health care in 2013 or impose a new tax to raise the $41 billion needed to sustain the increased levels of coverage.

Additionally, this bill sets us up to cover an unintended population of adults. This plan would allow New York to expand their SCHIP program to cover middle-class families earning $82,600 per year, which is four times the Federal poverty level.

Ironically, this means many families in New York will receive a government subsidy for insuring their children at the same time they are subject to the alternative minimum tax, a tax specifically designed to target wealthy Americans.

By expanding coverage further up the income scale and to new populations, this bill takes away needed resources from those most vulnerable, low-income children.

Several recent analyses show that for every 100 children made newly eligible for SCHIP, half of those would either lose or forgo private coverage they currently have. So why are we using taxpayer dollars to cover children who have insurance at the expense of those who don't?

I truly believe this bill represents a fork in the road. We can either move toward a health care system that is patient focused, with a choice of providers, or one that leads us toward a Cuban-style health care system, with rationing of care, long waiting lines and, worse yet, no choice.

Let me reiterate, the dispute is not whether children should have access to affordable health insurance; we all believe children should have that access. The dispute is how we should achieve that goal.

SCHIP reauthorization in its current form will transform the program into a middle-class entitlement.

A real compromise needs to be reached, one that keeps in the spirit of SCHIP; one that finds children currently eligible and signs them up for insurance; a compromise that doesn't simply broaden the program's eligibility so people on private health insurance all of a sudden have an option to move to Government-sponsored health insurance.

Congress also needs to work on legislation that will help make insurance more affordable.

Since the President has signaled his intention to veto this version of SCHIP reauthorization, it is essential we talk about viable alternatives—plans that would ensure the reauthorization of SCHIP that expand rather than diminish private health insurance and coverage for children.

I have been working with some of my colleagues on such a plan—one that would bring a viable alternative to the debate we are currently having. This alternative would be composed of two elements: First, a full reauthorization of SCHIP. SCHIP should continue to cover children in families with incomes at or below 200 percent of the Federal poverty level. But we should also work to enhance outreach for those eligible but not signed up.

We know there are poor children out there without health insurance. We may not agree on the number of them, but let's work harder to find them and sign them up for coverage.

The second part should consist of a child health care tax credit. Rather than putting more people on a government-run program, let's advance tax credits to families with incomes between 200 percent and 300 percent of the poverty level. This would cover the population targeted by this bill, but instead of forcing them to drop their current coverage, it would provide assistance to keep them in the current insurance plan. It would help families with employer-based insurance to add their children to their existing policies.

If a family doesn't have insurance, this credit will provide the resources necessary to go out and purchase health care.

I think this is something we can all agree to. These concepts are supported by both the left and right, from the Heritage Foundation to Families USA. So I urge my colleagues to reject the proposal before us today and, instead, come together and work to ensure access to health care for all low-income children.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The Senator from Arkansas is recognized.

Mrs. LINCOLN. Mr. President, I rise now somewhat in dismay, I suppose, but certainly disappointed in hearing the debate from the other side. When we first started SCHIP 10 years ago, what a great bipartisan effort it was. Under this administration, so many waivers have been granted for childless adults and for other different categories of individuals to be covered.

What we have tried to do, in a bipartisan way in putting together the reauthorization of this bill, is rein in those waivers. I heard my colleague and friend from New Hampshire—he and I have talked often about our own children—say we are going to cover illegal immigrants. We are not only not going to cover them in this bill, we don't even cover those who have stood in line and go through the proper process to come here as legal residents until there has been certain proof of how long they have been here and the contributions they have made.

I have great confusion about this effort to portray this reauthorization as something that is expanding. We are actually reining it in.

I have to say, in listening to my colleagues talk about covering 200 percent of poverty, I hope the American people understand that when we talk about 200 percent of poverty—my colleague from New Hampshire talked about it as if it was a lot of money. When you talk about 200 percent of poverty, you are talking about a family of four trying to live on $41,300. Eighty percent of the people in the State of Arkansas whom I represent have an adjusted gross income of less than $50,000. As a parent myself, being blessed with two incomes coming into our household, a family raising and caring for a family of four on $41,300 a year—talking about what you are paying for rent, for food, for utilities, and then to say that we as a Nation don't want to support you in caring for your children and seeing that they get good health care, that their health care needs are met; no, go into the private marketplace where the most expensive piece of health insurance you can purchase is in the private single-payer marketplace of health insurance——

I have been disappointed by those comments we have heard this morning.

I hope that as we look forward, in this bill, we prohibit any new waivers, waivers that were a part of the first piece of legislation 10 years ago, and this administration granted many of those waivers. My State of Arkansas has been a beneficiary of many of those waivers. But the fact is that we rein them in. We prohibit waivers on childless adults, and as those childless adults are phased out of the program, the States can choose to put them in a block grant program and cover them in a much less percentage than what they are covered now. But they are not going to be in a children's program or a program designed for children.

So I hope our colleagues will look at all the hard work and effort that has been put into this bill, to rein in much of the excess that came through those waivers from this administration, and will look at how we can focus on bringing about compromise and making sure we focus on the hard-working families that make up the fabric of this great Nation and do need the help and the support of all of us in making sure their children get the most basic of needs in health care coverage.

I thank the Chair and look forward to the debate and encouragement from all our colleagues to bring about a bipartisan bill that moves this Nation forward in recognizing our greatest asset—our children.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, has the time for morning business expired?

The PRESIDING OFFICER. The time for morning business expires in 120 seconds.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for 15 minutes in morning business.

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

Mr. DORGAN. Mr. President, this afternoon, I will be attending a hearing of the Senate Appropriations Committee. The Secretary of Defense will

be there, the head of the Joint Chiefs of Staff will be there, as will someone from the State Department, and they will be here supporting a proposal by the President to the Congress that we supply up to $200 billion in additional funding for the war in Iraq and Afghanistan—all of it declared ''emergency,'' none of it paid for, and that is $200 billion for this year. That will take us to almost three-quarters of a trillion dollars, with respect to the war in Iraq and Afghanistan, all added to the Federal debt as a result of a request by the President that it be emergency spending.

I mention that only because we have been talking out here on the Senate floor about something called the children's health insurance program. It is a fraction of what we will be discussing this afternoon as emergency funding. The children's health insurance bill is fully paid for. That which came out of the Senate Finance Committee on a bipartisan basis to address the issue of health insurance for children and do so in a way that fully pays for it. It is a very different circumstance than exists with the President's request for war funding, for example.

But it is interesting to me that the loudest moans in the Chamber of the Senate come when we take the floor of the Senate to talk about taking care of things here at home, taking care of basic things in this country.

What is more basic than taking care of children and the health care of children? If it is not in first place, tell me what is in first place among your concerns about life. I am talking about the health of our children. If that doesn't rank No. 1, tell me what does. It ought to rank No. 1, front and center. Everybody individually, I think, would say the most important thing in my life is my children and my children's health. Yet we bring a bill to the floor of the Senate dealing with children's health, paid for, and it provides expanded coverage, coverage to those children who don't have coverage—millions of children whose health is now a function of how much money their parents have in their checkbook, and who, in some cases, are lying in pain, walking with a limp, suffering through agony but cannot go to a health care facility because their folks cannot take them because they don't have any money or insurance. Does anybody here believe we should not aspire to address that? And we have. We have a piece of legislation that is fully paid for——

Mr. KENNEDY. Will the Senator yield?

Mr. DORGAN. Compared to what we will hear this afternoon, a request for $200 billion of emergency funding for the war in Iraq and Afghanistan, none of it paid for, and this is a fraction of that to reach out to try to provide health insurance to America's children, particularly America's poor children.

I am happy to yield for a question.

Mr. KENNEDY. On the point the Senator makes about this being a matter that is paid for, it is not effectively costing the taxpayers any resources. As I understand it, it is going to mean an increase in the cigarette tax, and the implication of the increase in the cigarette tax is the fact that less children will be smoking; so you have a double value here, where we are not only getting coverage for the children but discouraging children from smoking, which will help and assist and make sure future generations are going to be healthier as well. I know the Senator is familiar with that argument. Does he think the administration has missed that point?

Mr. DORGAN. I believe they have. It is a fact that this is paid for with revenue coming from the sale of cigarettes. It is also a fact that about 3,000 children a day will begin to smoke and become addicted to cigarettes, and 1,000 of them will ultimately die from that choice. The only chance you have to hook someone on cigarettes is to do it when they are kids. Does anybody know of anybody who is around 30 or 40 years old sitting in a La-Z-Boy recliner and watching television and thinking, what have I missed in life? What have I not yet done that I should do? And they come up with the answer that I ought to start smoking. Does anybody believe that would happen? Of course it doesn't.

We know now that smoking has dangerous health effects. The only chance you have to get someone to smoke, get them addicted for a lifetime, is to get kids addicted. So I think that which we do to persuade children not to smoke is something very important in our lives. It is also a contributor to a healthy lifestyle.

Mr. KENNEDY. Will the Senator yield further?

Mr. DORGAN. Yes.

Mr. KENNEDY. Effectively, when the administration says this is going to be additional kind of spending, they leave out the fact that it is going to be funded—children's health—with a cigarette tax. Is the Senator familiar with the fact that the procedure, the process by which the children actually get the health insurance in the State is basically identical to what the administration asked on their prescription drug program? It is using the private sector in terms of the contract, and in terms of an individual getting coverage for their children. The worker will find out there are several alternatives from which they can make a choice. They are all based on the private sector.

Therefore, I ask the Senator, is he somewhat troubled by the administration's opposition, since we have effectively tracked the delivery system that the administration has asked and it is being paid for independently from spending programs by the Federal Government and that the total expenditure, as the Senator I am sure has pointed out, is some $35 million over 5 years as compared to $120 billion dollars for the war in Iraq in a single year?

Mr. DORGAN. In fact, the request before the Senate Appropriations Committee this afternoon for the war in Iraq is two requests: $145 billion that now exists for this year, and we expect another $50 billion on top of it. That is nearly $200 billion in one single year, totaling about three-quarters of a trillion dollars, over time none of it paid for. This program to provide health insurance to children is $7 billion a year fully paid for.

What bothers me about this issue is this clearly is an issue of trying to take care of things here at home. What is more important than taking care of a young child who is sick? It is interesting to me, we voted a while back about making English the national language. It is a reasonable request. If you want to become an American citizen, you ought to aspire to learn the language, English. Yet I come to the floor and I hear a foreign language. I don't understand what they are talking about: ''socialized medicine,'' ''Cuban-style, government-run health care.'' It seems to me they ought to speak English. I get so tired of people using these terms, such as ''socialized medicine.'' Yes, there is a government aspect to this issue. But as my colleague said, much of this is the private sector as well implementing it.

I am so tired of people saying the Government can't do a thing. How about those firefighters climbing the World Trade Center and giving their lives as those buildings came down? You know what, they were on the public payroll, were they not? Public service, that is what they were doing. Government workers. How about the teachers taking care of our kids today in the classroom? Government workers; yes, they are. How about Dr. Francis Collins working at NIH, who gave us the owners manual for the human body with the mapping of the genome code? Are we proud of him? Government worker.

I am a little tired of this language—''socialized medicine,'' ''Cuban-style system.'' What a load. That is thoughtless rather than thoughtful debate. This is not some massive socialized medicine program.

I say to my colleagues, look a 4-year-old child in the eye who is hurting and say to them: You know what, we made a decision that the question of whether you get to see a doctor or get to go to a clinic or get to go to a hospital today is a function of how much money your parents have, and if they don't have the requisite amount of money, I am sorry, youngster; tough luck. I am sorry. Just bear the pain. We shouldn't do that. As a country, we shouldn't do it.

What is a higher priority than our children and our children's health? How on Earth, given what we are doing, spending money in this Chamber, a $200 billion request this afternoon before the Senate Appropriations Committee, none of it paid for, on an emergency basis, $200 billion, and now

we come with a $35 billion request fully paid for to address the issue of children who do not get health care, children who, when they get sick, do not have adequate health care—what is more important for this country?

I don't understand. I have said from time to time, we have all these events in the Olympics for running and jumping. If ever there were an event for sidestepping, I have some gold medal candidates in this Chamber. Sidestepping the important issue—they don't want to talk about the question of why do you not want to address the health care of children. They want to talk about other issues—socialized medicine. It is a foreign language to me, but maybe not to some.

I guess I would ask this question: Can we—not just on this subject but other subjects as well—can we come to the floor of the Senate and take some pride in taking care of business at home? My colleague from Oregon and I offered the only amendment that cut down a bit the $20 billion—yes, with a ''B''—$20 billion this Congress passed for reconstruction in Iraq. A massive amount of it was wasted. Talking about health care, guess what. We gave a $243 million contract to a private contractor to rehabilitate 142 health care clinics in Iraq. An Iraqi doctor went to the Health Minister of Iraq and said: I would like to see the health clinics that were rehabilitated. The money is all gone. The Iraqi Health Minister said: In many cases, those are imaginary health clinics. The money is gone. Reconstruction in Iraq—how about taking care of things at home? How about doing first things first? And you tell me what is in second place. The first place, in my judgment, is taking care of America's kids, and we don't do this through some massive Government program, through some socialized health care system, some Cuban-style system of Government programs. We do this in a thoughtful way, and we do it in a way that works.

How do we know it works? Because this program has existed and been an exemplary program, and it has given low-income families an opportunity to believe that when their kids get sick and they don't have money and are having a tough time, they can still take their kids to a doctor. God bless them for knowing that and God bless the Congress and the President for doing something about it in past years.

It is very different now. We are trying to expand the program to millions of additional kids, and we are told somehow this is a program that is unworthy, it cannot be done this way, it is some sort of big bureaucratic mess. Nothing could be further from the truth—nothing.

I hope when the dust settles this week and we do the conference report, I hope we understand that this conference report is bipartisan—Senator GRASSLEY, Senator BAUCUS, Senator HATCH, Senator KENNEDY, and so many others have advanced this legislation on the floor, Republicans and Democrats. Let's pass this legislation, and let's hope the small amount of opposition in this Chamber will not deter us from doing what we know is best for the country. And, second, let's expect this President to sign it. I know he has threatened to veto the bill. Let's expect him to sign it because it is taking care of business at home and doing first things first.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business.

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

HATE CRIMES

Mr. SMITH. Mr. President, I believe the pending amendment is the hate crimes amendment to the national Defense authorization bill. I rise today to once again discuss the need to enact hate crimes legislation. For the fifth consecutive Congress, I have introduced this legislation with my colleague from Massachusetts, Senator KENNEDY.

The Senate knows well the substance of what we have debated. We have done it in every Congress of my tenure. A majority of Senators have repeatedly supported this legislation. Two years ago, under a Republican-controlled Senate, we overwhelmingly passed hate crimes legislation on the National Defense Authorization Act by a vote of 65 to 33. In 2000, the Senate voted 57 to 42 in favor of the bill. In 2002, we had 54 votes.

Hate crimes legislation, in my view, is the most important civil rights issue before this Congress. The House has already passed this legislation. They have done so and we will do so, I hope, because America needs it.

America is one of the most diverse societies on the planet, and I can think of no other country in world history that has achieved the same degree of diversity as the United States of America. Our diversity is, in part, our Nation's heritage. It is part of our political and social fabric. It is a source of our strength, and it should be protected from those who try to systematically victimize whole classes of individuals based on their beliefs, their practices, or their race.

The bedrock of our civil rights laws is founded on our collective belief that minorities should be protected from discrimination. But the civil rights struggle is far from over. Every election brings a new chapter in our efforts to get it better.

As we fight the war on terrorism abroad, we must not forget that we continue to have injustices on our home shores. Americans continue to be harassed, victimized, and denied equal opportunities simply because of their race, religion, color, disabilities, or sexual orientation.

As a nation that serves as a beacon of freedom and liberty throughout the world, we simply cannot tolerate violence against our own citizens simply because of their differences. We cannot fight terror abroad and accept terror at home.

For the last 7 years, I have entered into the CONGRESSIONAL RECORD a hate crime almost every day. I have entered hundreds upon hundreds of individual hate crimes into the RECORD to demonstrate the need for this legislation. Many of these crimes are extremely brutal, some even resulting in the death of the victim. I do this to raise awareness. I do it to demonstrate the severity of these attacks and to show the frequency of these violent crimes. I also do it to remember these often nameless victims and to give a human face to these senseless acts of violence.

Let me tell my colleagues about the horror of these attacks. Opponents of this measure will say every crime should be treated equally. But those who perpetrate crimes out of bias, against sexual orientation, are unusually and especially savage. One rarely, if ever, reads about a hate crime resulting from a single bullet or errant punch. Hate crime victims will be beaten dozens of times with an iron crowbar, they will be stabbed over and over, or they will be stomped to death. These prolonged, vicious beatings are more akin to punishment and torture and manifest themselves in ways that are most evil.

This year, Senator KENNEDY and I have decided to rename our legislation the Matthew Shepard Act. We do so with the permission of his mother. We do so to put a human face on the issue of hate crimes legislation. In addition, we did it in remembrance of a young hate crime victim who has left an indelible mark upon our Nation's conscience. His name is Matthew Shepard.

Judy Shepard, Matthew's mother, is a dear friend of mine. Judy experienced a parent's single worst tragedy: the loss of her child. But instead of retreating into her own pain for solace, Judy has brought to national attention the need for hate crimes legislation. She is our Nation's strongest advocate for this issue.

For those of you who do not know Matthew Shepard's story, it is truly heartbreaking. Matthew was a 21-year-old college student at the University of Wyoming when he was attacked. Shortly after midnight on October 7, 1998, Matthew was kidnapped, beaten, pistol whipped, lashed to a lonely stretch of fence, and left to die alone.

Almost 18 hours later, Matthew was found alive but unconscious. His injuries were deemed too severe for surgery, and Matthew died on October 12. Matthew was murdered by two men simply for who he was, because he was gay. To think that such virulent hatred of another person's sexual orientation drove another to commit such a heinous act is truly unthinkable. Sadly, this case is not isolated.

One may ask why Senator KENNEDY and I have offered this legislation again on the Defense authorization bill. As I have said in the past, the military is not immune to the scourge of hate crimes in our country. In 1992, Navy seaman Allen Schindler was brutally murdered by his shipmate Terry Helvey in Okinawa, Japan. Schindler was beaten and stomped to death simply because he was gay. His attack was so vicious that almost every organ in his body was destroyed. His own mother could not have identified him but for the remains of a tattoo on his arm.

In another tragic case, PFC Barry Winchell was beaten by another army private with a baseball bat. He was beaten with such force and his injuries were so severe that he died shortly thereafter. He was only 21, the same age as Matthew Shepard.

To those who say we don't need a Federal hate crimes bill, I say they are wrong. This is a national problem that deserves national attention. Our hate crimes legislation would strengthen the ability of the Federal, State, and local governments to investigate and prosecute hate crimes based on race, ethnic background, religion, gender, sexual orientation, disability, and gender identity.

Furthermore, it would strengthen State and local efforts by enabling Justice to assist them in the investigation and prosecution of hate crimes and assist in funding of these prosecutions.

The legislation would also allow the Federal Government to step in, if needed, but only after the Department has certified that a Federal prosecution is necessary. If this can be done locally or at the State level, it should be, but hate crimes should be prosecuted.

Current law does not provide any authority for Federal involvement in these types of hate crimes, even when State or local law enforcement is inadequate because relevant law is nonexistent or resources are insufficient. Without this legislation, the tools for battling hate crimes at the Federal level will remain limited.

I have also heard it argued that we shouldn't punish a hate crime any differently than any other crime. I believe that is flat wrong. Hate crimes tear at the very fabric of our Nation. They seek to intimidate entire groups of Americans and, as such, divide our people. Hate crimes do more than harm one victim; they terrorize an entire society. They send an ominous message of hate and intolerance to all Americans. Those crimes must be punished proportionately.

As to the constitutionality of hate crimes statutes, which is questioned by some, it shouldn't be. The Supreme Court has already responded to their legitimacy. Motive has always been a factor in determining whether a crime has in fact occurred.

Mr. President, when you and I went to law school, took a class in crimes, one of the first things we learned you have to do to establish the commission of a crime is intent and motive, and speech is one of those legitimate areas of inquiry. This was made very clear by Chief Justice William Rehnquist, not exactly a liberal, who wrote the majority opinion in Wisconsin v. Mitchell, where the Supreme Court unanimously upheld the constitutionality of a Wisconsin hate crimes statute. Statutes which provide for an enhanced sentence, where the defendant is intentionally selected because of his race, his religion, color, disability, sexual orientation, national origin or ancestry, does not violate the first amendment, the Court found.

Rehnquist wrote in Mitchell:

> The first amendment does not prohibit the evidentiary use of speech to establish the elements of a crime or to prove motive or intent.

In fact, you can't have a crime unless you prove motive and intent, and speech is one of the legitimate areas of inquiry.

Lastly, I have heard concerns from my religious brothers and sisters who fear passage of hate crimes legislation will have a chilling effect on our Nation's churches and pulpits. This is unfounded. I find it disconcerting that many ministers of religion, for whom I have the utmost respect, would preach such messages from the radio, from television, and from sacred church pulpits. A hate crime does not criminalize thoughts, moral views, and religious beliefs. What it does say is we cannot go out and do violence to our fellow Americans simply because we find another's mere existence offends our beliefs. You have to act. Thought and speech are insufficient to prove a hate crime, and it is disingenuous and fallacious to say otherwise.

And I would say, as an aside, that if I believed what they charge, I would not be here in support of this amendment in Congress after Congress. I know the law, however, and I know what is being said about this amendment is simply wrong.

I accuse no one, but what I find of great comfort is a story from the New Testament on this issue, and I think it is applicable. It is a story from the Book of John, and I will share it with you, because I think it teaches us all how we should behave toward one another, sinners all, in the public square. It reads as follows, from Chapter 8:

> And early in the morning he came again into the temple, and all the people came unto him; and he sat down, and taught them.
>
> And the scribes and Pharisees brought unto him a woman taken in adultery; and when they had set her in the midst,
>
> They say unto him, Master, this woman was taken in adultery, in the very act.
>
> Now Moses in the law commanded us, that such should be stoned: but what sayest thou?
>
> This they said, tempting him, that they might have to accuse him. But Jesus stooped down, and with his finger wrote on the ground, as though he heard them not.
>
> So when they continued asking him, he lifted up himself, and said unto them, He that is without sin among you, let him first cast a stone at her.
>
> And again he stooped down, and wrote on the ground.
>
> And they which heard it, being convicted by their own conscience, went out one by one, beginning at the eldest, even unto the last: and Jesus was left alone, and the woman standing in the midst.
>
> When Jesus had lifted up himself, and saw none but the woman, he said unto her, Woman, where are those thine accusers? hath no man condemned thee?
>
> She said, No man, Lord. And Jesus said unto her, Neither do I condemn thee: go, and sin no more.

That occurred in the public square. Jesus risked his life to save her life. He didn't excuse it nor did he condemn her. He saved her life and risked his own. I don't believe Federal law should do any less than that, and I believe it is high time for us to do what many States, most of the States in America have done, and that is add the category of sexual orientation to our Federal statutes.

No churchman, no preacher, no adherent of religious faith need fear this, but they ought to follow that and understand that what we are not trying to do here is to somehow inhibit the free exercise of religion. We are trying to protect people, American people, from the most brutal kinds of terrorist acts on our own shores.

Finally, there is a memorial in Casper, WY, sculpted by Chris Navarro, dedicated to the memory of Matthew Shepard. It is named the Ring of Peace. The circular design of the ring symbolizes both the individual and the ideals of social unity. The bell, supported by a ring, stands for liberty, and the ring for the promise of tomorrow. White doves flying out of the bell are a symbol of peace. They are flying as a unified group and their wings symbolize hope and freedom.

At the base of the sculpture there is a simple poem that reads:

> If you believe in hope, and the need for peace, step up and ring the bell, for it will sing, for a promise of tomorrow.

With that, Mr. President, I urge my colleagues, as many as have done so in the past, to vote in favor of this amendment. We cannot be complacent or tolerate such acts of hatred. We all need to step up and vote for legislation that promises all Americans a better tomorrow.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask unanimous consent to speak as in morning business.

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

Mr. KENNEDY. Mr. President, I hope our friends and colleagues had a good opportunity to listen to the excellent, extraordinary, compelling presentation my friend from Oregon has made on this issue. I have had the good opportunity to work with him for a good number of years. I always find that when he speaks on this issue, as he does on other issues of war and peace, he is able to get to the heart and the soul of these matters. Today, he has described the moral requirements presented to us on the issue of hate

crimes, and he has done that in a very thoughtful and sensitive way, besides explaining in a very detailed way not only the underlying legislation but the compelling reasons for it at this time. One can say that, on this legislation, now is the time, to repeat those wonderful words of Dr. King; that now is the time for action.

Senator SMITH has reminded us why this legislation is so important now on the Defense authorization bill. We cannot let another day, really hours, go by without this legislation. It reminds us of not only the moral compulsion but also why it is necessary to put this as an amendment onto the Defense authorization bill. As we are facing terrorism abroad, we also want to deal with terrorism here at home; and as we are looking at the values those serving abroad are fighting for against the terrorist elements abroad, it is important to reaffirm them and make them consistent with our best instincts. I commend the Senator for his presentation on this issue.

We are hopeful, Senator SMITH and I, we will have the chance to actually vote on this measure. As he has pointed out, this is not a new issue or question for this body. This is one of those issues we have had a chance to debate, debate, debate, and debate. The House of Representatives has taken a very clear and compelling stand. We have voted, the majority of the membership of this body, Democrat and Republican, in Republican Senates and Democratic Senates, to take action on this proposal. We don't need a great amount of time to deal with this issue, but it is appropriate that we lay out this case for it, and I welcome the chance to make some comments on it today. I am hopeful we will have the opportunity to proceed to it.

I was in the Senate when we passed the first hate crimes legislation in 1968, after the death of Dr. King.

We started off with strong legislation. It was cut back and cut back, so now we find that basically it is ineffective in dealing with hate crimes for a number of the reasons the Senator has outlined, because of the kinds of restrictions that have been placed on it. Again we are reminded of the need for this legislation. With the passage of this legislation, we will be, hopefully, a safer and more secure nation.

Legislation has real implications when it is effective. I believe this legislation is effective. I can remember years ago, when we had the series of church burnings in the southern part of our Nation, we passed here at that time—it was Lauch Faircloth and myself—additional responsibility for investigation and working with the prosecution by the Federal Bureau of Investigation in these circumstances and enhanced support for local law enforcement and State law enforcement in the prosecution of these church burnings. We saw a dramatic alteration and change in the pattern of church burnings.

My Governor now, Deval Patrick, was the head of the division in the Justice Department during this period of time, when I had a chance to meet him. We find when we take action, when we are serious, we are saying to the American people we are going to fight hate crimes and violence with both hands instead of one hand tied behind our backs, as we are doing now with the restrictions we have, using all our crime-fighting ability, we will be a more fair and safer land. That is what this legislation is about.

I am going to take a few minutes to remind the Senate about why this is a particular issue in the military. It is also outside the military, but I will just mention some of the incidents. The Senator from Oregon mentioned some, but I wish to take a few moments to elaborate on this question.

At a time when our ideals are under attack by terrorists in other lands, it is more important than ever to demonstrate that we practice what we preach, and that we are doing all we can to root out the bigotry and prejudice in our own country that leads to violence here at home.

Crimes motivated by hate because of the victim's race, religion, ethnic background, sexual orientation, disability, or gender are not confined to the geographical boundaries of our great Nation. The current conflicts in the Middle East and Northern Ireland, the ethnic cleansing campaigns in Bosnia and Rwanda, or the Holocaust itself demonstrate that violence motivated by hate is a world-wide danger, and we have a special responsibility to combat it here at home.

This amendment will strengthen the Defense Authorization Act by protecting those who volunteer to serve in the military. The vast majority of our soldiers serve with honor and distinction. These men and women put their lives on the line to ensure our freedom and for that, we are truly grateful.

Sadly, our military bases are not immune from the violence that comes from hatred—and even though members of the military put their lives on the line for us every day—they have not been immune from hate-motivated violence. Just last month, the FBI arrested members of the 82nd Airborne Division in Fayetteville, NC, and charged them with selling stolen military property to an agent they believed was a white supremacist. The pair allegedly sold drugs and bulletproof vests, and were also reportedly interested in selling an Army Humvee and weapons. Officials said the two men had been seen at a white supremacist rally. One of them had a page on the Web with photos of him posing with military weapons, statements about his Nazi heroes, and racist rants from his network of friends.

In December 2006, a Coast Guard procurement officer was given a bad conduct discharge and sentenced to a year in a military brig for posting Ku Klux Klan recruitment fliers on a white supremacist web site, illegally possessing weapons and explosive powder and grenade parts, lying to investigators, and other charges.

In December 1995, two paratroopers in a skinhead gang at Fort Bragg gunned down a black couple in a random, racially motivated double murder that shocked the Nation and led to a major investigation of extremism in the military. The killers were eventually sentenced to life in prison, and 19 other members of their division were dishonorably discharged for neo-Nazi gang activities.

As Senator SMITH points out, in 1992, Allen Schindler, a sailor in the Navy was viciously murdered by two fellow sailors because of his sexual orientation. Seven years later, PFC Barry Winchell, an infantry soldier in the Army, was brutally slain for being perceived as gay. These incidents prompted the military to implement guidelines to prevent this type of violence, but there is more that we can do. We have to send a message that these crimes won't be tolerated against any member of society.

These examples clearly demonstrate the relevance of this amendment to the military. We can't tolerate hate-motivated violence and must do all we can to protect our men and women in uniform.

A disturbing trend has also been discovered in the military. Last year, the Southern Poverty Law Center reported that members of hate groups have been entering into the military. As recruiters struggle to fulfill their quotas, they are being forced to accept recruits who may be extremists, putting our soldiers at higher risk of hate motivated violence. This can't be tolerated. We must stem the tide of hatred and bigotry by sending a loud and clear message that hate crimes will be punished to the fullest extent of the law.

Since the September 11 attacks, we have seen a shameful increase in the number of hate crimes committed against Muslims, Sikhs, and Americans of Middle Eastern descent. Congress has done much to respond to the vicious attacks of September 11. We have authorized the use of force against terrorists and those who harbor them in other lands. We have enacted legislation to provide aid to victims and their families, to strengthen airport security, to improve the security of our borders, to strengthen our defenses against bioterrorism, and to give law enforcement and intelligence officials enhanced powers to investigate and prevent terrorism.

Protecting the security of our homeland is a high priority, and there is more that we should do to strengthen our defenses against hate that comes from abroad. There is no reason why Congress should not act to strengthen our defenses against hate that occurs here at home.

Hate crimes are a form of domestic terrorism. They send the poisonous message that some Americans deserve

to be victimized solely because of who they are. Like other acts of terrorism, hate crimes have an impact far greater than the impact on the individual victims. They are crimes against entire communities, against the whole Nation, and against the fundamental ideals on which America was founded. They are a violation of all our country stands for.

Since the September 11 attacks, the Nation has been united in our effort to root out the cells of hatred around the world. We should not turn a blind eye to acts of hatred and terrorism here at home.

Attorney General Ashcroft put it well when he said:

> Just as the United States will pursue, prosecute, and punish terrorists who attack America out of hatred for what we believe, we will pursue, prosecute and punish those who attack law-abiding Americans out of hatred for who they are. Hatred is the enemy of justice, regardless of its source.

Now more than ever, we need to act against hate crimes and send a strong message here and around the world that we will not tolerate crimes fueled by hate.

Hate is hate regardless of what nation it originates in. We can send a strong message about the need to eradicate hate crimes throughout the world by passing this hate crimes amendment to the Defense Department authorization bill. The hate crimes amendment we are offering today condemns the poisonous message that some human beings deserve to be victimized solely because of their race, religion, or sexual orientation and must not be ignored. This action is long overdue. When the Senate approves this amendment, we will send a message about freedom and equality that will resonate around the world.

According to FBI statistics, nearly 25 people are victimized each and every day because of their race, religion, sexual orientation, ethnic background, or disability. Some argue that hate crimes are actually decreasing because the total number of hate crimes in 2005 was slightly lower than in 2004. But the FBI data reflects only a fraction of hate crimes, because so many of these crimes routinely go unreported. The Southern Poverty Law Center estimates the total number of hate crimes per year is close to 50,000. Every hate crime is one too many. We need to strengthen the ability of Federal, State and local governments to prevent, investigate and prosecute these vicious and senseless crimes.

The existing Federal hate crime statute was passed in 1968, a few weeks after the assassination of Dr. Martin Luther King, Jr. It was an important step forward at the time, but it is now a generation out of date. The absence of effective legislation has undoubtedly resulted in the failure to solve many hate-motivated crimes. The recent action of the Justice Department in reopening forty civil-rights-era murders demonstrates the need for adequate laws. Many of the victims in these cases have been denied justice for decades, and for some, justice will never come.

Our bill corrects two major deficiencies in current law. Excessive restrictions require proof that victims were attacked because they were engaged in certain ''federally protected activities.'' And the scope of the law is limited, covering hate crimes based on race, religion, or ethnic background alone.

The federally protected activity requirement is outdated, unwise and unnecessary, particularly when we consider the unjust outcomes of this requirement. Hate crimes now occur in a variety of circumstances, and citizens are often targeted during routine activities that should be protected.

For example, in June 2003, six Latino teenagers went to a family restaurant on Long Island. They knew one another from their involvement in community activities and had come together to celebrate one of their birthdays. As they entered the restaurant, three men who were leaving the bar assaulted them, pummeling one boy and severing a tendon in his hand with a sharp weapon. During the attack, the men yelled racial slurs and one identified himself as a skinhead.

Two of the men were tried under the current Federal hate crimes law and were acquitted. The jurors said the Government failed to prove that the attack took place because the victims weren't engaged in a federally protected activity—using the restaurant did not qualify under current law. That case is only one example of the inadequate protection under the current status quo. Our bill will eliminate the federally protected activity requirement. Under this bill, the defendants who left the courtroom as free men would almost certainly have left in handcuffs through a different door.

The bill also recognizes that some hate crimes are committed against people because of their sexual orientation, their gender, their gender identity, or their disability. It is up to Congress to make sure that tough Federal penalties apply to those who commit these types of hate crimes as well. Passing this bill will send a loud and clear message. All hate crimes will face Federal prosecution. Action is long overdue. There are too many stories and too many victims.

In October 2002, two deaf girls in Somerville, MA, one of whom was in a wheelchair from cerebral palsy, were harassed and sexually assaulted by four suspected gang members in a local park. Although the alleged perpetrators were charged in the incident, the assaults could not be charged as hate crimes because there is no Federal protection for a hate crime against a disabled person.

In 1999, four women in Yosemite National Park were attacked by a man who admitted to having fantasized about killing women for most of his life. The current law did not apply to this horrific crime, because enjoyment of a Federal park is not a Federally protected right.

Current law must also be strengthened to deter horrific mass shootings where women are singled out as victims because of their gender.

Crimes against individuals based on sexual orientation or gender identity also cause immense pain and suffering. In 1993, Brandon Teena was raped and beaten in Humboldt, NE, by two male friends. The local sheriff refused to arrest the offenders, and they later shot and stabbed Brandon to death.

In 2001, Fred C. Martinez, Jr., a Navajo, openly gay, transgender youth, was murdered while walking home from a party in Cortez, CO. The killer, Shaun Murphy, had traveled from New Mexico to Colorado with a friend in order to sell illegal drugs. He met Fred at a carnival that night, and the next morning, while driving, he saw Fred walking down the street. Shaun and his friend offered Fred a ride and dropped him off close to home. Shortly thereafter, Shaun attacked Fred and beat him to death with a large rock. His body was discovered several days later. The attackers bragged about this vicious crime, describing the victim with vulgar epithets.

The killer could not be charged with a hate crime, because no State or Federal law protecting gender identity existed. He received a 40 year sentence under a plea agreement, and will be eligible for parole in 25 years. His victim did not live long enough to see his 20th birthday.

These examples graphically illustrate the senseless brutality our fellow citizens face simply for being who they are. They also highlight the importance of passing this legislation.

The vast majority of us in Congress have recognized the need for this legislation since it was first introduced—nearly 10 years ago. With the support of 31 cosponsors, Senator SMITH and I urge your support of this bipartisan bill.

The House has come through on their side and passed the bill. Now it is time for the Senate to do the same. This year, we can get it done. We came close twice before. In 2000 and 2002, a majority of Senators voted to pass this legislation. In 2004, we had 65 votes for the bill and it was adopted as part of the Defense authorization bill. But—that time—it was stripped out in conference.

This year, we have an opportunity to pass it in both the Senate and the House, and enact it into law. We can't afford to lose this opportunity. We must do all we can to end these senseless crimes.

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.

The PRESIDING OFFICER (Mr. CASEY). The assistant majority leader is recognized.

Mr. DURBIN. 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. DURBIN. Mr. President, I ask unanimous consent to speak as in morning business.

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

THE DREAM ACT

Mr. DURBIN. Mr. President, during the course of the deliberation on this Defense authorization bill, it has been my intention to offer an amendment to the so-called DREAM Act. The DREAM Act is a narrowly tailored, bipartisan measure that would give a select group of undocumented young people in America the chance to become legal residents if they came to this country as children, are currently long-term U.S. residents, have good moral character, no criminal record, and are willing to either enlist in the U.S. military or to attend college for at least 2 years.

The cosponsors of this amendment include Senators HAGEL, LUGAR, HATCH, BINGAMAN, BOXER, CANTWELL, CLINTON, FEINSTEIN, KERRY, LEAHY, LIEBERMAN, MENENDEZ, MURRAY, NELSON of Florida, and OBAMA. It is a bipartisan measure; it has been from the start. It says to a select group of immigrant students who grew up in our country: America is going to give you a chance. We will give you the opportunity to earn your way to legal status if you meet each and every one of the following requirements: You came to the United States before the age of 15; you have been continually present in the United States for at least 5 years; you are 29 years or younger when the DREAM Act becomes law, have good moral character, have not engaged in criminal activity or terrorist activity of any kind, not participated in alien smuggling; you have graduated from a U.S. high school; and you will serve in the military or attend college for at least 2 years.

This bill means a lot to me, but it means even more to a lot of young people across this country. Time and again I run into these young men and women. Some of them came to America as toddlers, as infants. They were brought into this country by their parents, certainly with no voice in the decision, and they grew up here. They attended our schools. Now they have reached a point in their lives where they want to go forward to make decisions about their careers. They are frustrated because they have no legal status.

I have run into specific cases time and again, and since I introduced this bill I have met so many of these students. It strikes me as interesting that we are at a point in American history that we say we do not have enough skilled workers, so we have to have H1–B visa holders come in from overseas; engineers, scientists, doctors, nurses who come in for 3-year periods of time to supplement America's workforce because we do not have enough skilled people. And here we have a group of people who are graduates of high school, prepared to go to college or serve in our military, who, under our law as currently written, are being told: Leave. We do not need you. We do not want you.

If you meet these people, you will come to understand the potential they bring to America's future: the young Korean-American woman I met through my office, who is an accomplished pianist, plays classical piano in symphonies and has been accepted at the most prestigious music school in America to forward her career in music; a young Indian girl who is studying to be a dentist at a university in Illinois; a young Hispanic male who has just completed his graduate degree at an Illinois university in microbiology whose goal is to be a researcher for either a government agency or a pharmaceutical company, looking for cures for diseases.

Future nurses, future teachers, future doctors, scientists, and engineers, I have met them. They are the valedictorians of their high school classes, they are the role models for kids in their communities, they are people with an extraordinary wealth of talent looking for a chance to prove themselves.

Each and every one of them is without a country, without a country because they were brought to the United States as children by their parents with, as I mentioned earlier, no voice in that decision. And this is all they know. This is what they want. This is the country they identify with, the country they want to be part of.

That is why I introduced this bill some 5 years ago and have worked on it ever since. People ask: Why would you offer the DREAM Act as an amendment to the Defense authorization bill? Well, there are pretty compelling reasons for doing that. We are having trouble recruiting and retaining soldiers for our Army. We are accepting more applicants for the U.S. Army who are high school dropouts, applicants who have low scores on the military aptitude test, and even some with criminal backgrounds.

Under the DREAM Act, thousands of well-qualified potential recruits for the military would become eligible for the first time, and many are eager to serve in the Armed Forces, to stand up for the country they love and the country they want to be part of.

Under the DREAM Act, they have a strong incentive to enlist because it gives them a path to permanent legal status. Most people do not know that in the ranks of the military today we have about 40,000 men and women who are not citizens of the United States. They are legal residents, but they are not citizens.

I met some of them when I went to Iraq and went to a Marine Corps camp. One in particular sticks in my memory: a young man who, as I walked through the ranks of Illinois marines, handed me a brown envelope and said: Senator, can you help me become a citizen? I would really like to vote someday.

You do not easily forget that kind of a request from a young man who later that day would strap on his body armor, his helmet, take his weapon, and go out and fight alongside American citizens who were also members of the Marine Corps. The same is true in the Army; the same is true in many of our military services. We do not make it a condition of military service that you be a citizen, only that you currently be a legal resident.

Of course, we know, sadly, that if that soldier or another one like him was killed in combat, we would award them citizenship posthumously. Does that sound right? Does it sound right that someone who is willing to serve, defend our country, take an oath of loyalty to our Nation, risk his life, perhaps be injured, does it make sense for us to say to them: Well, you are good, good enough to serve in the military but not good enough to be an American citizen?

Now, think of those young people, many of whom would step forward today, raise their hand, and proudly serve in the military. Now, this bill, the DREAM Act, does not mandate military service. I would not do that. We have a volunteer military, and I want to keep it that way. A student who is otherwise eligible could earn legal status by attending college as well. That is consistent with the spirit of a volunteer military force, that we do not force young people to enlist as a condition of status.

But there is a strong incentive for military service. Those who analyze it say, you know what. These young people who would be eligible to serve in the military through the DREAM Act are exactly the kind of people we want. A 2004 survey by the Rand Corporation found that 45 percent of Hispanic males, 31 percent of Hispanic females between the ages of 16 and 21, were likely to serve in the Armed Forces. That is 45 percent of Hispanic males compared to 24 percent of White males; 31 percent of Hispanic females compared to 10 percent of White women.

It is important to note that immigrants have an outstanding tradition of service in the military. About 8,000 enlist each year, those with legal status but not in the DREAM Act category.

Last night, like many Americans, I watched a documentary prepared by Kenneth Burns called ''The War,'' about World War II. There was an especially touching part of it about one of our colleagues, Senator DANNY INOUYE of Hawaii, a man of Japanese ancestry, who enlisted in the Army from Hawaii when our Government decided to take a chance on these Japanese Americans and see if maybe they would stand up for America, even to fight our enemies, which included the nation of Japan.

They hoped to get 1,500 draftees out of Hawaii.

When DANNY INOUYE, our colleague, volunteered and enlisted, he was one of 10,000 who stepped forward to serve. He told this touching story of taking the streetcar with his dad, off to catch the boat for military training, and how his dad reminded him how good this country had been to him and to his family and urged him to serve with honor and never dishonor his family's name.

DANNY INOUYE told that story like no one else could because, of course, he served and became an officer in the U.S. Army. During an invasion in Italy, he was gravely wounded, lost his left arm, and was awarded the Congressional Medal of Honor for the valor he showed in combat. People worried at that time whether they should take a chance with Japanese Americans. Could we really trust them? Would they really fight for America and be loyal? DANNY INOUYE and thousands of others proved that they would.

The same question is being raised about these young people. These are young people who are undocumented. They don't technically have citizenship. They certainly don't have one in America. They are asking for a chance to serve. We are told they want to serve in greater numbers than most others.

A recent study by the Center for Naval Analyses concluded ''non-citizens have high rates of success while serving [in the military]—they are far more likely . . . to fulfill their enlistment obligations than their U.S.-born counterparts.''

The Pentagon recognizes the merit of the DREAM Act. Bill Carr, Acting Under Secretary of Defense for Military Personnel Policy, recently said that the DREAM Act is ''very appealing'' to the military because it would apply to the ''cream of the crop of students.'' Mr. Carr concluded that the DREAM Act would be ''good for readiness.''

The DREAM Act is also supported by a broad coalition of military experts, education, business, labor, civil rights and religious leaders from across the political spectrum and around the country. Last week, I received a letter supporting the DREAM Act from over 60 national organizations: the American Federation of State and County Municipal Employees, the American Federation of Teachers, the Anti-Defamation League, the American Baptist Churches, Asian-American Justice Center, the Association of Jesuit Colleges and Universities, Episcopal Migration Ministries, Hebrew Immigrant Aid Society, U.S. Hispanic Chamber of Congress, the Jesuit Conference, the Jewish Council for Public Affairs, the Leadership Conference on Civil Rights, Lutheran Immigration and Refugee Services, National Council of Jewish Women, National Council of La Raza, National Education Association, Service Employees International Union, and UNITE HERE.

Thomas Wenski is bishop of Orlando, FL. He issued a statement on behalf of the U.S. Catholic Bishops supporting the DREAM Act. I would like to read it into the Record:

> For those who call this legislation an amnesty, I say shame on you. These are children who were brought to this country illegally through no fault of their own . . . The United States is the only country and home many of them know.
>
> Are we to deport some of our future leaders to a country they do not know in the name of an unjust law? Should we forsake these young people because we lack the political will and courage to provide them a just remedy?
>
> Our elected officials should resist the voices of dissension and fear this time and vote for the DREAM Act. By investing in these young people, our nation will receive benefits for years to come. It also is the right and moral thing to do.

Last week, John Sweeney, president of the AFL–CIO, issued a statement. He said:

> [The DREAM Act] will go a long way in remedying the injustices that these hard-working and law-abiding children face. We strongly support passage of the DREAM Act . . .
>
> Students who qualify for the DREAM Act are graduating at the top of their class; they are honor roll students, star athletes and valedictorians. They have lived in the United States most of their lives; this is the only country they know. These children are as committed to their communities and to this country as their American-born classmates. Yet, because they lack legal status, they do not have the same opportunities to education or to a decent job.

This is the choice the DREAM Act presents to us. We can allow a generation of immigrant students with great potential and ambitions to contribute more fully to our society and national security or we can relegate them to a future in the shadows, which would be a loss for all Americans.

Since I introduced this bill about 5 years ago, I have run into many of these same students. Life goes on for them. They don't qualify for Federal loans, for grants. They are trying to make it through college. They borrow the money and try to come up with it, delay their education, if they can. Occasionally, in the few weeks when I get back in their neighborhoods, they will come and see me. They will walk up to me and say: Senator, what is new with the DREAM Act? It isn't just an idle question of someone who might follow legislative activity; this is a question which will decide their lives for them. It will decide whether we cast them aside, reject them, say we don't need their talent and dreams and their idealism or whether we will vote for this bill and give these young people a chance.

When I hear some describe this as amnesty, I wonder, if someone is willing to risk his or her life to serve in our military in a combat zone, is that a giveaway? Is that citizenship for nothing? I don't think so. It has really been fundamental that we don't hold children responsible for the errors and crimes of their parents. Why, then, would we hold these children responsible?

When I hear some of the critics talk about the millions who will benefit from this, those numbers don't match up to reality. To qualify for this, you have to graduate from high school. Fifty percent of Hispanic students don't graduate from high school. So already these students have beaten the odds. Then how many of these same Hispanic students go on to finish the first year of college? An even smaller percentage. The numbers go down. So we are talking about an elite group of students with great potential who can make this a greater nation, and we are talking about an elite group of undocumented students willing to risk their lives for America.

I ask my colleagues to cast aside some of the rhetoric which is divisive and sometimes unfair about these young people. Take the time to meet them. Sit down and talk to them. You will see in their faces and in their conversation the kind of idealism, the kind of aspiration for a greater America we can only hope for from the next generation.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. 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. DURBIN. I ask unanimous consent to speak in morning business.

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

CHIP REAUTHORIZATION

Mr. DURBIN. Mr. President, 10 years ago the Senate created the Children's Health Insurance Program to help States provide health coverage for low-income kids across America. It is known as CHIP. It provides cost-effective health coverage to millions of kids. It is truly the biggest success story in health care in America in the past decade. We have reduced the number of uninsured children in our Nation by one-third. With the help of the CHIP program, my State of Illinois launched a statewide initiative to cover all kids, setting an important precedent for other States to follow. Over 300,000 kids in Illinois have insurance, but there are still thousands more we need to reach.

The 15 million uninsured children in America in 1997 are now 9 million nationwide. That is still far too many. Unfortunately, the Bush administration does not view the Senate bill as the carefully crafted compromise it is but sees it as a threat—in their words, ''a step down the path of government-run health care for every American.'' Let me assure them, this bill falls far short of anything resembling universal

coverage. It leaves millions of kids still without health insurance and millions of working parents and working adults in a similar uninsured status. But it is progress.

The President's proposal to add just $5 billion over the next 5 years isn't enough. At that level, hundreds of thousands of people will likely lose coverage. At that level, we start moving backward, pushing kids and families out of coverage and increasing the number of uninsured. This is no surprise. This President has seen a dramatic increase of uninsured children for the first time since 1998, since he took office. The number of uninsured children rose to 8.7 million in 2006, up from 8 million in 2005—a 9-percent increase in 1 year.

It is time to reauthorize the children's health program before it expires in a few days. What this bill does is strengthen a successful bipartisan program.

It allows States to cover more than 9 million children who do not have health insurance. The compromise bill will allow 6.6 million children to maintain coverage and allow States to reach almost 4 million more. The House and Senate have worked out a delicate bipartisan compromise. We know it is time to put party labels aside and do something about health care, particularly for our children.

How do we pay for it? It is an honest question, and a good one. The investment in the Children's Health Insurance Program is paid for by increasing the Federal tax on cigarettes, with proportional increases for other tobacco products.

I know there are some people who think this is unfair to smokers. But I have to tell them, their habit, their addiction to nicotine and tobacco comes at great expense not only to them personally but to this Nation. We know higher tobacco prices will make it less likely kids will use tobacco products. So it is a win-win situation. You see, if these tobacco companies do not hook our kids at an early age, while they are still kids and have not thought it through, they might never get them addicted.

So you see, the vast majority of smokers today started smoking before the age of 16. The addiction starts, and it doesn't end until one out of three of them die from this tobacco addiction.

What stops a kid from smoking? Well, sometimes good parental advice or more—and a high price. When tobacco costs a lot of money, kids don't buy it. It is a simple fact. It is economics. If there is one thing you want to do to stop kids from becoming addicted to tobacco, raise the price of the product. Each time you raise it a nickel or a dime or a quarter or 50 cents, you end up with fewer kids smoking. That is what is going to happen. So we will not only raise money from the tobacco tax to pay for health insurance for kids, we will have fewer kids addicted to tobacco.

In a poll conducted for the Campaign for Tobacco Free Kids, two-thirds of those interviewed—67 percent—favor this tax increase across America; 28 percent oppose it. Moreover, nearly half—49 percent—strongly favor it. Only 20 percent strongly oppose it.

It is the right thing to do for our kids' health and for the public's health. We have had good, bipartisan cooperation on this measure. It has been our highest priority since the Democrats took control of Congress at the beginning of this year. We have tried to work together, and we have worked together successfully.

I want to especially salute, on our side of the aisle, Senator MAX BAUCUS, chairman of the Finance Committee, who has been working on this very closely with Senator CHUCK GRASSLEY, a Republican from Iowa. Senator GRASSLEY, Senator HATCH, and others have really shown extraordinary political courage in coming together to support this measure.

Now we have to convince the President. The President said in his statement last week:

> Members of Congress are putting health coverage for poor children at risk so they can score political points in Washington.

Well, I am sorry to say I disagree with the President on this. We are working with the President's party, many Republicans in the Senate and in the House, to improve this important program.

Last night, on the House floor, there was a vote on this program, 265 to 159. Forty-five Republicans joined almost all of the Democratic House Members in support. It is a shame the President refuses to consider the needs of millions of families who would be benefited from additional children's health insurance coverage.

Let me close by saying a word about the cost of this program. This program is likely to cost us $6 billion a year. Mr. President, $6 billion is a substantial sum of money to add more children to health insurance coverage. Measure that $6 billion a year against this war—a war that costs us $12 billion a month, a war for which this President will come and ask $200 billion in the next 2 weeks.

But this measure that costs $6 billion a year is an amount of money that pales in comparison with what the President is going to ask us to continue to spend on the war in Iraq. His request will be near $200 billion. Mr. President, $200 billion for a war in Iraq, $200 billion for helping the people of Iraq, the President believes we can afford. But he argues we cannot afford $6 billion for more health insurance for America's children.

I believe a strong America begins at home. It begins with strong schools and strong families and strong communities and strong neighborhoods. And it begins with health care—health care to bring peace of mind to parents who otherwise worry that tomorrow that earache may turn into something worse, or a strep throat or a child struggling with asthma or diabetes.

These are kids who need basic health protection and do not have it today. They are not the poorest of the poor. Those kids already have help from our Government. These kids I am talking about are the children of working families, working families who, unfortunately, have no health insurance at their workplace. We are trying to expand the coverage of health insurance.

The President says it is unfair to private health insurance companies for us to expand this program. I could not disagree more. Private health insurance companies are doing quite well. They do not need any more help from us. The fact that these kids do not have health insurance suggests these private health insurance companies either cannot or will not provide them the coverage they need.

I urge my colleagues, when the measure comes over from the House of Representatives—which it should momentarily—that we should support it, and I hope with numbers that say to the President: Please, for the sake of this country, for the sake of our families, and for the sake of the kids—the millions of kids who will have health insurance coverage—please, do not veto this important children's health insurance bill.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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.

UNANIMOUS CONSENT AGREEMENT—H.R. 1585

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate now resume consideration of H.R. 1585, and immediately after the bill is reported the debate time be 2 minutes equally divided and controlled between the leaders or their designees with respect to the following pending amendments: Biden amendment No. 2997 and Kyl-Lieberman amendment No. 3017; that each amendment be modified with the changes at the desk, and that no amendments be in order to either amendment prior to the vote; that upon the use or yielding back of time, without further intervening action or debate, the Senate proceed to vote in relation to the Biden amendment, as modified; that upon the disposition of that amendment, there be 2 minutes of debate equally divided and controlled prior to a vote in relation to the Kyl-Lieberman amendment, as modified; that each amendment be subject to a 60-vote threshold, and that if the amendment does not achieve that threshold, it be withdrawn; and that the second vote in this sequence be

limited to 10 minutes; further that upon disposition of these amendments, the next amendment in order be Coburn amendment No. 2196.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, reserving the right to object, I want to make an observation and thank all the people who were involved in this effort. For our colleagues who might be listening, the reason there is an agreement and there will be no objection is because people on both sides of the aisle were willing to make some concessions to the others with regard to the wording of these two resolutions. I would hope they would be both strongly supported.

I have no objection.

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

Mr. LEVIN. Mr. President, I also would give notice that it is our intention, since we are alternating back and forth, that the next amendment we will attempt to call up will be the Webb amendment No. 2999, but that is not part of the UC agreement.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2008

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 1585, which 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.

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.

Kyl-Lieberman amendment No. 3017 (to amendment No. 2011), to express the sense of the Senate regarding Iran.

Biden amendment No. 2997 (to amendment No. 2011), to express the sense of Congress on federalism in Iraq.

Reid (for Kennedy-Smith) amendment No. 3035 (to the language proposed to be stricken by amendment No. 2064), to provide Federal assistance to States, local jurisdictions, and Indian tribes to prosecute hate crimes.

Motion to recommit the bill to the Committee on Armed Services, with instructions to report back forthwith, with Reid amendment No. 3038, to change the enactment date.

Reid amendment No. 3039 (to the instructions of the motion to recommit), of a technical nature.

Reid amendment No. 3040 (to amendment No. 3039), of a technical nature.

Casey (for Hatch) amendment No. 3047 (to amendment No. 2011), to require comprehensive study and support for criminal investigations and prosecutions by State and local law enforcement officials.

The amendments (No. 2997), as modified, and (No. 3017), as modified, are as follows:

AMENDMENT NO. 2997, AS MODIFIED

At the end of subtitle C of title XV, add the following:

SEC. 1535. SENSE OF CONGRESS ON FEDERALISM IN IRAQ.

(a) FINDINGS.—Congress makes the following findings:

(1) Iraq continues to experience a self-sustaining cycle of sectarian violence.

(2) The ongoing sectarian violence presents a threat to regional and world peace, and the longterm security interests of the United States are best served by an Iraq that is stable, not a haven for terrorists, and not a threat to its neighbors.

(3) A central focus of al Qaeda in Iraq has been to turn sectarian divisions in Iraq into sectarian violence through a concentrated series of attacks, the most significant being the destruction of the Golden Dome of the Shia al-Askariyah Mosque in Samarra in February 2006.

(4) Iraqis must reach a comprehensive and sustainable political settlement in order to achieve stability, and the failure of the Iraqis to reach such a settlement is a primary cause of violence in Iraq.

(5) Article One of the Constitution of Iraq declares Iraq to be a ''single, independent federal state''.

(6) Section Five of the Constitution of Iraq declares that the ''federal system in the Republic of Iraq is made up of a decentralized capital, regions, and governorates, and local administrations'' and enumerates the expansive powers of regions and the limited powers of the central government and establishes the mechanisms for the creation of new federal regions.

(7) The federal system created by the Constitution of Iraq would give Iraqis local control over their police and certain laws, including those related to employment, education, religion, and marriage.

(8) The Constitution of Iraq recognizes the administrative role of the Kurdistan Regional Government in 3 northern Iraqi provinces, known also as the Kurdistan Region.

(9) The Kurdistan region, recognized by the Constitution of Iraq, is largely stable and peaceful.

(10) The Iraqi Parliament approved a federalism law on October 11th, 2006, which establishes procedures for the creation of new federal regions and will go into effect 18 months after approval.

(11) Iraqis recognize Baghdad as the capital of Iraq, and the Constitution of Iraq stipulates that Baghdad may not merge with any federal region.

(12) Despite their differences, Iraq's sectarian and ethnic groups support the unity and territorial integrity of Iraq.

(13) Iraqi Prime Minister Nouri al-Maliki stated on November 27, 2006, ''[t]he crisis is political, and the ones who can stop the cycle of aggravation and bloodletting of innocents are the politicians''.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should actively support a political settlement in Iraq based on the final provisions of the Constitution of Iraq that create a federal system of government and allow for the creation of federal regions, consistent with the wishes of the Iraqi people and their elected leaders;

(2) the active support referred to in paragraph (1) should include—

(A) calling on the international community, including countries with troops in Iraq, the permanent 5 members of the United Nations Security Council, members of the Gulf Cooperation Council, and Iraq's neighbors—

(i) to support an Iraqi political settlement based on federalism;

(ii) to acknowledge the sovereignty and territorial integrity of Iraq; and

(iii) to fulfill commitments for the urgent delivery of significant assistance and debt relief to Iraq, especially those made by the member states of the Gulf Cooperation Council;

(B) further calling on Iraq's neighbors to pledge not to intervene in or destabilize Iraq and to agree to related verification mechanisms; and

(C) convening a conference for Iraqis to reach an agreement on a comprehensive political settlement based on the federalism law approved by the Iraqi Parliament on October 11, 2006;

(3) the United States should urge the Government of Iraq to quickly agree upon and implement a law providing for the equitable distribution of oil revenues, which is a critical component of a comprehensive political settlement based upon federalism;

(4) the steps described in paragraphs (1), (2), and (3) could lead to an Iraq that is stable, not a haven for terrorists, and not a threat to its neighbors; and

(5) nothing in this Act should be construed in any way to infringe on the sovereign rights of the nation of Iraq.

At the end of subtitle C of title XV, add the following:

SEC. 1535. SENSE OF SENATE ON IRAN.

(a) FINDINGS.—The Senate makes the following findings:

(1) General David Petraeus, commander of the Multi-National Force-Iraq, stated in testimony before a joint session of the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives on September 10, 2007, that ''[i]t is increasingly apparent to both coalition and Iraqi leaders that Iran, through the use of the Iranian Republican Guard Corps Qods Force, seeks to turn the Shi'a militia extremists into a Hezbollah-like force to serve its interests and fight a proxy war against the Iraqi state and coalition forces in Iraq''.

(2) Ambassador Ryan Crocker, United States Ambassador to Iraq, stated in testimony before a joint session of the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives on September 10, 2007, that ''Iran plays a harmful role in Iraq. While claiming to support Iraq in its transition, Iran has actively undermined it by providing lethal capabilities to the enemies of the Iraqi state''.

(3) The most recent National Intelligence Estimate on Iraq, published in August 2007, states that ''Iran has been intensifying aspects of its lethal support for select groups of Iraqi Shia militants, particularly the JAM [Jays al-Mahdi], since at least the beginning of 2006. Explosively formed penetrator (EFP) attacks have risen dramatically''.

(4) The Report of the Independent Commission on the Security Forces of Iraq, released on September 6, 2007, states that ''[t]he Commission concludes that the evidence of Iran's increasing activism in the southeastern part of the country, including Basra and Diyala provinces, is compelling... It is an accepted fact that most of the sophisticated weapons being used to 'defeat' our armor protection comes across the border from Iran with relative impunity''.

(5) General (Ret.) James Jones, chairman of the Independent Commission on the Security Forces of Iraq, stated in testimony before the Committee on Armed Services of the Senate on September 6, 2007, that ''[w]e judge that the goings-on across the Iranian border in particular are of extreme severity

and have the potential of at least delaying our efforts inside the country. Many of the arms and weapons that kill and maim our soldiers are coming from across the Iranian border''.

(6) General Petraeus said of Iranian support for extremist activity in Iraq on April 26, 2007, that ''[w]e know that it goes as high as [Brig. Gen. Qassem] Suleimani, who is the head of the Qods Force . . . We believe that he works directly for the supreme leader of the country''.

(7) Mahmoud Ahmedinejad, the president of Iran, stated on August 28, 2007, with respect to the United States presence in Iraq, that ''[t]he political power of the occupiers is collapsing rapidly. Soon we will see a huge power vacuum in the region. Of course we are prepared to fill the gap''.

(8) Ambassador Crocker testified to Congress, with respect to President Ahmedinejad's statement, on September 11, 2007, that ''[t]he Iranian involvement in Iraq—its support for extremist militias, training, connections to Lebanese Hezbollah, provision of munitions that are used against our force as well as the Iraqis—are all, in my view, a pretty clear demonstration that Ahmedinejad means what he says, and is already trying to implement it to the best of his ability''.

(9) General Petraeus stated on September 12, 2007, with respect to evidence of the complicity of Iran in the murder of members of the Armed Forces of the United States in Iraq, that ''[t]e evidence is very, very clear. We captured it when we captured Qais Khazali, the Lebanese Hezbollah deputy commander, and others, and it's in black and white . . . We interrogated these individuals. We have on tape . . . Qais Khazali himself. When asked, could you have done what you have done without Iranian support, he literally throws up his hands and laughs and says, of course not . . . So they told us about the amounts of money that they have received. They told us about the training that they received. They told us about the ammunition and sophisticated weaponry and all of that that they received''.

(10) General Petraeus further stated on September 14, 2007, that ''[w]hat we have got is evidence. This is not intelligence. This is evidence, off computers that we captured, documents and so forth . . . In one case, a 22-page document that lays out the planning, reconnaissance, rehearsal, conduct, and aftermath of the operation conducted that resulted in the death of five of our soldiers in Karbala back in January''.

(11) The Department of Defense report to Congress entitled ''Measuring Stability and Security in Iraq'' and released on September 18, 2007, consistent with section 9010 of Public Law 109–289, states that ''[t]here has been no decrease in Iranian training and funding of illegal Shi'a militias in Iraq that attack Iraqi and Coalition forces and civilians . . . Tehran's support for these groups is one of the greatest impediments to progress on reconciliation''.

(12) The Department of Defense report further states, with respect to Iranian support for Shi'a extremist groups in Iraq, that ''[m]ost of the explosives and ammunition used by these groups are provided by the Iranian Islamic Revolutionary Guard Corps–Qods Force . . . For the period of June through the end of August, [explosively formed penetrator] events are projected to rise by 39 percent over the period of March through May''.

(13) Since May 2007, Ambassador Crocker has held three rounds of talks in Baghdad on Iraq security with representatives of the Government of the Islamic Republic of Iran.

(14) Ambassador Crocker testified before Congress on September 10, 2007, with respect to these talks, stating that ''I laid out the concerns we had over Iranian activity that was damaging to Iraq's security, but found no readiness on Iranians' side at all to engage seriously on these issues. The impression I came with after a couple rounds is that the Iranians were interested simply in the appearance of discussions, of being seen to be at the table with the U.S. as an arbiter of Iraq's present and future, rather than actually doing serious business . . . Right now, I haven't seen any sign of earnest or seriousness on the Iranian side''.

(15) Ambassador Crocker testified before Congress on September 11, 2007, stating that ''[w]e have seen nothing on the ground that would suggest that the Iranians are altering what they're doing in support of extremist elements that are going after our forces as well as the Iraqis''.

(b) SENSE OF SENATE.—It is the sense of the Senate—

(1) that the manner in which the United States transitions and structures its military presence in Iraq will have critical long-term consequences for the future of the Persian Gulf and the Middle East, in particular with regard to the capability of the Government of the Islamic Republic of Iran to pose a threat to the security of the region, the prospects for democracy for the people of the region, and the health of the global economy;

(2) that it is a critical national interest of the United States to prevent the Government of the Islamic Republic of Iran from turning Shi'a militia extremists in Iraq into a Hezbollah-like force that could serve its interests inside Iraq, including by overwhelming, subverting, or co-opting institutions of the legitimate Government of Iraq;

(3) that the United States should designate Iran's Islamic Revolutionary Guards Corps as a foreign terrorist organization under section 219 of the Immigration and Nationality Act and place the Islamic Revolutionary Guards Corps on the list of Specially Designated Global Terrorists, as established under the International Emergency Economic Powers Act and initiated under Executive Order 13224; and

(4) that the Department of the Treasury should act with all possible expediency to complete the listing of those entities targeted under United Nations Security Council Resolutions 1737 and 1747 adopted unanimously on December 23, 2006 and March 24, 2007, respectively.

Insert prior to section (6) the following:

(16) Ambassador Crocker further testified before Congress on September 11, 2007, with respect to talks with Iran, that ''I think that it's an option that we want to preserve. Our first couple of rounds did not produce anything. I don't think that we should either, therefore, be in a big hurry to have another round, nor do I think we should say we're not going to talk anymore . . . I do believe it's important to keep the option for further discussion on the table.''

(17) Secretary of Defense Robert Gates stated on September 16, 2007 that ''I think that the administration believes at this point that continuing to try and deal with the Iranian threat, the Iranian challenge, through diplomatic and economic means is by far the preferable approach. That's the one we are using . . . we always say all options are on the table, but clearly, the diplomatic and economic approach is the one that we are pursuing.''

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided and controlled between the two leaders or their designees on the Biden amendment.

Who yields time?

Mr. LEVIN. Senator BIDEN will control the time.

Mr. BIDEN. Mr. President, I yield back my time.

CONSTITUTIONAL REVIEW COMMISSION

Mr. LEVIN. Mr. President, I have discussed with the Senator from Delaware modifying his amendment expressing the sense of Congress on Federalism in Iraq.

My concern with the wording of the amendment stems from the fact that the Iraqi Sunnis did not participate fully in the drafting of the constitution of Iraq and the Sunni community voted overwhelmingly against it but were unable to prevent its adoption in a referendum. As a result of their dissatisfaction with the constitution, an agreement was made to convene a Constitutional Review Commission to review the constitution and to make recommendations for changes to the Iraqi Council of Representatives for submission to the Iraqi people. One of the benchmarks that the Iraqi political leaders agreed among themselves called for the Constitutional Review Commission to be formed by September 2006; for the Commission to complete its work by January 2007; and for a constitutional amendments referendum to be held, if required, in March 2007.

The Constitutional Review Commission has not completed its work despite several extensions of time; the most recent extension being until the end of this year. In recognition of the agreement to have a Constitutional Review Committee, the legislation establishing procedures for the creation of new federal regions in Iraq will not go into effect until 18 months after enactment of the legislation, which is April 2008.

Accordingly, I appreciate the modifications that Senator BIDEN is making to his amendment to reflect that the political settlement regarding federalism referred to in his amendment should be based upon the ''final'' provisions of the Iraq constitution. This will allow for the possibility of changes being made as a result of the work of the Constitutional Review Commission. I also appreciate Senator BIDEN's modifying the amendment to note that whatever the political settlement is, be it pursuant to the current or revised constitutional provisions, it should be based on the ''wishes of the Iraqi people and their elected leaders'' as we don't want to suggest that we are trying to impose anything on the Iraqis.

Mr. BIDEN. Mr. President, I want to thank my colleague from Michigan for his suggestions. I believe that federalism and the creation of federal regions would be in the best interest of the Iraqi people and holds great promise for a political settlement among the Iraqi political leadership. I know that my friend is particularly concerned about the opposition of the Sunni community to the constitution. I agree with him that, at, the time of

adoption of the constitution, the Sunnis were opposed to many aspects of it including those provisions relating to federalism among others. But in my last visit to Iraq, my conversations with key Sunni leaders reveals a sea change in thinking. There is a growing recognition by the Sunni leadership that Sunnis will not get a fair shake if they are at the mercy of a strong central government controlled by their rivals in the Islamist Shiacamp. One key leader told me that he now understands that federalism is the best option for the Sunnis. Nonetheless, it is not my intention to forego the possibility that the Iraqi Constitutional Review Commission may recommend changes to their constitution nor that the United States should seek to impose a settlement on the Iraqis. I would note, however, at in the last draft proposed by the commission on May 23, 2007, none of the proposed changes would revoke any of the provisions of the constitution which permit the creation of federal regions. However, in deference to the Senator's concerns, I have amended the language to account for the possibility of the issue of regions being reopened by the Iraqis.

Mr. President, I yield the floor.

Mr. KYL. Mr. President, I am checking to see if there is anybody on our side who wishes to speak for any amount of time.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the Biden amendment, as amended.

Mr. LEVIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Illinois (Mr. OBAMA) is necessarily absent.

Mr. LOTT. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 75, nays 23, as follows:

[Rollcall Vote No. 348 Leg.]

YEAS—75

Akaka	Collins	Klobuchar
Baucus	Conrad	Kohl
Bayh	Dodd	Landrieu
Bennett	Domenici	Lautenberg
Biden	Dorgan	Leahy
Bingaman	Durbin	Levin
Boxer	Ensign	Lieberman
Brown	Feinstein	Lincoln
Brownback	Grassley	Lott
Byrd	Gregg	Lugar
Cantwell	Harkin	Martinez
Cardin	Hatch	McCaskill
Carper	Hutchison	McConnell
Casey	Inouye	Menendez
Chambliss	Isakson	Mikulski
Clinton	Johnson	Murkowski
Cochran	Kennedy	Murray
Coleman	Kerry	Nelson (FL)
Nelson (NE)	Sanders	Stevens
Pryor	Schumer	Sununu
Reed	Shelby	Tester
Reid	Smith	Warner
Roberts	Snowe	Webb
Rockefeller	Specter	Whitehouse
Salazar	Stabenow	Wyden

NAYS—23

Alexander	Cornyn	Hagel
Allard	Craig	Inhofe
Barrasso	Crapo	Kyl
Bond	DeMint	Sessions
Bunning	Dole	Thune
Burr	Enzi	Vitter
Coburn	Feingold	Voinovich
Corker	Graham	

NOT VOTING—2

McCain	Obama

The PRESIDING OFFICER. On this vote, the yeas are 75, the nays are 23. Under the previous order, requiring 60 votes for the adoption of the amendment, the amendment is agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3017

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate, equally divided, prior to a vote in relation to amendment No. 3017, offered by the Senator from Arizona.

Who yields time?

The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, very briefly, this amendment is a sense of the Senate introduced by Senator KYL and me. The findings document the evidence that shows that Iran, working through its Islamic Revolutionary Guard Corps, has been training and equipping Iraqi extremists who are killing American soldiers—hundreds of them.

This sense of the Senate calls on the administration to designate the Islamic Revolutionary Guard Corps as a terrorist organization, allowing us to exert economic pressure on those terrorists who also do business and to stop them from killing Americans.

Because some of our colleagues thought paragraphs 3 and 4 of the sense of the Senate may have opened the door to some kind of military action against Iran, Senator KYL and I have struck them from the amendment. That is not our intention. In fact, our intention is to increase the economic pressure on Iran and the Islamic Revolutionary Guard Corps so that we will never have to consider the use of the military to stop them from what they are doing to kill our soldiers.

Mr. BIDEN. Mr. President, I will oppose the Kyl-Lieberman amendment for one simple reason: this administration cannot be trusted.

I am very concerned about the evidence that suggests that Iran is engaged in destabilizing activities inside Iraq. I believe that many of the steps the Senators from Connecticut and Arizona suggest be taken to end this activity can be taken today. We can and we should move to act against Iranian forces inside Iraq. We can and we should use economic pressure against those who aid and abet attacks on our forces and against Iraqis. The administration already has the authority to do these things and it should be doing them.

Arguably, if we had a different President who abided by the meaning and intent of laws we pass, I might support this amendment. I fear, however, that this President might use the designation of Iran's Revolutionary Guard Corps as a terrorist entity as a pretext to use force against Iran as he sees fit. While this may sound far-fetched to some, my colleagues should examine the record in two particular instances.

First, is the misuse of the authority that we granted the President in 2002 to back our diplomacy with the threat of force. My colleagues will remember that, at the time, we voted to give the President a strong hand to play at the U.N. to get the world to speak with one voice to Saddam: let the inspectors back in and disarm or be disarmed. We thought that would make war less likely.

But in the 5 months between our vote and the invasion of Iraq, the ideologues took over. The President went to war unnecessarily, without letting the weapons inspectors finish their work, without a real coalition, without enough troops, without the right equipment, and without a plan to secure the peace.

The second example is the administration's twisting of our vote on the Iraq Liberation Act of 1998 as an endorsement of military action against Iraq. Let me quote the Vice President from November 2005:

> Permit me to burden you with a bit more history: In August of 1998, the U.S. Congress passed a resolution urging President Clinton take 'appropriate action' to compel Saddam to come into compliance with his obligations to the Security Council. Not a single senator voted no. Two months later, in October of '98—again, without a single dissenting vote in the United States Senate—the Congress passed the Iraq Liberation Act. It explicitly adopted as American policy supporting efforts to remove Saddam Hussein's regime from power and promoting an Iraqi democracy in its place. And just two months after signing the Iraq Liberation law, President Clinton ordered that Iraq be bombed in an effort to destroy facilities that he believed were connected to Saddam's weapons of mass destruction programs.

The Vice President made this argument despite this explicit section of the Iraq Liberation Act: ''Nothing in this Act shall be construed to authorize or otherwise speak to the use of United States Armed Forces.''

These examples are relevant to the debate today.

The Authorization for the Use of Military Force approved in September 2001 would appear to limit the scope of authority it contains to the terrorists who conducted or aided the attacks of 9/11, or harbored them. But the President and his lawyers have frequently argued for a broad reading of this law,

and believe they are fighting a ''global'' war on terrorism. In letters to Congress under the war powers resolution, the President has stated that he will ''direct additional measures as necessary'' in the exercise of self-defense and ''to protect U.S. citizens and interests'' as part of this global war.

I do not think the suggestion that the President designate an arm of the government of Iran as a ''terrorist'' entity provides any authority to do anything. After all, it is a nonbinding measure. But this administration already has an unduly broad view of the scope of executive power, particularly in time of war. I do not want to give the President and his lawyers any argument that Congress has somehow authorized military actions. The lesson of the last several years is that we must be cautious about acting impulsively on legislation which can be misconstrued, and misused to justify actions that Congress did not contemplate.

With a different President who had a different track record, I could vote to support this amendment. But given this President's actions and misuse of authority, I cannot support the amendment.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WEBB. Mr. President, I have grave concerns about this amendment. I spoke at length on the floor yesterday about them. We have never characterized an entity of a foreign government as a foreign terrorist organization. If we are saying that the Iranian Revolutionary Guard is conducting terrorist activities, what we are saying, in effect, is that the Revolutionary Guard is conducting military activities against us. This has the danger of becoming a de facto authorization for military force against Iran.

We have not had one hearing. I recommended yesterday that the amendment be withdrawn so we can consider it in the appropriate committees. I oppose passage at this time in the hope that we can get further discussion.

I yield the floor.

The PRESIDING OFFICER. All time has expired.

Mr. WARNER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Illinois (Mr. OBAMA) is necessarily absent.

Mr. LOTT. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 76, nays 22, as follows:

[Rollcall Vote No. 349 Leg.]

YEAS—76

Akaka	Dole	Murkowski
Alexander	Domenici	Murray
Allard	Dorgan	Nelson (FL)
Barrasso	Durbin	Nelson (NE)
Baucus	Ensign	Pryor
Bayh	Enzi	Reed
Bennett	Feinstein	Reid
Bond	Graham	Roberts
Brownback	Grassley	Rockefeller
Bunning	Gregg	Salazar
Burr	Hatch	Schumer
Cardin	Hutchison	Sessions
Carper	Inhofe	Shelby
Casey	Isakson	Smith
Chambliss	Johnson	Snowe
Clinton	Kohl	Specter
Coburn	Kyl	Stabenow
Cochran	Landrieu	Stevens
Coleman	Lautenberg	Sununu
Collins	Levin	Thune
Conrad	Lieberman	Vitter
Corker	Lott	Voinovich
Cornyn	Martinez	Warner
Craig	McConnell	Whitehouse
Crapo	Menendez	
DeMint	Mikulski	

NAYS—22

Biden	Hagel	Lugar
Bingaman	Harkin	McCaskill
Boxer	Inouye	Sanders
Brown	Kennedy	Tester
Byrd	Kerry	Webb
Cantwell	Klobuchar	Wyden
Dodd	Leahy	
Feingold	Lincoln	

NOT VOTING—2

McCain	Obama

The PRESIDING OFFICER. On this vote, the yeas are 76, the nays are 22. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 2196 TO AMENDMENT NO. 2011

Mr. COBURN. Mr. President, I ask unanimous consent that the pending motion and amendments be set aside, and that amendment No. 2196 be called up.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Reserving the right to object—and I won't—is this the amendment which the unanimous consent agreement, previously arrived at, referred to?

Mr. COBURN. It is.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 2196.

Mr. COBURN. Mr. President, I ask unanimous consent that the reading of the amendment be waived.

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

The amendment is as follows:

(Purpose: To eliminate wasteful spending and improve the management of counter-drug intelligence)

At the appropriate place, insert the following:

SEC. ___. NDIC CLOSURE.

Notwithstanding any other provision of this Act, none of the funds authorized to be appropriated by this Act may be used for the National Drug Intelligence Center (NDIC) located in Johnstown, Pennsylvania, except those activities related to the permanent closing of the NDIC and to the relocation of activities performed at NDIC deemed necessary or essential by the Secretary of Defense, in consultation with the appropriate Federal agencies.

Mr. COBURN. Mr. President, I ask unanimous consent that I be given 30 minutes to speak on this subject. I have every intention of speaking less than that, but this is to allow me the flexibility to do so.

I also plan on reserving that time until such time as we come back from our policy luncheon.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Reserving the right to object, is there any time agreement on this amendment?

The PRESIDING OFFICER. There is not.

Without objection, it is so ordered.

The Senator from Oklahoma.

Mr. COBURN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. MCCASKILL. Mr. President, I ask unanimous consent that the motion and all pending amendments be set aside.

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

AMENDMENT NO. 2999, AS MODIFIED, TO AMENDMENT NO. 2011

Mrs. MCCASKILL. Mr. President, on behalf of Senator WEBB and myself, I call up amendment No. 2999 and ask that the amendment be modified with the changes at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri [Mrs. MCCASKILL], for Mr. WEBB, for himself, Mrs. MCCASKILL, Ms. KLOBUCHAR, Mr. BROWN, Mr. CASEY, Mr. TESTER, Mr. CARDIN, Mr. WHITEHOUSE, Mr. SANDERS, Mr. LEVIN, Mr. CARPER, Mrs. FEINSTEIN, Mr. KERRY, Mr. JOHNSON, Mrs. BOXER, Mr. OBAMA, Mr. LEAHY, Mr. HARKIN, Ms. STABENOW, Mr. DODD, Ms. LANDRIEU, Mr. FEINGOLD, Mr. BAYH, Mr. PRYOR, and Mr. BYRD, proposes an amendment numbered 2999, as modified, to amendment No. 2011.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment (No. 2999), as modified, is as follows:

At the end of subtitle C of title XV, add the following:

SEC. 1535. STUDY AND INVESTIGATION OF WARTIME CONTRACTS AND CONTRACTING PROCESSES IN OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM.

(a) COMMISSION ON WARTIME CONTRACTING.—

(1) ESTABLISHMENT.—There is hereby established a commission to be known as the ''Commission on Wartime Contracting'' (in this subsection referred to as the ''Commission'').

(2) MEMBERSHIP MATTERS.—

(A) MEMBERSHIP.—The Commission shall be composed of 8 members, as follows:

(i) 2 members shall be appointed by the Majority Leader of the Senate, in consultation with the Chairmen of the Committee on Armed Services and the Committee on Homeland Security and Governmental Affairs of the Senate.

(ii) 2 members shall be appointed by the Speaker of the House of Representatives, in consultation with the Chairmen of the Committee on Armed Services and the Committee on Oversight and Government Reform of the House of Representatives.

(iii) 1 member shall be appointed by the Minority Leader of the Senate, in consultation with the Ranking Minority Members of the Committee on Armed Services and the Committee on Homeland Security and Governmental Affairs of the Senate.

(iv) 1 member shall be appointed by the Minority Leader of the House of Representatives, in consultation with the Ranking Minority Member of the Committee on Armed Services and the Committee on Oversight and Government Reform of the House of Representatives.

(v) 1 member shall be appointed by the Secretary of Defense.

(vi) 1 member shall be appointed by the Secretary of State.

(B) DEADLINE FOR APPOINTMENTS.—All appointments to the Commission shall be made not later than 90 days after the date of the enactment of this Act.

(C) CHAIRMAN AND VICE CHAIRMAN.—

(i) CHAIRMAN.—The chairman of the Commission shall be a member of the Commission selected by the members appointed under clauses (i) and (ii) of subparagraph (A), but only if approved by the vote of a majority of the members of the Commission.

(ii) VICE CHAIRMAN.—The vice chairman of the Commission shall be a member of the Commission selected by the members appointed under clauses (iii) and (iv) of subparagraph (A), but only if approved by the vote of a majority of the members of the Commission.

(D) In the event a Commission seat becomes vacant, the nominee to fill the vacant seat must be of the same political party as the departing commissioner.

(3) DUTIES.—

(A) GENERAL DUTIES.—The Commission shall study and investigate the following matters:

(i) Federal agency contracting for the reconstruction of Iraq and Afghanistan.

(ii) Federal agency contracting for the logistical support of coalition forces in Operation Iraqi Freedom and Operation Enduring Freedom.

(iii) Federal agency contracting for the performance of security and intelligence functions in Operation Iraqi Freedom and Operation Enduring Freedom.

(B) SCOPE OF CONTRACTING COVERED.—The Federal agency contracting covered by this paragraph includes contracts entered into both in the United States and abroad for the performance of activities described in subparagraph (A), whether performed in the United States or abroad.

(C) PARTICULAR DUTIES.—In carrying out the study under this paragraph, the Commission shall assess—

(i) the extent and impact of the reliance of the Federal Government on contractors to perform functions (including security, intelligence, and management functions) in Operation Iraqi Freedom and Operation Enduring Freedom;

(ii) the performance of the contracts under review, and the mechanisms used to manage the performance of the contracts under review;

(iii) the extent of waste, fraud, abuse, or mismanagement under such contracts;

(iv) the extent to which those responsible for such waste, fraud, abuse, or mismanagement have been held financially or legally accountable;

(v) the appropriateness of the organizational structure, policies, practices, and resources of the Department of Defense and the Department of State for handling contingency contract management and support; and

(vi) the extent of the misuse of force or violations of the laws of war or federal statutes by contractors.

(4) REPORTS.—

(A) INTERIM REPORT.—On January 15, 2009, the Commission shall submit to Congress an interim report on the study carried out under paragraph (3), including the results and findings of the study as of that date.

(B) OTHER REPORTS.—The Commission may from time to time submit to Congress such other reports on the study carried out under paragraph (3) as the Commission considers appropriate.

(C) FINAL REPORT.—Not later than two years after the date of the appointment of all of the members of the Commission under paragraph (2), the Commission shall submit to Congress a report on the study carried out under paragraph (3). The report shall—

(i) include the findings of the Commission;

(ii) identify lessons learned on the contracting covered by the study; and

(iii) include specific recommendations for improvements to be made in—

(I) the process for developing contract requirements for wartime contracts and contracts for contingency operations;

(II) the process for awarding contracts and task orders for wartime contracts and contracts for contingency operations;

(III) the process for managing and providing oversight for the performance of wartime contracts and contracts for contingency operations;

(IV) the process for holding contractors and their employees accountable for waste, fraud, abuse, or mismanagement under wartime contracts and contracts for contingency operations;

(V) the process for determining which functions are inherently governmental and which functions are appropriate for performance by contractors in an area of combat operations (including an area of a contingency operation), including a determination whether the use of civilian contractors to provide security in an area of combat operations is a function that is inherently governmental;

(VI) the organizational structure, resources, policies and practices of the Department of Defense and the Department of State handling contract management and support for wartime contracts and contracts for contingency operations; and

(VII) the process by which roles and responsibilities with respect to wartime contracts and contracts for contingency operations are distributed among the various departments and agencies of the Federal Government, and interagency coordination and communication mechanisms associated with wartime contracts and contracts for contingency operations.

(5) OTHER POWERS AND AUTHORITIES.—

(A) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this subsection—

(i) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(ii) subject to subparagraph (B)(i), require, by subpoena or otherwise, require the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents,

as the Commission or such designated subcommittee or designated member may determine advisable.

(B) SUBPOENAS.—

(i) ISSUANCE.—

(I) IN GENERAL.—A subpoena may be issued under subparagraph (A) only—

(aa) by the agreement of the chairman and the vice chairman; or

(bb) by the affirmative vote of 5 members of the Commission.

(II) SIGNATURE.—Subject to subclause (I), subpoenas issued under this subparagraph may be issued under the signature of the chairman or any member designated by a majority of the Commission, and may be served by any person designated by the chairman or by a member designated by a majority of the Commission.

(ii) ENFORCEMENT.—

(I) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under clause (i), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(II) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of subclause (I) or this subclause, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(C) ACCESS TO INFORMATION.—The Commission may secure directly from the Department of Defense and any other department or agency of the Federal Government any information or assistance that the Commission considers necessary to enable the Commission to carry out the requirements of this subsection. Upon request of the Commission, the head of such department or agency shall furnish such information expeditiously to the Commission. Whenever information or assistance requested by the Commission is unreasonably refused or not provided, the Commission shall report the circumstances to Congress without delay.

(D) PERSONNEL.—The Commission shall have the authorities provided in section 3161 of title 5, United States Code, and shall be subject to the conditions set forth in such section, except to the extent that such conditions would be inconsistent with the requirements of this subsection.

(E) DETAILEES.—Any employee of the Federal Government employee may be detailed

to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(F) SECURITY CLEARANCES.—The appropriate departments or agencies of the Federal Government shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements, except that no person shall be provided with access to classified information under this section without the appropriate security clearances.

(G) VIOLATIONS OF LAW.—

(i) REFERRAL TO ATTORNEY GENERAL.—The Commission may refer to the Attorney General any violation or potential violation of law identified by the Commission in carrying out its duties under this subsection.

(ii) REPORTS ON RESULTS OF REFERRAL.—The Attorney General shall submit to Congress a report on each prosecution, conviction, resolution, or other disposition that results from a referral made under this subparagraph.

(6) TERMINATION.—The Commission shall terminate on the date that is 60 days after the date of the submittal of its final report under paragraph (4)(C).

(7) CONTINGENCY OPERATION DEFINED.—In this subsection, the term ''contingency operation'' has the meaning given that term in section 101 of title 10, United States Code.

(b) INVESTIGATION OF WASTE, FRAUD, ABUSE, AND MISMANAGEMENT.—

(1) IN GENERAL.—The Special Inspector General for Iraq Reconstruction shall, in collaboration with the Inspector General of the Department of Defense, the Inspector General of the Department of State, the Inspector General of the United States Agency for International Development, the Inspector General or the Director of National Intelligence, the Inspector General of the Central Intelligence Agency, and the Inspector General of the Defense Intelligence Agency, and in consultation with the Commission on Wartime Contracting established by subsection (a), conduct a series of audits to identify potential waste, fraud, abuse, or mismanagement in the performance of—

(A) Department of Defense contracts and subcontracts for the logistical support of coalition forces in Operation Iraqi Freedom and Operation Enduring Freedom; and

(B) Federal agency contracts and subcontracts for the performance of security, intelligence, and reconstruction functions in Operation Iraqi Freedom and Operation Enduring Freedom.

(2) SCOPE OF AUDITS OF CONTRACTS.—Each audit conducted pursuant to paragraph (1)(A) shall focus on a specific contract, task order, or site of performance under a contract or task order and shall examine, at a minimum, one or more of the following issues:

(A) The manner in which requirements were developed.

(B) The procedures under which the contract or task order was awarded.

(C) The terms and conditions of the contract or task order.

(D) The contractor's staffing and method of performance, including cost controls.

(E) The efficacy of Department of Defense management and oversight, Department of State management and oversight, and United States Agency for International Development management and oversight, including the adequacy of staffing and training of officials responsible for such management and oversight.

(F) The flow of information from the contractor to officials responsible for contract management and oversight.

(3) SCOPE OF AUDITS OF OTHER CONTRACTS.—Each audit conducted pursuant to paragraph (1)(B) shall focus on a specific contract, task order, or site of performance under a contract or task order and shall examine, at a minimum, one or more of the following issues:

(A) The manner in which the requirements were developed and the contract or task order was awarded.

(B) The manner in which the Federal agency exercised control over the contractor's performance.

(C) The extent to which operational field commanders are able to coordinate or direct the contractor's performance in an area of combat operations.

(D) The extent to which the functions performed were appropriate for performance by a contractor.

(E) The degree to which contractor employees were properly screened, selected, trained, and equipped for the functions to be performed.

(F) The nature and extent of any incidents of misconduct or unlawful activity by contractor employees.

(G) The extent to which any incidents of misconduct or unlawful activity were reported, documented, investigated, and (where appropriate) prosecuted.

(4) CONTINUATION OF SPECIAL INSPECTOR GENERAL.—

(A) IN GENERAL.—Notwithstanding section 3001(o) of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 5 U.S.C. App. 8G note), the Office of the Special Inspector General for Iraq Reconstruction shall not terminate until the date that is 60 days after the date of the submittal under paragraph (4)(C) of subsection (a) of the final report of the Commission on Wartime Contracting established by subsection (a).

(B) REAFFIRMATION OF CERTAIN DUTIES AND RESPONSIBILITIES.—Congress reaffirms that the Special Inspector General for Iraq Reconstruction retains the duties and responsibilities in sections 4 of the Inspector General Act of 1978 (5 U.S.C. App. 4; relating to reports of criminal violations to the Attorney General) and section 5 of the Inspector General Act of 1978 (5 U.S.C. App. 5; relating to reports to Congress) as expressly provided in subsections (f)(3) and (i)(3), respectively, of section 3001 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be required to carry out the provisions of this section.

Mrs. MCCASKILL. Mr. President, today we have an important opportunity to do some good-government. It is so hard in the context of the conflict in Iraq to get beyond some of the political posturing that has, frankly, been inevitable. As campaigns have occurred, and we have campaigns looming next year, there has been a tendency for this body to separate at the middle and not find common ground.

We have an opportunity this afternoon to find common ground, and my job over the next few minutes is to try to convince my colleagues that this attempt to create a War Contracting Commission is not about politics, it is about reform.

It would be hard not to notice the scandals that have occurred in relationship to war contracting. I come to this as a student of history and a huge fan of Harry Truman. I am honored to stand at his desk as I speak today. I am honored to follow in his tradition when he said: War profiteering is unacceptable, especially when you realize it is skimming away and denying the men and women who are fighting resources.

In a very modest fashion, at a time that he, frankly, was not supporting his President, who was of his party, he was saying to the President: We need to do some reform here, even though the President was a Democrat, just as he was, and he began looking at war profiteering. Frankly, that is where Harry Truman first made his mark in the history books of this country. It was because he realized this was so much bigger than being a Democrat or Republican; it was about how we behave when we place men and women in danger on behalf of our Nation. In that vein, this amendment is going to try to take the politics out of the issue of war contracting and try to make things better. Let me first summarize what the amendment is going to do.

It will establish an independent and bipartisan eight-member Commission—bipartisan eight-member Commission, four Republicans and four Democrats. They will study and investigate Federal agency contracting for reconstruction in Iraq and Afghanistan, Federal funding and contracting for the logistical support of coalition forces in Iraq and Afghanistan, Federal contracting for the performance of security and intelligence functions in Iraq and Afghanistan, and will expand the special inspector general's role to include the responsibility of logistical support and security and intelligence functions.

Currently, the special inspector general, Stuart Bowen, only has jurisdiction over reconstruction funds in Iraq. Clearly, frankly, as I met with contracting officials on my trip to Iraq and Kuwait, where I spent most of my time talking to the people who have taken responsibility for issuing these contracts and monitoring these contracts, as I talked to all of them, I mean at every meeting I kind of just went: Oh, my gosh, this is so bad—except when I met with the SIGIR.

When I met with the people who worked for the special inspector general, I was so comforted as an auditor. These were professional auditors, and they were on top of it. They were identifying the problem, they saw the shortcomings, whether they were in the way contracts were distributed or let or, frankly, not competed or whether they were in the monitoring of those contracts, the definitization of those contracts, the oversight of those contracts, or the way we actually pay bonuses on some of those contracts. All of those issues have been looked at by the SIGIR. They have been limited because their jurisdiction was limited. This will expand their jurisdiction and, most importantly, efficiently, it partners them with the Commission. So we

do not have to hire a huge staff for this Commission; they can utilize the work of SIGIR, the work of the Special Inspector General for Iraq Reconstruction, to come to conclusions about how we can do better.

Honestly and sincerely—I know Senator WEBB and I have talked about this at great length—this is not about ''gotcha,'' this is about turning the corner, because, let's be honest, will there ever be a time where we are not contracting at this kind of level? Will we ever go back to a time when we have Active military peeling potatoes and cleaning latrines? Will we ever go back to a time where we have Active military driving all of the supply trucks? Will we ever go back to a time where we have Active military providing all of the security needs? I am not sure we will because our struggle is to maintain a Volunteer military but provide them all the support they need in terms of logistics.

Frankly, there are some efficiencies that could be gained if we were contracting in a way that took care of the taxpayer dollars. I do not argue that contracting might be necessary—in fact, better in some instances—but not the way we are doing it now.

Now, you say: Well, there are a lot of people looking at this. That may be true. There have been a lot of journalists who have looked at it. We have certainly had various parts of the Department of Defense and the military, various inspectors general, and we certainly have SIGIR. But let me just point out one thing. As one of the generals said to me when I was in Iraq, sheepishly: You know, everything you are seeing in terms of mistakes that have been made, most of them were made in Bosnia. And by the way, there was a lesson learned after Bosnia, except there was one problem: They forgot to learn the lesson.

So if we are going to elevate this problem to where we really acknowledge that it is systemic, it is overarching, and it is interagency, what do we have if we do a congressional hearing? Well, first of all, we are going to have a committee that has more Democrats than Republicans on it, so we have at the very outset the allegation that it is political. We also have battling turf. Is it Homeland Security and Governmental Affairs? Is it Armed Services? Is it Foreign Relations? Because all of the problems swirl around all of those committees. How do we get above the interagency issue if we do not have this kind of commission?

The makeup of the Commission would be as follows: eight people—two people appointed by the majority leader in the Senate, two people appointed by the Speaker in the House, one person appointed by the minority leader in the Senate, one person appointed by the minority leader in the House—that gets you to six—and then one person appointed by the President of the United States and one person appointed by Secretary Gates at the Department of Defense.

Now, are we going to have a long bureaucratic commission that just does a lot of testimony and we do not get to the end? No. They must finish their work within 2 years. And they must, as I mentioned before, partner with the SIGIR, partner with the Special Inspector General of Iraq Reconstruction, in a way that they can efficiently take the work that has been done by a number of different agencies and a number of different oversight entities, a number of different auditors and bring it together and identify how do we, in a contingency, contract in a way that takes care of taxpayers' money?

Now, we have an election coming up. I have to tell you, I have talked to a couple of my friends across the aisle, and I am concerned about the vote on this amendment because there is a knee-jerk reaction. If we are talking about war contracting, this is political. This is a political witch hunt. It is the D's versus the R's. Let me say that I do not think they have taken time to look at how bipartisan this is because if they did, I think it would assure them that this is not an attempt to do this. We have to fix this, and we have to fix it as quickly as possible. It has to do the work within 2 years.

We have modified the amendment to reassure my friends across the aisle that, first of all, if one of the President's appointments or if one of the other appointments who would represent the Republican Party on this Commission were to quit or for some reason not be able to continue to serve, someone of the same party must be appointed. So we are never going to get to a situation if we have a new President that the new President could say: I am going to appoint two. If the new President were a Democrat, you would end up with six to two.

The other thing that is important to remember is we have modified the amendment so the report of this Commission will come out after next year's election, January of 2009. What a great way to start a new Congress and a new Presidential term. The new President and the new Congress can look at these recommendations—very similar to the 9/11 Commission, very similar to the Baker-Hamilton Commission—and realize there are systemic institutional problems with the way we have been contacting and get it fixed.

I have met with the special inspector general for Iraq, Mr. Bowen, and he has indicated his support for this approach. This is not about in any way diminishing the role of the special inspector general for Iraq—just the opposite. It is going to give the special inspector general a voice that is above the political din in order to issue recommendations. They are going to have their capping report ready next March. That will be a great starting point for this Commission, to look at SIGIR's capping report of all of their work on Iraq reconstruction.

Let me give you a list of some of the groups that have supported this amendment, and we have had many, many groups that have come to the support of this.

First, the Project on Government Oversight is very strongly in favor of it. POGO particularly supports the independent and bipartisan nature of this Commission and the recommended collaboration and consultation with the special inspector general and the expansion of the role of the special inspector general.

OMB Watch, a Government transparency, fiscal policy, and regulatory watchdog nonprofit, wants to applaud the Commission on War Contracting Establishment Act; that is, in fact, this amendment.

The Government Accountability Project also has indicated their support.

The Iraq and Afghanistan Veterans of America have indicated their support.

The Taxpayers for Common Sense has weighed in with their strong support of this amendment.

The Federation of State PIRGs, public interest research groups, has weighed in with their support also, and Common Cause has indicated this is a good government, bipartisan way to fix a serious problem. I may return later to talk about some of the scandals. There have been many, many scandals. Some of them are heartbreaking. Some of them make you want to tear your hair out; whether it is the way some of the whistleblowers have been treated, whether it is contracts that have ballooned out of control, whether it is paying bonuses to companies that haven't done their work, $200 million in bonuses to companies that have not done their work. We obviously have issues with the security company Blackwater and who has authority over them and to whom are they accountable when they take action in the war zone. It is heartbreaking that some in our active military—unfortunately, more than a few—have been charged and pled guilty to actually taking bribes, tens of millions of dollars in their pocket. The Department of State IG, there are problems with whether the investigations have been conducted.

Whether you agree that the investigations have occurred in the State Department or they have not, why not do a bipartisan commission that will look at this fairly under the light of transparency and good government, without the cloud of politics and accusations by one political party or another?

I am especially proud of the fact that this is an amendment that was cosponsored by the nine freshmen Democrats who arrived here in January. We, frankly, probably are not as well versed or schooled in some of the turf fights that occur between committees. It will be a long time before any of us need to worry about whether our committee, as chairman or ranking member, has the ability to have a hearing. We look at it with the eyes of the general public. We come here fresh from

speaking with thousands and thousands of people we represent. We hear their frustration that billions of dollars have been lost, tens upon millions of dollars have been stolen, and an incredible amount of money wasted in the name of contracting. We also have 20 cosponsors on this amendment which we believe is very important. I welcome the support.

I do emphasize that we can behave today like people probably expect. We can have a 50–50 vote, and the American public is going to sit back, if we have a 50–50 vote, and they are going to say: What in the name is going on? How do you get a 50–50 vote on an effort, with four Republicans and four Democrats, to get a handle on war contracting? How does that happen? We all sit around and talk—I know the Republicans talk about it; we talk about it—about our approval ratings and why our approval ratings are not higher. This is our chance. This is our chance to say to the American public: We are spending your money wisely, making sure the men and women who fight get the armor they need and the MRAPs they need on their humvees, instead of billions being wasted on war profiteering. This is our chance to show them we can come together and overcome the politics of this place for the good of our national security and the strength of our military.

I yield the floor and suggest the absence of quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WEBB. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CARDIN). Without objection, it is so ordered.

Mr. WEBB. Mr. President, I would like to add to the comments made by my colleague from Missouri about the Truman Commission follow-on that we have jointly introduced, along with other freshmen Members on the Democratic side, the Independent side, and with a total of 27 cosponsors as of this morning.

I don't think there is a more important or volatile issue, in terms of Government accountability, than the issue of the expenditures that have gone into Iraq and Afghanistan and the accountability of not only contractors but of the quasi-military forces operating there. We have put a great deal of effort into designing a wartime commission that was inspired by the Truman Commission in World War II but has its own uniqueness, given the issues of today. I am very proud to be one of the original sponsors on this amendment. I hope Members on both sides of the aisle can support it.

We are attempting, in a fair way, with experts in the field—not simply a group of Senators forming a panel, bringing in experts from the areas, experts in competence from the areas they would be looking at in a short period of time, 2 years—to examine the amounts of money that have been spent, where this money has gone, to try to bring some accountability into the system and to make their reports, in some cases with legal accountability, and then to wrap it up and go home. This is not an attempt to create a permanent standing organization but, rather, one that can come in with the right people, take a look at what went wrong, make a report to the American people and, in some cases, give them their money back, since all of these now nearly a trillion dollars have been spent on the wars in Iraq and Afghanistan without a lot of accountability—that is taxpayer money—to try to find out how it was spent.

In most cases, it has been spent properly. But in those cases where it has not, we want to get people their money back and get accountability to the people who did not spend it back. This is about improved transparency. It would be forward looking in terms of looking at systemic problems and attempting to address them.

It is more than that. This amendment is supported by nearly every major taxpayer watchdog group. We are now, with the present state of the Department of Defense and of the wars in Iraq and Afghanistan, outsourcing war in ways that we have never seen before in our history. Hundreds of billions of dollars have been allocated for reconstruction and for wartime support, creating a strong potential for fraud, waste, and abuse. This commission will ensure financial accountability in those areas where there has been fraud, waste, and abuse with provisions that allow for legal accountability in cases of wrongdoing.

It also will look at such organizations as Blackwater, which has recently been in the news for the alleged series of wrongful killings of Iraqis and excessive use of force. This is an area that has slid past us as a representative government which is a cause for great concern for anyone who has been involved in national security affairs over the years. We now have in Iraq 180,000 contractors working in a war where there are 160,000 troops. They are doing a whole panorama of chores that traditionally have been done by military people, all the way from operating the mess halls to providing security for even, on some occasions, General Petraeus himself. There is no accountability, none, in terms of legal accountability for actions that have been taken that result in inappropriate use of force and, in some cases, wrongful deaths of people in the area. This committee would help address that.

We are also looking at basic contractor accountability. As one example, not long ago the Special Inspector General for Iraq Reconstruction reported that of the $32 billion at that time that had been spent on reconstruction and relief funds—this is State Department programs—$9 billion was unaccounted for. We need desperately to have an independent, fair, objective analysis of what has happened, what is happening, not only for accountability but also to help us design a structure for the future. Again, we are not trying to create a new bureaucracy. The commission will rely on the inspectors general in agencies that already exist for most of the analysis. We are sunsetting the provision at 2 years. We are very comfortable with SIGIR's excellent performance in uncovering waste, fraud, and abuse in Iraq of reconstruction projects. We believe that is proof of the ability to do this on a more comprehensive and thorough level.

I strongly urge our colleagues on both sides of the aisle to lay aside political differences and come together with the reality that all of us have an obligation to put accountability into the system for the American people and, in some cases, to give people back the money they spend in tax dollars for programs that were wrongfully carried out or, in some cases, not carried out at all.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COBURN. I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 2196

Mr. COBURN. Mr. President, I have an amendment pending. This is a straightforward amendment. Over the last 10 years, we have spent a half-billion dollars of Defense Department money on a program run by the Justice Department that has achieved probably the least of any program in the entire budget of the Department. This is the National Drug Intelligence Center. It came into being initially through directed spending on a Defense appropriations bill. The reason for adding this amendment to the authorization bill is to preclude any further money on spending on this intelligence center and only allowing money to shut it down and have it consolidated with other intelligence centers.

If we think about what $500 million could be doing for us now in the Defense Department in the true defense of our Nation and then look at the history of this center, this isn't about trying to direct things against any group of people or any Congressman or Senator. It is about the commonsense view that we ought to be spending money in a prioritized way that gets us results.

By any measure—anyone's measure—including the Justice Department, all the other national drug intelligence centers—all of the others—the former directors of this intelligence center, and the directors of others, this intelligence center has been looking for a mission and has accomplished very little.

Of the two things they have accomplished, one is highly expensive and not accurate. The other is the investigation of intelligence information captures on drugs and could be well done at any other facility we have.

The Department of Justice believes the drug center's operations are duplicative and reassigning their responsibilities would improve the management of counterdrug intelligence activities and would allow for funds to be spent on the additional hiring of more drug enforcement officers. So we are going to have anywhere from $30 million to $40 million a year continued to be spent on this center. What this simply is, in the authorization, is a prohibition that we will not do this.

When the Department of Justice, which is charged with running this center, says it does not work, it is not effective, it is not accomplished, and should be consolidated, we have to ask the question: Why does it continue? It continues through the force of directed spending in the Defense appropriations bill.

Now, how is it we have drug enforcement funded through the Defense Department to give the money to the Department of Justice to run a program they say is ineffectual? The whole purpose for this amendment is to not castigate anyone but to say: Shouldn't we be spending the money more wisely? Shouldn't we be accomplishing, with that $500 million we already spent, something of value to the American taxpayer rather than something not of value?

This amendment would protect Defense dollars from being misspent and improve the management of our counterdrug intelligence efforts by eliminating the wasteful spending. It would also direct the necessary funds to close the NDIC. It also would say any activities that might be performed by the center that are deemed necessary, which are minimal—let me emphasize that again: minimal in terms of all the experts we have throughout the rest of the Government—that they would, in fact, be transferred to the appropriate agencies.

In 2002, this intelligence center received $42 million—$39 million, $44 million, $39 million, $38 million, $39 million—for a total of $509 million since its inception. It is duplicative, it is unnecessary, and it is unworkable.

Even the former director said: Most of the time the work was shoddy, of poor quality, and quite often wrong. This is the same director who is no longer there—a Mr. Horn—who was admonished by the Department of Justice for his excessive spending while he was there, on travel, on international things that had nothing to do with the NDIC's goals or direction.

Mr. President, there have been numerous articles written, two of which I ask unanimous consent to have printed in the RECORD, one being a complete dossier on this agency from US News & World Report.

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

[From the U.S. News & World Report, May 9, 2005]

A DRUG WAR BOONDOGGLE

(By Bret Schulte)

THE WHITE HOUSE WANTS TO KILL IT, BUT A LITTLE GOVERNMENT AGENCY MAY MANAGE TO LIVE ON

It merits only the briefest of mentions in the president's new budget, but those few lines of type could represent the final chapter in a long and twisted Washington saga. Stashed away on Page 1,181 is a paragraph that would effectively kill the little-known National Drug Intelligence Center, located in Johnstown, Pa., the site of the famous flood of 1889. Bush's budget proposes that the center's $40 million annual budget be slashed to $17 million—just enough to facilitate ''the shutdown of the center and transfer of its responsibilities. . . to other Department of Justice elements.''

If President Bush has his way, the center would be one of 154 programs eliminated or cut as part of his promise to curb federal spending. But as any veteran of Washington's budget wars will tell you, closing even a single federal program can be a herculean task. Perhaps no example is more illuminating than the NDIC, which, in its 12 years, has cost taxpayers at least $350 million. The facility has run through six directors, been rocked by scandal, and been subjected to persistent criticisms that it should have never been created at all.

Pork? In the beginning, the Johnstown center did have some friends in the White House. With the blessing of President George Herbert Walker Bush, then drug czar William Bennett proposed the creation of the NDIC in 1990. Its mission: to collect and coordinate intelligence from often-feuding law enforcement agencies in order to provide a strategic look at the war on drugs. But the Drug Enforcement Administration, worried that its pre-eminent role in the drug war was slipping away, openly fought the idea. So did many on Capitol Hill, arguing that the new center would duplicate the efforts of existing intelligence centers, notably the El Paso Intelligence Center, operated by the DEA. With little support in the law enforcement community, the NDIC looked all but dead. Enter Congressman John Murtha. The Pennsylvania Democrat, who chaired the House Appropriations Subcommittee for Defense, tucked the enabling legislation for the center into a Pentagon authorization bill, with the caveat that it would be placed in his district.

The center was troubled from the start. Murtha's new drug agency was funded by the Pentagon, but the Department of Justice was authorized to run it—an arrangement bound to cause problems. ''All of us wanted the NDIC,'' says John Carnevale, a former official with the Office of National Drug Control Policy, as the drug czar's office is known. ''But none of us wanted it in Johnstown. We viewed it as a jobs program that Mr. Murtha wanted [for his district].''

Murtha bristles at implications that the Johnstown center is a boondoggle. ''They say anything we do is pork barrel,'' he fumes. The congressman argues that the federal government should spread its facilities around the country, citing the security risk of a centralized government and cheaper operating costs elsewhere. But ''obviously,'' he says, ''I wanted it in my district. I make no apologies for that.''

Headquartered in a renovated department store downtown, the center has brought nearly 400 federal jobs to Johnstown, a struggling former steel-mill town. Law enforcement agencies, ordered to send employees to the new center, had trouble finding skilled analysts or executives who would agree to live in Johnstown. Even the bosses didn't want to go. The first director, former FBI official Doug Ball, traveled back and forth from his home near Washington. His deputy, former DEA agent Jim Milford, did the same and made no bones about it. ''I've never come to terms,'' Milford says, ''with the justification for the NDIC.''

In 1993, when the NDIC officially opened, the congressional General Accounting Office issued a damning report citing duplication among 19 drug intelligence centers that already existed. And many involved in the process said the idea of gathering information from other law enforcement agencies for strategic assessments on drug trafficking just wasn't workable. In some cases, federal law prevented agencies from sharing sensitive intelligence; in others, rival agencies simply refused to give up proprietary information. ''The bottom line,'' Milford said, ''was that we had to actually search for a mission.''

Stonewalled, the NDIC began operating, effectively, as an extended staff for other drug agencies, working on projects too cumbersome, peripheral, or time-consuming for their own teams of intelligence analysts. The center was costing about $30 million a year, but, as a former official of the drug czar's office put it bluntly, ''we saw nothing'' from it.

Former DEA official Dick Canas, who took over the NDIC in 1996—one of the few bosses who actually moved to Johnstown—was determined to elevate the facility's status. He began collating and analyzing ''open-source information''—intelligence already available to the public—and pulling it all together in one place. The plan was ''nonthreatening'' to other agencies, Canas argued, and would at least provide policymakers with a general overview of the war on drugs. That project morphed into an annual report called the National Drug Threat Assessment, which officials say is of some real value.

The Johnstown center racked up one other success. Its ''document exploitation'' program regularly dispatched analysts into the field to process files seized by other law-enforcement agencies using software it developed called RAID (real-time analytical intelligence database). Johnstown analysts used the software to organize data and help law enforcement agencies develop investigative leads.

Cronyism? In 2000, the Clinton administration tried to define the center's role more sharply by releasing the General Counterdrug Intelligence Plan, which restricted the reach of the Johnstown center to domestic intelligence only. Canas, gone by 1999, was replaced by another DEA executive, Mike Horn, who was the fifth interim or permanent director in six years; Horn kept an apartment in Johnstown but traveled back to a home in the Washington area on weekends.

Horn's tenure made everything that came before it seem placid. Despite the NDIC's domestic mandate, Horn and his assistant, Mary Lou Rodgers, made frequent trips abroad to promote a new version of the RAID software in places like Hong Kong, London, and Vienna, racking up nearly $164,000 in travel expenses in less than four years. A Justice Department investigation in 2003 admonished Horn for ''unprofessional conduct in. . . dealings with Ms. Rodgers,'' but that wasn't the end of it. A letter-writing campaign by NDIC employees accused Horn of continued travel abuse and cronyism, prompting another review by Justice lawyers last year. It was also discovered that the new

version of the RAID software promoted by Horn had yet to be developed. Many NDIC insiders say morale was poor.

In March 2004, Associate Deputy Attorney General David Margolis suspended Horn's power to authorize travel for Rodgers. In June 2004, Margolis fired Horn. The Justice Department won't comment on the matter. Horn claims all travel was approved and says he has not been made to pay restitution. Horn blames the low morale on malcontents who resented the quality of work he demanded. ''I recognized that a lot of reports were God-awful, poorly written, poorly researched, and, in some cases, wrong,'' he says. Some insiders say that under Horn, the center got as close as it ever would to producing some truly strategic intelligence reports. Not surprisingly, in light of the morale and other problems, others disagree.

Either way, the White House appears to have had it with the NDIC. In its budget report, the Office of Management and Budget says ''the proliferation of intelligence centers across the government has not necessarily led to more or better intelligence, but rather more complications in the management of information.'' For the Johnstown center, it's an ironic coda, then, that the White House is simultaneously supporting a new program—the multiagency Drug Intelligence Fusion Center. Blessed by the DEA, the fusion center will be located in the Washington area. It has already received $25 million from Congress in start-up costs and is slated to open its doors later this year. The idea that a different agency can do the job the NDIC failed to do has left some shaking their heads. ''You have to ask, 'What is the master plan?' '' said a former official in the office of the drug czar. ''The answer is there is no master plan.'' Proponents say the new agency will succeed because its location makes sense.

That doesn't mean the NDIC is finished. It has supporters in state and local law enforcement, and even some federal officials have come to respect its document exploitation division. The NDIC's biggest supporter, though, is Murtha. ''I can assure employees that the NDIC won't be closed,'' he said in a public statement after Bush's budget was released. While Murtha is no longer chair of the House Appropriations Subcommittee on Defense, he remains the ranking Democrat and a backroom dealer with few equals. In the Senate, Pennsylvania Republican Arlen Specter will fight to keep the center open from his seat on the Appropriations Committee. The showdown could come as soon as next month, when appropriations subcommittees begin tackling the budget.

To paraphrase Mark Twain, reports of Johnstown center's death may be premature. ''Barring another flood,'' says a former law-enforcement official, ''I doubty you'll see it go anywhere.''

[From the Centre Daily News, Sat., June 30, 2007]

OFFICIAL: DISPUTED PA. FACILITY PLAYS VITAL PART IN DRUG WAR

(By Daniel Lovering)

For years, the National Drug Intelligence Center has operated quietly on the upper floors of a former department store, with scores of employees authorized at the highest levels of government security.

But the Justice Department facility, which blends into the landscape of this once-thriving mill town 60 miles east of Pittsburgh, has long caught the attention of critics in Washington.

Watchdog groups and lawmakers have blasted it as a pet project of U.S. Rep. John Murtha, whose special funding requests—or earmarks—have sustained the center since it opened in his home district in the early 1990s.

It has been derided as a product of pork barrel spending and an unnecessary outgrowth of the war on drugs that duplicates work done elsewhere. The Bush administration has tried to close it, requesting millions to cover shutdown costs.

The latest salvo came last month, when Rep. Mike Rogers, R-Mich., tried to remove an earmark for the center, drawing Murtha's ire.

But the NDIC has persisted, despite lingering questions about its effectiveness in coordinating the efforts of federal authorities to collect and analyze intelligence on the domestic trafficking of cocaine, heroin, methamphetamine and other drugs.

Acting director Irene S. Hernandez insists the center plays a critical and unique role in the nation's anti-drug effort, and that its mission has evolved from an initial focus on trafficking syndicates to its current emphasis on broad trends.

''We can do an independent assessment of the drug trafficking situation, and we can say this is what's happening,'' Hernandez told The Associated Press in an exclusive interview. ''There's nobody else positioned to do what we do.''

She said the center differs from other agencies, which may be preoccupied with tactical operations, and informs policy makers.

Over the years, directors have come and gone, in one case under a cloud of scandal. The current director, Michael F. Walther, an army reservist and former federal prosecutor, is currently serving in Iraq.

The center's funding has been precarious—a factor that has impeded hiring efforts, officials say. With a budget of $39 million annually, the center's survival again appears uncertain as a spending bill moves through Congress.

The NDIC conducts what it calls strategic assessments of illicit drug trends. It analyzes evidence for federal investigators and prosecutors, gathers intelligence, trains law enforcement officers and produces a raft of reports. Some of its work is classified.

Its 268 employees have top secret security clearance and include 121 intelligence analysts with backgrounds as diverse as real estate, chemistry, banking and law. It also uses contractors, some of whom are retired federal agents. In their midst are a small number of analysts from the Drug Enforcement Administration and other agencies.

Hernandez, who joined the agency in 2004 after a 27-year DEA career, points to the center's ability to cull information from seized evidence—including ledgers, phone and real estate records, computers and cell phones—and funnel that data to investigators and prosecutors, helping them build cases against suspects. The center has developed its own software, including a program currently used by U.S. military investigators in Iraq.

It works with a broad range of law enforcement agencies, from the Federal Bureau of Investigation to the Internal Revenue Service, and supports the National Counter terrorism Center's efforts to sever ties between drug traffickers and terrorists.

The NDIC assisted in an operation that led to the arrest of one of the world's most hunted drug traffickers, Pablo Rayo Montano, and helped detect growing abuse of the painkiller OxyContin, officials said.

Its marquee report, the National Drug Threat Assessment, charts patterns of drug production, availability and demand. Some law enforcement officials and academics praise the report, but former drug officials question its value as a policy instrument.

Gary L. Fisher, a professor at the University of Nevada-Reno, called the report objective and independent. ''It really accurately reflects how futile the (drug) supply control efforts have been,'' he said. ''You'll find the DEA reports are much more biased to fit their agenda.''

Another professor, Matthew B. Robinson of North Carolina's Appalachian State University, said he and a colleague used the report to challenge assertions by the Office of National Drug Control Policy, the White House agency responsible for the drug war.

The data showed illicit drugs are cheaper and purer today than they were in the 1980s and 1990s, said Robinson, co-author of ''Lies, Damned Lies, and Drug War Statistics: A Critical Analysis of Claims Made by the Office of National Drug Control Policy.'' Some local law enforcement officials lauded the reports, saying they circulated them among their analysts.

But John Carnevale, a former ONDCP official who worked under three administrations and four drug czars, said the center's work was of no value to him when he was in government, though he has since used its reports.

''I had access to the data well before they did,'' said Carnevale, now a Maryland-based consultant. ''So I pretty much ignored them.''

Eric Sterling, president of the Criminal Justice Policy Foundation, an advocacy group based in Maryland, said: ''In many respects it seems that their stuff is out of date. . . . I would describe it as a tool of limited value.''

Critics have also questioned the center's location 140 miles from Washington, citing political maneuvering by Murtha.

''I know what their capabilities are, I know what they can do, but that didn't need to go to Johnstown, Pennsylvania,'' said James Mavromatis, a former director of the El Paso Intelligence Center, a Texas-based DEA agency.

He said the center could have been housed at the El Paso facility, closer to the U.S. border with Mexico, where most illicit drugs enter the country. The NDIC had considered moving a team there, he said.

The NDIC's document analysis differs completely from EPIC's work, he added, despite criticism they overlap completely.

NDIC officials and others contend that the center's Johnstown address is hardly a hindrance. It may be an asset, they say, as its low cost of living appeals to job candidates.

Asa Hutchinson, a former DEA head and a former Republican congressman, said he was ''a fan of folks performing important government services, and not necessarily in Washington.'' But he conceded the center may need adjustments.

''I think it is underutilized,'' he said. ''I think they can expand their mission, and I think that should be examined.''

An activist group, Citizens Against Government Waste, recently chided Murtha for threatening fellow congressman Rogers with legislative reprisals after Rogers tried to strike a $23 million earmark for the center.

''We're not saying there shouldn't be an NDIC,'' said David Williams, the group's vice president for policy. ''What we're saying is, why should one member of Congress be able to set up a field office like this?''

Rogers said he believed the El Paso center was supposed to be the main drug intelligence agency.

''I strongly believe it is not a good use of very valuable intelligence resources,'' he told The Associated Press, adding that $23 million amounted to the salaries of hundreds of DEA agents.

The Bush administration evidently agrees. Sean Kevelighan, a spokesman for the Office of Management and Budget, said the center has ''been slow to delineate a unique or useful role within the drug intelligence community.''

For that reason, the OMB's 2008 budget request ''fully funds all shutdown costs'' of about $16 million he said.

Mr. COBURN. I quote from the Centre Daily News of this last June:

. . . the NDIC has persisted, despite lingering questions about its effectiveness in coordinating the efforts of federal authorities to collect and analyze intelligence on the domestic trafficking of cocaine, heroin, methamphetamine, and other drugs.

What is at stake here? Running this center means we will not have enough DEA agents—and we do not. Running this center continues to spend $30 to $40 million a year that could do great things for our military. Why would we not want to redirect or at least prohibit the continued funding through this Defense authorization bill?

Now, there are going to be some claims: Why are you doing this here? Why aren't you doing it on an appropriations bill when it comes through? We cannot have it both ways. We heard in the debate on WRDA that authorizations matter, and it is important for us to have priorities. So the claim is you should not be doing this here on the Defense authorization but, rather, on the appropriations bill. The authorization is the place to do this, to limit the expenditure of funds on something that does not pass muster by anybody's standard.

So it is my hope that consideration will be given to this amendment, and that we will truly have the courage to make a vote to spend money wisely. To continue to spend money on this center means we are going to continue to throw $40 million away, according to the Department of Justice, which runs this center, in something that will not give them any benefit.

I cannot think of a greater thing we could do than to start doing this and look at every program such as this that is not accomplishing any goals. There are no metrics to measure it, other than what the Department of Justice says.

There will be claims saying it has programs that work. They have some programs, but they are highly expensive. They are not as efficient, and they are always late. So over the 12 or 13 years this center has existed, only two of those programs have been successful, and they are not as successful as the other programs within the Department of Justice in this very area. So it is hard to justify the basis for this center.

AMENDMENT NO. 2999

Finally, Mr. President, I want to spend a minute talking about the Webb amendment. One of the things we know is that we do not do a good job on contracting. I know some of the Members on my side of the aisle perceive the potential for this commission to be used in a political framework. I am not worried about that. I do not think it is intended to be used in a political framework. I think it is intended to hold the agencies accountable for how they spend the money and whether we are going to get a handle on our contracting procedures, both through the State Department and the Defense Department so we can see we actually get value for the money we spend.

I am highly supportive of the amendment because I think it is going to give us transparency, it is going to give us recommendations, and it is going to make clear where we have confusion now in how we contract and whether we get value for our money.

With that, I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

AMENDMENT NO. 3035

Mr. MENENDEZ. Mr. President, I rise to speak on an amendment that we will have a cloture vote on at some point today or tomorrow, Senator KENNEDY's and Senator SMITH's Hate Crimes Prevention Act—a vote by which I hope the Senate will succeed, in a robust way, to invoke cloture and to move forward.

Nine years ago, a young man sat in a bar having a good time, like many young men throughout America. Not unlike thousands of young adults at bars across America, this young man needed a ride home from the bar. So he asked two people he had befriended for a ride. They agreed. On the way home, they robbed him, they pistol whipped him, and tied him to a fence, leaving him for dead. They committed this brutal crime for one reason—and one reason only—because the victim was gay.

Since that time, the Congress has been struggling to enact the Matthew Shepard Local Law Enforcement Hate Crimes Prevention Act—a bill I am proud to cosponsor. It has received bipartisan support in both the House and the Senate. But for some reason, we have been unable to make the bill a law. Today—as soon as this vote takes place—I hope that will change.

Hate crimes violate every principle upon which this country was founded. When our Declaration of Independence proclaimed that ''all men are created equal''—of course, I would take that to mean today all men and women are created equal—it did not go on to say, however, ''except Muslim or Sikh or homosexual Americans.'' It had no exceptions to the rights and liberties Americans had under the Constitution and that Declaration. The freedoms we often take for granted—freedom of speech, freedom of association, freedom of religion—become empty promises if we do not protect all those who seek to exercise these freedoms under the Constitution.

Sadly, right now we are not protecting all of our citizens. This is not, by the way, about providing special rights. It is about ensuring constitutional rights.

Local, State, and Federal governments need additional resources and authority to investigate and prosecute hate crimes based on race, ethnicity, religion, sexual orientation, disability, and gender identity. That is exactly what this bill will do. It will allow the Department of Justice to assist in these investigations and prosecutions, and it will provide grants for State and local governments struggling with the costs and logistics of prosecuting these crimes.

Some people may not think hate crimes are a real problem in this country. They are absolutely mistaken. In 2005—the most recent year we have data on—8,380 hate crimes were reported. Of the single-bias incidents, 54.7 percent were racially motivated; 17.1 percent were motivated by religious bias; 14.2 percent resulted from sexual orientation bias; 13.2 percent by ethnicity or national origin bias; and a little under 1 percent by disability bias.

My home State of New Jersey experienced at least 756 bias incidents, 47 percent of which were based on racial bias, 36 percent were based on religious bias, and 11 percent were based on ethnic bias. I say ''at least 756 bias incidents'' because we do not know how many of these vile attacks have gone unnoticed and unprosecuted due to the scarce resources currently available to local law enforcement.

Now, I am proud to have been the author of New Jersey's landmark bias crimes law when I was in the State legislature. We said then we could not eradicate hate or bigotry in New Jersey with a single law, but we could send a strong societal message that such acts would not be tolerated. With this law, we can do the same for our great Nation.

Of course, you do not need to rely on my numbers or my experiences to know that hate crimes are alive and well in the United States. All you have to do is watch television.

Last Thursday, thousands of protesters descended on the small town of Jena, LA, to protest the treatment of six young African Americans. The town was a picture of racial tension, all of which came to the surface months ago when three nooses were hung from a ''whites-only'' tree at the Jena High School. Perhaps if we had stronger hate crimes enforcement, this original action which provoked such violence and started the town down its path would have been properly handled and would have never escalated to the degree it did.

Make no mistake about it, hate crimes are a serious problem in the United States—a problem we can no longer afford to ignore.

Some may protest that this is not the time or place to be debating hate crimes legislation. I disagree. For some, it never seems to be the right time or the right place.

Members of our military are not immune from hate crimes. To the contrary, hate crimes can happen anywhere there are emotions, anywhere there are people with the capability to hate. In 1992, a Navy sailor, Allen Schindler, was murdered by two fellow sailors because of his sexual orientation. In 1999, PFC Barry Winchell was similarly killed because his attackers believed—believed—he was gay. The military has recognized that hate

crimes are a problem and sought to prevent them, but more can and must be done.

It is absolutely appropriate to protect members of our Armed Forces from the vicious attacks that constitute hate crimes while we are debating the Department of Defense authorization bill. It is absolutely the right time to enact this hate crimes legislation. After all, what are our men and women doing in uniform? They are fighting for us around the world to preserve our way of life and to promote democracy, and all of them take an oath to uphold and defend the Constitution. Let the preservation of the rights of all Americans be the essence of what they are fighting for.

I will vote to invoke cloture on the hate crimes amendment offered by Senator KENNEDY and Senator SMITH, and I urge my colleagues to do the same.

Mr. President, I note 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.

AMENDMENT NO. 2999

Mr. LEVIN. Mr. President, I want to speak for a few minutes in support of the Webb-McCaskill amendment that would establish a contracting commission relative to contracting in Iraq, but it also does another very important thing, which is it broadens the jurisdiction of the Special Inspector General for Iraq Reconstruction, or SIGIR. Over the last 4 years, the United States has spent more than $20 billion on reconstruction contracting in Iraq. In report after report, the Special Inspector General for Iraq Reconstruction, SIGIR, has demonstrated that this effort was poorly planned, inadequately staffed, and poorly managed.

For example, the special inspector general has reported that plumbing was so poorly installed at the Baghdad Police College that dripping sewage not only threatened the health of students and inspectors but could have affected the structural integrity of the building.

The special inspector general reported that the security walls built for the Babylon Police Academy in Hilla were full of gaps and deficiencies, some of which were filled with sandbags; lighting systems and guard towers called for in the contract were never installed. As a result, the academy was vulnerable to attack.

The special inspector general reported that a prison in Nasiriyah was originally supposed to house 4,400 inmates, but the scope was reduced to the point where it would only house 800. After most of the available money had been spent, the contract was terminated due to schedule delays and cost overruns.

He reported that neither the government nor the contractor could verify the status of a new oil pipeline from Kirkuk to Baiji because project monitoring was very limited and sporadic. However, at least 25 percent of the welds on the pipeline was defective, and one major canal crossing was only 10 percent complete. The failure to complete this project resulted in the loss of as much as $14.8 billion in oil revenues to the Iraqi Government.

He reported that after the Army Corps of Engineers spent $186 million on primary health care centers throughout Iraq, the contract was terminated with only 6 health care centers completed, 135 partially constructed, and the remainder ''descoped.'' The special inspector general determined that the contractor had lacked qualified engineering staff, failed to check the capacity of its subcontractors, failed to properly supervise the work, and failed to enforce quality control requirements.

The Department of Defense has spent even more money on logistical support contracts for U.S. forces in Iraq and Afghanistan. There have been numerous indications of fraud, waste, and abuse in these contracts as well. For example, recent press reports indicate that the Department of Defense contracting officials in Iraq and Kuwait received millions of dollars in kickbacks, tainting several billion dollars of DOD logistics support contracts. Similarly, the Armed Services Committee held a hearing in April on Halliburton's LOGCAP contract for logistics support in Iraq. Our committee learned that the company was given work that appears to have far exceeded the scope of the contract. All of this added work was provided to the contractor without competition. The contractor resisted providing us with information that we needed to monitor and control costs. There are almost $2 billion of overcharges on the contract, and the contractor received highly favorable settlements on these overcharges.

Unfortunately, the special inspector general does not have jurisdiction over Department of Defense logistic support contracts, and the Department of Defense inspector general who does have jurisdiction refused for several years to send auditors to Iraq and is now playing catchup. As a result, billions of dollars have been spent on these contracts without sufficient oversight.

In addition, there have been numerous reports of abuses by private security contractors operating in Iraq. More recently, the Iraqi Government has complained about an incident in which employees of Blackwater, Inc., allegedly opened fire on innocent Iraqis in Baghdad. This incident is apparently the latest in a long series of similar cases in which Blackwater employees were alleged to have used excessive force.

Unfortunately, the special inspector general does not have jurisdiction over private security contractors. The DOD inspector general does not have jurisdiction over State Department contractors like Blackwater either. Published reports in the last few weeks indicate that the State Department inspector general has systematically avoided looking into allegations of contract abuse in Iraq.

In short, despite almost 5 years of allegations of waste, fraud, and abuse in Iraq contracting, we continue to have huge gaps in our oversight of these activities. The Webb-McCaskill amendment will address these gaps by, first, establishing an independent commission to look into Federal agency contracting for reconstruction, logistical support, and the performance of private security and intelligence functions in Iraq and Afghanistan; and, second, expanding the jurisdiction of the special inspector general to logistical support contracts and contracts for the performance of private security and intelligence functions in Iraq and Afghanistan.

Under this provision, the special inspector general, in collaboration with other relevant inspectors general, would conduct a comprehensive series of audits of logistical support contracts and private security contracts in Iraq and Afghanistan comparable to the audits the special inspector general has already conducted for Iraq reconstruction contracts. The commission would review these materials, conduct hearings, and issue a report identifying lessons learned and making specific recommendations for improvements that should be made in future contracting.

So the Webb-McCaskill amendment would ensure that we finally have appropriate oversight over the full range of contracting in Iraq and Afghanistan. It will ensure that we are in a position to learn from the mistakes we have made, and we will be better positioned to avoid making similar mistakes in the future. I hope there will be a broad bipartisan vote for Webb-McCaskill, just the way there is already broad bipartisan sponsorship for their amendment.

Mr. WARNER. Mr. President, if I could ask my distinguished chairman and longtime colleague a question, I read this amendment, and it seems to me it has laudatory goals. But it is—we are outsourcing the work of the Congress, and, most specifically, outsourcing the work of our Armed Services Committee. That is the thing that concerns me.

We have two very distinguished sponsors, our colleague from Virginia and our other colleague on our committee. But I find it difficult to rationalize how this commission would function at the same time in a manner that literally outsources the responsibilities of our committee.

Mr. LEVIN. Mr. President, I thank the Senator for his question. Our committee, as the Senator knows perhaps better than any other Member of this body, has a huge responsibility month

after month, year after year, on the authorization bill. Most of our focus is on that bill in terms of staff assignments.

We also from time to time do have oversight hearings. We have had a couple on Iraq, but in terms of what is needed with the immense fraud and abuse and waste that has gone on in Iraq, we could assign our committee nothing else and still not catch up to what needs to be done relative to the waste and the fraud and the abuse that has taken place in Iraq contracting. We have perhaps three or four staff members assigned to investigation. They are in the middle of an investigation now. They could not possibly—with the very small number of staffers assigned to that responsibility—take on the breadth of work which needs to be done relative to Iraq.

Also, this amendment not only has a contracting commission, but it also is going to amend the Special Inspector General Act relative to Iraq to fill in a number of gaps which exist in the inspector general's jurisdiction.

The areas which I just outlined that the current special inspector general does not have jurisdiction over, we must have a modification of that jurisdiction in order that the special inspector general will have that capability which is now omitted from the tasking of the special inspector general. As the Senator also knows because he was responsible for the appointment of a number of these commissions, our committee supports, and indeed has led the way, in the creation of independent commissions all the time. It was not an abdication of our jurisdiction or our authority when the Packard Commission was created, when the section 800 commission was created, or when the Service Acquisition Reform Act Commission was recently created. There are many commissions that we appoint, and we are leading the way and have led the way to have created, and in no way does that diminish the jurisdiction of our committee.

In fact, it is quite the opposite. The creation of these commissions has been able to lead to reforms, legislative reforms at times, which our committee then is able to take up and adopt, hopefully, in many cases, and in fact has adopted in many cases.

So there is nothing novel about the creation of commissions. As a matter of fact, I think the Senator from Virginia, perhaps almost on his own, was the creator of a commission which we recently heard from to give us the independent assessment of the military capability of the Iraqi military forces, the commission led by General Jones.

Mr. WARNER. Mr. President, I acknowledge that, yes, I did conceive that idea, and successfully, with the help of Senator BYRD and others, got that legislation through. But that was for a tightly defined purpose within a prescribed short period of time.

This one, I believe, is of 2 years duration. Mr. President, I say to my distinguished chairman, I have listened to him recount some of the commissions that our committee has sanctioned. But I am now prepared on this floor to tell my chairman, if you believe we need extra help, I will lead the effort with you to get more money from our committee to take over some of the responsibilities that the Senator is about to recommend to the Senate be outsourced to a commission.

Mr. LEVIN. Did we outsource to the Packard Commission, the reforms they recommended?

Mr. WARNER. I remember that Packard Commission very well, but that was a tightly knit commission for a specific purpose. I used to be at the Pentagon and worked under David Packard as Secretary of the Navy. We were fortunate to get him to do that. This seems to be an omnibus situation to me. I am concerned about having the inspector generals, which, again, is a creation by our committee, against some of the administration's wishes. They weren't overly keen on putting inspector generals in there. Our colleague from New Jersey has a bill to have an IG now for Iraq. I want to support that. But these inspector generals have to report to this Commission, I understand. I would not want to be a party to amending the law there. They were created by the Congress, and they should report to the Congress, not to a commission.

Mr. LEVIN. I don't think working closely with the Commission collaboratively in any way means they are not going to report to us. They will continue to report to the Congress. There is no shift of the reporting function. As a matter of fact, the IG for Iraq does not have the authority which should have been given to him, and would now be given to him by this bill, for instance, on logistics support contracts. Why in heaven's name should the special IG not have logistics support contracts jurisdiction?

Mr. WARNER. Mr. President, if you want to take those provisions out and make it a freestanding amendment, I would be supportive of modifying it.

Mr. LEVIN. I have never seen as much fraud, waste, and abuse. There is no analogy in the history of this country, I don't believe, for the amount of fraud and waste and abuse that is taking place in Iraq and Afghanistan. I don't think our committee could do anything else if we took on that responsibility. I think we would be having hearings every week, when we need to have hearings on all of the other matters under our jurisdiction. I don't know that we could do an authorization bill properly if we took on this responsibility. It is too massive.

I wonder whether the Senator can give me one example in American history where there has been this degree of waste, fraud, and abuse. We now see a massive investigation taking place because of the alleged fraud of a number of members of the armed services. I cannot remember anything comparable. This is a massive undertaking. It is most appropriate that we have a special commission to do that. There is no reason why they should not work in concert with an IG. We don't want them overlapping and conflicting.

The issue is whether we are going to take on this responsibility one way or the other. This is only one practical way to do it. I wish we had the resources and time in our committee to do the kind of oversight that has to be done relative to Iraq. To me, it has been the most shocking abuse of the taxpayers' dollars that we have seen. As a practical matter, I think the former chairman of the committee would acknowledge it would take a huge amount of staff and committee time.

I want to give one example. We have an ongoing investigation right now, and it is very small relative to the size and scope of this one. We wanted to talk to a witness. During this investigation, a number of witnesses talked to us voluntarily, but a few witnesses would not. In our committee, we don't even have subpoena power unless the full committee votes for it. The Senator from Virginia was very helpful to me, as he remembers, in getting the full committee to vote for a subpoena. I extended my appreciation to him then, and I do it publicly now for his cooperation and that of Senator MCCAIN. Every one of those subpoenas required a vote. Then there had to be a hearing. We have to go through a hearing of our committee to hear from a witness that is subpoenaed, even though that should be through a discovery process. Even our rules are so limiting in our committee that we could not undertake an investigation of this scope.

This is a massive undertaking. To me, it would be suggesting, for instance, that if there was an Iran-Contra Commission, somehow or other the appointment of that Iran-Contra Commission—there was a special committee of the Congress. Was that an abdication of the work of the existing committee? I don't think so. It fit a special need at that time. Each of the committees from which that special committee was drawn didn't have the resources to do it on their own. So each of these are designed for a purpose.

I don't know why there would be objection. The reason for the length of time that the amendment takes is twofold: One is that this is a major investigation that will take a lot of time because its scope is huge. Secondly, we want to take it out of politics. I think the sponsors will speak to this, and perhaps already have. This should not be something where there is going to be a report in the middle of a Presidential campaign. It ought to end after that campaign is over. I think they provide for interim reporting, as I remember, in January after the Presidential campaign.

So I hope there will be bipartisan support. It is not a political effort. The report comes after the Presidential

campaign. There is no practical way that our committee has the resources to undertake the travel and the responsibility and the scope of this. This is huge. There has never been this degree of waste that I know of in American history. I know enough about this already from our one hearing, on one matter, involving one contractor, involving the scope of a contract that we touched literally with the tail of an elephant or donkey. It is massive.

I plead with the former chairman here, who knows exactly the responsibilities of our committee, who knows more than anyone in this body what responsibilities our committee has, that there is no practical way, given our bill that comes up every year, given our nominations process with which the Senator is fully familiar—we have four nominations that we have to hear tomorrow. We have dozens of nominations each year. On top of all of that, we have oversight, which we try to do in a number of areas. We had oversight on the Boeing contract. That was one contract that took a significant amount of time. We did some major good. I don't know the magnitude, but if you look at the Boeing contract, for instance, this contracting abuse scandal has to be a multiple of 10 to 100 times that one investigation. I plead with my friend to support this as the only practical way to get our hands around this situation.

Mr. WARNER. Mr. President, I know our chairman has another engagement. We will return to this debate. This thing really poses, in my judgment, new ground for the committee, to outsource this much responsibility of oversight. At this point, I will yield the floor. I see our colleague seeking recognition.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mrs. MCCASKILL. Mr. President, if I may address the question of the Senator from Virginia briefly, I think it is important to keep this in context.

First, the Senator from Virginia worries that the Armed Services Committee was giving up jurisdiction in order to form this Commission. I think it is important to remember that this mess is not just the jurisdiction of the Armed Services Committee. This mess is also the jurisdiction of the Foreign Relations Committee. It is also the jurisdiction of the Homeland Security and Governmental Affairs Committee. In fact, an argument can be made that this is the modern-day Truman Committee, and the chairman of that committee is none other than Senator LEVIN, who chairs the Special Permanent Subcommittee on Investigations.

One could make the argument that the State Department should be answering to Foreign Relations for the messes in contracting in terms of reconstruction. One could argue that the active military should be answering to Armed Services. Government Affairs should be looking at the whole mess. The bottom line is that this Commission does two important things: First, it gets above all of the agencies to bring all of the problems to one place, so we don't have the turf fights over which committee has jurisdiction over this particular problem that we have encountered like never before. As the Senator from Michigan, chairman of the committee, said, we have never had this kind of problem before in terms of an armed conflict.

The other thing to remember is that, unlike those committees, this is bipartisan. This Commission is four Democrats and four Republicans. It is not a commission where one party is going to take precedence over the other party. We have a representative of the President and the Secretary of Defense on this Commission. So the bipartisan nature allows us to get above this knee-jerk reaction we have around here that if they are for it, we are against it; and if they are against it, we are for it. This is way too important to engage in that.

Finally, in terms of time period, this has a set time; it is only 2 years. The first report is due after the Presidential election in January 2009—the first interim report. Next year, when the capping report is presented to us, they can give it to this Commission, and they can look it over. Stuart Bowen is onboard with this. We discussed it at length, and he thinks this is a great way to move forward and get this above each individual committee and above some of the partisanship. Frankly, we have engaged in it. We are not without sin here. My party has engaged in partisanship over this. I understand that it may feel that this is an effort to engage in partisanship. That is why we went out of our way to say it is going to be bipartisan in nature, limited in time, getting above the various committees that have jurisdiction here because of the State Department's involvement, DOD's involvement, and the involvement of the Homeland Security and Governmental Affairs Committee—three different committees, including the Permanent Subcommittee on Investigations. The first interim report is due January 2009. The final report must be presented by January 2010. This is a 2-year period of time to work and collaborate.

By the way, I tried to count up—and I am sure the Senator from Virginia is aware of this—how many people we have working in the Department of Defense in auditing and auditing-related activities. There are 20,000 people. Now, if you think about that in the context of what has gone on, you realize we need some help. How do we have 20,000 people in contracting and auditing and related investigative activities in the DOD and have the kind of runaway abuse that we have had.

By the way, in talking to the generals in Iraq who are involved, they were focused on their mission. I have no ill will toward these commanders who were trying to get a job done in terms of a military context. That is why we need this Commission, to give the military clear guidance, along with the State Department, of how we fix this systemically. What kind of training do we need to do? These detailees within these various areas given the contract oversight responsibility, the CORs, are not trained right now. They don't have the core competency in terms of contract monitoring that we must have under these conditions where we are contracting at an unprecedented level. If you look at the modifications we have made, where we have actually said we are not ever going to allow this Commission, in terms of members leaving, to get to anything other than a four-four, we are never going to have a situation where it is not completely bipartisan and where they are not going to focus with expertise on ways they can guide our committee and guide the committee I serve on, Homeland Security and Governmental Affairs and guide the Foreign Relations Committee in making sure we help the State Department and Department of Defense and any other Government agencies involved, including inspector general agencies and other auditing agencies. Frankly, GAO does a lot of this work for Congress, and we take their reports.

I think that in light of what has occurred and the scope of this beyond the jurisdiction of any one committee, 2 years is a reasonable finite time to come with concrete, meaningful suggestions that get us above this partisan rancor over the conflict in Iraq and using it as a political football that we have a tendency to throw around here with some frequency.

The Senator's leadership on this particular issue is so key to us having success with this amendment. I ask the Senator to take some time to look at it. I will be happy to visit with him about the conversation I had with Stewart Bowen about the valid approach we are making that I think will bring about some of the same positive results that were brought about in the past, whether it was the 9/11 Commission, the Baker-Hamilton Commission or the other commissions the Senator from Michigan referenced that the Senator has been involved with and party to in terms of wanting outside eyes at some point to help us get beyond some of the stuff that goes on that we cannot help.

I think it is tremendously important, and I implore the Senator from Virginia to take a look at it again and see if we haven't done the things that will reassure him this will be an augmentation of the Armed Services Committee's work instead of an abdication of their responsibility.

Mr. WARNER. Mr. President, I thank the distinguished Senator from Missouri. I must say, having been on this Armed Services Committee now 29 years with my good friend, Senator LEVIN, we ''old bulls,'' as we are referred to, are very much impressed with our new member, her vigor, her

foresight, her determination to get things done. She has stirred us up in a very constructive way, I might say.

As to this measure, this will require a little more study on this side. But I am concerned with the fundamental proposition that we are abdicating the duties of the committee, but we are not quite there yet in this debate to try to reach some final determinations.

An interesting observation: 20,000 individuals, and probably that is correct. They are scattered not just in Washington but all across America in military departments. The Department of the Army has its procurement center outside the Nation's Capital.

In a sense, as the chairman said and I think the Senator from Missouri has said, the enormity of the problem out there—is the Senator suggesting that the enormity of that problem is a consequence of this 20,000 or so not performing their duties as prescribed?

Mrs. MCCASKILL. I believe that what happened was in an unprecedented fashion, we engaged in contracting—I know the Senator is a student of history, and if he looks back at the history of the Seabees and where the Seabees came from in terms of the idea that you are going to put people in the middle of a conflict who are not military personnel, in terms of doing ancillary activities apart from the direct military mission, it is unprecedented what we have done in this conflict in terms of the contracting.

I don't think the active military was prepared for this kind of scope in terms of the types of contracts that were entered into, many of them not definitized, many of them not with the kind of oversight that one would expect for contracts that run into $15 billion, $20 billion per contract, in some instances. I think this was a matter of we need it now, we don't have the end strength to get everything done we need to get done; if we contract it, it is going to be cheaper in terms of legacy costs to get a worker to peel potatoes than to recruit a soldier to peel potatoes or to cook.

I understand that was done long term because it had the potential for efficiencies, it had a potential to preserve our ground strength for the military mission and to allow us to not incur the legacy costs of another member of the active military.

In reality, because they were not prepared in terms of their systems for this level of contracting and oversight, bad things happened—very bad things happened.

If we are going to continue to contract at this level, why not at this fork in the road embark upon a limited 2-year exercise in a nonpartisan way to get concrete suggestions with expertise and not creating a new bureaucracy, because they can access those 20,000 people, they can access the Army auditor, they can access the contracting agency within the Army, they can access all the inspectors general, they can access all the acquisition and procurement specialists. They can access that information, bring it together for the State Department and for DOD and say: If moving forward we are going to continue to contract at this level—and let's be honest, I think we are—then these are things we need to be doing.

If the military could do this on its own, we wouldn't have the ''lessons learned'' book in Bosnia not even getting to the people in Iraq until after they entered into most of these contracts. We remember the testimony from David Walker. He talked about the fact that even though they had drawn up the book and said these are all the mistakes we made in Bosnia, guess what. They forgot to look at the book before they began down the very same road in the Iraq conflict. That is what I want to prevent in the future.

This is about looking forward and not about looking back. This is about figuring out a way forward that we can responsibly contract in a way that protects our military and the strength of our military, and, boy, would I like the help of the Senator from Virginia.

Mr. WARNER. Mr. President, I thank the Senator for her analysis. As I read this, they can look backward, forward, sidewise, any way they wish and have one of the strongest powers Congress can confer on any commission—subpoena power—compelling persons against their wishes to come before that committee, take an oath, and provide testimony. That is something that Congress should consider very carefully before it confers that on—for the moment we know not who will be on this commission.

As I say, we will require further deliberation. But I do point out that the Senator talked about the uniform side. Much of the military procurement system is performed by very able career civilians. From time to time, military officers are detailed as a part of their career and otherwise to work with those civilians. But I feel the Senator is putting on report an awful lot of people with a broad brush. I want to think about that. Having had the privilege of serving with those people in the Department of Defense—perhaps not the ones who are there now but many. I think at the time I was Secretary of the Navy, I had 700,000 to 800,000 civilians in the Department of the Navy. They are very conscientious people. I acknowledge there have been a lot of unfortunate things in the rush to do what we felt was necessary with respect to Iraq and, to a lesser degree but nevertheless to a degree, Afghanistan.

Haste makes waste is the old adage. For the moment, I have thoroughly been informed by the views of the Senator, and I hope to continue to have a dialog with the Senator as this matter is now before the full Senate.

I yield the floor.

Mrs. MCCASKILL. Mr. President, I thank the distinguished Senator from Virginia. I don't want to overemphasize his support, but there are few people around here who can get us past partisanship. I have noticed in my short time in the Senate he is one of the chosen ones. He can get us past that partisanship sometimes.

I am very hopeful and remain optimistic that I can convince the Senator from Virginia this is a measured and appropriate way to provide some accountability to all those men and women to whom he referred who are trying to do the right thing. We have not figured this out yet, and I think we have to try something different to see if we can figure it out.

I yield the floor.

Mr. WARNER. I thank my distinguished colleague from Missouri, the State in which my mother was born.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. CASEY. Mr. President, I rise to speak about two matters, but I wish to, first of all, associate myself with the remarks by my distinguished colleague from the State of Missouri. Our first-year class of Senators has worked hard on a lot of issues. She and our colleague from Virginia, Mr. WEBB, have worked hard on this issue. I appreciate her comments today, as well as the enlightening exchange and as well as Senator LEVIN's comments.

AMENDMENT NO. 2196

Mr. President, I rise to speak first about amendment No. 2196 pertaining to the National Drug Intelligence Center which is located in Johnstown, PA, in southwestern Pennsylvania. This center was created in 1993 and provides Federal, State, and local law enforcement and national security agencies with crucial information about the structure, membership, finances, communications, and activities of drug-trafficking organizations.

While a number of Federal agencies play different roles in combating illegal drug use and distribution, the National Drug Intelligence Center, which some know as NDIC, performs a unique role by providing independent information about drug use to other Federal, State, and local agencies.

This center produces an annual national drug assessment report which is the principal report by which Federal policymakers evaluate trends in drug use and the overall drug threat faced by this Nation. Given the role drug trafficking plays in financing international terrorism, information compiled by the NDIC about drug distribution plays an important role in combating terrorism worldwide.

Much has been made about the fact that the NDIC is located in Johnstown, PA. Let me speak for a few moments about the benefits of locating outside Washington.

All the answers to our Nation's problems do not reside here. Sometimes there are a lot of good answers outside Washington. To some, that may be a news bulletin.

First, the Johnstown location translates into reduced overhead and lower administrative costs.

Second, being outside the beltway allows for greater coordination with

State and local law enforcement. The work done by NDIC does not have to be conducted in Washington and, I would argue, the Johnstown location offers greater cost savings for the Federal Government.

This amendment comes at an interesting time where recently—yesterday, actually—the Drug Enforcement Agency, DEA, announced that this center, in particular, played key roles in an international case targeting the global underground trade of anabolic steroids, human growth hormone, and insulin growth factors, in addition to some other information. The investigation included significant enforcement of illicit underground trafficking of ancillary and counterfeit medications.

The investigation represents the largest steroid enforcement action in U.S. history, and it took place in conjunction with enforcement operations in nine countries worldwide.

The information provided by this center in Johnstown, PA, played an important role in this investigation.

I also wish to add my own feelings with regard to this particular center in Johnstown, PA. I am very proud of the people in Johnstown, PA. They share a heritage of hard work and sacrifice, they have overcome a lot, and they have a tremendous work ethic. Any investment in a city such as Johnstown, PA, is a prudent investment, not just because of economic activity but principally, and most importantly, the important work this center provides for law enforcement.

If we want to do comparisons with other places around the country, I am sure that will be constructive. I rise to speak against this amendment and urge my colleagues to vote against it and also to highlight the value of having this center in the State of Pennsylvania for our Nation.

AMENDMENT NO. 3035

I wish to change subjects. I have a second set of remarks which I wish to take the time to deliver.

We are contemplating voting on legislation that pertains to hate crimes. The Hate Crimes Prevention Act at long last may be voted on in the Senate. There are a lot of reasons for me to stand up not only as a supporter of this legislation but a cosponsor; one of, at last count, 43 bipartisan cosponsors. In the other body, there are more than 170, I am told.

This act is simple but profoundly important. First of all, the Hate Crimes Prevention Act will strengthen—strengthen law enforcement's ability to crack down on these kinds of crimes by providing grants to local and State agencies to fight the particular evil that resides in the hearts of those who want to commit crimes based upon this kind of motivation—a motivation of hate, pure and simple. Secondly, in terms of the mechanics of how this will work, this legislation will help the Department of Justice work with local and State law enforcement agencies to assist in the prosecution of these crimes.

But beyond the program and beyond the details of a government program lie some very personal stories. One story that all of America knows, but we need to be reminded sometimes about these stories, is one we saw play out in the 1990s.

His name was Matthew Shepard. He was born on December 1, 1976, to Judy and Dennis Shepard in Casper, WY. He went to the University of Wyoming and had a great interest in politics and a great interest in the environment. In October of 1998, two men tied him to a split rail fence, tortured and beat him, and left him to die in freezing temperatures. He was found 18 hours later, and he died several days later in October of 1998 at the age of 21.

I had the opportunity in September 2005 to meet Matthew Shepard's mother. We had a private meeting where she expressed her deep concern about this crime we see play out across the country. She, obviously, will probably never fully recover from the loss of her son and the way he died, but when I rise to speak about this, I think we have to consider who speaks for that mother if the Senate doesn't stand up and speak with one voice on an issue such as this.

This is about combating hate, hate in the hearts of men and women across this country. We talk all the time about people from other parts of the world and how evil they can be, especially the terrorists, but there are examples in our country of real hate. If we do not stamp them out and prosecute vigorously these kinds of crimes, we cannot fully appreciate nor can we fully expect others to appreciate the feeling in our hearts about making sure we treat people with dignity, with respect, and acceptance, but that we do it in the spirit of brotherhood and sisterhood.

When such a crime as this happens, I would hope the Senate would do everything possible to fully and vigorously prosecute and sanction anyone who engages in this activity. This legislation, the Hate Crimes Prevention Act, is one important step to achieving that goal, and I speak in support of that legislation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, would the Senator from Pennsylvania mind answering a couple of questions before he leaves?

No. 1, I would note, just on the hate crimes legislation, that the perpetrators of the heinous crimes against Matthew Shepard had full justice carried out against them. That is true, is it not?

Mr. CASEY. Well, there are a lot of ways to prosecute someone.

Mr. COBURN. Were they prosecuted, I guess, and did they receive significant punishment?

Mr. CASEY. Let me finish my thought. There are a lot of ways to prosecute a crime like that. But when you have legislation that is supported broadly across the country, including by law enforcement agencies, district attorneys, and police organizations across the country, I rely upon their judgment when it comes to what are the tools we need for law enforcement.

AMENDMENT NO. 2196

Mr. COBURN. The second question—and I want to make sure you understand as the author of this that it doesn't say anything about Johnstown, PA, which has great folks. This amendment isn't about the people of Johnstown, PA, and what they can offer. They offer great things to our country, and it is not meant to degrade or delineate anything other than the utmost respect for them.

What this amendment is about is, are we getting the value for what we are spending? And all you have to do is look at what the Department of Justice says, which is running this program, and what the DEA says, and what every other intelligence-run enforcement center is saying: that, in fact, there is not added value for the dollars that are spent there, and anything that is a positive contribution could be more effectively utilized at some other center.

So it is not about the people of Pennsylvania and it is not about who did it or whether we all shouldn't try to get a Federal facility to help areas that are economically depressed across the country. That is not a bad idea. There is nothing wrong with that. The purpose of this amendment is to delineate that there is not good value for the half a billion dollars we have already spent and that taxpayers could get more value out of less money if, in fact, we did what the professionals and everyone else has said, including former directors of that center.

Mr. CASEY. Let me just respond to my colleague, the distinguished Senator from Oklahoma, who has been on this floor for many years holding public agencies accountable, and we appreciate that and I share that concern. I only raised the question about Johnstown, I guess, because as a Senator from Pennsylvania, I want to make sure we are fighting for an important community. I am not saying that is the intent of the legislation. I just wanted to reiterate how much I appreciate the work ethic of that community.

Every program that is funded with taxpayer dollars has to be accountable, and I appreciate that. We have an opportunity on this floor to debate programs where we spend significant sums of public dollars. When I was in State government, as Senator COBURN knows, my job for the better part of a decade was to do just that, and it is close to my heart, the kind of accountability I know the Senator is concerned about. But I would hope, in pursuing that, we don't unjustifiably have an impact on a facility that is providing a great benefit for law enforcement well beyond Pennsylvania and, secondly, that we work to be equitable about it. I know that is the intent, but I think we have

an honest disagreement about this particular center.

Mr. COBURN. I thank the Senator for answering my question. I guess my debatable point is the offering of the value, in the judgment of the professionals who are running all of the Department, including the Department of Justice and the DEA, which says it doesn't measure up. That is my point. That is why I brought the amendment. It doesn't denigrate the work of the people there.

The fact is, if we are really going to continue to send $30 million to $40 million a year, let's find them something that will give us better value. If we choose not to support this amendment, let's give them direction so that the $30 million or $40 million we do invest actually brings us something that is worth $30 million or $40 million.

And it is not the employees there who are at fault. In fact, the direction and the mission has been one that hasn't been accomplished because it wasn't needed in the first place.

Mr. CASEY. Quickly, by way of a response, I have to say that when I was the auditor general of Pennsylvania, our office authored lots of reports about waste, fraud, and abuse and about problems in spending. What we tried to do as well was not just point out where the problems were but also to point out and to list, actually in reports, a series of recommendations and corrective actions.

I think there is ample reason in a lot of public programs to make changes and to have corrective action. I don't think that always should result in the defunding or the elimination of an entire program. But we might have a disagreement on this issue, and I respectfully submit that.

Mr. COBURN. I thank the Senator for his words and his courtesy in answering my questions.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SANDERS). The Senator from Montana.

AMENDMENT NO. 2999

Mr. TESTER. Mr. President, I am proud to join with my Democratic colleagues in the freshmen class who are offering amendment No. 2999 today. I wish to give my thanks in particular to Senator MCCASKILL, Senator WEBB, as well as the other six freshmen Senators in the Democratic caucus in offering this amendment that deals with accountability as it applies to contracting in Iraq and Afghanistan.

The nine of us were elected last fall in large measure because the people in this country were tired of the war in Iraq and tired of a lack of accountability for how our tax dollars have been spent in the wars in Iraq and Afghanistan. The fact is, people in Montana and around the country work way too hard to have their tax dollars stolen from them by people who think they can take advantage of an environment where there is little or no oversight or accountability. This amendment will bring some much needed accountability in the way our tax dollars are spent in Iraq and Afghanistan, and we will do it in a way that takes this issue out of the political spotlight.

This amendment will establish a bipartisan commission to review the contracts we have entered into in fighting the wars in Iraq and Afghanistan. The Commission will be outside of Congress and will be outside of the Bush administration. The amendment will also direct this new Commission to review the way new contracts are awarded and overseen. This will give us a chance to prevent future waste, fraud, and abuse.

The Commission will work in consultation with the Special Inspector General for Iraq Reconstruction, which currently oversees only reconstruction contracts in Iraq, to review and investigate logistics, security, and intelligence work that has been contracted out by the Defense Department.

According to the nonpartisan Government Accountability Office, we have squandered $10 billion in Iraq reconstruction funds due to contract overcharges and unsupported expenses. That means 1 out of every 6 reconstruction dollars spent in Iraq is not accounted for, and only now, after 5 years of war in Iraq, the Army is looking back at nearly $100 million in contracts to determine how these funds have been spent.

I think it is important for folks to understand we are not coming at this with the idea that every contract is a bad one. There are many contractors who are doing a good job and who are being responsible with our tax dollars. But there are others who are not. At a time when we are struggling to win the hearts and minds of the Iraqi and Afghani people, those who are deliberately overeating at the taxpayer trough, while our troops are fighting and dying in Iraq, are nothing short of treasonous.

Many Americans have questioned how their tax dollars are being spent in Iraq and Afghanistan. They have wondered why it is that there are more contractors than troops in Iraq. They have wondered why some companies are enjoying record profits even though so many projects remain incomplete. For too long, the answer from the Government has been a deafening silence. This amendment is a long-overdue response to the cries for accountability and transparency in our contracting process. It should not be and is not a partisan issue. It is about good government. I urge my colleagues to support it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Mr. President, first, let me concur with my colleague, Senator TESTER, in support of the amendment being offered by Senators WEBB and MCCASKILL and which Senator LEVIN also spoke on a little earlier, and that is the need for us to have this independent Commission look at what has happened in Iraq as far as the U.S. taxpayer dollars. I am proud that our new Members of the Senate have made this a priority. I think it is important that the taxpayers have confidence that the money we appropriate will be spent appropriately, and that has not been the case in the reconstruction of Iraq.

AMENDMENT NO. 3035

I also take the floor to speak about an amendment offered by Senator KENNEDY that will be voted on later. I spoke last week about hate crimes in America, and I talked about what is happening in our own communities. I spoke about an episode in College Park, MD, and we are all familiar with what happened in Jena, LA. The FBI has indicated that the number of hate crimes reported is unacceptably high in all communities in America today.

Today, we are going to have an opportunity to do something about that. We are going to have an opportunity to support S. 1105, the Matthew Shepard Act. I am proud to be a cosponsor of that bill, and I thank the senior Senator from Massachusetts, Mr. KENNEDY, for bringing forward this issue. We will have a chance on this very important bill to speak about the moral commitment of our own country and what we stand for as a nation. This is an issue which we need to deal with because it speaks to what type of people we are in this country, that we will not tolerate hate crime activities.

This legislation gives the Department of Justice jurisdiction over violent crimes where a perpetrator picks the victim on the basis of race, color, national origin, gender, sexual orientation, gender identity, or disability.

Now, why do we give the Department of Justice jurisdiction in these areas? Well, we all know, first, that it will make it clear this is a national priority. Secondly, the Department of Justice is in a far better position, in many cases, than local law enforcement working by itself to successfully complete an investigation.

This legislation gives additional tools to local law enforcement so they can get their job done. It gives them training dollars. It gives them other resources and assistance so that, in many cases, they can get the type of information necessary to pursue these cases successfully.

It is what is needed in partnership with local government. But there are some States that are unable or unwilling to move forward with hate crime activities. Only 31 States and the District of Columbia include sexual orientation or disability as a basis for hate crimes prosecution. So we have voids in the Nation and this gives us an opportunity to move forward.

This legislation is bipartisan. We have had support from both sides of the aisle to make it clear that in America we will not tolerate hate crimes activities. It strengthens the current law. It removes the limitation in the current law, the Federal law, that says you

only can move forward if it would involve a protected activity such as voting or attending school. That restriction is removed, so that we have more opportunities for the Federal Government to be of assistance in prosecuting hate crime activities. As I have indicated before, it includes sexual orientation, gender, gender identity or disability as categories of hate crime activities.

I am very pleased it has broad support from many organizations and groups around the Nation, including the Federal Law Enforcement Officers Association, the International Association of Chiefs of Police, the National District Attorneys Association, and the National Sheriffs' Association. It also enjoys support from civil rights groups including the Anti-Defamation League, Human Rights Campaign, Leadership Conference on Civil Rights, and the National Association for the Advancement of Colored People. The U.S. Conference of Mayors also supports this legislation. It is also supported by the Consortium for Citizens with Disabilities, including the Maryland Disability Law Center.

There is a broad group that supports this legislation because they know it is needed. They know we need to do a better job, and they know it is time for this Congress to act. Hate crimes are un-American. When they happen, we are all diminished and we have a responsibility to do something about it. It is time for the Senate to act.

I thank Senator KENNEDY for bringing this forward. I urge my colleagues to support it. The House has already taken similar action. It is time this legislation be submitted to the President.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

AMENDMENTS NOS. 3016, 3010, 3043, 3009, AS MODIFIED; 3046, 3008, AS MODIFIED; 3006, AS MODIFIED; 2251, AND 2172 EN BLOC

Mrs. MCCASKILL. I send a series of amendments to the desk which have been cleared by Chairman LEVIN and the ranking member. Therefore, I ask unanimous consent that the Senate consider those amendments en bloc, the amendments be agreed to and the motions to reconsider be laid upon the table. Finally, I ask that any statements relating to these individual amendments be printed in the RECORD.

Mr. WARNER. No objection on this side.

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

The amendments were agreed to, as follows:

AMENDMENT NO. 3016

(Purpose: To require a report on the solid rocket motor industrial base)

At the end of title X, add the following:

SEC. 1070. REPORT ON SOLID ROCKET MOTOR INDUSTRIAL BASE.

(a) REPORT.—Not later than 190 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the status, capability, viability, and capacity of the solid rocket motor industrial base in the United States.

(b) CONTENT.—The report required under subsection (a) shall include the following:

(1) An assessment of the ability to maintain the Minuteman III intercontinental ballistic missile through its planned operational life.

(2) An assessment of the ability to maintain the Trident II D–5 submarine launched ballistic missile through its planned operational life.

(3) An assessment of the ability to maintain all other space launch, missile defense, and other vehicles with solid rocket motors, through their planned operational lifetimes.

(4) An assessment of the ability to support any future requirements for vehicles with solid rocket motors to support space launch, missile defense, or any range of ballistic missiles determined to be necessary to meet defense needs or other requirements of the United States Government.

(5) An assessment of the required materials, the supplier base, the production facilities, and the production workforce needed to ensure that current and future requirements could be met.

(6) An assessment of the adequacy of the current and anticipated programs to support an industrial base that would be needed to support the range of future requirements.

(c) COMPTROLLER GENERAL REVIEW.—Not later than 60 days after submittal under subsection (a) of the report required by that subsection, the Comptroller General of the United States shall submit to the congressional defense committees a report setting forth the Comptroller General's assessment of the matters contained in the report under subsection (a), including an assessment of the consistency of the budget of the President for fiscal year 2009, as submitted to Congress pursuant to section 1105 of title 31, United States Code, with the matters contained in the report under subsection (a).

AMENDMENT NO. 3010

(Purpose: To require a report on the size and mix of the Air Force intertheater airlift force)

At the end of subtitle D of title X, add the following:

SEC. 1044. REPORT ON SIZE AND MIX OF AIR FORCE INTERTHEATER AIRLIFT FORCE.

(a) STUDY REQUIRED.—

(1) IN GENERAL.—The Secretary of Defense shall conduct a study on various alternatives for the size and mix of assets for the Air Force intertheater airlift force, with a particular focus on current and planned capabilities and costs of the C–5 aircraft and C–17 aircraft fleets.

(2) CONDUCT OF STUDY.—

(A) USE OF FFRDC.—The Secretary shall select to conduct the study required by subsection (a) a federally funded research and development center (FFRDC) that has experience and expertise in conducting studies similar to the study required by subsection (a).

(B) DEVELOPMENT OF STUDY METHODOLOGY.—Not later than 90 days after the date of enactment of this Act, the federally funded research and development center selected for the conduct of the study shall—

(i) develop the methodology for the study; and

(ii) submit the methodology to the Comptroller General of the United States for review.

(C) COMPTROLLER GENERAL REVIEW.—Not later than 30 days after receipt of the methodology under subparagraph (B), the Comptroller General shall—

(i) review the methodology for purposes of identifying any flaws or weaknesses in the methodology; and

(ii) submit to the federally funded research and development center a report that—

(I) sets forth any flaws or weaknesses in the methodology identified by the Comptroller General in the review; and

(II) makes any recommendations the Comptroller General considers advisable for improvements to the methodology.

(D) MODIFICATION OF METHODOLOGY.—Not later than 30 days after receipt of the report under subparagraph (C), the federally funded research and development center shall—

(i) modify the methodology in order to address flaws or weaknesses identified by the Comptroller General in the report and to improve the methodology in accordance with the recommendations, if any, made by the Comptroller General; and

(ii) submit to the congressional defense committees a report that—

(I) describes the modifications of the methodology made by the federally funded research and development center; and

(II) if the federally funded research and development center does not improve the methodology in accordance with any particular recommendation of the Comptroller General, sets forth a description and explanation of the reasons for such action.

(3) UTILIZATION OF OTHER STUDIES.—The study shall build upon the results of the recent Mobility Capabilities Studies of the Department of Defense, the on-going Intratheater Airlift Fleet Mix Analysis, and other appropriate studies and analyses. The study should also include any results reached on the modified C–5A aircraft configured as part of the Reliability Enhancement and Re-engining Program (RERP) configuration, as specified in section 132 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1411).

(b) ELEMENTS.—The study under subsection (a) shall address the following:

(1) The state of the current intertheater airlift fleet of the Air Force, including the extent to which the increased use of heavy airlift aircraft in Operation Iraqi Freedom, Operation Enduring Freedom, and other ongoing operations is affecting the aging of the aircraft of that fleet.

(2) The adequacy of the current intertheater airlift force, including whether or not the current target number of 301 airframes for the Air Force heavy lift aircraft fleet will be sufficient to support future expeditionary combat and non-combat missions as well as domestic and training mission demands consistent with the requirements of the National Military Strategy.

(3) The optimal mix of C–5 aircraft and C–17 aircraft for the intertheater airlift fleet of the Air Force, and any appropriate mix of C–5 aircraft and C–17 aircraft for intratheater airlift missions, including an assessment of the following:

(A) The cost advantages and disadvantages of modernizing the C–5 aircraft fleet when compared with procuring new C–17 aircraft, which assessment shall be performed in concert with the Cost Analysis Improvement Group and be based on program life cycle cost estimates for the respective aircraft.

(B) The military capability of the C–5 aircraft and the C–17 aircraft, including number of lifetime flight hours, cargo and passenger carrying capabilities, and mission capable rates for such airframes. In the case of assumptions for the C–5 aircraft, and any assumptions made for the mission capable

rates of the C–17 aircraft, sensitivity analyses shall also be conducted to test assumptions. The military capability study for the C–5 aircraft shall also include an assessment of the mission capable rates after each of the following:

(i) Successful completion of the Avionics Modernization Program (AMP) and the Reliability Enhancement and Re-engining Program (RERP).

(ii) Partially successful completion of the Avionics Modernization Program and the Reliability Enhancement and Re-engining Program, with partially successful completion of either such program being considered the point at which the continued execution of such program is no longer supported by cost-benefit analysis.

(C) The tactical capabilities of strategic airlift aircraft, the potential increase in use of strategic airlift aircraft for tactical missions, and the value of such capabilities to tactical operations.

(D) The value of having more than one type of aircraft in the strategic airlift fleet, and the potential need to pursue a replacement aircraft for the C–5 aircraft that is larger than the C–17 aircraft.

(4) The means by which the Air Force was able to restart the production line for the C–5 aircraft after having closed the line for several years, and the actions to be taken to ensure the production line for the C–17 aircraft could be restarted if necessary, including—

(A) an analysis of the costs of closing and re-opening the production line for the C–5 aircraft; and

(B) an assessment of the costs of closing and re-opening the production line for the C–17 aircraft on a similar basis.

(5) The financial effects of retiring, upgrading and maintaining, or continuing current operations of the C–5A aircraft fleet on procurement decisions relating to the C–17 aircraft.

(6) The impact that increasing the role and use of strategic airlift aircraft in intratheater operations will have on the current target number for strategic airlift aircraft of 301 airframes, including an analysis of the following:

(A) The appropriateness of using C–5 aircraft and C–17 aircraft for intratheater missions, as well as the efficacy of these aircraft to perform current and projected future intratheater missions.

(B) The interplay of existing doctrinal intratheater airlift aircraft (such as the C–130 aircraft and the future Joint Cargo Aircraft (JCA)) with an increasing role for C–5 aircraft and C–17 aircraft in intratheater missions.

(C) The most appropriate and likely missions for C–5 aircraft and C–17 aircraft in intratheater operations and the potential for increased requirements in these mission areas.

(D) Any intratheater mission sets best performed by strategic airlift aircraft as opposed to traditional intratheater airlift aircraft.

(E) Any requirements for increased production or longevity of C–5 aircraft and C–17 aircraft, or for a new strategic airlift aircraft, in light of the matters analyzed under this paragraph.

(7) Taking into consideration all applicable factors, whether or not the replacement of C–5 aircraft with C–17 aircraft on a one-for-one basis will result in the retention of a comparable strategic airlift capability.

(c) CONSTRUCTION.—Nothing in this section shall be construed to exclude from the study under subsection (a) consideration of airlift assets other than the C–5 aircraft or C–17 aircraft that do or may provide intratheater and intertheater airlift, including the potential that such current or future assets may reduce requirements for C–5 aircraft or C-17 aircraft.

(d) COLLABORATION WITH TRANSCOM.—The federally funded research and development center selected under subsection (a) shall conduct the study required by that subsection and make the report required by subsection (e) in concert with the United States Transportation Command.

(e) REPORT BY FFRDC.—

(1) IN GENERAL.—Not later than January 10, 2009, the federally funded research and development center selected under subsection (a) shall submit to the Secretary of Defense, the congressional defense committees, and the Comptroller General of the United States a report on the study required by subsection (a).

(2) REVIEW BY GAO.—Not later than 90 days after receipt of the report under paragraph (1), the Comptroller General shall submit to the congressional defense committee a report on the study conducted under subsection (a) and the report under paragraph (1). The report under this subsection shall include an analysis of the study under subsection (a) and the report under paragraph (1), including an assessment by the Comptroller General of the strengths and weaknesses of the study and report.

(f) REPORT BY SECRETARY OF DEFENSE.—

(1) IN GENERAL.—Not later than 90 days after receipt of the report under paragraph 1, 2009, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the study required by subsection (a).

(2) ELEMENTS.—The report shall include a comprehensive discussion of the findings of the study, including a particular focus on the following:

(A) A description of lift requirements and operating profiles for intertheater airlift aircraft required to meet the National Military Strategy, including assumptions regarding:

(i) Current and future military combat and support missions.

(ii) The planned force structure growth of the Army and the Marine Corps.

(iii) Potential changes in lift requirements, including the deployment of the Future Combat Systems by the Army.

(iv) New capability in strategic airlift to be provided by the KC(X) aircraft and the expected utilization of such capability, including its use in intratheater lift.

(v) The utilization of the heavy lift aircraft in intratheater combat missions.

(vi) The availability and application of Civil Reserve Air Fleet assets in future military scenarios.

(vii) Air mobility requirements associated with the Global Rebasing Initiative of the Department of Defense.

(viii) Air mobility requirements in support of peacekeeping and humanitarian missions around the globe.

(ix) Potential changes in lift requirements based on equipment procured for Iraq and Afghanistan.

(B) A description of the assumptions utilized in the study regarding aircraft performances and loading factors.

(C) A comprehensive statement of the data and assumptions utilized in making program life cycle cost estimates.

(D) A comparison of cost and risk associated with optimal mix airlift fleet versus program of record airlift fleet.

(3) FORM.—The report shall be submitted in unclassified form, but may include a classified annex.

AMENDMENT NO. 3043

(Purpose: To strengthen the nuclear forensics capabilities of the United States)

On page 530, between lines 10 and 11, insert the following:

SEC. 3126. AGREEMENTS AND REPORTS ON NUCLEAR FORENSICS CAPABILITIES.

(a) INTERNATIONAL AGREEMENTS ON NUCLEAR WEAPONS DATA.—The Secretary of Energy may, with the concurrence of the Secretary of State and in coordination with the Secretary of Defense, the Secretary of Homeland Security, and the Director of National Intelligence, enter into agreements with countries or international organizations to conduct data collection and analysis to determine accurately and in a timely manner the source of any components of, or fissile material used or attempted to be used in, a nuclear device or weapon.

(b) INTERNATIONAL AGREEMENTS ON INFORMATION ON RADIOACTIVE MATERIALS.—The Secretary of Energy may, with the concurrence of the Secretary of State and in coordination with the Secretary of Defense, the Secretary of Homeland Security, and the Director of National Intelligence, enter into agreements with countries or international organizations—

(1) to acquire for the materials information program of the Department of Energy validated information on the physical characteristics of radioactive material produced, used, or stored at various locations, in order to facilitate the ability to determine accurately and in a timely manner the source of any components of, or fissile material used or attempted to be used in, a nuclear device or weapon; and

(2) to obtain access to information described in paragraph (1) in the event of—

(A) a nuclear detonation; or

(B) the interdiction or discovery of a nuclear device or weapon or nuclear material.

(c) REPORT ON AGREEMENTS.—Not later than one year after the date of the enactment of this Act, the Secretary of Energy shall, in coordination with the Secretary of State, submit to Congress a report identifying—

(1) the countries or international organizations with which the Secretary has sought to make agreements pursuant to subsections (a) and (b);

(2) any countries or international organizations with which such agreements have been finalized and the measures included in such agreements; and

(3) any major obstacles to completing such agreements with other countries and international organizations.

(d) REPORT ON STANDARDS AND CAPABILITIES.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report—

(1) setting forth standards and procedures to be used in determining accurately and in a timely manner any country or group that knowingly or negligently provides to another country or group—

(A) a nuclear device or weapon;

(B) a major component of a nuclear device or weapon; or

(C) fissile material that could be used in a nuclear device or weapon;

(2) assessing the capability of the United States to collect and analyze nuclear material or debris in a manner consistent with the standards and procedures described in paragraph (1); and

(3) including a plan and proposed funding for rectifying any shortfalls in the nuclear forensics capabilities of the United States by September 30, 2010.

AMENDMENT NO. 3009, AS MODIFIED

At the end of title XXII, add the following:

SEC. 2206. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2005 PROJECT.

(a) MODIFICATION.—The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of

Public Law 108–375; 118 Stat. 2105), as amended by section 2206 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3493) and section 2205 of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2452) is amended—

(1) in the item relating to Strategic Weapons Facility Pacific, Bangor, Washington, by striking ''$147,760,000'' in the amount column and inserting ''$295,000,000''; and

(2) by striking the amount identified as the total in the amount column and inserting ''$972,719,000''.

(b) CONFORMING AMENDMENT.—Section 2204 of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2107), as amended by section 2206 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3493) and section 2205 of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2453) is amended—(2) in subsection (b)(6), by striking ''$95,320,000'' and inserting ''$259,320,000''.

AMENDMENT NO. 3046

(Purpose: To improve and streamline the security clearance process)

After section 1064, insert the following:

SEC. 1065. IMPROVEMENTS IN THE PROCESS FOR THE ISSUANCE OF SECURITY CLEARANCES.

(a) DEMONSTRATION PROJECT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Defense and the Director of National Intelligence shall implement a demonstration project that applies new and innovative approaches to improve the processing of requests for security clearances.

(b) EVALUATION.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Defense and the Director of National Intelligence shall carry out an evaluation of the process for issuing security clearances and develop a specific plan and schedule for replacing such process with an improved process.

(c) REPORT.—Not later than 30 days after the date of the completion of the evaluation required by subsection (b), the Secretary of Defense and the Director of National Intelligence shall submit to Congress a report on—

(1) the results of the demonstration project carried out pursuant to subsection (a);

(2) the results of the evaluation carried out under subsection (b); and

(3) the specific plan and schedule for replacing the existing process for issuing security clearances with an improved process.

AMENDMENT NO. 3008, AS MODIFIED

On page 445, in the table preceding line 1, in the item relating to Naval Station, Bremerton, Washington, strike ''$119,760,000'' and insert ''$190,960,000''.

On page 447, line 5, strike ''Funds'' and insert ''(a) AUTHORIZATION OF APPROPRIATIONS.—Funds''.

On page 449, between lines 16 and 17, insert the following:

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1), (2) and (3) of subsection (a).

(2) $71,200,000 (the balance of the amount authorized under section 2201(a) for a nuclear aircraft carrier maintenance pier at Naval Station Bremerton, Washington).

AMENDMENT NO. 3006, AS MODIFIED

At the end of subtitle E of title XXVIII, add the following:

SEC. 2854. TRANSFER OF JURISDICTION, FORMER NIKE MISSILE SITE, GROSSE ILE, MICHIGAN.

(a) TRANSFER.—Administrative jurisdiction over the property described in subsection (b) is hereby transferred from the Administrator of the Environmental Protection Agency to the Secretary of the Interior.

(b) PROPERTY DESCRIBED.—The property referred to in subsection (a) is the former Nike missile site, consisting of approximately 50 acres located at the southern end of Grosse Ile, Michigan, as depicted on the map entitled ''07–CE'' on file with the Environmental Protection Agency and dated May 16, 1984.

(c) ADMINISTRATION OF PROPERTY.—Subject to subsection (d), the Secretary of the Interior shall administer the property described in subsection (b)—

(1) acting through the United States Fish and Wildlife Service;

(2) as part of the Detroit River International Wildlife Refuge; and

(3) for use as a habitat for fish and wildlife and as a recreational property for outdoor education and environmental appreciation.

(d) MANAGEMENT RESPONSE.—The Secretary of Defense shall manage and carry out environmental response activities with respect to the property described in subsection (b) as expeditiously as possible, consistent with the Department's prioritization of Formerly Used Defense Sites based on risk and the requirements of the Comprehensive Environmental Response, Compensation, and Liabiity Act of 1980 and the Solid Waste Disposal Act, using amounts made available from the account established by section 2703(a)(5) of title 10, United States Code.

(e) SAVINGS PROVISION.—Nothing in this section shall be construed to affect or limit the application of, or any obligation to comply with, any environmental law, including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

AMENDMENT NO. 2251

(Purpose: To provide justice for victims of state-sponsored terrorism)

At the appropriate place, insert the following:

SEC. ___. JUSTICE FOR MARINES AND OTHER VICTIMS OF STATE-SPONSORED TERRORISM ACT.

(a) SHORT TITLE.—This section may be cited as the ''Justice for Marines and Other Victims of State-Sponsored Terrorism Act''.

(b) TERRORISM EXCEPTION TO IMMUNITY.—

(1) IN GENERAL.—Chapter 97 of title 28, United States Code, is amended by inserting after section 1605 the following:

''§ 1605A. Terrorism exception to the jurisdictional immunity of a foreign state

''(a) IN GENERAL.—

''(1) NO IMMUNITY.—A foreign state shall not be immune from the jurisdiction of courts of the United States or of the States in any case not otherwise covered by this chapter in which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18) for such an act if such act or provision of material support is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency.

''(2) CLAIM HEARD.—The court shall hear a claim under this section if—

''(A) the foreign state was designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405 (j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) at the time the act occurred, unless later designated as a result of such act;

''(B) the claimant or the victim was—

''(i) a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

''(ii) a member of the Armed Forces of the United States (as that term is defined in section 976 of title 10); or

''(iii) otherwise an employee of the government of the United States or one of its contractors acting within the scope of their employment when the act upon which the claim is based occurred; or

''(C) where the act occurred in the foreign state against which the claim has been brought, the claimant has afforded the foreign state a reasonable opportunity to arbitrate the claim in accordance with the accepted international rules of arbitration.

''(b) DEFINITION.—For purposes of this section—

''(1) the terms 'torture' and 'extrajudicial killing' have the meaning given those terms in section 3 of the Torture Victim Protection Act of 1991 (28 U.S.C. 1350 note);

''(2) the term 'hostage taking' has the meaning given that term in Article 1 of the International Convention Against the Taking of Hostages; and

''(3) the term 'aircraft sabotage' has the meaning given that term in Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.

''(c) TIME LIMIT.—An action may be brought under this section if the action is commenced not later than the latter of—

''(1) 10 years after April 24, 1996; or

''(2) 10 years from the date on which the cause of action arose.

''(d) PRIVATE RIGHT OF ACTION.—A private cause of action may be brought against a foreign state designated under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. 2405(j)), and any official, employee, or agent of said foreign state while acting within the scope of his or her office, employment, or agency which shall be liable to a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)), a member of the Armed Forces of the United States (as that term is defined in section 976 of title 10), or an employee of the government of the United States or one of its contractors acting within the scope of their employment or the legal representative of such a person for personal injury or death caused by acts of that foreign state or its official, employee, or agent for which the courts of the United States may maintain jurisdiction under this section for money damages which may include economic damages, solatium, pain, and suffering, and punitive damages if the acts were among those described in this section. A foreign state shall be vicariously liable for the actions of its officials, employees, or agents.

''(e) ADDITIONAL DAMAGES.—After an action has been brought under subsection (d), actions may also be brought for reasonably foreseeable property loss, whether insured or uninsured, third party liability, and life and property insurance policy loss claims.

''(f) SPECIAL MASTERS.—

''(1) IN GENERAL.—The Courts of the United States may from time to time appoint special masters to hear damage claims brought under this section.

''(2) TRANSFER OF FUNDS.—The Attorney General shall transfer, from funds available for the program under sections 1404C of the

Victims Crime Act of 1984 (42 U.S.C. 10603c) to the Administrator of the United States District Court in which any case is pending which has been brought pursuant to section 1605(a)(7) such funds as may be required to carry out the Orders of that United States District Court appointing Special Masters in any case under this section. Any amount paid in compensation to any such Special Master shall constitute an item of court costs.

''(g) APPEAL.—In an action brought under this section, appeals from orders not conclusively ending the litigation may only be taken pursuant to section 1292(b) of this title.

''(h) PROPERTY DISPOSITION.—

''(1) IN GENERAL.—In every action filed in a United States district court in which jurisdiction is alleged under this section, the filing of a notice of pending action pursuant to this section, to which is attached a copy of the complaint filed in the action, shall have the effect of establishing a lien of lis pendens upon any real property or tangible personal property located within that judicial district that is titled in the name of any defendant, or titled in the name of any entity controlled by any such defendant if such notice contains a statement listing those controlled entities.

''(2) NOTICE.—A notice of pending action pursuant to this section shall be filed by the clerk of the district court in the same manner as any pending action and shall be indexed by listing as defendants all named defendants and all entities listed as controlled by any defendant.

''(3) ENFORCEABILITY.—Liens established by reason of this subsection shall be enforceable as provided in chapter 111 of this title.''.

(2) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 97 of title 28, United States Code, is amended by inserting after the item for section 1605 the following:

''1605A. Terrorism exception to the jurisdictional immunity of a foreign state.''.

(c) CONFORMING AMENDMENTS.—

(1) PROPERTY.—Section 1610 of title 28, United States Code, is amended by adding at the end the following:

''(g) PROPERTY IN CERTAIN ACTIONS.—

''(1) IN GENERAL.—The property of a foreign state, or agency or instrumentality of a foreign state, against which a judgment is entered under this section, including property that is a separate juridical entity, is subject to execution upon that judgment as provided in this section, regardless of—

''(A) the level of economic control over the property by the government of the foreign state;

''(B) whether the profits of the property go to that government;

''(C) the degree to which officials of that government manage the property or otherwise control its daily affairs;

''(D) whether that government is the sole beneficiary in interest of the property; or

''(E) whether establishing the property as a separate entity would entitle the foreign state to benefits in United States courts while avoiding its obligations.

''(2) UNITED STATES SOVEREIGN IMMUNITY INAPPLICABLE.—Any property of a foreign state, or agency or instrumentality of a foreign state, to which paragraph (1) applies shall not be immune from execution upon a judgment entered under this section because the property is regulated by the United States Government by reason of action taken against that foreign state under the Trading With the Enemy Act or the International Emergency Economic Powers Act.''.

(2) VICTIMS OF CRIME ACT.—Section 1404C(a)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10603c(a)(3)) is amended by striking ''December 21, 1988, with respect to which an investigation or'' and inserting ''October 23, 1983, with respect to which an investigation or civil or criminal''.

(3) GENERAL EXCEPTION.—Section 1605 of title 28, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (5)(B), by inserting ''or'' after the semicolon;

(ii) in paragraph (6)(D), by striking ''; or'' and inserting a period; and

(iii) by striking paragraph (7); and

(B) by striking subsections (e) and (f).

(d) APPLICATION TO PENDING CASES.—

(1) IN GENERAL.—The amendments made by this section shall apply to any claim arising under section 1605A or 1605(g) of title 28, United States Code, as added by this section.

(2) PRIOR ACTIONS.—Any judgment or action brought under section 1605(a)(7) of title 28, United States Code, or section 101(c) of Public Law 104–208 after the effective date of such provisions relying on either of these provisions as creating a cause of action, which has been adversely affected on the grounds that either or both of these provisions fail to create a cause of action opposable against the state, and which is still before the courts in any form, including appeal or motion under Federal Rule of Civil Procedure 60(b), shall, on motion made to the Federal District Court where the judgment or action was initially entered, be given effect as if it had originally been filed pursuant to section 1605A(d) of title 28, United States Code. The defenses of res judicata, collateral estoppel and limitation period are waived in any re-filed action described in this paragraph and based on the such claim. Any such motion or re-filing must be made not later than 60 days after enactment of this Act.

AMENDMENT NO. 2172

(Purpose: To modify limitations on the retirement of B–52 bomber aircraft)

At the end of subtitle D of title I, add the following:

SEC. 143. MODIFICATION OF LIMITATIONS ON RETIREMENT OF B–52 BOMBER AIRCRAFT.

(a) MAINTENANCE OF PRIMARY AND BACKUP INVENTORY OF AIRCRAFT.—Subsection (a)(1) of section 131 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2111) is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subparagraph (C):

''(C) shall maintain in a common configuration a primary aircraft inventory of not less than 63 such aircraft and a backup aircraft inventory of not less than 11 such aircraft.''.

(b) NOTICE OF RETIREMENT.—Subsection (b)(1) of such section is amended by striking ''45 days'' and inserting ''60 days''.

Mr. WARNER. That was a group of how many amendments?

Mrs. MCCASKILL. Nine.

Mr. WARNER. We are making progress on this bill, but I strongly urge other colleagues to bring forward their amendments. We have a lot to do on this bill. We are dealing with a bill that is absolutely essential for the men and women of the Armed Forces and their families. We should move along as best we can to complete this important legislation.

I yield the floor.

Mrs. MCCASKILL. 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. SPECTER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

AMENDMENT NO. 2196

Mr. SPECTER. Mr. President, I have sought recognition to respond to the amendment offered by the Senator from Oklahoma, Mr. COBURN, to eliminate the National Drug Intelligence Center, which is located in Johnstown, PA. That center was created in 1992 and performs a very important function. The National Drug Intelligence Center, commonly referred to as the NDIC, partners with the Department of Homeland Security and the Office of Counternarcotics Enforcement, to provide intelligence, to identify, track, and sever the nexus between drug trafficking and terrorism. The NDIC created an entity called HashKeeper, a company software program which is provided to the Federal Government for use in Iraq. The cost of this center is about one-third of what it would be if it were located in the Washington, DC, area.

I think it makes good sense to decentralize Federal functions to the extent it is possible and practical. Everything does not have to be located in Washington, DC. Everything does not have to be located in a big city. Our country is more vulnerable when everything is concentrated in one area. Johnstown has the advantage of being much less expensive, being able to provide these vital Federal services for about one-third of the cost, while being reasonably close to Washington, DC, which is the location of many of the other entities with which it cooperates.

The jobs which are provided are very substantial for my constituents in Pennsylvania; an obvious interest that I have as a Senator representing the Commonwealth of Pennsylvania. These are several hundred jobs; they are very important. It is a legitimate interest to want to maintain our industrial base in Pennsylvania and to maintain governmental activities in Pennsylvania. But there is good value in having the NDIC function, in general, and there is extra good value in having it function in Johnstown, PA.

The NDIC has been complimented by a broad number of agencies. In a November 21, 2001, letter, the FBI praised the NDIC for its work on financial crimes, saying:

Through the analysis of these documents, over 400 specific intelligence products have been produced for the FBI, the Department of Justice, the Department of Treasury, and U.S. Attorney's Offices. The work NDIC produces continues to initiate actionable leads and identify avenues of investigation. NDIC has integrated seamlessly with the FBI investigation and has enhanced the way the FBI will investigate future financial cases. The participation of NDIC . . . continues to be invaluable.

In a June 23, 2006, letter, the Drug Enforcement Agency had this to say:

The Fort Worth Resident Office—

that is of DEA—

amassed thousands of documents, but was unable to properly exploit the information they contained. The valuable report—

referring to the NDIC report—

caused several of the principals to negotiate pleas to pending charges. If not for the willingness of the members of NDIC to confront these challenges in a cooperative effort, this investigation would not have reached its current level of success.

There have been many plaudits given to the NDIC by the special agents in charge of FBI offices, such as the FBI agent in charge of the Tampa Field Division, the FBI special agent in charge of the Detroit Field Division, the DEA special agent in charge of the Dallas Field Division, the FBI special agent in charge of the Charlotte Division, and the DEA special agent in charge of the Oklahoma City District Office. This last is ironic, in a sense. In a March 25, 2006, DEA cable, the DEA Oklahoma City District Office had this to say.

In support of phases one and two, NDIC deployed two teams in Oklahoma, each consisting of one special agent, one computer exploitation and five document exploitation personnel. Actionable intelligence was generated and passed to the appropriate DEA offices. The OKCDO thanks all NDIC personnel—

that is the Oklahoma City District Office thanks all NDIC personnel—

who planned and participated in this operation. The intelligence and operational knowledge gained was beneficial to OKCDO, and its law enforcement partners. . . .

President, National High Intensity Drug Trafficking Area, HIDTA, Director's Association Executive Board: May 24, 2007, Letter to the Attorney General in support of NDIC:

NDIC produced thirty-two HIDTA drug market analyses for the HIDTA program. Production of the HIDTA drug market analyses required a full-time effort of twenty-six analysts for extended periods of time working side-by-side with the HIDTA Intelligence Center personnel.

NDIC is a very valuable asset in addressing the nation's drug problem.

This entire effort lead to a valuable working relationship with not only the HIDTAs but federal, state and local drug enforcement entities.

FBI Special Agent in Charge—Tampa Field Division: January 16, 2007, Letter of Appreciation for NDIC assistance.

The purpose of this letter is to recognize the assistance of the National Drug Intelligence Center's (NDIC) Document and Computer Exploitation Branch for the superb analytical support they provided the Violent Crimes/Gang Squad on an investigation into the Almighty Latin King and Queen Nation.

FBI Special Agent in Charge—Detroit Field Division: December 11, 2006, Letter of Appreciation for NDIC:

The teamwork displayed in working with investigators from the DEA and the Federal Bureau of Investigation is a true measure of what can be accomplished when agencies work together. NDIC's analysis of the [redacted] Pharmacy evidence assisted in obtaining a sixty-two count indictment . . .

The FBI characterized NDIC's performance as exemplary in this letter.

DEA Special Agent in Charge—Dallas Field Division: June 23, 2006, Letter of Commendation for Document Exploitation support to a major drug investigation:

The Fort Worth Resident Office (DEA) amassed thousands of documents, but was unable to properly exploit the information they contained. The valuable [NDIC] report listed the seized documents and collated them, which created a valuable tool for Investigators and Prosecutors in this investigation.

In conclusion, this effort caused several of the principals to negotiate pleas to pending charges.

Subsequently, 19 search warrants and over 100 seizure warrants were executed, which resulted in the seizure of approximately $20 million, in assets.

If not for the willingness of the members of NDIC to confront these challenges in a cooperative effort, this investigation would not have reached its current level of success.

FBI Charlotte Division: May 2, 2006, Letter of Commendation for NDIC:

In February 2006, your staff presented to the North Carolina Law Enforcement Community, the most comprehensive Intelligence Assessment ever conducted within the state of North Carolina relating to gangs. I commend NDIC in exceeding all expectations in providing this valuable assessment.

Executive Office of the President—ONDCP Director: April 17, 2006, Letter of Commendation regarding drug market collection effort:

I want to express my thanks for NDIC's domestic market collection effort.

I know that this was a serious, time consuming undertaking by your agency, and I truly appreciate the efforts of everyone involved.

Thanks for the hard work.

DEA Oklahoma City District Office: March 25, 2006, DEA cable:

In support of phases one and two, NDIC deployed two teams to Oklahoma, each consisting of one special agent, one computer exploitation and five document exploitation personnel.

Actionable intelligence was generated and passed to the appropriate DEA offices.

The OKCDO thanks all NDIC personnel who planned and participated in this operation. The intelligence and operational knowledge gained was beneficial to the OKCDO and its law enforcement partners in the state . . .

Executive Office of the President—ONDCP Assistant Deputy Director: March 13, 2006, E-mail of Appreciation for drug market collection effort:

Please, convey our thanks to your staff for their outstanding job on the ONDCP Market Collection Effort.

Once Again, we greatly appreciate the superb support and please pass on our thanks for a job well done!

U.S. Department of Justice—Assistant Attorney General: March 7, 2006, Letter of Commendation regarding the National Drug Threat Assessment:

In a letter to the Director of NDIC, the Assistant Attorney General praised NDIC's National Drug Threat Assessment (NDTA) stating:

The NDTA report is extremely helpful to me and prosecutors who are charged with devising new and creative strategies to achieve that goal.

I know that you and your entire staff have put a tremendous amount of work into creating the NDTA. I wanted to let you know that the effort was well worth it.

U.S. Attorney—District of New Mexico: January 18, 2006, Letter of Praise for NDIC:

I am writing to express my thanks for a job not just well done, but rather for an extraordinary, and in my career, unprecedented collaborative effort to support the federal prosecution of significant drug traffickers and money launders.

Once again, thank you for allowing your amazing staff to dedicate their time, skills and NDIC resources to this important case. The work done in support of this case by NDIC is invaluable. . .

U.S. Department of Treasury—Under Secretary, Office of Terrorism and Financial Intelligence: December 28, 2005, Letter of Appreciation for support in completing the national U.S. Money Laundering Threat Assessment:

I am very pleased to inform you that the Money Laundering Threat Assessment is complete.

[I]t is thanks to active and substantial contributions by the NDIC and the other participants.

I can't thank you enough for the extraordinary contribution.

Office of Counter Narcotics Enforcement/U.S. Interdiction Coordinator—Acting Director: September 7, 2005, Letter of Appreciation for support to a drug/terror tasking:

As I am sure you are aware, NDIC is actively supporting the expanded mission of the Office of Counter Narcotics Enforcement (CNE) by aiding us in the response to the new drug/terror nexus (DTX) tasking as assigned to my office in the Intelligence Reform & Terrorism Prevention Act of 2004. I wanted to take this opportunity to let you know how much I appreciate NDIC's support to this office and to our country's overall counterdrug interdiction efforts.

FBI—Chief, Terrorist Financing Operations Section, TFOS: March 5, 2003, Letter of Thanks for providing long term assistance to post-911 investigations:

As always, it is a pleasure to write to you, as it affords those of us within the Terrorist Financing Operations Section (TFOS) an opportunity to thank you for the continued exceptional assistance NDIC provides to the Counterterrorism Division here at FBI Headquarters.

FBI—Chief, Financial Crimes Section: November 21, 2001, Letter of Appreciation to Deputy Attorney General commending NDIC:

Since 09/20/2001, the NDIC team, consisting of NDIC Intelligence Analysts and FBI Financial Analysts, has analyzed over 75,000 subpoenaed financial documents. Through the analysis of these documents, over 400 specific intelligence products have been produced for the FBI, the Department of Justice, the Department of Treasury, and U.S. Attorney's Office. The work NDIC produces continues to initiate actionable leads and identify avenues of investigation. NDIC has integrated seamlessly with the FBI investigation and has enhanced the way the FBI will investigate future financial cases. The participation NDIC in this investigation continues to be invaluable.

In concluding—the two most popular words in any speech—I acknowledge and respect the work the Senator from Oklahoma, Mr. COBURN, is doing. He and I have worked very closely in his almost 3 years in the Senate. I observed his work in the House of Representatives, and I know his work as a medical professional. I understand what he is doing in subjecting to an analytical eye Federal expenditures. But I do not believe he should target the NDIC.

I concur that we ought to be holding down Federal expenditures, and I think that close scrutiny of all such projects is very much in the national interest. But I believe the facts are very strong in support of continued operation of the NDIC in Johnstown, PA.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. COBURN. Will the Senator yield so I can respond to the Senator from Pennsylvania and then we can get this off the floor?

Ms. KLOBUCHAR. That is fine.

Mr. COBURN. A couple of points. You should be down here defending this. This is something in your State and it is appropriate that you do. The point I raise is the HashKeeper system is ineffective and doesn't work near to the way every other component works. We know it doesn't work, and it costs about 18 times what the NARL system does, plus the NARL system is admissible in court and the HashKeeper system is not, which is developed by the NDIC.

So there is no question that some of the work they do is valuable. But every example you cited was the DOCX program, which requires anybody there to travel somewhere else. So the location doesn't matter where.

The other point I would make—and the significance of that is we are not, overall, getting as good a value as we could. The idea is not to relocate this to Washington, what the Justice Department is recommending this DOCX portion of it be where it needs to be—which is all across the country—and the rest of the areas that are deemed vital, which is about 10 percent of what the NIDC does, be relocated to El Paso where the drugs come in, where our border is, and where they need it.

This is not a criticism of the people who work there or everything they do. What it is, the amendment as made is intended to give us a perspective about value that we are not getting. I have great respect and consider a friend the Senator from Pennsylvania. I understand his defense of this program. I do not believe it meets the scrutiny of any commonsense objective when you look at it, and what the Department of Justice, which runs it and manages it, and also the fact that in a time of war we can spend a whole lot less money and have that money available to defend this country.

I thank the Senator for listening to me.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 2999

Ms. KLOBUCHAR. Mr. President, I am here to speak in support of amendment No. 2999, as amended. This is an amendment that is very important to me, and I appreciate the leadership of my colleagues Senator MCCASKILL and Senator WEBB, and in fact all of the freshmen Democrats who are supporting this legislation, the goal of which is to bring more public accountability to the way our Government does business.

I think you and I both know, having spent the last 2 years going around our State, that people are yearning for more public accountability from our Government. They are yearning for more transparency. We heard calls for that—increased transparency. And here we have, in the area of Armed Services and the area of Government contracting, a chance to act on it.

This amendment establishes an independent, bipartisan commission to strengthen Government oversight and examine the true costs of a contracting culture that the Federal Government relies upon in Iraq. This idea is not unprecedented.

The legislation is inspired by the work of the Truman Commission and it is fitting Senator MCCASKILL is from Missouri, as was Truman. The Truman Commission, as you know, conducted hundreds of hearings and investigations into Government waste during World War II, at an estimated savings of more than $178 billion in today's dollars; $178 billion. Think of what that would mean to the American taxpayer today at a time when we are spending somewhere between $10 to $12 billion a month in Iraq.

There is, unfortunately, a natural tendency in this country toward excess and corporate excess. So when people are given sort of unlimited contracts, no-bid contracts, I think you can expect excess.

I come from a prosecutor background. We know that when people are given leeway, and maybe even when they have the best intentions, the people in charge, the people on the ground, it leads to fraud and the Government is the one that is on the short end of the stick.

I think it is more than just a cost of doing business when we are looking at what we have been seeing in Iraq with private contractors over the last 5 years. The number of contractors in Iraq, the last estimate I had, was 180,000. It now exceeds the number of American combat troops in Iraq. We need to look at the effects these logistical and security contractors have on our military.

Now, I would say this: We are not talking about creating an additional bureaucracy. We are talking about expanding an infrastructure that already exists. The Special Inspector General for Iraq Reconstruction, with the excellent performance that we have seen in uncovering waste, fraud, and abuse in Iraq reconstruction projects, is proof of its ability to conduct more interagency examination of wartime contracts.

The special inspector general has proven to be a powerful tool in investigating reconstruction contracts. In 2005 alone, he reported a loss of $9 billion tax due to a contractor's inefficiency and bad management.

I can tell you this, in my job as county attorney, when we had a case in front of us, we would always say: Follow the money and you would find the bad guy.

Well, we need to do more of that with Iraqi contractors. This motto could not be more true than it is today as the GAO, the Defense Contract Audit Agency, and news reports continue to expose gross mismanagement in defense contracting.

That is why I am so proud to support this amendment. We have heard that of the $57 billion awarded in contracts for reconstruction in Iraq that was investigated, approximately $10 billion has been wasted; $4.9 billion was lost through contractor overpricing and waste; $5.1 billion was lost through unsupported contract charges. Of this $10 billion, more than $2.7 billion was charged by Halliburton. This means almost 1 in 6 Federal tax dollars sent to rebuild Iraq has been wasted. And while we have heard in dollars the staggering amount, this waste amount, $10 billion, the costs of mismanaged contracts extends beyond that.

For instance, if you look at the electricity in Baghdad, you have seen the city only enjoying an average of 6.5 hours of electricity a day. It has actually gone down from where it was a year ago.

Water. Congress has provided nearly $2 billion to provide clean drinking water and repair sewer systems. But according to the World Health Organization, 70 percent of Iraqis lack access to clean drinking water.

With jobs, the Defense Department has estimated that the unemployment rate is anywhere from 13.6 percent to 60 percent. In a recent survey, only 16 percent of Iraqis said their current incomes met their basic needs. These costs in every way are unacceptable. They are unacceptable to the people of Iraq, and they are unacceptable to the taxpayers of this country.

My colleagues and I—and you are one of them, Mr. President—came to Washington demanding accountability. Today I am proud to be part of a group that supports an important amendment to bring more transparency, to bring accountability to contracting in Iraq.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I ask unanimous consent to speak for up to 10 minutes as in morning business.

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

CHIP

Mr. REED. Mr. President, I rise at this moment to speak in strong support for the renewal of the Children's Health Insurance Program. It is an issue that is fast upon us. The House of Representatives passed this legislation last evening. We will, I hope, do the same, and will send it to the President.

This is an issue that is not just an economic issue; it is also a moral imperative. If we cannot ensure the children of this country have the opportunity to have access to good health care, then we cannot ensure that we keep pace with the basic notion of this country: opportunity for all of our citizens.

Health care and education together are the engine that moves this country forward. They give children a chance to use their talents, develop their talents, and go on and contribute to this great country. But also it makes tremendous economic sense. As we invest in children's health care, we hopefully will ensure that throughout their lifetime they will not only have healthy lifestyles, but they will have the advantage of a good start, so that their efforts can be directed toward contributing toward their community, and contributing to this economy.

We understand that the costs of health care are skyrocketing, and that for many families they have, unfortunately, had to make the choice of forgoing it, to leave their children vulnerable, without access to good primary care, without access to specialized care when they need it.

We also understand that these children, when they get sick, ultimately find their way to an emergency room and we end up paying much more, because a child who can be seen on a regular basis could have access to preventive care. Arriving at the emergency room with a very serious condition requires a great deal more resources than seeing a child before that condition becomes serious, and becomes an emergency.

So we should be, I think, smart, as well as morally responsive to the issue before us. And that directs me to my strong support for this legislation. The final bill which will be coming before us will invest $35 billion in our Nation's children and their future. It preserves coverage for 6.6 million children, but it will also reduce the number of uninsured children by 4 million.

In fact, the final bill improves upon the Senate bill that I proudly supported weeks ago. It provides quality dental coverage to all children enrolled. That is critical. I can recall listening to a foster mother in Rhode Island. She had six different foster children. What was her biggest complaint? She could not get a dentist. They would not see her because she did not have dental coverage. Her complaint to me was a repetition of what her child said to her in so many words, which was: What do I do? How do I take care of a toothache? How do I go to school when I cannot bear to concentrate because of the pain?

For most of us here in this room, that would be a simple call to the dentist, a trip there, and immediate relief, and for our children also. But for millions of Americans, that is not the case. Here we have a chance to give them what we too often take for granted.

I think it is going to be an important step forward. I am particularly proud, because the architect of this program 10 years ago was Senator John H. Chafee of Rhode Island. He stood on a bipartisan basis with many in this Chamber and pushed for the adoption of the children's health care bill. It stands as a legacy to him. It is a vibrant legacy which we in Rhode Island cherish and we hope we can extend through this legislation.

The final bill that will result we hope in passage and signature by the President will give Rhode Island an increase in Federal funding from $18 million to $93 million. It will prevent future shortfalls. Last November on the floor of the Senate before we went out, I insisted that we could not leave until we provided help to States that had already run out of their SCHIP funding. We were able to do that.

But those stopgap measures at the eleventh hour do not provide for the kind of planning and predictability that are essential to keep the costs down and keep the program going. I do think, again, this is a bill that is worth all of our efforts and all of our support.

If we can afford to spend $12 billion a month in Iraq, we must be able to afford to spend a fraction of that to give children health care in this country. I just left the Appropriations Committee hearing. Secretary Gates is urging $50 billion more funding for Iraq. That is quite a bit more than we are asking over 5 years for the children's health care program. That is just for several months in Iraq.

The American people, I believe, will demand that we pass this legislation. If we can find the resources overseas, we have got to be able to find the resources here for this compelling issue.

The other aspect of this is this legislation is fully paid for, unlike the spending in Iraq which is deficit spending, which we are literally sending forward to the next generation of Americans to deal with. This is fully paid for by an increase in the cigarette tax; sound fiscal policy as well as sound public policy.

Now, we have heard a lot from the President, particularly about why he is proposing to veto this legislation. I find it hard to discover any logic at all. It is full of misrepresentations, frankly. The bill does not cover children up to 400 percent of poverty. In fact, about 80 percent of the newly insured children are from families below 200 percent of poverty. Those are the new children to be enrolled.

This bill is well targeted, and provides incentives to ensure that the lowest-income children are insured first. This does not federalize health care or socialize it. In fact, in Rhode Island this children's health care program is run by private health insurance companies, and that is a very effective and efficient approach.

What I have noticed over the last few years is not that private health insurance has expanded dramatically in this country and this legislation would constrain that. Quite the opposite. With private health insurance, the number of insured Americans has decreased. They are losing their private insurance. It is too expensive. So the idea that this somehow is going to throttle the attempts of the private insurance industry to insure those children is, on its face, preposterous.

Those children will not be insured because their parents cannot afford to pay the coverage, and because private insurance companies operate at a profit, they do not extend coverage because they feel like it.

This is the way to expand coverage. This is the way to protect children. This is the way to invest in our future. This is the way to do it in a fiscally responsive manner by increasing the cigarette tax. It makes sense on every ground.

The President's suggestion that he is vetoing it has to be something other than common sense. In fact, it strikes me as slightly spiteful. This is something on a bipartisan basis we have done for 10 years; something on a bipartisan basis that we will continue to do. And to be frustrated by a Presidential veto, I think, would add insult to the injury of not having children insured in this country.

I call on the President to reconsider his veto threat. I call on the President to join us in providing health insurance to the children of America, to provide them a foundation for their education, provide them the foundation to proceed forward as good citizens, good workers in the economy, and contributing members. I hope that will happen in the next few days with passage and signature by the President.

I yield the floor.

Mrs. MCCASKILL. 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. SALAZAR. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. MCCASKILL). Without objection, it is so ordered.

Mr. SALAZAR. Madam President, I rise today to speak briefly in connection with amendments we made to the National Defense Authorization Act for Fiscal Year 2008. Specifically, I wish to comment on five amendments which have been accepted which are important to the future of our military and also important to the future of military installations we have within the State of Colorado.

At the outset, let me say that as we have moved forward with this legislation, I have very much appreciated the leadership of the chairman of the committee, Senator CARL LEVIN, and all of his staff who have worked so hard with all of us on these amendments and the hundreds of amendments so many Members have filed. I also express my appreciation to Senator MCCAIN and to his staff, Senator WARNER and all of his staff, who have also worked with us on these amendments that are so important for our Nation's defense.

The five amendments I wish to briefly review are related, in part, to Colorado but also in a larger sense related to the question of how we make sure we have the best national defense and homeland security we possibly can.

The first of those amendments is an amendment relating to an effort we have underway with the Secretary of the Air Force to make sure we are protecting our Air Force bases from the kind of encroachment that will impair their military mission, unless we are proactive about making sure the appropriate buffer zones are, in fact, created.

In my State of Colorado, there are three Air Force bases which are very important to our Nation's defense system. They are Peterson and Schriever Air Force Bases in El Paso County, in Colorado Springs, and Buckley Air Force in Aurora, in the Denver metropolitan area. In the case of each one of those installations, which I have frequented often in my time in the Senate, I have seen the development that is occurring from one end of the base to the other and the encroachment that occurs as the urbanization moves out. I have expressed often to local elected officials in that part of the State it is important that what we do is protect those military installations so that 10 years, 25 years, or 50 years from now, we can make sure the military mission we have assigned to those bases is one that will not be compromised. Yet, as urbanization occurs and you see the subdivisions that sprout up around these bases, you have to wonder when that point in time will come where the encroachment itself will start having an impact on the mission of these military installations.

We have noticed in the past—and studies have concluded, including a study from the RAND Corporation—that some branches of our Armed Services do a better job than others in terms of protecting their military installations from encroachment. The REPI program, which is a program that has now been in existence for some time, has been widely used by the U.S. Army. Indeed, in our State of Colorado, with Fort Carson, one of the things that has happened is we have seen much of the buffer-zone area that is needed to be acquired to assure that Fort Carson's military mission is not negatively impacted in the future. It is that same kind of proactiveness that we need to take on with our Air Force Bases.

I recently met with Secretary Wynne to talk about the importance of us doing this not only in Colorado but around the Nation. He is in agreement that we ought to do that. He is in agreement that we ought to take a look at what more we can do to protect our Air Force installations.

In my own view, in terms of what happens in my own State, we are not proactive enough. What happens is that whenever there is a developer who comes in with some kind of a program, the developer will go to the local land-use officials and seek the necessary land-use approvals to move forward, to try to get their development built. What the local government officials will do is they will look at whether the military mission is being impaired as only one factor. But it is being reactive to a force of development that is probably occurring in that entire area.

It would be much better, from my point of view, if what we do with our Air Force installations is to be proactive and look out at what we can do to make sure we are protecting the mission of those Air Force Bases for the long term—for 10 years, for 25 years, for 50 years. It is my hope with this amendment, which has been agreed to, that we will be able to do that.

The second amendment which I want to speak about briefly has to do with the Pinon Canyon Maneuver Site. The Pinon Canyon Maneuver Site is some 237,000 acres of training facility located in the southeastern part of my State of Colorado. It is a very important part of the training capacities we have at Fort Carson. Over the last several years, the U.S. Army has indicated that what it wants to do is significantly expand Fort Carson and the training facility that is located at the Pinon Canyon Maneuver Site.

Because of rumors and the information flow, which is not always accurate, at one point in time the residents of my State in southeastern Colorado had the view that what, essentially, the Army was attempting to do was to condemn what was the entire southeastern part of the State of Colorado. If that, in fact, were to have happened or if that were to happen in the future, the ranching heritage of the southeastern part of my State would be destroyed.

So what has happened over time is we have had a conversation with the Department of Defense and the Secretary of the Army about the future of Pinon Canyon. There are a number of very legitimate questions that have been raised.

One of those questions is whether the 237,000 acres that already encompass the Pinon Canyon Maneuver Site are sufficient to be able to provide the training capacity that is needed at Fort Carson. There is a possibility that the answer to that question will be, yes; that when you combine those 237,000 acres with the nearly 100,000 acres already on the Fort Carson main campus itself, there are sufficient land needs available for its future. It may be that the answer comes back that some additional land might be needed. But if so, then it is important for the Army to tell us what additional training capacities would be acquired if they acquire this additional land.

There are many questions with respect to the expansion, from my point of view, that have not been answered. I place this in the context of what the BRAC Commission found in January of 2005, where the findings of the Commission were that additional brigades would be moved into Fort Carson which are now underway in terms of being moved into Fort Carson itself; that there was enough training ground at Fort Carson to be able to satisfy the needs of our soldiers at Fort Carson. So if that was, in fact, the conclusion that we reached in January of 2005, it raises the very legitimate question as to why it is that we need to have additional land for training today. So these important questions are set forth in legislation that my friend and colleague, Senator ALLARD from Colorado, and I offered together in an amendment, and it was an amendment that was accepted by the Senate last night. For that I want to say thank you once again to the floor managers of this legislation.

The third amendment I want to speak about briefly this afternoon is an amendment that deals with the paralympic program for wounded warriors. Today, in my State, in part because of the fact that the U.S. Olympic Committee is hosted and housed in Colorado Springs and the fact that we have a major paralympic program that takes place in the State of Colorado, there is a desire to be able to do more. There is a desire to be able to do more in large part because many of the wounded warriors we see coming back from Iraq and from Afghanistan, those 30,000 men and women who have been wounded, sometimes very grievously in this war, ought to be given every opportunity that we can possibly give them so they can live the best life they can, given the injuries they have sustained on behalf of a very grateful nation. So it is in that regard that our paralympic amendment would expand the authorities of the Department of Defense so that they, our wounded warriors, would have a greater opportunity to be involved in some of the paralympic programs that are hosted throughout the Nation. So, again, I thank my colleagues for accepting that amendment.

The fourth amendment I want to briefly address this afternoon is the amendment relating to a hard deadline for the destruction of chemical weapons at the Pueblo Chemical Army depot, as well as at Blue Grass in Kentucky. This legislation is legislation that has been pushed hard on a bipartisan basis. It has been pushed hard by Senator MCCONNELL and Senator BUNNING, Senator ALLARD and myself. It is our hope that with the passage of

this legislation, the Army will, in fact, understand, and that the Department of Defense will, in fact, understand that 2017 sets a hard deadline for us to move forward and complete the destruction of these chemicals which today provide a hazard to the communities and people who live nearby, and provide a national security threat if these chemical weapons were ever to fall into the hands of terrorists and into the hands of those who want to do us wrong in this country. So it is our hope that with this legislation, we will be able to continue to push for a 2017 deadline for the completion of the destruction of these chemical weapons.

Finally, the fifth amendment I want to refer to briefly is an amendment relating to the training of helicopter pilots at high altitudes. Today, in the mountains of Afghanistan, where many of us in our congressional delegation trips into either Iraq or Afghanistan have been in those helicopters, we know the kinds of conditions they have to fly in, at some of those very high altitudes, especially in the country of Afghanistan and those borders between Afghanistan and Pakistan. The only place where our pilots can receive the adequate training to be able to make sure they have the capacity to fly those helicopters at those high altitudes is at a site in Gypsum, CO. But today, whenever a helicopter pilot has to go into that area, into that training facility in order to be trained on how to fly their helicopters, what they have to do is they have to bring their own helicopters to the site.

So what we are asking for here is for six helicopters to be stationed there at the site to be able to provide our pilots with the best kind of high altitude training for helicopter pilots that we can possibly provide as a nation. So I thank my colleagues. I thank Senator LEVIN, Senator MCCAIN, Senator WARNER, Senator REID, and others who have been involved in pushing the Department of Defense authorization bill forward, and I thank them for supporting those amendments.

Madam President, I ask unanimous consent that I be recognized to speak on the Children's Health Insurance Program as in morning business for a period of up to 10 minutes.

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

CHIP

Mr. SALAZAR. Madam President, today I rise first to praise the bipartisan spirit in which the Children's Health Insurance Program came to this floor and was accepted by this Chamber on a positive vote of 68 votes saying yes to providing health insurance to the young children of America. It was one of the finer moments, it seems to me, of the last year in this Chamber, where Democrats and Republicans came together and said: Yes, we can do this for all of the right reasons. It was a circumstance where, with the leadership of Senator BAUCUS and Senator GRASSLEY of the Finance Committee and Senator HATCH and Senator ROCKEFELLER, IV, who basically were the key movers and shakers in trying to move this package forward, they said: We are going to put aside our partisan differences, and we are going to put together a package that we can make sure receives bipartisan support on the floor of the Senate.

At the end of the day, that package did, in fact pass, and today and over the next several days, hopefully, we will get that legislation to the President's desk for his signature. It is my hope the President does sign this bill. It is my imploration to the President that he sign the bill on behalf of our Nation's children. Covering our kids, providing them with the kind of preventive care, with the kind of doctors and nurses that they need, will ensure that they grow up healthy and that they grow up strong. These have been the goals of our bipartisan work in this Chamber over the last many months.

The Finance Committee passed that plan by a vote of 17 to 4, and we then confirmed the bipartisan nature and the importance of children's health insurance with a 68-to-31 vote. Now, with 9 million kids without health insurance around the country, 180,000 of those kids in Colorado, the President has issued a veto threat of this legislation. In my view, and with all due respect to the President, I believe the President is wrong to issue a veto threat on such a fundamentally important issue.

Earlier this year, as I was traveling through Colorado, I spoke with folks in my State about the need to reauthorize the children's health insurance plan. As I did so, a school nurse told me of a boy who was injured during a football game. His family wanted to have health insurance, but with premiums increasing up to 70 percent since 2000 and amounting to for that family about $10,000 a year, that family simply could not afford health insurance. They couldn't afford to take their injured son to a doctor. All they could do was to apply ice to their son's leg and pray that somehow it would get better. It did not get better. The boy's leg, which was then fractured, grew progressively worse. It swelled to twice its normal size. In the end, with no choice left, the parents took the child to the emergency room, the most expensive place for any of our children to get care.

Beyond the pain and the anguish that the child or the parents felt that day, the most frustrating part is that with the coverage provided with the legislation that we are about to adopt in this body, the child would have been able to see his doctor within a couple of hours of the injury. He would have received better care at a lower cost and with a lot less pain and a lot less frustration for everybody involved.

We have all heard the stories of how the health care system is failing our children. We hear of the colds that turn into pneumonia. We hear of the earaches that develop into ear infections. We hear of other illnesses that grew worse because parents could not afford to seek medical care for their children. Nine million kids—nine million kids—in the United States have no health insurance today. It is unconscionable that in the strongest, most prosperous democracy in the world that we cannot give our kids that basic coverage of health that they need to have a fair chance in life. Our failure to extend health insurance coverage to more kids would not only be a moral failure, but it would be a massive liability for the education and well-being of our children and for our future economic security.

This is why. Uninsured children miss more school than their peers. They are six times—six times—more likely to have unmet medical needs. They are 2½ times more likely to have unmet dental needs, and one-third of all uninsured children go without any medical care for an entire year. I am proud of the work of the Senate. I am proud of the bipartisan work that went into writing this legislation to cover the 10 million uninsured children in America. This legislation provides the coverage to an additional 3.3 million children who are currently uninsured, and it also maintains the coverage for all the 6.6 million low-income children currently enrolled in the Children's Health Insurance Program. The bill includes significant incentives for States to enroll more children into CHIP, particularly children in rural communities, many rural communities such as the ones in my State of Colorado, where geographic distances and the lack of health insurance create barriers to enrollment. Twenty percent of all low-income children live in rural areas, and a significant number of them are uninsured. This bill will help them get health insurance.

The CHIP reauthorization also allows a State to cover pregnant women. Children, we know, who are born healthy have a far greater chance of a healthy life. Healthy children save Medicaid and CHIP significant resources in reduced health care costs. It is sensible that they receive this coverage under our program.

Once again I want to thank the model of effectiveness and leadership in this Senate in Chairman BAUCUS and Ranking Member GRASSLEY and Senators ROCKEFELLER and HATCH for their strong leadership on this issue. They united the Finance Committee and much of this Chamber around our common goal. It is a very simple goal. It is a simple goal of helping our kids get to the doctor.

This bill is a giant step forward in our Nation's steady march toward providing every child in America the chance to chase their dreams. I hope President Bush will change his mind and that he will support this bill.

Madam President, I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WHITEHOUSE. 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. WHITEHOUSE. Madam President, it is without question that we are on a wrong course in Iraq. The Bush administration's failure to listen to the American people, failure to plan for the unexpected, and failure to learn from its mistakes has left our Nation less, not more, secure from terror and from the dangers our troops face in Iraq.

The expenditure of hundreds of billions of American tax dollars has not only strained our Treasury, but cost us uncountable opportunities to improve the lives of American families and to strengthen our country's future.

Every month, we are borrowing and spending over $10 billion to fund the war in Iraq—billions of dollars that we borrow and spend that could help deliver health coverage to children who need it; that could help improve the quality of elementary education and make college more affordable—things that are an essential investment in our Nation's economic strength into the future.

In addition to the billions we are spending to continue our military involvement in Iraq—a policy that must change, and soon—we are also spending billions more on reconstruction efforts. In this area alone, between 2003 and 2006, we have spent more than $300 billion. The same President who thinks it is too much to spend $35 billion on American children's health care over the next 5 years had no problem pouring $300 billion into Iraq reconstruction, and I submit that there is very little to show for it.

We have fought long and hard to keep pressure on President Bush to take a new direction in Iraq. At every turn, he and his allies in Congress have resisted. We will continue our fight, but as we do, we also have an obligation on behalf of the American people to ensure that these tax dollars are being used as they should be.

As fighting the war and rebuilding Iraq have been privatized, too often we have seen evidence of fraud. According to a 2005 report by the Special Inspector General for Iraq Reconstruction, nearly $9 billion in funding intended for reconstruction efforts went unaccounted for—just gone. Investigations by the Special IG for Iraq Reconstruction of $32 billion in funding for Iraq reconstruction have already led to $9.5 million in recovered and seized assets and more than $3.6 million in restitution.

Iraq is a target-rich environment for corruption, and monitoring the expenditure of U.S. resources there requires vigilance. We must ensure that our tax dollars are not squandered to corruption or other malfeasance, and we must ensure that we have the ability to audit U.S. tax dollars from the time our officials award contracts through their final expenditure. We must do all we can to prevent ''leakage'' of this reconstruction aid through every step in the contractor supply chain.

We must give ourselves the chance to consider what effect all this graft and corruption may be having on the motivations of Iraqi leaders. When I visited in Iraq, we heard of just one official from Al Anbar Province—a police official—who had embezzled more than $50 million. With graft at that scale, one can only imagine how the motivations of Iraqi leaders might be warped.

The measure before us today will help us find out. It will establish a new ''Truman Commission'' to restore the American people's faith that their tax dollars are being accounted for. The Truman Commission was formed during World War II, when then-Senator Harry S Truman created a special committee to investigate the National Defense Program to investigate defense-related contracts and expose corruption and mismanagement in the use of war-related funds.

The commission we seek today will have the authority to audit U.S. funds used for U.S. projects or for U.S. efforts to support rehabilitation of Iraqi industries. The establishment of this commission will ensure that this cascade of billions of dollars for reconstruction in Iraq can be tracked, so that the hard-earned money U.S. taxpayers provide will serve the purposes—the legitimate purposes—of the American and the Iraqi people.

I applaud Senator WEBB and our Presiding Officer, Senator MCCASKILL, for their leadership in sponsoring this amendment. I am very pleased that my colleagues in the Democratic freshman class, every one of us has thrown our support behind it.

Last November, the American people told us it was time for a change in Iraq, and we are working hard for a new direction. But as we fight to bring our troops home, this amendment will help make certain that our tax dollars are spent as we mean for them to be. It is wise legislation, it is needed legislation, and I urge its support.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3035

Mr. KENNEDY. Madam President, over the course of this morning, this afternoon, and yesterday, we have had some excellent comments in support of our hate crimes amendment which we will be voting on in the morning. Also, we will be voting on the SCHIP program as well. Over the course of the afternoon, a number of people have spoken on these issues. I am enormously grateful to many of my colleagues who have taken a great interest in these issues and wanted to be able to speak on them. Many of them have. Others will continue through the afternoon, probably into the evening, to express their support for this legislation.

I wish to take a couple of moments on the issue of hate crimes. We have heard during this discussion that hate crimes are alive and well in the United States, tragically. Over the last few days, we have spoken about many people who have been impacted by hate crimes and described in some detail the horrific circumstances so many of these individuals, fellow citizens, have undergone because of their religious, ethnic, racial, and sexual orientation.

I was moved—and I am sure many were—by the Southern Poverty Law Center and their very important study on estimates of hate crimes. The Southern Poverty Law Center was focused on crimes of race in the South for many years and developed enormous amounts of information about those horrific crimes and was very responsible in bringing people to justice in a number of circumstances. Their focus on these issues of hatred got them to expand their research.

As I mentioned in an earlier presentation, they recorded their best judgment that hate crimes reach 50,000 people per year every year, which is an extraordinary amount.

I wish to respond to a point or two that have been raised in questioning our approach on this issue.

In the hate crimes legislation we have introduced, our bill fully respects the primary role of State and local law enforcement in responding to violent crimes. The vast majority of hate crimes will continue to be prosecuted at the State and local level.

The bill authorizes the Justice Department to assist State and local authorities in hate crimes cases. It authorizes Federal prosecution only when a State does not have jurisdiction or when it asks the Federal Government to take jurisdiction or when it fails to act against hate-motivated violence.

We have responded to these issues and gone into them in very careful detail. There are those who say this legislation is going to make every crime of violence a hate crime. We have heard that statement in opposition. We have heard it for a number of years. We have addressed it, and we have spelled out in the legislation exactly what is the jurisdiction.

The bill protects State interests with a strict certification procedure that requires the Federal Government to consult with local officials before bringing a Federal case. It offers Federal assistance to help State and local law enforcement to investigate and prosecute hate crimes in any of the categories. It offers training grants for local law enforcement. It amends the Federal Hate Crimes Statistics Act to add gender to the existing categories of race, religion, ethnic background, sexual orientation, and disability. So a strong

Federal role in prosecuting hate crimes is essential for practical and symbolic reasons.

In practical terms, the bill will have a real-world impact on actual criminal investigations and prosecutions by State and Federal officials. This legislation can send a strong message to the perpetrators of such crimes and to all others who think we are going to sit back and watch our fellow citizens being attacked so brutally.

What we are basically saying on the issue of hate crimes is we are going to fight it with both hands. Now the Federal Government has one arm tied behind its back, unable to deal with the problems of hate crimes. Now we are saying: Yes, we are going to work with the locals; yes, we are going to work with the State; but, yes, we are going to insist that all of the resources at the Federal level can be utilized when called upon in these horrific crimes of hate.

These are some of the points that have been raised. I wanted to respond to them this afternoon.

CHIP

Mr. President, I see others of my colleagues here. I had planned to speak briefly for a few moments on another issue we are going to vote on tomorrow, the SCHIP program. If any of our colleagues wanted to make a comment on this, I will be glad to welcome it.

Moving to this issue about the vote we will have tomorrow on the Children's Health Insurance Program that was developed to provide health insurance to the children of working families—the very poor are covered by Medicaid, and CHIP is for the working families. It has been a great success. The greatest failure has been we have not provided the kind of assurance we should to all children who are in need of this program.

This is the statement of the President:

> America's children must also have a healthy start in life. In a new term, we will lead an aggressive effort to enroll millions of poor children who are eligible but not signed up for the Government's health insurance programs. We will not allow a lack of attention, or information, to stand between these children and the health care they need.

I hope the Senate will heed that comment and that commitment because that effectively is what we will be voting on tomorrow.

It is difficult for many of us to understand, when the President made that comment and that commitment to the American people, that he would urge us to reject the excellent proposal that has been basically accepted by the House and the Senate.

Quickly, this chart is the Center for Medicare Services, known as CMS, report on CHIP, September 19, 2007. Over the past 10 years, CHIP has improved overall access to care, reduced the level of unmet needs, and improved access to dental care, expanded access to preventive care, and reduced emergency department use. This is the Center for Medical Services. This is a part of the current administration.

This is the current administration's assessment. We have the President's statement and now their assessment about the success of the program.

We can understand why, when we look at this chart—this is National Health Interview Survey—CHIP has reduced the uninsured rate for children from when we started the program in 1997 to now, with the arrows going down, from 22 percent down to 13 percent. This side of the aisle would like to have it go all the way down. It shows remarkable progress in an area of important national need.

This chart demonstrates the relationship between health and education. Enrollment in CHIP has helped children learn. We passed an important education program earlier this year. We are addressing now the K-through-12 challenge we are facing. Look at the difference in children's performance ratings before and after 1 year's enrollment in CHIP. We have before, and we are talking about paying attention in class, and after we find a dramatic increase in the interest of children, and before and after ''keeping up with school activities.''

It is very understandable because the children are getting the health care they need, they are getting eyeglasses, they are getting the hearing assistance they need, they are getting the medical attention they need, and the results has been a dramatic increase in the performance of schools.

We have great issues and questions about what works and what doesn't work in education. What we know is, if you have a healthy child, you have a child who is going to do better in education.

We are concerned in the Senate about disparities that exist in our society, the dramatic difference between the haves and the have-nots. We are very much concerned about that disparity, in the fields of education as well as health care, in our committee.

If we look at the disparities, the percentage of children with unmet health needs before CHIP and after CHIP—this is the Kaiser Family Foundation—we see the difference between Blacks, represented by 38 percent, and Hispanics. If we look at it during CHIP, we see overall progress, and we see the disparities reduced. This means we are looking at all children. We are concerned about all children, and the success, according to the Kaiser Family Foundation, has been dramatic.

One of the areas—and this is a typical one—is asthma. It is one that has affected my family, and it is one in which there has been a dramatic increase over the last several years. Unquestionably, it is because of the administration's changes in environmental standards which put more poisons into the air, and I believe it is also because of an increase of poverty in our country. We have more children who are poor, more families who are poor than ever before.

Rather than looking at the escalation of asthma, if we look at unmet health needs of children, we see the dramatic difference in emergency visits of children before CHIP and after CHIP, and this has had a dramatic impact on the wellness of children.

As has been pointed out by many of my colleagues—and I do not intend to take a great deal more time—this is an issue of priorities. We know the program works. We know it is built on a delivery system which has been basically supported by the President. The Medicare prescription drug program—I didn't agree with that delivery system, but the President strongly supported it. It is the law. The same delivery system is used in the CHIP program. It is based on the private use of private insurance, and it is paid for by, as we all know, an increase in the tobacco tax, which is going to mean additional benefits in health for children. Here is the cost: $35 billion over 5 years, $120 billion for the cost of Iraq. Stated differently, it is $333 million a day; CHIP is $19 million.

Finally, this chart here really says it all. A quote from the mother of Alexiana Lewis:

> If I miss a single appointment, I know she could lose her eyesight. If I can't buy her medication, I know she could lose her eyesight. If I didn't have MASSHealth, my daughter would be blind.

This is one parent, and it is being replicated by parents all over the country, by 6 million children and their parents. I hope we are going to have a solid vote in support of that program on the morrow.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Madam President, there will be no more votes today. We have tried all day to have more votes, but it has been difficult to work that out. We hope in the morning, at about 10:30, we can have as many as five votes—three to five votes. We are going to finish our work on hate crimes and SCHIP. That will require three to five votes. We hope we can get that done with a unanimous consent request; otherwise, we will work our way through it and the procedure will take care of most of it. I think there is a general feeling that this should be done. As indicated, I thought we were going to be able to have the votes today, but for various reasons we were unable to do that. It has made it difficult for the two managers of the bill, but, in fact, we have been able to work out some amendments that have been offered. I just wish we could have done more.

I respect so much the work of our manager on this side and Senator WARNER on the other side. They are certainly experienced at this, and we are confident we will be able to draw to a close, hopefully in the not too distant future, the Defense authorization bill and, shortly thereafter, move to the Defense appropriations bill.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Michigan.

Mr. LEVIN. If the Senator from Illinois would yield for just a moment, I would only urge our colleagues—and I know Senator WARNER joins me in this—we have over 300 amendments that have been filed. We are clearing some. We have cleared 10 more.

Mr. WARNER. We are up to 150 cleared.

Mr. LEVIN. We have about 300 still that need to be addressed one way or the other. Either they are going to be resolved, voted on, or dropped. We need the full cooperation of every Senator to address this very large number of amendments. We have made some progress in clearing amendments. We had two votes today on important amendments. We look forward to those three to five votes in the morning. But we still need the full cooperation of every Senator, and I would urge them to work with our staffs to see if we can clear as many additional amendments as possible.

Mr. REID. Mr. President, I say to my friend, if we spent 3 more days on this bill, that means we would have to dispose of 100 amendments a day. If we spent 4 days on it, we would have to dispose of 75 amendments a day. So these managers have done excellent work, and we know we can't get through all these amendments, but there are a lot we need to get through. It is important, and we will cooperate on this side in every way we can, and I am confident the minority will also.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, I was not on the floor earlier, but I suspect the leader was discussing this bill as well as how we finish the week.

Mr. REID. Yes. Basically, I said there would be no more votes today; that somewhere in the morning, around 10:30, we will have three to five votes, three or four on hate crimes—hopefully, only two—and one on SCHIP. When we finish that, we will find out where we are in relation to this bill.

Mr. MCCONNELL. Mr. President, I concur completely with what the majority leader has indicated. We have been working together to try to figure out how we can wrap up the week. We have a number of other items, as he suggests, including the CR, and we are hoping to be able to get all this processed at some point during the day tomorrow.

Mr. REID. Mr. President, we do have a lot to do. There are a number of other issues in addition to the CR that we have to finish before Monday. We have no choice. We have a farm bill we have to extend, and we have a number of things we have to do. We are going to work together to see what we can do in that regard. It has been slow on this bill, but in spite of that, I think we have had one of the best debates we have had on this bill. On the two amendments we have dealt with, the Kyl-Lieberman amendment and the Webb amendment, I think that was very good debate. In addition, we had extremely good debate on the Biden-Brownback amendment. I always joke about the House saying: We are going to do this much this week. And I say: Well, we will do this much this week and feel good about what we have done. We are getting to a point here where we have the ability to see the light at the end of the tunnel, and we are pushing toward that goal, and that goal is Monday as the drop-dead day on a number of things we have to do.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. DURBIN. Mr. President, if there are no others speaking on this Defense authorization bill, I would like to address my remarks to the Senator from Massachusetts, who is still on the floor and who spoke to us on the SCHIP proposal for the Children's Health Insurance Program, which has been in place for 10 years and works for so many children so effectively.

I might correct the Senator's presentation in one regard. I just left a meeting of the Defense Appropriations Subcommittee. The request of this administration for the next year for the war in Iraq is $189 billion—$189 billion. That comes out to about $15 billion a month that they are asking for this war for the next year. It is my understanding that this bill we are going to present to the President to provide health insurance for somewhere in the range of an additional 5 million kids is going to cost us $6 billion or $7 billion a year. So the war in Iraq is costing us $15 billion a month; this program, which the President says we can't afford, to provide health insurance for our own children, will cost us about $7 billion a year—a year.

It would seem to me that a strong America begins at home. It begins with our families, our kids, with our neighborhoods and communities, and I think the President has overlooked that. If we are going to be strong for the future, we have to help our kids have the kind of health insurance coverage that gives them a fighting chance. So I thank the Senator.

Mr. KENNEDY. Will the Senator yield for an observation?

Mr. DURBIN. I am happy to yield.

Mr. KENNEDY. The $35 billion will not be paid for by the taxpayers.

Mr. DURBIN. That is right.

Mr. KENNEDY. Which is really extraordinary. We have done the education program, where we took some $20 billion from the lenders. This $35 billion is going to be paid for with the increase in the cigarette tax, which in and of itself will have an extraordinarily positive impact in the quality of health for children in this country and to the whole problem and challenge of childhood addiction to nicotine. So I think it is important.

We hear a great deal about: Well, the figures the Senator mentioned are dramatic in terms of the choice which is before the Members tomorrow in terms of priorities. But you even add to that the fact that the taxpayer is going to be spared that kind of additional burden, and it is difficult for many of us to understand the strong opposition of the administration.

I thank the Senator.

Mr. DURBIN. I might say to the Senator from Massachusetts that two out of three Americans support an increase in the tobacco tax for this purpose. It is a clearly positive thing for us to do. So unlike the Iraq war, which we are not paying for at all in this instance, we are paying for children's health insurance with a tobacco tax, and I think that is a much more responsible approach.

Mr. President, I have a statement here on the hate crime issue, but I see two other colleagues on the floor, and I don't know what their schedules are.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, before my friend and colleague from Illinois sits down, I have a question. I am going to speak on hate crimes, but that will be after the Senator from Vermont, who is waiting.

I would like to ask the Senator from Illinois a question. We, the Democrats, have a reputation of, well, tax and spend, tax and spend. But just seeing my colleague from Massachusetts here, I realized that in the two major bills we have just done—and my friend from Illinois has mentioned one on higher education and one on children's health—A, we have paid for them. Unlike what has been done on the other side, say, with the prescription drug program, we paid for them. We are being fiscally responsible. And we didn't pay for them by hurting average folks in terms of their taxes. The tobacco tax, which the Senator from Massachusetts just mentioned, and on the college tuition, we are paying for that by making the banks pay a little more. Not a nickel of taxpayer money is coming for that.

So I ask my colleague, how would he compare the record of the new majority on fiscal responsibility compared to the old majority?

Mr. DURBIN. My colleague and friend from New York has served in both the House and Senate, and he knows that often promises are made on important things we do. But we have kept our promise that we would have a pay-as-you-go plan. As we came up with new ideas for legislation, we paid for them—much different from what we saw around here as we were driven deeply into debt under the leadership of the other party.

The war in Iraq is a classic example. This President continues to wage this war and asks for money without any tax or cut in spending. He just adds to the deficit of this country—a deficit which, unfortunately, is out of control and makes us beholden, mortgaged, to some of the largest countries in the world.

So I would say we have kept our promise. It is a pay-as-you-go promise.

AMENDMENT NO. 3035

I would like to make this point on the hate crime amendment, and then I will defer to my colleagues, who may be speaking on the same subject.

Mr. President, the Senate is about to consider a bipartisan amendment to the Defense Department authorization bill dealing with hate crimes which broadens the scope of the Federal hate crime law in significant ways. It is one of the most important pieces of civil rights legislation in our time, and I am proud to cosponsor it.

Some people might ask: Haven't we moved beyond the need for this in this modern age of the 21st century? Do we still really need a hate crime law? Unfortunately, the answer is yes.

As Senator KENNEDY said on the Senate floor:

> At a time when our ideals are under attack by terrorists in other lands, it is more important than ever to demonstrate that we practice what we preach and that we are doing all we can to root out bigotry and prejudice in our own country that leads to violence here at home.

Sadly, there is no shortage of bigotry and violence here at home. In the past week, there has been a national spotlight on Jena, LA, where White high school students put up nooses in a tree to intimidate African-American students—nooses—the ancient symbol of hatred and lynching.

The problems with hate crimes and racial tension are not confined to the South. Take a look at today's Washington Post. An article entitled ''Colleges See Flare in Racial Incidents'' said that a noose was found a few weeks ago at the University of Maryland outside the campus's African-American cultural center. This past weekend, a swastika was spray-painted onto a car parked on that same campus.

My home State of Illinois is not immune to this same problem. Last month, a judge in Chicago awarded $1.3 million to two victims of vicious hate crimes that were committed a few months after September 11 in Chicago's West Loop. The victims—Amer Zaveri and Toby Paulose are American-born citizens of Indian descent. The perpetrators yelled, ''Are you Taliban?'' and ''Go back to your country'' before punching them, assaulting them, kicking them, and smashing a beer bottle on one of their heads, causing facial fractures and lacerations.

Now, according to statistics compiled by the FBI, nearly 10,000 hate crimes are committed in America each year. Other estimates put the number closer to 50,000. An increasing number are committed against gays and lesbians, representing nearly 15 percent of all hate crimes.

The response from some Republicans, not from all—Senator GORDON SMITH of Oregon is a prominent cosponsor of the Kennedy bill on hate crimes—but from some others, is that we need to study this issue. The studies have been done over and over again. Sad to report, hate crimes are a reality in America today.

The existing Federal hate crime law was enacted 40 years ago, in 1968. It was passed at the time of Martin Luther King's assassination. It is an important law, but it is outdated. Its coverage is too narrow. Unless the hate crime falls within one of six very narrow areas, prosecutors can't use the law. For example, if it takes place in a public school, the Government can prosecute, but not in a private school.

This hate crime law we are considering would expand the categories of people who would be covered and the incidents covered as well. The current Federal law provides no coverage for hate crimes based on a victim's sexual orientation, gender or disability. Sadly, hate crimes data suggest that hate crimes based on sexual orientation are the third most prevalent, after race and religion. Our laws should not ignore reality.

Some people have suggested that banning hate crimes is a violation of the first amendment and the right to free speech. The Supreme Court has been very clear that is not the case. In 2003, in the case of Virginia v. Black, the Supreme Court upheld the validity of laws banning cross burning, one of the ultimate hate crimes. In her opinion, Justice Sandra Day O'Connor wrote:

> To this day, regardless of whether the message is a political one or whether the message is also meant to intimidate, the burning of a cross is a symbol of hate.

This week we celebrate the 50th anniversary of the integration of Little Rock Central High School. Arkansas at that time was the crucible, the laboratory for us to test whether America was an accepting, diverse nation. Those nine students and those who stood behind them had the courage to step through those classroom doors and face the intimidation on the way. It is important the Senate have the courage to confront the injustice of our time and pass the bipartisan Kennedy-Smith hate crime amendment.

I yield the floor.

The PRESIDING OFFICER. The Republican leader is recognized.

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I have been working with the majority leader in the hopes of helping us complete all these various items he and I would like to complete in short order. To us get to the end of the trail on the underlying bill, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending substitute amendment to Calendar No. 189, H.R. 1585, National Defense Authorization Act for fiscal year 2008.

> Mitch McConnell, C.S. Bond, David Vitter, Lisa Murkowski, R.F. Bennett, Tom Coburn, Lindsey Graham, Jon Kyl, Wayne Allard, John Thune, Norm Coleman, Richard Burr, Ted Stevens, Jeff Sessions, J.M. Inhofe, Thad Cochran, Michael B. Enzi.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I say to my distinguished counterpart, the senior Senator from Kentucky, we have tried real hard. This is the third time we have taken up this Defense authorization bill. I understand the feelings Senator LEVIN, Senator WARNER, and Senator MCCAIN have regarding this bill. Is this a good time to file cloture? I don't think there is ever a good time. But I think that we have all had a pretty good picture of what is happening on this bill. I would have to acknowledge that at some time, if the distinguished Republican leader had not filed cloture, then we would have filed cloture. Whether it would have been today is something we can talk about later. But I don't feel in any way the Republican leader has surprised me. He has kept me posted about some of his feelings on this.

We have had a number of very complicated issues in this last couple of weeks because of the fiscal year drawing to a close. As a result of that, we have procedural things that seem to always come up with the Senate. But in spite of having said all that, we have been able to accomplish a lot. It would have been much better had we not been interrupted so many different times for various reasons, but that is what happened.

We have spent 15 days on this bill, 15 legislative days on this bill. Other than immigration, I don't think there is anything we have spent this amount of time on during this Congress.

CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007

Mr. REID. Mr. President, I ask the Chair lay before the Senate the message from the House to accompany H.R. 976, the children's health insurance bill.

There being no objection, the Presiding Officer laid before the Senate the following message from the House of Representatives:

> Resolved, That the House agree to the amendments of the Senate to the bill (H.R. 976) ''an Act to amend the Internal Revenue Code of 1968 to provide tax relief for small businesses, and for other purposes,'' with amendments.

CLOTURE MOTION

Mr. REID. I move to concur with the House amendment, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to concur in the House amendments to the Senate amendments to H.R. 976, SCHIP.

Max Baucus, Ted Kennedy, Jeff Bingaman, Patty Murray, Barbara Boxer, Tom Carper, Patrick J. Leahy, Charles Schumer, Maria Cantwell, Dick Durbin, Blanche L. Lincoln, Robert P. Casey, Jr., Debbie Stabenow, Jack Reed, B.A. Mikulski, Tom Harkin, Harry Reid.

Mr. REID. I ask the mandatory quorum call under rule XXII be waived.

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

AMENDMENT NO. 3071

Mr. REID. I move to concur in the first House amendment, with the amendment that is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3071 to the House amendment to the text of H.R. 976.

The amendment is as follows:

AMENDMENT NO. 3071

At the end of the amendment add the following:

This section shall take effect 3 days after date of enactment.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3072 TO AMENDMENT NO. 3071

Mr. REID. I ask now that the clerk report the second-degree amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3072 to amendment No. 3071.

In the amendment strike 3 and insert 1.

Mr. REID. Mr. President, I think I interrupted my distinguished friend. Did he have more business to conduct?

The PRESIDING OFFICER. The Republican leader is recognized.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2008—Continued

Mr. MCCONNELL. Are we back on the Defense bill?

The PRESIDING OFFICER. The Senator is correct.

CLOTURE MOTION

Mr. MCCONNELL. I send a motion to invoke cloture on the underlying bill to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 189, H.R. 1585, National Defense Authorization Act for fiscal year 2008.

Mitch McConnell, C.S. Bond, David Vitter, Lisa Murkowski, R.F. Bennett, John Coburn, Lindsey Graham, Norm Coleman, Michael B. Enzi, John Thune, Jon Kyl, Richard Burr, Wayne Allard, Ted Stevens, Jeff Sessions, J.M. Inhofe, Thad Cochran.

Mr. DODD. Mr. President, I want to take a few brief moments to explain my votes this afternoon on two amendments to the Defense authorization bill. The first, a resolution offered by my good friend from Delaware, and chairman of the Foreign Relations Committee, Senator BIDEN, expressed the Senate's support for helping the Iraqis to seek a political solution to the current conflict in that country by supporting three Federal regions in Iraq.

It is still my position that the United States should not impose a political solution on the Iraqis to which Iraqis are opposed. According to recent polling in Iraq, it seems as though Iraqis are not yet ready to divide their country along these lines. However, sectarian divisions are already occurring by huge internal displacements in Iraq which are direct results of the level of carnage and violence in that country. And if Iraqis should decide that they would like to devolve their country into three separate sectarian regions, and if they choose this method as the best means for ending the current conflict in that country, then I would wholeheartedly support that decision. This resolution calls for exploring that option, and if Iraqis decide to do so, then I will strongly support such action.

I am deeply worried by the language contained in the Kyl-Lieberman amendment, and for what purposes this language was introduced. Let me be very clear, the Iranian regime is behaving in deeply troubling ways, in its quest to secretly acquire nuclear weapons, to destabilize Iraq and Lebanon, and by calling for the destruction of the State of Israel. We must deal with the various threats Iran poses in an effective, smart, and multilateral way, and I am prepared to do just that.

But we must also learn the lessons of the runup to the Iraq war, when this body passed seemingly innocuous nonbinding language that ended up having profound consequences. Our President must use robust diplomacy to address our concerns with Iran, not turn to the language in the Kyl amendment to justify his action if he decides to draw this country into another disastrous war of choice.

I wholeheartedly agree that we should increase the economic pressure on the Revolutionary Guard, or any other entity of Iran, and that is why as chairman of the Banking Committee, I held a hearing to determine how best to use targeted, robust, and effective sanctions against any elements in the Iranian regime who are supporting and exporting terrorism and extremism.

But this amendment would not increase economic pressure on the Iranian regime—instead it would provide bellicose rhetoric which may serve as the basis of future military action against Iran. For that reason, I staunchly oppose it.

Mr. HATCH. Mr. President, I rise today to speak to an amendment that would increase the maximum Federal age limit at which a member of the military, who has been honorably discharged, may become a Federal law enforcement officer.

Military servicemembers make extraordinary sacrifices on our Nation's behalf. They are the defenders of our freedoms, our liberties, and our security. We owe each of them a great debt, and any appropriate compensation we can offer is a step toward repaying that national obligation.

Many of our brave soldiers joined the world's finest military when they were 18 years of age. Large numbers of them become career soldiers, serving 20 years or more before retiring.

However, current U.S. law states that applicants to Federal law enforcement positions must be between 23 and 37 years old. A servicemember who joins the military at the age of 18 and serves honorably for 20 years falls outside this federally mandated age range. I am sure my Senate colleagues would agree that members of the military, with their training and experience, can be highly suited for positions in Federal law enforcement, and if otherwise qualified should not be prohibited from further serving their country by an arbitrary, maximum age limit.

My amendment would increase the maximum age for Federal law enforcement recruitment to 47 years old for military personnel who receive an honorable discharge. This means that many more honorably discharged military members will be able to seek employment with Federal law enforcement agencies. This amendment is an important tool in both recruiting and retaining fine servicemembers. It is my hope that more would be willing to remain in the military, knowing that after they complete 20 years in uniform, they will still have the opportunity to serve our country as Federal law enforcement officers.

I have heard from several servicemembers who are considering an early departure from the military so that they can become Federal law enforcement officers. It should be remembered that many of these soldiers already have the necessary security clearances for these positions. Furthermore, I believe Federal law enforcement training costs would be largely reduced because of the military training of these individuals. The American people need qualified, competent law enforcement officers, and what greater pool from which to draw than experienced and professional military retirees? I am anxious to see this arbitrary retirement limit changed for military personnel and I encourage my colleagues to support this important amendment.

Mr. MENENDEZ. Mr. President, in recent years, our country has seen a major shift in the way that our National Guard has been used. Traditionally, our Guard units have supplemented our active duty troops during a major war or conflict. But as America faces ever-increasing military challenges, we see these citizen soldiers now replacing active duty troops in operations around the world. Since September 11, many Guard members have been called to active duty for multiple tours, and this is likely to continue in the foreseeable future.

The National Guard has played a critical role in Operation Iraqi Freedom and Operation Enduring Freedom. Currently, almost 15,000 guardsmen and women are deployed in Iraq and Afghanistan and 242,271 have been deployed since the beginning of Operations in Iraq and Afghanistan. These tours have stretched our National Guard to the limit, and have severely depleted our Guard's equipment. In reality, much of the equipment that is sent into theater never returns with the Guard units when their tour of duty is complete. This exacerbates the issue of equipment reset.

While we consider the strain that our current operations in Iraq and Afghanistan are placing on our National Guard, we must also remember that the Guard has another important responsibility: providing security at home. In the past few years, we have seen the valuable role that the Army and Air National Guard play in providing support during domestic emergencies. I know that in my State of New Jersey, the National Guard came to the rescue during the 9/11 terrorist attacks, and was also instrumental in helping during the aftermath of the flooding that wracked New Jersey last year. The guardsmen and women also provided critical support in response to the hurricanes that severely damaged the gulf coast in 2005. Unfortunately, our current military operations abroad have left our National Guard without much of the equipment it needs to respond to some of the domestic emergencies I have just mentioned.

In February of this year, the National Guard Bureau released a report entitled ''National Guard Equipment Requirements,'' which detailed the ''Essential 10'' equipment needs to support domestic missions. The shortfalls in equipment total $4 billion, and cover areas including logistics, security, transportation, communications, medical, engineering, aviation, maintenance, civil support teams and force protection, and join force headquarters and command and control. Without the proper equipment, the National Guard will not be able to respond as quickly and effectively in missions here at home.

We saw an example of this in May when tornadoes ripped through Kansas. Although the Kansas National Guard was able to respond to the disaster, Governor Sebelius spoke out about the challenges her State faces due to the severe equipment shortages. National Guard units throughout the country are facing such equipment shortfalls, and with tornadoes, floods, hurricanes, and forest fires affecting our nation annually, it is imperative that the National Guard have the equipment it needs to respond accordingly in the face of these emergencies.

That is why I introduced the recently passed amendment that expresses the sense of Congress that the Army and Air National Guard should have sufficient equipment available to achieve their missions inside the United States and to protect the homeland.

This Congress always talks about supporting our troops—well we need to remember that supporting our troops means supporting the National Guard and providing them with the equipment they need not only for missions abroad but here at home. In the coming months, I will be working with my colleagues to see that this Congress provides the necessary funding to address these severe equipment shortages. In the meantime, I hope that the entire Senate will support this amendment.

Mr. CONRAD. Mr. President, our Nation's bomber fleet is a vital national asset. Bombers today offer global reach, operational responsiveness, and close air support for troops on the ground in ways that their designers could never have imagined. While our bomber fleet is currently aging, there is virtually no chance that new long-range bombers will enter service before 2020.

If we remove bombers from our active force and do not furnish them with critical upgrade programs, they will be irretrievably lost. This will create a ''bathtub'' in bomber capabilities that will last over a decade.

Over the last 2 years, the administration has proposed dramatically downsizing our bomber force, particularly by cutting the B–52 force from 94 aircraft to 56. Neither the House nor the Senate found the administration's arguments for cutting the bomber fleet persuasive. They both concluded that making deep B–52 retirements would put at risk our military's ability to carry out the national security strategy. Let me quote from the House Armed Services Committee's report:

> Committee also understands that the current B–52 combat coded force structure is insufficient to meet combatant commander requirements for conventional long range strike, if the need should arise to conduct simultaneous operations in two major regional conflicts.

The Senate Armed Services Committee had similar concerns:

> The Committee is concerned that any further reduction in the B–52H total aircraft inventory will create unacceptable risk to national security and may prevent our ability to strike the required conventional target set during times of war.

Because of these concerns, last year Congress enacted defense legislation allowing the retirement of only 18 B–52s, reducing the fleet to 76. But the law required that the savings from those retirements be devoted to modernizing the remaining bombers, and the law prohibited any further retirements until a next generation bomber was available—probably around 2018.

I will ask that section 131 of the John Warner National Defense Authorization Act for Fiscal Year 2007 be printed in the RECORD, along with the relevant sections of the House and Senate Armed Services Committees' reports on that law.

Unfortunately, there have been some efforts to try to find a way around that law. For a while, it looked like there might be an effort to play games with the assignments of the B–52 fleet, by doubling up the assignments of aircraft that we now use for training and calling them ''dual coded'' training and combat aircraft. Then, instead of retiring B–52s, they would simply mothball them. But mothballed aircraft will do nothing to preserve our ability to fight and win two wars.

Based on the analysis of the Armed Services Committee and my own staff's analysis, it is clear that slashing the size of our B–52 force would significantly increase the risks we face in fighting and winning two nearly simultaneous contingencies. If we retired 38 B–52s, it would be impossible for the Air Force to deploy a bomber force comparable to the one we used during the initial days of the war in Iraq. During the initial 30 days of combat in Iraq, the Air Force used more than 80 B–52s so it could sustain a deployed force of 42 B–52s at forward operating locations overseas. Obviously, the Air Force could not repeat that feat with just 56 B–52s.

Moreover, the war in Iraq has tied down a large share of our land forces and increased our dependence on the Air Force for dealing with any additional crises. Chairman of the Joint Chiefs General Peter Pace has made the situation very clear. He said, ''If another, [conflict] popped up tomorrow, regardless of where, . . . you would have the Navy and the Air Force being able to get there very quickly.''

Because we were concerned about the risks to our warfighting ability, last year Congress barred the Pentagon from retiring B–52s until the submission of a comprehensive Bomber Roadmap study by an independent research institution. That study still has not been completed.

Some people have tried to tie the B–52 issue to an altogether different question: whether the Air Force will be allowed to retire a long list of old aircraft in its inventory that currently have restrictions on their operation or are even grounded. Let me be clear. As chairman of the Budget Committee, I strongly agree that we need to retire unserviceable aircraft. There is no point in paying to maintain aircraft that we cannot fly.

The B–52 is not part of that problem. While it has flown for many years, the B–52 is still a young aircraft in flying

hour terms. The Air Force has said that today's H-model B–52 is flyable for another 30 to 40 years. Most commercial airliners have several times as many cycles per aircraft and airframe hours as the B–52, which spent most of the Cold War sitting alert on the ground.

In fact, the B–52 is in many ways the most valuable aircraft in our inventory. Today's B–52 has been modernized and can carry the widest range of weapons of any aircraft we own. It has the highest mission capable rate in the bomber force, and it costs the least to operate of any bomber. The FY 2006 reimbursement rate for the B–52 is $10,000 per flying hour less than the B–1B and $4,000 per flying hour less than the B–2.

Does it make sense to try to save money by cutting the portion of the bomber force that is by far the least expensive to operate and has the highest utilization and mission capable rates? I don't think so.

The B–52 is an indispensable tool for our nation's military, being used in combat overseas on a daily basis. It is crucial that we maintain a sizeable bomber force and that each plane is outfitted with the most technologically advanced equipment.

The Conrad-Dorgan-Landrieu-Vitter amendment reinforces the law we passed last year requiring a B–52 force of no less than 76 aircraft. This amendment requires that the 76 aircraft B–52 force include 63 active aircraft, 11 backup aircraft and two reserve aircraft, just as it did in 2006. It will prohibit the Pentagon from reducing the maintenance status of some B–52s and creating ''hangar queens'' that are not regularly flown.

The Conrad amendment also requires technological upgrades to the entire B–52 fleet, ensuring the planes are using the latest in defense technology. It states that the entire fleet must be kept in a ''common configuration.'' The Senate and House Armed Services Committees have already authorized additional funding for B–52s to ensure that the full 76 aircraft fleet is upgraded.

It makes absolutely no sense to try to save money by cutting the cheapest bombers to operate. With ongoing conflicts in Iraq, Afghanistan and elsewhere around the world, our Nation should accelerate the modernization of our bomber force rather than shrinking it.

I thank the distinguished managers of the bill for their support of this amendment and look forward to working with them as the Defense authorization bill moves toward enactment.

I ask unanimous consent that the material to which I referred be printed in the RECORD.

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

H.R. 5122 (NATIONAL DEFENSE AUTHORIZATION ACT FOR FY 2007)

SEC. 131. BOMBER FORCE STRUCTURE.

Requirement for B–52 Force Structure—

(1) RETIREMENT LIMITATION.—During the B–52 retirement limitation period, the Secretary of the Air Force—

(A) may not retire more than 18 B–52 aircraft; and

(B) shall maintain not less than 44 such aircraft as combat-coded aircraft.

(2) B–52 RETIREMENT LIMITATION PERIOD.—For purposes of paragraph (1), the B–52 retirement limitation period is the period beginning on the date of the enactment of this Act and ending on the date that is the earlier of—

(A) January 1, 2018

(A); and

(B) the date as of which a long-range strike replacement aircraft with equal or greater capability than the B–52H model aircraft has attained initial operational capability status.

(b) Limitation on Retirement Pending Report on Bomber Force Structure—

(1) LIMITATION.—No funds authorized to be appropriated for the Department of Defense may be obligated or expended for retiring any of the 93 B–52H bomber aircraft in service in the Air Force as of the date of the enactment of this Act until 45 days after, the date on which the Secretary of the Air Force submits the report specified in paragraph (2).

(2) REPORT.—A report specified in this subsection is a report submitted by the Secretary of the Air Force to the Committees on Armed Services of the Senate and the House of Representatives on the amount and type of bomber force structure of the Air Force, including the matters specified in paragraph (4).

(3) AMOUNT AND TYPE OF BOMBER FORCE STRUCTURE DEFINED.—In this subsection, the term ''amount and type of bomber force structure'' means the number of each of the following types of aircraft that are required to carry out the national security strategy of the United States:

(A) B–2 bomber aircraft.

(B) B–52H bomber aircraft.

(C) B–1 bomber aircraft.

(4) MATTER TO BE INCLUDED.—A report under paragraph (2) shall include the following:

(A) The plan of the Secretary of the Air Force for the modernization of the B–52, B–1, and B–2 bomber aircraft fleets.

(B) The amount and type of bomber force structure for the conventional mission and strategic nuclear mission in executing two overlapping ''swift defeat'' campaigns.

(C) A justification of the cost and projected savings of any reductions to the B–52H bomber aircraft fleet as a result of the retirement of the B–52H bomber aircraft covered by the report.

(D) The life expectancy of each bomber aircraft to remain in the bomber force structure.

(E) The capabilities of the bomber force structure that would be replaced, augmented, or superseded by any new bomber aircraft.

(5) PREPARATION OF REPORT.—A report under paragraph (2) shall be prepared by the Institute for Defense Analyses and submitted to the Secretary of the Air Force for submittal by the Secretary in accordance with that paragraph.

HOUSE REPORT 109–452 ON H.R. 5122 (NATIONAL DEFENSE AUTHORIZATION ACT FOR FY 2007)

B–52 FORCE STRUCTURE

The budget request included a proposal to retire 18 B–52 aircraft in fiscal year 2007, and 20 B–52 aircraft in fiscal year 2008.

The committee understands that the 2006 Quadrennial Defense Review directed the Air Force to reduce the B–52 force to 56 aircraft and use the savings to fully modernize the remaining B–52s, B–1s, and B–2s to support global strike operations. However, the committee understands that the estimated $680.0 million savings garnered from the proposed B–52 retirement in the remaining Future Years Defense Program (FYDP) has not been reinvested into modernizing the current bomber force, but has instead been applied towards Air Force transformational activities. The committee also understands that the current B–52 combat coded force structure is insufficient to meet combatant commander requirements for conventional long-range strike, if the need should arise to conduct simultaneous operations in two major regional conflicts.

Additionally, the committee is concerned that the decision to retire 38 B–52 aircraft is primarily based on the nuclear warfighting requirements of the Strategic Integrated Operations Plan, and did not consider the role of the B–52 in meeting combatant commander's conventional long-range strike requirements. The committee disagrees with the decision to reduce the B–52 force structure given that the Air Force has not begun the planned analysis of alternatives to determine what conventional long-range strike capabilities and platforms will be needed to meet future requirements.

The committee is deeply concerned that retirement of any B–52 aircraft prior to a replacement long-range strike aircraft reaching initial operational capability status is premature. Further, the committee strongly opposes a strategy to reduce capability in present day conventional long-range strike capability in order to provide funding for a replacement capability that is not projected to achieve initial operational capability until well into the future.

Therefore, the committee included a provision (section 131) in this Act that would prohibit the Air Force from retiring any B–52 aircraft, except for the one B–52 aircraft no longer in use by the National Aeronautics and Space Administration for testing.

Additionally, this section would require the Air Force to maintain a minimum B–52 force structure of 44 combat coded aircraft until the year 2018, or until a long-range strike replacement aircraft with equal or greater capability than the B–52H model has attained initial operational capability status.

SENATE REPORT 109–254 ON S. 2766 (NATIONAL DEFENSE AUTHORIZATION ACT FOR FY 2007)

LIMITATION ON RETIREMENT OF B–52H BOMBER AIRCRAFT (SEC. 144)

The committee recommends a provision that would authorize the Secretary of the Air Force to retire up to and including 18 B–52H aircraft of the Air Force. The committee expects the remaining B–52H aircraft inventory to be maintained in a common aircraft configuration that includes the Electronic Countermeasure Improvement, the Avionics Mid-life Improvement, and the Combat Network Communication Technology modification efforts. The committee expects no further reduction in the B–52H total aircraft inventory, including the current inventory levels for combat coded Primary Mission Aircraft Inventory and Primary Training Aircraft Inventory. The committee is concerned that any further reduction in the B–52H total aircraft inventory will create unacceptable risk to our national security and may prevent our ability to strike the required conventional target set during times of war.

RETIREMENT OF B–52H BOMBER AIRCRAFT (SEC. 145)

The committee recommends a provision that would prohibit the use of any funds available to the Department of Defense from being obligated or expended for retiring or dismantling any of the 93 B–52H bomber aircraft in service in the Air Force as of June

1, 2006, until 30 days after the Secretary of the Air Force submits to the Committees on Armed Services of the Senate and the House of Representatives a report on the bomber force structure. The committee directs that the report shall be conducted by the Institute for Defense Analyses and provided to the Secretary of the Air Force for transmittal to Congress. The committee is troubled that the Air Force would reduce the B–52 bomber fleet without a comprehensive analysis of the bomber force structure similar to the last comprehensive long range bomber study, which was conducted in 1999.

CONFERENCE REPORT 109–702 ON H.R. 5122 (NATIONAL DEFENSE AUTHORIZATION ACT FOR FY 2007)

BOMBER FORCE STRUCTURE (SEC. 131)

The House bill contained a provision (sec. 131) that would prohibit the Air Force from retiring any B–52 aircraft, except for the one B–52 aircraft no longer in use by the National Aeronautics and Space Administration for testing. The provision would require the Air Force to maintain a minimum of 44 B–52H combat coded aircraft until the year 2018 or until a long-range strike replacement aircraft with equal or greater capability than the B–52H model has attained initial operational capability.

The Senate amendment contained similar provisions (secs. 144–145). Section 144 would allow the Secretary of the Air Force to retire up to 18 B–52H bomber aircraft in fiscal year 2007. Section 145 would prevent the obligation or expenditure of funds for the retirement or dismantling of any of the 93 B–52H bomber aircraft in service in the Air Force as of June 1, 2006, until the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives a report on the amount and type of bomber force structure required to carry out the National Security Strategy of the United States.

The Senate recedes with an amendment that would authorize the Secretary to retire up to 18 B–52H bomber aircraft, but maintain not less than 44 combat coded B–52H bomber aircraft, beginning 45 days after the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives a report prepared by the Institute for Defense Analyses on the amount and type of bomber force structure required to carry out the National Security Strategy of the United States. The amendment would also prohibit retirement of more than 18 B–52s until a long-range strike replacement aircraft with equal or greater capability has attained initial operational capability status or until January 1, 2018, whichever occurs first.

The conferees direct the Secretary to include in the report:

(1) the plans to modernize the Air Force bomber fleets;

(2) the amount and type of bomber force required in executing two overlapping 'swift defeat' campaigns involving both conventional and strategic nuclear missions;

(3) a justification of the cost and projected savings associated with any reductions to the B–52H bomber aircraft fleet;

(4) the life expectancy of each bomber aircraft to remain in the bomber force structure; and

(5) the capabilities of the bomber force structure that would be replaced, augmented, or superceded by any new bomber aircraft.

The conferees expect the Secretary to maintain all retired B–52H bomber aircraft, retired in fiscal year 2007 or later, in a condition known as 'Type-1000 storage' at the Aircraft Maintenance and Regeneration Center.

The PRESIDING OFFICER. The majority leader is recognized.

MORNING BUSINESS

Mr. REID. I ask unanimous consent we now proceed to a period for morning business with Senators permitted to speak therein for a period of up to 10 minutes each.

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

The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I rise today in strong support of the Matthew Shepard Act as an amendment to the DOD authorization bill.

Federal hate crimes legislation is a much-needed and long missing piece of the civil rights and criminal law puzzle.

First, I would like to thank my friend and colleague, Senator KENNEDY, for his determination and leadership on this bipartisan amendment.

I would also like to thank my friends and colleagues—Majority Leader REID and Chairman LEVIN—for their support of hate crimes legislation and this amendment. Many people had amendments they wanted on this bill, but Senator LEVIN and Senator REID understood the importance of this legislation.

Dr. King once said ''In order to answer the question, 'where do we go from here?'. . . we must first honestly recognize where we are now.''

We are still in a time where racism and other hatred are ever-present.

We are still in a time when our old scars and wounds from times past have not healed.

Yes, we have made progress, but all of us know we have a long way to go. And the only way we can get there is if we travel together, as one Nation.

And if our Federal Government can say with one strong, unified voice that crimes based on hatred will not be tolerated, then that is a step forward.

And we can also say that those hatemongers who commit these crimes will not get off lightly; but rather will pay the consequences of committing a crime against a larger community.

We can all say this together by voting for the Matthew Shepard Act before us today. The act is named for a brave and courageous individual, who was killed simply because of who he was. This act deserves a quick and strong passage.

We have been here before. In 2004, this body passed hate crimes legislation, only to see it stripped away in conference. And I stand before my colleagues today to say—it is time to pass this legislation once again.

Current Federal hate crime laws are inadequate to deal with the rising tide of hate crimes that are tearing at the very fabric of our communities.

This legislation would remove the ''federally protected activity'' requirement that currently exists, and also expand the groups of individuals that are covered by Federal law including sexual orientation.

In addition, this legislation gives much needed resources and assistance to State and local law enforcement officials in investigating and prosecuting these crimes.

Let me clear, this legislation allows the Federal Government to act only with the consent of State or local law enforcement officials.

This law can be seen as a backstop—in case State hate crime laws do not cover a particular crime, or if State or local officials need the resources of Federal law enforcement.

This should assuage any federalism concerns that some of my colleagues may have.

Additionally, Congress has the clear mandate to act in this arena, based on both our authority under the commerce clause and the 13th amendment.

This type of crime—violence based on a person's skin color, religion, ethnicity, or other traits and characteristics, are as old as slavery itself. It is unconscionable. Matthew Shepard was killed because of his sexual orientation. Who can defend that? Who can say we should not increase the strength of the laws to deal with that hatred, bigotry and nastiness?

Hate crimes differ from other crimes because the criminals target groups of individuals who have been traditionally marginalized or stigmatized in our society.

This violence directly affects an individual's ability to feel safe and secure in a particular location, and has the effect of forcing people from their homes, or impeding their ability to travel.

Additionally, hate crimes are greater crimes. These crimes affect an entire community. They are not aimed at one individual. In fact, they are often not aimed at the individual upon whom they are committed but, rather, a much broader group. In that sense, these crimes are anti-American. They fly in the face of American pluralism, ''E Pluribus Unum'' that is on every dollar bill we see. Yes, out of many, one. Those who commit hate crimes are saying: No, there are certain groups of people who should not become part of the American fabric.

What could be more un-American than that?

Hate crimes must stop. The violence directly affects an individual's ability to feel safe and secure in a particular location and has the effect of forcing people from their homes or impeding their ability to travel. But, additionally, they are greater crimes because they affect an entire community, not just one individual. In that way, these crimes hurt all of us—the American community.

Because of that, the perpetrators of these crimes should be punished for their actions; both Federal and local law enforcement working together to punish the perpetrator is an important and sometimes necessary signal showing that violence motivated by hatred

is not tolerated at any level. This legislation enjoys a broad range of support from numerous civil rights organizations to the National District Attorneys Association; rightfully so, since this affects all of us as Americans. I urge my colleague to vote for this important piece of civil rights and criminal law.

I hope we will get an overwhelming vote from both sides of the aisle, a condemnation of hatred, a condemnation of pointing to a particular group and saying: You don't belong. You can be subject to vicious and nasty crimes.

I yield the floor.

Ms. KLOBUCHAR. Mr. President, I ask to speak as in morning business for 10 minutes.

The PRESIDING OFFICER. The Senator has that right.

HATE CRIMES

Ms. KLOBUCHAR. Mr. President, first, I wanted to make some comments about the hate crimes bill. I am proud to be a cosponsor of that bill. Actually, this came out of my work as a prosecutor in Minnesota. We had a number of cases that involved crimes that were motivated by hate. Sometimes they were found to be hate crimes under our law; sometimes they were not. The ones I remember most—the little 14-year-old boy shot in the middle of the day by a guy who said he wanted to go out and kill a Black kid on Martin Luther King Day.

We had a Hispanic young man who could only speak Spanish, working in a factory, and his boss got mad at him because he didn't speak English and he was speaking Spanish and he took a 2 by 4 and hit him over the head.

We had a temple that was desecrated. We had a number of cases, but what I most remember about this was when the hate crimes bill was first introduced in Washington, I had the honor of introducing President Clinton when he announced his support for the hate crimes bill.

Before we went into the event, I got to meet the investigators in the Matthew Shepard case, two burly cops from Wyoming. They talked about the fact that until they had investigated that case, they had not dealt with ideas of what this victim's life was like. They did not want to think what his life was like. And then they got to know the family in that case, they got to know the mom, and they got to know the people surrounding Matthew Shepard, and their own lives were changed forever. I hope that by passing this bill, by doing the right thing, we can change the lives of other Matthew Shepards, and other victims of hate crimes.

SCHIP

I did come tonight, Mr. President, on the eve of what I hope will be a victory for the children and families in Minnesota and the Nation—passage of the children's health insurance reauthorization bill.

I come to remind my colleague of the weight of the situation presented to us. We have the opportunity to better the lives for millions of children, children and low-income families. We can do it by lifting the burden and lessening the struggle that confronts those who are uninsured.

Today, 45 million Americans are living without access to affordable health care. The worst part of it, the saddest part of it, is that 9 million of them are children and they are uninsured. Kids without access to affordable health care are at an enormous risk, an enormous disadvantage as they grow up and start to make their life in this world. Children without health coverage are less likely to get basic preventive care, less likely to see a doctor regularly, and less likely to perform well in school. Children without health coverage are often more likely to show up at the hospital sicker and more likely to develop costly chronic diseases.

I used to represent the biggest emergency health care center in our State, Hennepin County Medical Center, when I was Hennepin County Attorney. I can tell you this, when people do not have health care, when children do not have health care, they do have a doctor. The doctor is the emergency room, and we all pay for it. That is why making sure that people have health insurance, that these children have health insurance, is actually, in the end, better for all of us, better for taxpayers and certainly better for the kids.

The Children's Health Insurance Program was established to reverse the troubling problem of uninsured youth. It is a successful program that deserves to reach even more children. This is important because, first, it is the decent thing to do for American kids, who, through no fault of their own, are growing up in families who simply cannot afford health care. But it is also important because it is something that is good for all of us, and something that is important because it is a smart investment. It is a smart investment to make sure these kids get preventive care. It is a smart investment to help America's children grow up as healthy as they can be.

I was at a senior center the other day, and I told the seniors: The reason you should care about this is you need someone who is going to pay your Social Security in the end. We need kids who grow up who can participate in our economy and can work. It is a smart investment to have America's children in school, focused on learning, rather than distracted by sickness or injury. It is a smart investment to have America's children get medical care through a sensible system of health insurance rather than having them end up in a hospital emergency room at the taxpayers' expense.

When my daughter was born, she was very sick. She couldn't swallow. We did not know how long she was going to be in the hospital. She actually could not swallow for about a year and a half, and she was fed through a tube. So I saw firsthand the struggle these families go through. She is doing so well today, and it was because she had good, excellent health care at Minneapolis Children's Hospital.

Well, not all families have access to that health care. When I think of what happened to her and how she was able to get stronger and stronger, even though she was this tiny little baby on an x-ray machine, I think all kids should have that right.

Unfortunately, President Bush and his administration continue to fight efforts to expand SCHIP, a popular and effective program. The administration recently put in place a restrictive rule that makes it nearly impossible for States such as Minnesota to expand their program.

I want to remind the President this issue is not about scoring political points or pushing an ideology. It is about bettering the lives of America's future generation. Today we are making a choice, either to support a proven, effective program that has helped children in all States or supporting the status quo which could lead to more kids losing health care coverage as States struggle to make ends meet.

If the Children's Health Insurance Program fails to pass the Senate or the President chooses to veto its reauthorization and deny children access to this vital program, the consequences could prove dire for Minnesota's children and families. It is estimated that an additional 35,000 Minnesotans who would otherwise be uninsured would be enrolled in this program should this bill be signed into law. If the President uses his veto power, he will deny health care to 86,000 uninsured Minnesotan children who may have been enrolled with the passage of this bill. From a fiscal standpoint, our State once again loses out if this bill fails to pass. With changes in the allotment program and the formula, Minnesota would receive an increase of over $50 million in fiscal year 2008 to fund our children's health insurance and Medicaid Program. If the bill fails, Minnesota would be presented with a funding shortfall leaving low-income families in a frightening situation.

This program is very important to our State. Our Governor, a Republican Governor, supports it, as has the Governors Association. He has written letters asking us to approve this bill.

We are proud to have one of the lowest rates of uninsured in our State in the Nation, partially because of this program, and partly because we have been innovative in bolstering coverage for low-income kids and their parents. Since Minnesota was ahead of the curve in covering kids before this program was created, Minnesota uses a portion of these Federal dollars to provide coverage to their parents. This is because ample evidence proves that when parents get coverage, kids are more likely to have health coverage. I am glad to see that the compromise

bill we reached largely retains the parental coverage in these special cases.

Many of my colleagues have expressed concern about the CHIP program replacing private insurance. I am reminded, though, of the testimony of CBO Director Orszag who reported to the Finance Committee this summer that this program is about as efficient as a program can be.

That being said, this bipartisan legislation makes an effort to mitigate the replacement of private insurance by requiring GAO and the Institute of Medicine to report on best practices for enrolling low-income children who need assistance the most. It requires the Secretary to help States implement those methods. I believe this rational approach will prove to be effective in reducing crowdout and will protect the State's flexibility, contrary to the Bush administration's overly restrictive rule that essentially bars States from expanding their program. I do not know why you would want to bar States from expanding their program when we are living in a time when more and more children have less and less health coverage.

When I went around my State in the last 2 years, I would go to cafes and we would think maybe 10 people would show up, so we would set the table up with 10 chairs. Then 100 people would show up. These were middle-income people, lower income people. I finally realized when you have got less money in your pocket, when health care premiums go up 100 percent, as they have in our State in the last decade, you feel it first in your pocket. When it costs 100 percent more to go to college, as it does at the University of Minnesota in the last 10 years, and you are a middle-class person, a low-income person, you feel it first in your pocket.

That is what has been going on in this country. There has been an enormous shift of resources away from the great majority of people in this country who are just trying to get by, to the very top echelon of people in this country.

We are trying to reverse that with this Congress. We are trying to change that with this Congress. We need vital programs such as children's health insurance more than ever, especially as these rising health care costs force families to tighten their budget.

The President should reconsider his threat to veto, and my colleagues who say they are against this bipartisan compromise legislation should reconsider their opposition. I thank the Finance Committee for their efforts to bring this bill to the floor, and to expand this important, successful initiative. It is not only good for American kids, it is good for our families, it is good for all of us.

When I think about the health care my daughter got when she could not even swallow and all of the doctors who were there to help her and the nurses who were there to help her, all kids should have that kind of beginning. That is what this bill is about.

I yield the floor, and 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. GRASSLEY. 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. GRASSLEY. Mr. President, are we in morning business?

The PRESIDING OFFICER. The Senate is in morning business.

Mr. GRASSLEY. I ask unanimous consent to speak for what time I might consume.

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

SCHIP

Mr. GRASSLEY. Mr. President, soon the Senate will be debating the Children's Health Insurance Program. I might refer to that from time to time as CHIP, C-H-I-P, Children's Health Insurance Program.

This program is sunsetting in a week. The program was started 10 years ago, a product of a Republican-led Congress. It is a targeted program. It is a program designed to provide affordable health coverage for low-income children of working families. Those are families, working families, who make too much to qualify for Medicaid but struggle to afford private insurance and may not even have it.

Last July, because this program has to be reauthorized right now, the Senate Finance Committee reported bipartisan legislation to enhance and improve CHIP by a strong vote of 17 to 4.

In August, the Senate passed the Finance bill with the same bipartisan support by a vote of 68 to 31. On Tuesday, 265 Members of the House of Representatives voted for the bill that now will be before the Senate. That bill is a product of informal conferencing between the House and Senate. Clearly, we have a bill with strong bipartisan support. I want to emphasize that because this is the way the Senate Finance Committee has operated over a long period of time, both with Republicans in control and Democrats in control. Senator BAUCUS worked very closely with me when we were in the majority. Senator BAUCUS has continued that working relationship now that Democrats control the Congress and he is chairman of the committee. I welcome and appreciate that bipartisan leadership. It is obviously represented in this product that will soon be before the Senate.

This legislation maintains the fundamental provisions of the Senate. I want to emphasize that it maintains the fundamental provisions of the Senate bill not to denigrate the work of the House of Representatives but as a reflection of the fact that we had to work out something that would not be filibustered in the Senate. In the House of Representatives they don't have such provisions for filibuster. The House had some deference to the Senate. I appreciate that. But I also appreciate the fact that a lot of my colleagues—and these are Republican colleagues to whom I refer, not Democratic colleagues—said so often during the months of consideration of this bill before we finally passed it the first time that this $35 billion didn't mean much that we passed in the Senate because the House of Representatives passed a $50 billion CHIP bill and it would come back much bigger. I tried to say to my colleagues at that particular time that there would have to be a realization that if we were going to avoid a filibuster in the Senate, we would have to have something closer to the Senate provisions than the House. So I emphasize that this is pretty much the legislation the Senate originally passed, albeit right now it is a compromise between the House and Senate. There was a cap on new spending of $35 billion. There are no Medicare provisions in this bill as there were in the Senate bill. Spending is paid for by an increase in the cigarette tax. I commend the majority in the House and Senate for cooperating with Senate Republicans and for working with us on our priorities during the negotiations that led to this agreement. This compromise agreement is consistent with the principles we put forth in the Senate bill.

Mr. REID. Mr. President, would my friend yield?

Mr. GRASSLEY. Of course I will.

Mr. REID. I was in my office with the TV on listening to my friend from Iowa. I was compelled to come to the Chamber. I have been in Washington for a long time as a Member of Congress. I served in other offices before I came. All my adult life I have been involved in government one way or the other. They were all part-time jobs until I came back. The reason I came to the floor is that in my experience over all these many years I have rarely seen anyone with the leadership that this ranking member, former chairman of the Finance Committee, offered with this very difficult children's health issue. I say that without qualification. I have said it in closed meetings, and I have said it in public meetings, and I say it before the American people this afternoon. I wish we could have done more with this. I wish we could have done more. But, as I said, and as the distinguished senior Senator from Iowa heard me say in my office, in my years in government, I have spent more time on this issue than anything else I have ever worked on. We could not be at the point we are now but for the Senator from Iowa.

It has been very difficult. The House had to give up a tremendous amount of what they wanted. The Senator from Iowa and I both served in the House. They are two different institutions. It is difficult for the House, from my having served there, to understand and appreciate the difficulties we have here.

I don't know how I can say more than what I have said. I am impressed with the way Senator GRASSLEY has handled this bill. We had difficult issues that came with the House because they had so much, and we were only going to offer them a lot less than what they wanted. But the Senator from Iowa was firm. He was gracious. He was a gentleman through it all.

As I have told a number of people, with CHUCK GRASSLEY, no one ever has to wonder how he stands. It is not ''I will go talk to my staff,'' or ''I will get back to you.'' He told us in those meetings what he could do and what he couldn't. I was compelled to come to the floor because we had a real gesture of statesmanship by the Senator from Iowa with this SCHIP legislation.

Mr. GRASSLEY. Mr. President, before the distinguished Senate majority leader leaves, I thank him for those very kind remarks. I also want to recognize him. Without his being an honest broker as an intermediary between the House and the Senate, particularly among Democrats, I don't think we would be here either. I appreciate that very much. As a person who has worked hard on this for 4 months, it wouldn't have happened without the Senate majority leader as well. I thank him very much.

Getting back to the bill, I want to explain that this is fundamentally the Senate bill. We had a cap on new spending at $35 billion. That is where the Senate was. The Senate didn't have any Medicare provisions in their bill. The House did. We didn't have any in our bill, the House had Medicare provisions in theirs. Those are dropped out. There is a lot of Medicare provisions that we must act on, but Senator BAUCUS and I want to do that as separate pieces of legislation. We will do that, and we have committed to the House to do that.

Spending is paid for by an increase in the cigarette tax. That is similar in both the House and Senate. I do want to commend the majority in the House and Senate for cooperating with Senate Republicans and for working with our priorities during the negotiations that led to this agreement. This compromise agreement is consistent with principles that we put forth in the Senate bill. I made clear during the debate on the bipartisan Senate bill before we originally passed it that the Senate went as far as I was willing to go in terms of spending and politics. It makes sense that we stayed true to the Senate bill. The Senate, after all, had a veto-proof majority. So it made sense to stay as close as possible to that successful formula, if the President would go through with his statement of veto and actually veto it.

The legislation before this body maintains all of the key policy provisions of the Senate-passed bill. This bipartisan bill refocuses the program on low-income children. It phases adults off the program. It prohibits a new waiver for parent coverage. It reduces the Federal match rate for States that cover parents. It includes new improvements to reduce the substitution of public coverage for private coverage. This compromise bill maintains the focus on low-income uninsured children and adds coverage for more than 3 million low-income children.

The compromise bill discourages States from covering higher income kids by reducing the Federal matching rate for States that wish to expand eligibility over 300 percent of Federal poverty limits. It rewards States that cover more low-income kids by providing targeted incentives to States that increase enrollment for coverage of low-income kids. So there is a very clear message to the States, all 50 States: Cover your poorest kids, meaning your kids from low-income families, first. Don't spend money on childless adults, as we heard so often during the debate. The word CHIP has no A in it. It is for children, not adults. Don't spend money on parents unless you can prove you are covering low-income kids. Don't spend money on higher income kids unless you can prove that your State is covering your lower income kids first. It is all there in black and white. Everybody can read it.

I get a sense, talking to some of my colleagues, that they haven't read what we are going to be voting on. Anyone who suggests this bill is an expansion to higher income kids or other populations, as has been done under some waivers given by the Bush administration, is simply not reading the bill.

Since the Senate passed a bill the first time, the subject of crowdout has become a lot more important in the debate. I want to define the word ''crowdout.'' That is the substitution of public coverage for people who were previously in private insurance, individual or corporate, health care policies. Crowdout occurs in CHIP because the CHIP benefit is attractive and there is no penalty for refusing private coverage if you are eligible for public coverage.

On August 17, the Center for Medicare and Medicaid Services put out a letter giving States new instructions on how to address the crowdout, trying to stop going from private coverage to the CHIP program. I appreciate the administration's willingness to engage this issue. They have some very good ideas. But I also think there are some flaws in that policy stated on August 17 by the Secretary of HHS. States are supposed to cover 95 percent of the lowest income kids under that policy statement. But it has been a month since they have issued the policy statement, and CMS still cannot explain what data States should be using to make that determination about 95 percent. Personally, I believe CMS should have answers before they issue policies. If they still can't explain how it works a month later, I believe, as the saying goes, they obviously aren't ready for prime time. So the compromise bill that is before the Senate and passed the House last night replaces the CMS letter with a more thoughtful, reasonable approach.

The Government Accountability Office and the Institute of Medicine would produce analyses on the most accurate and reliable way to measure the rate of public and private insurance coverage and on best practices by States that they would take to address crowdout problems because we don't want to create a public program that moves people from one private coverage to the other. That has happened to some extent over the last few years. We don't want to go further. This deals with that problem. We want to talk about people who don't have any health coverage rather than moving people from private to public.

Following the two reports that are referred to by the Institute of Medicine, as well as the Government Accountability Office, the Secretary, in consultation with the States, under this bill will develop crowdout best practices recommendations for the States to consider and develop a uniform set of data points for States to track and report on coverage of children below 200 percent of Federal poverty guidelines and on crowdout.

Next, States that extend CHIP coverage to children above 300 percent FPL must submit to the Secretary a State plan amendment describing how they will address crowdout for this population, encouraging the best practices recommended by the Secretary to limit moving people from private coverage to public. After October 1, 2010, Federal matching payments will not be permitted to States that cover children whose families' income exceeds 300 percent of poverty, if the State does not meet a target for the percentage of children at or below 200 percent of poverty enrolled in CHIP because we want the emphasis upon low-income children being covered. And at the lower income level, less have to have insurance in the private sector as opposed to higher income people maybe having to have that. So, simply put, cover lower income kids first or the State does not get money to cover higher income kids.

Now, I know some people are obsessed with the State of New York in their efforts to cover kids up to 400 percent of poverty. It seems to come up in the talking points of every person who is against the legislation now before the Senate. This bill does not change the CHIP eligibility rules in any way—not one bit. This bill does not expand the CHIP program to cover middle-income families or higher income kids. It does not do it. The bill actually goes in the other direction. The real fact is the bill makes it very difficult for any State to go above 300 percent of poverty. It will make it very difficult for New Jersey, the only State currently covering kids above 300 percent of poverty, to continue to do so if they do not do a better job of covering low-income kids.

If you are concerned about the State of New York, well, do not waste your time looking at this bill. You will not find answers to New York's fate here in this legislation. The answer is where it has always been—in the office of the Secretary of HHS, Mike Leavitt. Only he has the authority to allow any State to cover children up to 400 percent of poverty. The authority to approve what States do with the CHIP program rests with him and no one else. This bill does nothing to change that authority. That is a fact. I heartily encourage those of you who have not read the bill and are talking along this line to read the bill. You will find out that what I have just said is a fact. It is all there in black and white.

I also want to say a few words about the President's position on this bill and speak directly to the President, as I spoke to him on the phone at 10 minutes to 9 last Thursday about why he should not veto this bill.

Mr. President, it is unfortunate that you are not—or at least there are words out that you are not—going to support this bill, that you might veto it. I would hope, Mr. President, that you would reconsider. I would hope that you would sign this bill. President Bush, you yourself made a commitment to covering more children. I could quote several times you have said this. But I will go back to something I heard you say personally. It was during the Republican National Convention in New York City. Mr. President, you were very firm on this point. Here is what you said. I want to quote what you said:

> America's children must also have a healthy start in life. In a new term, we will lead an aggressive effort to enroll millions of poor children who are eligible but not signed up for the government's health insurance programs. We will not allow a lack of attention or information to stand between these children and the health care they need.

So, Mr. President, that is what you said back at the Republican Convention. You were reelected. You have a lot of mandates you are trying to carry out. This Republican Senator is trying to help you carry out that mandate you were elected on based on that speech you made.

I think that you, Mr. President, were pretty clear in your convictions then. I would like to repeat your words because I think they are very important. President Bush, you said that you would ''lead an aggressive effort to enroll millions of poor children . . . [in] the government's health insurance programs.'' That is the end of your quote. I am happy to make sure we fulfill that commitment you made, President Bush, but I believe your current budget, where you suggested $5 billion more, does not do the job. I happen to agree with your policy. I think this bill carries out your policy. But I do not think, President Bush, this bill can do that. You obviously cannot do that for the $5 billion more you have in your bill.

The Congressional Budget Office reports that your budget proposal, President Bush, for SCHIP for fiscal year 2008 would result in a loss of coverage—not an increase of coverage that you say you want—a loss of coverage of 1.4 million children and pregnant women. Increasing the numbers of uninsured children is clearly not the goal you expressed or what we want to accomplish in our legislation. So we carry out the policies of covering the kids you want to cover with the amount of money that will do it. That is what we have done in this legislation before us.

Now, this bill does not warrant the overheated rhetoric we heard in the House last night.

I want to say to the President—before I get on to the point about what was said in the House last night—also, the President has another policy he wanted to work into this SCHIP reauthorization. He wanted to use the private sector and use the tax deductibility of individual policies to cover some—and even a great amount—of uninsured people. He thought the SCHIP bill would be a vehicle to do that. I agree with the President's policy on doing that.

There was a period of time—during February, March, and April—that we were negotiating with the White House when I said I thought very much what Senator WYDEN of Oregon was trying to do—and the Senator is on the floor—was worthy of doing. I asked the White House would they try to find some help for me and Senator WYDEN, that maybe we could do this. They did not find any support for that. They still say they want to do that, but sometime along April or May, we had to make a decision here. Were we going to do what the President wanted to do on SCHIP? So we could not do what the White House wanted to do through the private sector as part of SCHIP, so in order to negotiate a bipartisan agreement, we had to forget that aspect. But I promised the White House all the time that I was going to be working for those goals of covering the uninsured through tax deductibility of individual policies, as Senator WYDEN has suggested, and get universal coverage, even, if we can. I am still committed to that.

I spoke to the President of the United States about that last Thursday when I was on the phone with him. I said: Let's get this SCHIP behind us. And I am going to join Senator WYDEN in his effort to do it so we can get bipartisanship started on that issue, as well as what we have on SCHIP.

So I am asking President Bush: Won't you please consider signing this bill, and then let Senator WYDEN and me work with you on trying to take care of the 47 million people who do not have health insurance—do it through the private sector, do it through the tax deductibility of policies like that.

We even had Senator CLINTON, in her statement in Iowa, in her campaign for the Presidency, speak along the same efforts of using tax deductibility of private insurance to take care of medical problems generally but mostly the problems of the uninsured.

So I think we can move in ways of accomplishing what the President wants to accomplish, but it just could not be done on the SCHIP. So you have to do what you have to do around here. If it takes two steps to get the job done, you do it. So I want everybody to know I am not abandoning any efforts to take care of the uninsured. I am going to work with Senator WYDEN on that.

Now, if I could go to the debate, the overheated rhetoric we had last night in the House. This is a bill which improves coverage for kids who are poor. This bill does not make it easier for illegal immigrants to get benefits. I do not know how that comes up, but that red herring has been going on over the last 24 hours, and somehow people believe anything they are told. Here is a case of reading the bill again. The bill clearly states that funds cannot go to illegal immigrants.

The desperate efforts I heard on the House side to suggest this bill makes it easier for illegal immigrants to get benefits simply strains credibility. The bill does not extend eligibility for illegal immigrant children or pregnant women. I heard that.

The bill does not make CHIP an entitlement. Now, we all know what the definition of ''entitlement'' is. That was thrown out in the debate in the Senate 2 months ago when we had this bill up. An entitlement is something that, if you qualify for it, you get it, and the money comes from the Federal Treasury, and there is no limit on the amount of money. That is an entitlement. This is a specific amount of money which is going to be spent on this program. Not one dollar more can be spent. This is not an entitlement. Even as recently as a meeting I was in within the last 4 hours, among a mass of my colleagues, that argument was used. I do not know how intellectually dishonest you can be. You are a Member of the U.S. Senate. You know what the language of Government is. Maybe the people at the grassroots do not think of entitlements the way we do. They do not think of programs, appropriated accounts the way we do. But everybody who has been around this Senate a few months knows what those things are. And to call this program an entitlement is intellectually dishonest.

This bill is not a Government takeover of health care, either. And you heard that. This bill is not socialized medicine. Screaming ''socialized medicine'' during a health care debate is like shouting ''fire'' in a crowded theater. It is intended to cause hysteria that diverts people from reading the bill, looking at the facts.

To those of you, my colleagues, who make such outlandish accusations, I say: Go shout ''fire'' somewhere else. Serious people are trying to get real work done. Now is the time to get this work done.

I appreciate very much the leadership Chairman BAUCUS has provided. I thank him and Senator ROCKEFELLER for what they did to reach a bipartisan agreement because they gave as much as Senator HATCH and I gave as we were negotiating—the four of us—for this bipartisan agreement.

I also extend a sincere thanks to Senator HATCH, who is on the floor with me, for being a part of this effort. Senator HATCH was the main Republican sponsor of this bill 10 years ago, creating the State Children's Health Insurance Program. His commitment to the ideals and fundamentals of the program is steadfast, and the program is better for it.

When we began the debate on CHIP, I wrote down some principles I want to refer to—principles I gave my staff that I believed in that I thought were accomplishable goals in this reauthorization. I probably wrote these down—well, anyway, I will refer to them. But I wrote these principles down in my own handwriting and handed them to my staff and said this is how I think we ought to proceed with the negotiations on the CHIP bill. I am not going to go through and read it line by line, but this is what I wrote down sometime back in February, and I am going to refer to some of these without holding this paper up again.

Here are some highlights of these principles I wrote down entitled ''Principles on SCHIP and How They Compare to The Bill.''

It cannot be a middle-class entitlement, I said. This bill is not an entitlement. It must be paid for. This bill is paid for.

Another principle I wrote down is that it must be focused on families below 200 percent of Federal poverty level. This bill is focused on those low-income families.

Another principle: Kids should be covered before adults. This bill clearly makes that a requirement.

Another thing I said is the program should be capped—not an open-ended entitlement to States. The program continues to be capped in this bill.

I am here to say that my principles remain intact in this compromise document; therefore, I support the compromise bill and I urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Vermont is recognized.

CHIP

Mr. SANDERS. Madam President, before he leaves the floor, let me congratulate Senator GRASSLEY for his very fine work on this legislation, and Senator HATCH as well. It has been a true bipartisan effort. I want to take this discussion in a little different direction. I strongly support the SCHIP program. I happen to believe it is a disgrace that the United States of America remains the only country in the industrialized world which today does not guarantee health care to all of its people. I just came back the other day from a trip to Costa Rica, and this small, poor country manages to cover all of its people. Yet, in our country, we have 47 million Americans who have no health insurance, and we have some 9 million children who have no health insurance.

I always find it ironic that the American people seem to get from the White House what they don't want, and they don't get what they do want. The American people want to end the war in Iraq as soon as possible, a war which will soon be costing us, if you can believe it, $750 billion—three-quarters of $1 trillion—which even in Washington is a lot of money. For the war in Iraq, for Halliburton contracts, we seem to have an endless supply of money. The American people don't want it, but that is what they are getting.

On the other hand, the American people do want health insurance for their children. The American people strongly support—and the polls are very clear about this—the SCHIP program. The American people would like all of the children in this country to be covered. That is what they want, but that is what they are not getting.

What this bill, in fact, does do, which is very good—and I mentioned a moment ago my congratulations to Senator GRASSLEY and Senator HATCH for their efforts—is it takes us somewhere. It provides health insurance for 5 million more children, which is clearly a significant step forward, and I will strongly support this legislation.

It is interesting to me that from the White House the main argument, it appears, for opposition to this particular piece of legislation, and the reason they are threatening to veto it, one of the key reasons is this is an expansion of ''government health care''—government health care. Let me read to my colleagues to whom it might be of interest, and to the American people, a poll on the economy done a few weeks ago by CBS News, from September 14 to September 16. This is the CBS poll.

Question No. 1: Which do you think would be better for the country: Having one health insurance program covering all Americans that would be administered by the government—administered by this terrible government—and paid for by taxpayers, or keeping the current system where many people get their insurance from private employers and some have no insurance? So CBS asked: Do you want a government-administered program covering all people or do you want the current system? The response from the American people was 55 percent believe in one health insurance for all Americans administered by the government; 29 percent want to maintain the current system.

We hear a lot of discussion from the White House about how terrible ''government health care'' is, and yet what the polls show by an almost 2-to-1 majority is that the American people would like a health insurance system guaranteeing health care to all people administered by the Government and paid for out of the tax base.

When I go back to Vermont, I find strong support for the Medicare Program, I find strong support for the Medicaid Program. Veterans want to see a significant increase in VA health care, which is, in fact, a 100-percent controlled Government program. In fact, Mr. Nicholson, who is head of the Veterans' Administration, former head of the Republican Party, says—and I think he is quite right—that the Veterans' Administration provides some of the very best quality health care in the United States of America, and they have been honored by national organizations who have looked at health care quality and have awarded distinction to the Veterans' Administration, which is, by the way, a 100-percent Government-run health care system. We have federally qualified health systems, health care programs all over America which time and time again are acknowledged to be tremendously successful. They are supported in a very strong, bipartisan way here in the Congress. They provide health care to millions of Americans—Government health care. So I think we should perhaps end this bogeyman mentality of Government health care—how terrible an idea it is. In fact, the American people want more Government health care in this country.

Our health care system has serious problems. In fact, it is in the midst of disintegrating. We have 47 million Americans today who have no health insurance, and that number, since President Bush has been in office, has gone up by over 7 million. The cost of health care is soaring. More and more people are not only uninsured, they are underinsured. Despite all of that, our country continues to spend twice as much per capita on health care as any other Nation on Earth. Meanwhile, despite all of that spending, despite all of the people who are uninsured, our health status measures—including infant mortality and life expectancy and the kind of work we do in disease prevention—ranks very low compared to other developed countries. We spend more, we get less value, we have more and more people uninsured, our health care system is disintegrating, and it is high time, in my view, that the United States ends the national disgrace of being the only country in the industrialized world that does not provide health care to all people.

Not only are more and more people uninsured; this system is even incapable of providing the doctors we need, especially in rural America. In cities we have doctors who are specialists earning millions of dollars a year, but somehow this system can't get doctors into rural America, into primary health care, into internal medicine. We lack dentists all over this country. We have a major nursing crisis, such that

we are depleting the health care systems of the Philippines and other countries, because we are not educating our own nurses. So we have some major problems.

In terms of the SCHIP program, it is hard for me to understand—it is hard for me to begin to understand—how this President can be threatening to veto this legislation. We hear in the Congress a whole lot about family values. Well, if taking care of our children is not a family value, then I don't know what a family value is. It is clear also that providing health insurance to our children is what is cost effective. Forget the suffering involved. Forget the children who deal with illness they are not getting treated for because their parents don't have health insurance. Look at the cost-effective aspect of this. What kind of thinking is involved when we say: No, we can't provide health insurance for you, but when you get sick because you haven't gone to the doctor, oh, yes, we will operate on you and we will spend tens and tens of thousands of dollars to take care of you when you are in the hospital?

Let me conclude by saying that the time is long overdue for this country to get its priorities right. We should not continue spending hundreds of billions of dollars on a war the American people don't want. We should not, as the President and some in this institution want, give $1 trillion in tax breaks to the wealthiest three-tenths of 1 percent by repealing the inheritance tax. One trillion dollars over 20 years, we have money to do that, but we don't have, apparently, $35 billion to provide health insurance to 4 million children in this country. This Congress has to reorder and change the priorities established in the White House, and I believe that passing this SCHIP program will be a good step forward, a first step forward to be followed by much more.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Madam President, I won't take much time about SCHIP, only to say I hope our colleagues will vote for the SCHIP bill. It is a real bipartisan effort made by Democrats and Republicans over a long period of time with a lot of give by House Democrats and House Democratic leadership because they wanted a bill. I hope we pass that bill. I will identify my remarks to a large degree with the remarks of the distinguished Senator from Iowa who spoke earlier.

AMENDMENT NO. 3047

Madam President, I wish to discuss an amendment addressing the subject of hate crimes that I have filed on this national defense bill. I do not think that hate crimes legislation should be attached to this defense bill. The issue of hate crimes has nothing to do with the matter before us, our national defense.

Frankly, this Kennedy amendment has no relationship, as far as I am concerned, to this very important bill intended to help our military, and it should not be included on this legislation. Yet, as long as my colleagues insisted on filing a politically problematic hate crimes amendment to this legislation, it was important that we have a balanced debate.

My amendment would provide Federal assistance to the States and localities in the prosecution and investigation of bias motivated violence. That is what we are talking about here: bias motivated violence.

I want to be absolutely clear. No one—nobody in this entire body or institution—believes for one second that such crimes are ever acceptable. Nobody in this body believes that. So those who want to make political points by suggesting that are plain wrong, and they should stop.

The question is: What is the proper role of the Federal Government in the prosecution of these crimes? This needs to be a matter that we keep in careful balance. Our States are the primary guarantors of our rights and liberties. As far as I can see, having watched it for years, the States have handled these crimes very well. In every case I can think of—there may be some exceptions, but I don't know of any—the State has handled these matters adequately and well and people have been prosecuted and convicted. Some have been put to death; others have been sentenced for life.

The States are the primary guarantors of our rights and liberties. I think we must respect the hard and decent work of the States as they secure equal justice under the law for all of our citizens in the respective States.

With due respect to my colleagues and good friends, Senators KENNEDY and SMITH, I do not think this amendment strikes the right balance. In fact, I think this amendment is not needed. It has plenty of difficulties. It is constitutionally very questionable.

And frankly, it should not be on this bill. If they want to bring it up, they can do it separately. It should not be on the bill because the President indicated that he is not going to put up with this type of legislation on this bill. This is not because of a lack of dedication on his part in prohibiting hate crimes. He is as dedicated as anybody in this body to targeting these crimes, and that includes the distinguished Senator from Massachusetts.

So I rise to oppose both hate crimes and the Kennedy hate crimes amendment. A conviction against bias-motivated violence does not justify supporting a proposal that is unwise, unnecessary, and unconstitutional.

This amendment would create a new Federal criminal felony, punishable by up to 10 years in prison, for willfully causing bodily injury because of a person's perceived race, color, national origin, religion, gender, sexual orientation, disability, or—get this—gender identity.

Senator KENNEDY made a specific point earlier today that this new felony is not related to Federal jurisdiction. He said such a requirement would be ''outdated, unwise, and unnecessary,'' but that requirement is grounded in the Constitution itself. With all due respect to my friend from Massachusetts, the Constitution is not outdated, unwise or unnecessary.

Not only does Congress lack authority to create such a freestanding hate crimes felony, the States are already handling this issue.

The Kennedy proposal would end up treating the less serious bias crimes too harshly, putting people who committed misdemeanors under State law in Federal prison, and treating the most serious bias crimes too harshly, with no death penalty even for the most heinous murders as in the case of James Byrd in Texas.

This bill goes further even than the Kennedy proposals of the past.

Let me mention a number of problems that I perceive with Senator KENNEDY's hate crimes amendment. First, as noted yesterday, the Kennedy amendment is different from the hate crimes bill offered in past Congresses. This amendment adds ''perceived . . . gender identity'' as a protected class. What does this concept mean? The Senate has held no hearings on the meaning of this phrase or how far this phrase would allow the courts to go. How far would some of the courts interpret this phrase? The bill's definition is vague; it raises more questions than it answers. Would this include wearing an earring? Would it include an assault of a man with long hair or a woman with short hair? What about a woman wearing long hair? Are all protected the same under Federal law? What about different kinds of clothing?

Clearly, there would be cases that fall safely within the drafters' intent, but can Senators be confident of what this language means? I do not think so. Do they want to pass a law to put judges or juries in charge of interpreting the meaning of clothing and personal style? Again, there have been no hearings in the Senate to give any guidance to Senators for this vote.

When the House passed this bill, the White House released a SAP promising a veto. To pass the Kennedy amendment is to jeopardize the Defense authorization bill altogether.

The Justice Department has also indicated it supports the concepts found in my alternative proposal.

There is no evidence that hate crimes go unprosecuted in the States. For example, as Dr. COBURN recently pointed out on the floor, the killers of Matthew Shepard—for whom this bill is named—were successfully prosecuted under State law. And recall that the killers of James Byrd in Texas several years ago were sentenced to death under State law. But there is no death penalty provided for in the Kennedy amendment. By the way, Senator KENNEDY cannot make the case that the States are inadequate in their handling of these crimes. I don't think he can

make the case the States are not doing a good job of handling these crimes. These kind of crimes are intra-State crimes. I do not think he can make the case there is a sufficient nexus of interstate commerce to justify what I consider to be the unconstitutional Kennedy amendment.

The Senator from Massachusetts stated earlier that ''all hate crimes will face a Federal prosecution.''

If that is true, then prepare for a massive federalization of basic criminal law, which is handled well by the States. Maybe 100 years ago you could find States not enforcing hate crime laws, but I do not think you will find that today in any State in this Union. There is not a person in the Senate who wants those crimes to go unpunished. But the States are handling them well. Why would we bring the almighty arm of the Federal Government into these matters?

There are also several reasons this bill is unconstitutional. Consider one: The Supreme Court held that certain of the criminal provisions of the Violence Against Women Act were unconstitutional because most crimes of violence against women were not interstate in nature. I have to admit I was a prime cosponsor, along with Senator BIDEN, of VAWA. I was somewhat disappointed in that decision, but that is the decision. That is our constitutional law. The Kennedy amendment would criminalize many physical and sexual assaults. The same constitutional issues are at stake.

Again, I decry hate crimes. I do not believe there should be evil discrimination, bias discrimination, in any way, shape or form. I have always stood up for the rights of those who have been discriminated against. I may have differed on some bills, as I do on this one. But I decry these types of acts. But to federalize hate crimes legislation and to make it not only burdensome but very intrusive on the State's work in this area, I think, is the wrong thing to do.

I hope my colleagues will consider some of these thoughts. I will speak in more detail tomorrow. But the fact of the matter is I think it is a real mistake, when the States are doing as good a job as they have been doing, when the very crimes they use to justify this bill were handled by the States and people were sentenced to long terms, or even to death, I think it is inadvisable for us to proceed on this amendment.

Last but not least, the President said he is going to veto the bill if Senator KENNEDY's amendment makes it in. I think it is wrong to put this amendment into this Defense Authorization Act. It has been wrong, as far as I am concerned, to have a lot of these amendments that have been brought up on the floor that have nothing to do with Defense authorization, or have everything to do with trying to score political points, at a time when we should have passed this bill 2 weeks ago and gotten it on its way to the House of Representatives and then to the President, so our soldiers will have the benefits this bill provides for.

Adding hate crimes to it may lead to a veto of the whole bill. That would be just plain tragic, especially since we know of the President's suggestion that he will veto the hate crimes bill. So I am concerned about it. I understand Senator KENNEDY's motivation on this. He wants to get it on a bill that has to pass both Houses of Congress. But it ought to be on a bill related to hate crimes or related to criminal law, not something that can scuttle this important Defense authorization bill. I personally feel badly that so many of these days have gone by with amendments that have nothing to do with the defense of our country or our soldiers in Iraq and Afghanistan and elsewhere around the world.

I yield the floor.

The PRESIDING OFFICER (Mr. CASEY). The Senator from Oregon is recognized.

CHILDREN'S HEALTH CARE

Mr. WYDEN. Mr. President, I hope tomorrow the Senate will pass urgently needed help for millions of America's children. I hope it will be done quickly because it is a moral abomination that millions of America's kids don't have health care. If the Senate acts quickly and the White House approves the legislation, it would then be possible to move forward on a bipartisan effort to more broadly address the extraordinary health care needs of all of our citizens.

The fact is, you don't get anything important done on health care, or other issues, unless it is bipartisan. Tomorrow, we will see a textbook case of bipartisanship on display on the floor of the Senate. Four members of the Senate Finance Committee on which I am proud to serve—Senators BAUCUS, GRASSLEY, ROCKEFELLER, and HATCH—and I see my friend from Utah on the floor. I salute him personally in my remarks because I know the Senator from Utah, the Senator from West Virginia, the Senator from Montana, and the Senator from Iowa spent hours and hours, day after day, working on the legislation to help our kids.

Bills such as this don't happen by osmosis; they happen because legislators of good faith, such as Senator HATCH, who, along with Senator KENNEDY and others, was a pioneer of this effort. Senator HATCH has addressed the major concerns. This is protecting private options for health care for children. He has been able to target the neediest youngsters. I am pleased he has addressed this waiver question and the remarks that the Senator has made and the distinguished Senator from Iowa has made, joining Senators BAUCUS and ROCKEFELLER. This is a textbook case, in my view, of how we address health care in a bipartisan way.

Frankly, one of the points I am going to make tonight in my remarks is that I wish to have this issue addressed by the Senate quickly because, first, our kids need it so much and, second, because if we can get it done quickly, he and I, Senator GRASSLEY, and so many other colleagues on the Finance Committee still want to work in a bipartisan way to go further.

Mr. HATCH. Will the Senator yield?

Mr. WYDEN. Yes.

Mr. HATCH. I thank the Senator for his kind remarks, which come from somebody who I know takes health care very seriously and has proven himself to be one of the leaders in health care. I personally pay tribute to the other Members who have also worked so hard on the SCHIP bill; in particular, Senator KENNEDY. I remember back in the early days, when it was a lonely thing for Senator KENNEDY and I to go around the country talking about helping the poor kids, the only ones left out of the health care system. It took a leading liberal such as Senator KENNEDY and this poor, old beaten-up conservative to be able to do that.

I am grateful we were able to come up with a bipartisan bill that the House was kind enough to work with us on. That was one of the rare bipartisan efforts this year that I would like to see more of in the Congress.

I sure hope somehow or another we can get the CHIP bill not only authorized but passed and signed into law so these 10 million kids have a future from a health care standpoint.

In any event, I did not mean to take so much of the Senator's time, but I wanted to thank him for his very kind and thoughtful remarks. His friendship is important to me. I personally congratulate him for his sensitive and very professional work on health care, not only in the House of Representatives but here as well.

Mr. WYDEN. I thank my friend. The fact that Senator HATCH and Senator KENNEDY, in particular, have prosecuted this cause of improving health care for our citizens has been so important. It is going to pay off, I hope, this week with resounding support for the children's health bill.

I want to spend a few minutes tonight talking about the possibility, with a strong victory for the cause of children's health, about the prospects of moving on from there. I wish to pick up on the remarks of the distinguished Senator from Iowa, Mr. GRASSLEY. He has been very gracious in terms of working with me and looking at the variety of options for broader reform. And I appreciate the conversation that Senator GRASSLEY had just a few days ago with the White House.

What a lot of us are saying to the White House is we think you have some valid points with respect to the broader issue of health care reform. I happen to think that Democrats have been spot on, absolutely correct on the coverage issue. We have to cover everybody because if we do not cover everybody, the people who are uninsured shift their

bills to people who are insured. But Republicans have had a very valid point as well that there ought to be private options, that there ought to be choices, that you need to have a strong delivery system with American health care in the private sector. That is why I made mention of the emphasis in the children's health bill on the private sector options.

My message to the White House has been, and I think the distinguished Senator from Iowa has made the same point, that it will not be possible to go on to the broader issue of health care reform until first the urgent needs of our children, needs that are demonstrated every single day in communities across the land—we are not going to see efforts on the broader reform effort pay off until first the needs of our children are met.

I hope the White House will see that the prospects of getting into issues that they correctly identify as important—I have said for a long time, and I say to my colleagues again, every liberal economist with whom we have talked in the Finance Committee and the Budget Committee has made the point that the current Tax Code disproportionately on health care favors the most wealthy and encourages inefficiency.

If the children's health bill can get passed, and passed quickly, we can then go forward, Democrats and Republicans, to work together on it. I have a different approach than the White House has with respect to fixing the Tax Code on health care, but certainly there are ways that Democrats and Republicans can work together if there is the same kind of good faith, bipartisan effort we have seen with Democratic and Republican leaders on the CHIP legislation.

I hope the White House will not veto the CHIP bill. They want broader health care reform, and so do I. The fact is, Senator BENNETT of Utah and I, along with Senator GREGG, Senator ALEXANDER, and Senator BILL NELSON, have brought to the floor of the Senate the first bipartisan universal coverage health bill in more than 13 years. It has been more than a decade, I say to my colleagues, since there has been a bipartisan universal coverage bill.

The fact is, out on the Presidential campaign trail, a lot of the Democratic candidates for President and a lot of the Republican candidates for President are talking about some of the very same approaches I outlined when I proposed the Healthy Americans Act in December of 2006.

This is an important time for the future of health care in our country. I hope steps will be taken to meet the needs of our kids that are so urgent and the President will sign that legislation, that he will see the value of the important bipartisan work done in this Chamber. If he does, even though the clock is ticking down on this Congress—and there is not a lot of time left for major initiatives—I still believe, as do Senator BENNETT and the sponsors of the Healthy Americans Act, Democratic and Republican colleagues with whom we continue to talk, that it is possible to go forward after a good children's health bill is passed to have broader health reform. And I think colleagues understand how urgent that is.

One of the sponsors of our Healthy Americans Act, Senator GREGG, the ranking Republican on the Budget Committee, just came into the Chamber. I am very honored to have him as a cosponsor of the Healthy Americans Act. Senators GREGG and CONRAD have correctly identified entitlement spending and the need to address it as a special priority.

The fact is, we cannot address the growing escalation in entitlement spending unless we deal with health care reform. We just cannot do it. It cannot happen because there are no costs rising in America like medical bills. Medical bills are a wrecking ball, flattening communities across the country and are the principal factor in the mushrooming cost of entitlements.

Again and again, the question of our country's well-being, the place of our companies in a tough global marketplace, the spiraling cost of entitlements comes down to the need to better address comprehensive health reform.

I believe, even though there is not a lot of time left in this session of Congress, that can be done, but only if, as Senator GRASSLEY noted early in the evening, the legislation that ensures that at least this session of Congress, at a minimum, takes steps to remove some of that moral taint we now face because our kids don't have health care. If that is done, we can go on from there.

I hope tomorrow we will see a resounding vote for the country's children. It is in their interests, it is in their name that we have had a bipartisan coalition working on the legislation. But I also suggest to the White House and others who want broader reform, reform that picks up on some of the White House's principles, it cannot happen unless the children's health bill is passed, and passed with a strong majority this week and the President signs it into law.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN. Mr. President, I echo the words of the Senator from Oregon and thank him for his leadership on health care issues and especially his urging the President of the United States to sign the children's health insurance bill. We are hoping for a strong vote in the Senate tomorrow in passing that very important legislation.

HATE CRIMES

Mr. BROWN. Mr. President, I rise this evening in support of the Kennedy amendment, the hate crimes amendment. Our Nation's strength lies in its diversity, its tolerance, its respect for the individual. Hate crimes borne of prejudice and ignorance, of fear and cowardice, contravene these core principles which our Nation for more than two centuries has held dear. They are perpetuated by individuals who fear, in some sense, individuality. Terrorism is a hate crime.

The amendment offered by my colleague, Mr. KENNEDY, ensures that hate crimes be investigated and prosecuted to the fullest extent of the law. It enables Federal investigations of what are clearly Federal crimes. Hate crimes target individuals because they are part of a community. In the national community, all of us have a stake in fighting back against these crimes.

My colleague's amendment sends a strong message. The message is this: Our Nation will not turn the other way when individuals try to divide us. We will not tread softly when individuals use violence to perpetuate hatred. We will prosecute to the fullest extent of the law crimes that reflect a vicious disregard for individual rights and our Nation's core central values.

Our Nation is a community of people who care about one another. Hate crimes destroy our cohesiveness and our mutual respect and replace those values with paranoia, with divisiveness, and with destruction. Hate crimes weaken our Nation. This amendment strengthens it.

I urge my colleagues to support the amendment.

FOREWARN ACT OF 2007

Mr. BROWN. Mr. President, in July, I introduced S. 1792, the FOREWARN Act of 2007, a direct outgrowth of legislation that one of my predecessors, two predecessors ago, Senator Metzenbaum from Ohio, introduced called the WARN Act, legislation he got through the Congress in the 1980s, but legislation that now needs an update. It is about plant closings and job loss.

Job loss, whether it is in Ohio or whether it is in Seattle, does not just affect a worker or a worker's family. Job loss devastates entire communities and local economies.

While notice of a layoff is no substitute for a job, the WARN Act of 20 years ago was supposed to give employees time to find a new job and for help to be provided. Under current law, however, fair notice has proven to be the exception, not the rule, because too many have gamed the old WARN Act.

Employers have laid off workers in phases to avoid the threshold level of the WARN Act, used subsidiaries to evade liability, and pressured workers in too many cases, in too many places around Ohio to waive their rights.

Whether one lives in Toledo, Columbus, Cleveland, Akron, Cincinnati, or Lebanon, it is absolutely critical that in these situations, workers and groups have sufficient notice to begin working to attempt to limit the damage this causes a community.

The new legislation which I introduced in July, with Senator CLINTON, Senator OBAMA, and Senator STABENOW, S. 1792, will close these loopholes and provide the tools necessary for the enforcement of the rules.

The legislation gives the Labor Department the authority to take civil action for violations, as well as giving authority to State attorneys general if the Labor Secretary fails to act within 6 months. So if the Labor Secretary today refuses to act, if this happens in Zanesville or Lima, Attorney General Marc Dann of Ohio may take action.

The legislation reduces the closing plant threshold from the current number 50, which is gamed all too often, to 25 employees. It recalculates the mass layoff figure. The current mass layoff figure is calculated from at least one-third of the employees, or 50. FOREWARN sets the number at 100 in all events, or one-third of employees if there are between 50 and 100 employees.

Our legislation, S. 1792, reduces the employer size to 50 employees and lengthens the notification period from 60 calendar days to 90 calendar days. It requires employers to provide written notification to the Labor Secretary, as well as local stakeholders, including early warning networks and mayors. It increases penalties for violations of the WARN Act from back pay to double back pay.

Mr. President, I know you have had this problem in the State of Pennsylvania, the problem of lost manufacturing, and you know that the worst thing a community can face is a major plant closing or major reduction of workforce in a plant. And you know that as bad as that is, there are some things employers can do to make it better, and many do. But you also know that the law passed 20 years ago has not always made sure that the transition from losing their job to going back into the community and getting work, getting their family through the hardest times, getting the community through the hardest times—the law has not always addressed the best way to do that, and I think this legislation, S. 1792, does that very well.

I ask my colleagues to consider this legislation. It is time to update the 20-year law, the WARN Act, which passed and was approved by President Reagan. I think this legislation will help ease the lost-job problems. We need to do much more. We need to train differently, we need new trade law, different tax laws, and all the different kinds of things the Presiding Officer and I have worked on already in our time in the Senate, but the FOREWARN Act will matter for communities such as Steubenville, Portsmouth, and Chillicothe, and it will matter for families who have suffered the indignities and the tragedies and the hardship of lost jobs and plant closings.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. BROWN). Without objection, it is so ordered.

COMMISSION ON WARTIME CONTRACTING

Mr. CASEY. Mr. President, I rise to deliver tonight some brief remarks about a matter that a group of freshmen Democrats in this body have worked on together, and that is a bipartisan commission on wartime contracting and to expand the authority of the existing oversight mechanisms to help make sure our taxpayer dollars are spent properly and wisely in Iraq and Afghanistan.

I, like the Presiding Officer from the State of Ohio, joined Senators WEBB and MCCASKILL and 23 other Members in cosponsoring this amendment and encourage the full Senate to approve it when it comes to a vote tomorrow. As a former auditor general in Pennsylvania, I know firsthand the need to aggressively root out waste in government. But it is especially egregious to discover waste and abuse and the loss of taxpayer dollars when our troops are in harm's way.

I also know that the oversight required to monitor potential abuse is a full-time job. That is why this amendment takes the extraordinary step of creating a new commission, evenly divided between the political parties, to investigate contractor abuses in a thorough manner. Some have argued we should leave this task to our existing committees in the Senate. I and my cosponsors, respectfully disagree with that assessment. As the distinguished Senator from Michigan said earlier today on the floor, our existing committees in the Senate, if they have this responsibility, would grind to a halt if any of those committees had to undertake a full investigation of contractor abuses in Iraq and Afghanistan. The commission we propose is deliberately patterned after the Truman Commission—named, of course, after a former President, but at the time the Truman Commission was named for his work in the Senate.

The Truman Commission consisted of a group of patriotic Americans that was charged with the mission of studying all financial and military transactions related to the execution of our war effort during World War II. This Commission recognized that it was not only American military might that would win the war in the struggle against the axis powers, but that every dollar saved, every dollar and every resource rescued would materially contribute to the war effort and enable the American Nation to focus its power and its energy on our common enemy at that time.

The wars in Afghanistan and Iraq are very different from World War II, we know that, but the same principles apply when it comes to rooting out waste, fraud, and abuse. Every day we read the horror stories about the lack of body armor for our troops. We see that the military has failed to order enough mine resistant ambush protective—so-called MRAP—vehicles to secure all of our troops. We hear our military stock is in need of urgent replenishment. The United States is a wealthy nation, we know that, but we are not a nation of infinite riches and resources. We have to prioritize our spending and make hard choices. That is why it is so important to crack down on contractor abuses in Iraq and Afghanistan. We cannot afford to let companies doing business there profit—profit—from fraud and abuse at the same time we need those very dollars for real priorities—our men and women in uniform.

In 2005, the Special Inspector General for Iraq Reconstruction reported that $9 billion spent on Iraq's reconstruction was missing—unaccounted for—due to inefficiencies and bad management. When I say missing, I literally mean the special inspector general's office was unable to find out what happened to this money. Only last week, the Pentagon disclosed that it is auditing $88 billion in contracts and programs for financial irregularities. Let me repeat that number—$88 billion. This is not a case of a few inappropriate cost overruns in contracts or sloppy bookkeeping in other contracts. Here we know that 40 individuals—40 individuals—and private companies have already been suspended, debarred, or are proposed for debarment. Another 30 investigations await prosecution at the Department of Justice.

Contractor abuse in Iraq and Afghanistan is a national scandal. It is an embarrassment. I think it also represents a taking. Every dollar wasted there is a dollar taken away from our troops and our ability to fight the enemy. Most of us supporting this amendment today were elected last year on the promise to change the culture in Washington and to no longer take for granted this type of crass corruption. We shouldn't accept it. We should root it out and do everything possible to make it almost impossible to commit this kind of crime.

This legislation establishes an independent commission to comprehensively vet Federal agency contracting for reconstruction, logistical support of coalition forces, and security and intelligence functions in Iraq and Afghanistan. What we are talking about is an independent and bipartisan commission to provide real credibility and real authority in cracking down on waste, fraud, and abuse.

This amendment also provides significant new powers to the already existing Special Inspector General for Iraq Reconstruction to expand his important work and coordinate with this

new commission. I had the chance earlier this month to meet with Stuart Bowen, who is that inspector general and in that position. We discussed this amendment, and he agreed it was a good proposal, one that deserved to be implemented to enhance the ability to uncover and prosecute gross abuses of the public trust.

No matter where one stands on the war in Iraq, I would hope we could agree on the need to eliminate all waste and fraud and prosecute those who facilitate such fraud and such waste. These actions bring dishonor to our Nation and, in a word, are unpatriotic. We should do everything we can to root out such abuses, and this amendment is an important first step to do that.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

SCHIP

Mr. REID. Mr. President, I came to the floor earlier today and spoke very favorably of my friend, CHARLES GRASSLEY from Iowa, and he deserved that attention that I gave him, those accolades that I extended to him.

I also want to extend my appreciation to Senator HATCH, who has worked on this. He is a member of the Finance Committee. He did an outstanding job and helped us get to the point where we are now. We are going to talk more about SCHIP tomorrow. I do not want those who worked so hard on this side to think that I have forgotten about them just because I said so many nice things about Senator GRASSLEY.

Senator BAUCUS, the chairman of the committee, has been a champion from the very beginning. He worked hard to try to explain to everyone that we could not do everything the House wanted to do, even though he and I wanted to do that.

The same applies to Senator ROCKEFELLER, who is the subcommittee chair who worked on this. He did a wonderful job. He attended meetings with the House when his presence was extremely important.

I want to make sure that everyone understands the great work done by Senators BAUCUS, GRASSLEY, HATCH, and ROCKEFELLER as members of the Finance Committee to get us to a point where tomorrow sometime we will finish our work on SCHIP.

HATE CRIMES

Mr. REID. Mr. President, Matthew Shepard was a 21-year-old student at the University of Wyoming when he was savagely beaten on October 6, 1998. Why? Because he was a homosexual; he was gay. Two men who had offered him a ride home robbed and pistol whipped him, beat him so severely they smashed his skull. If that wasn't enough for these demons, they tied him to a fence with a rope in the cold of winter, lonely—you can appreciate it if you spent a few of them in Wyoming—and left him to die. And he did die. He died of severe head injuries less than a week after the beating that was given.

What happened to Matthew was a tragedy for this young man, of course for his family, for other gay men and women who were and have been terrorized by this awful crime. It was certainly a tragedy for our Nation. The men who murdered Matthew Shepard were not charged with committing a hate crime because crimes of violence committed on the basis of sexual orientation were not prosecutable as hate crimes under Wyoming or Federal law. This is still the case today. The Matthew Shepard Local Law Enforcement Enhancement Act would strengthen the ability of Federal, State, and local governments to investigate and prosecute hate crimes.

This amendment would remove the current limitation on Federal jurisdiction that allows Federal involvement only in cases in which the assailant intended to prevent the victim from being engaged in a ''federally protected activity,'' such as voting. This amendment would expand the groups protected under current law to include all hate crimes, including those based on disability, gender, sexual orientation, gender identity—including race and ethnicity. This amendment would provide the Department of Justice the authority to assist State and local jurisdictions in prosecuting violent hate crimes or taking the lead in such prosecutions where local authorities are unwilling or unable to act.

Unfortunately, some of these crimes of hate-motivated violence have been directed to our men and women in uniform.

Just a few years ago, Alan Schindler, a sailor in the Navy, was stomped to death by a fellow serviceman because of his sexual orientation.

A short time after that, PFC Barry Winchell, an infantry soldier in the Army, was beaten to death with a baseball bat because his attackers believed he was gay. They didn't know—they believed he was gay. To them he acted gay, whatever that means.

In December of 1995, two paratroopers who were members of a group of neo-Nazi skinheads at Fort Bragg shot an African-American couple in a random, racially motivated double murder that led to a major investigation of extremism in our military. These killers and 19 other members of this division were dishonorably discharged for neo-Nazi gang activities.

According to a recent Southern Poverty Law Center report, the problem is only going to get worse as members of hate groups have been entering our military, which is increasingly desperate for new recruits. In fact, it used to be if you had committed a crime, any type of crime, the military wouldn't take you. You had to have a high school education and you certainly couldn't be a member of a gang. They are so desperate for military members because of this war we are involved in in Iraq, they are taking just about anybody. There are no background checks with these new recruits.

We have to make it clear that crimes of hate in our military will not be tolerated, and this amendment does just that. It strengthens the Defense authorization bill by sending a clear message that such crimes will be punished to the fullest extent of the law.

Is there a better place to have this amendment than on the Defense bill? I think not. We have had it on it before. If we have our military around the world fighting terror—and that is what they are doing—shouldn't we be able to protect our own troops from the terror? Shouldn't we be able to protect our own people in this country against being terrorized because of their sexual orientation? the color of their skin? their religion? The answer, of course, is we should be able to do that. They should be able to be protected.

We have to make it clear that crimes of hate in our military will not be tolerated. I repeat that. As we hold ourselves up as a model for the ideals of equality, tolerance, and mutual understanding abroad, we have a special responsibility to combat hate-motivated violence right here at home. Our troops are on the front lines of Iraq, Afghanistan, and elsewhere fighting against evil and hate. We owe it to them to uphold these same principles at home.

The Matthew Shepherd Act was introduced this spring at a ceremony attended by his parents, Judy and Dennis. I hope that tomorrow we will honor the memory of this young man by passing this important legislation which is named after him.

We all remember the brutal killing of James Byrd a few years ago, in Texas. This young man, at nighttime, was walking down a street in his own hometown when he was seen by some white men. They beat him severely, tied him to the back of their car, and dragged him through the streets until he was dead.

We need only look to the recent events in Jena, LA, to see for all the progress, racial tensions continue across our country. This legislation honors the commitment to justice that is woven deep within the fabric of our Nation.

I certainly urge all of our colleagues to join me in voting for this matter in the morning. It is important. It is the least we can do for Matthew Shepard and his family.

THE DREAM ACT

Mr. REID. Mr. President, I was disappointed earlier this year when the

comprehensive immigration reform was not passed. On two separate occasions, as Republicans filibustered the legislation to its legislative death, we tried to move this to conference on comprehensive immigration reform, and it was filibustered both times. We had knowledge there were not enough Republican votes to pass it. The last time we got 12 Republican Senators.

Part of that vital legislation was something we called the DREAM Act. This legislation's advocates have moved very hard. The primary advocate for this, and its primary sponsor, has been Senator RICHARD DURBIN of Illinois. He has worked tirelessly in his efforts to pass the DREAM Act. He has spoken within the Senate on many occasions, both here on the Senate floor, in the committee, and in press conferences we have had regarding immigration. I have never known Senator DURBIN to feel more strongly about anything than this, and we have been together for 5 years.

The DREAM Act recognizes that children should not be penalized for the actions of their parents. Many of these youth come to America very young. Many do not even remember their country of origin because they were too young when they left, nor do they speak the language of their home country. They think of themselves as Americans.

Many of these children are so desperate to be able to go to school. Only children who come to the United States when they were 15 years old or younger and have been in the United States for at least 5 years can apply under the DREAM Act. They would have to meet certain criteria, including earning a high school diploma, demonstrated good moral character, and passing criminal and security clearances. That is what the DREAM Act requires. To qualify for permanent status you must go to college or serve in the military for at least 2 years.

I have met star students in Nevada, for lack of a better description, who had qualified for the DREAM Act. With it their future is limitless. Without it, their future is very limited. Their future is diminished, of course, if they can't go to school.

Many of the children this bill would help are extremely talented and have graduated in the top of their classes, yet cannot go to a State school. What a waste it is to make it more difficult for them to go to college or prohibit them from getting jobs where they could be making meaningful contributions to their communities and to our country. What good does it do anybody to prevent these young people from having a future? Is gang membership better? Is a minimum wage job for life better? Is a life of crime better?

I hoped we would be able to offer this legislation as an amendment to the pending legislation, the Defense Authorization Act, but we have been unable to do that. Enacting the DREAM Act will give more of our children an opportunity to succeed.

Senator DURBIN and all who care about this matter should know that we will move to proceed to this matter before we leave here. I am going to do my utmost to do it by November 16. This is important legislation. We have a commitment to the young people to do this. It was part of the comprehensive immigration reform. It was a key part of comprehensive immigration reform. It was there that Senator DURBIN began talking about it—some would think incessantly—but he talked about it all the time, and he still feels strongly about this.

I send a message to him tonight and all who care about this legislation, we are going to try to move to this legislation. We should have been able to do it on this bill. We are going to be unable to do it, but we are going to move forward on this legislation as I have outlined.

HONORING OUR ARMED FORCES

SERGEANT EDMUND J. JEFFERS

Mr. SALAZAR. Mr. President, today I wish to reflect on the life of SGT Edmund Jeffers, who died last Wednesday in a vehicle accident in Taqqadum, Iraq. Sergeant Jeffers served in the 1st Battalion, 9th Infantry, 2nd Brigade, 2nd Infantry Division. At the age of 23 he was on his second tour of duty in Iraq.

Eddie Jeffers grew up in Daleville, AL, just south of Fort Rucker. The son of a master sergeant, he learned the value of military service early in life. He enlisted in the Army Reserve in 2002 after his graduation, feeling the call of duty after the events of September 11.

Those who knew Sergeant Jeffers describe him as a man of conviction, principle, and faith. His Christian values, his father recounts, guided his work as a soldier. They strengthened his resolve to defeat those who commit evils against innocents, and they kept alive his hope for a future of freedom and security for Iraqis. He saw the threat of terrorism as the struggle of his generation, a long war that will require sacrifice and commitment from all Americans.

Sergeant Jeffers, like so many soldiers before him, documented his experiences in war with pen and paper. He kept a journal in Iraq, posted updates for his friends and family online, and shared some of his writings with the world. He was eloquent and sharp. One of his essays, entitled ''Hope Rides Alone,'' has circulated widely on the internet, and newspapers have reprinted portions in recent days.

In, the essay, Eddie worried that the political debate at home was weakening our resolve to achieve success in Iraq and was driving a wedge between the country and the military.

He noted that this war is being fought on the backs of our men and women in uniform, while the ''American people have not been asked to sacrifice anything. Unless you are in the military or the family member of a servicemember, it's life as usual . . . the war doesn't affect you. But it affects us.''

The political debate here in Washington, Sergeant Jeffers argued, has become a national preoccupation that is distracting our focus from our goals in Iraq. As Sergeant Jeffers notes, there is strong disagreement in this country about the course we should take in Iraq. Our soldiers, too, have many different opinions. Much of this debate is necessary and healthy for a democracy, but, as Sergeant Jeffers cautions, the discussion should neither distract us from our efforts to protect national security nor lessen our commitment to helping secure a better future for Iraqis.

In the end, Iraqis ''want what everyone else wants in life: safety, security, somewhere to call home,'' Sergeant Jeffers wrote. ''They want a country that is safe to raise their children in.''

General MacArthur once said that it is ''the soldier, above all other people, who prays for peace, for he must suffer and bear the deepest scars of war.'' This was true for Eddie. Amid the chaos and violence in Iraq, Sergeant Jeffers never lost sight of the simple aspirations and the basic humanity that bind the vast majority of Iraqis.

I admire Sergeant Jeffers' life and service, all the more for his courage to share his thoughts with the world. His writings are powerful and challenge us to better account for the costs of freedom and for the sacrifices that all Americans should be prepared to make on its behalf.

One cannot adequately honor Eddie Jeffers' service and sacrifice. His actions need no praise to be commendable, and his writings stand alone with the force of his convictions. We are humbled by his life and saddened by his loss.

To Eddie's wife Stephanie, and to his parents Tina and David, my thoughts and prayers are with you. I know of no words that can lessen the pain that you feel, but I hope that one day you will find comfort in knowing that Eddie's sacrifice will never be forgotten. He challenges us to do better by our soldiers, to never let ''hope walk alone.'' His voice is heard, and his country is grateful. He will endure in our hearts and our prayers.

ADDITIONAL STATEMENTS

TRIBUTE TO PEGGY EWING WAXTER

• Mr. CARDIN. Mr. President, today I commemorate the life of Peggy Ewing Waxter, a woman who worked tirelessly to promote positive social change and civil rights. Mrs. Waxter passed away last Tuesday, September 18, 2007, at the age of 103. The State of Maryland and our Nation have lost a remarkable woman.

In the 1930s, Mrs. Waxter helped found the Waxter Center for Seniors in

Baltimore City. She also aided in the founding of various other organizations, including the University of Maryland Center for Infant Study, the Children's Guild of Baltimore, and the Maryland Committee for Children. She also helped establish the Baltimore Metropolitan Association for Mental Health.

In addition to working to improve the lives of seniors, women, and minorities, Peggy Waxter also served as chairwoman of the Volunteers Advisory Committee at Baltimore City Hospital, which is now the Johns Hopkins Bayview Hospital, and as head of the Northeast Symphony Society. Through these and numerous other service organizations, she influenced nearly every aspect of Baltimore society and was rightfully named by Baltimore Magazine one of the city's 11 most powerful women in 1978.

Baltimore is a better city because of Peggy Waxter's guiding hand. She is survived by her family: a daughter, Margaret Waxter Maher; a son, retired Baltimore City Circuit Court Judge Thomas J.S. Waxter, Jr., with whom I was privileged to serve in the Maryland General Assembly from 1967 until 1971; 6 grandchildren; and 10 great-grandchildren. I wish to express my heartfelt condolences to the Waxter family, and I ask my colleagues to join me in remembering her today.●

RECOGNIZING THE CONRATH POST OFFICE

● Mr. KOHL. Mr. President, I would like to take this time to recognize and congratulate the Conrath Post Office, located in Conrath, WI, on its 100th anniversary.

In 1904, the Conrath brothers settled in what would later become the village of Conrath. Located in northwest Wisconsin, the village sat on the Wisconsin Central Railroad line between Owen, WI, and Duluth, MN. In 1905, Frank Conrath sent 10 possible names to the railroad general passenger agent for the naming of the village. The general passenger agent decided on the name that still stands today: Conrath.

Mrs. Frank Conrath wrote to the postmaster general in 1905 to request that a post office be established in the village. The post office moved into the Rusk Farm Company Store where George W. Kendall became the first postmaster in 1907.

The first rural mail carrier in Conrath was Joseph Hahn, who delivered the mail in a single-cylinder, chain-drive, high-wheel-car. Throughout the past century, there have been 21 postmasters and postmistresses, as well as numerous rural route carriers, who have diligently served the residents of Conrath.

Just as Mrs. Conrath did over 100 years ago, residents in Conrath have continued to express the need for the Conrath Post Office as well as value the service and benefit to their community. That is why I am proud to have worked with the residents of the village in support of their efforts to maintain this post office. When they told me it might close, I worked with residents to convey these concerns to the U.S. Postal Service in order to ensure that this historic post office remains open and that rural residents continue to have effective and consistent postal service.

On behalf of our State and Nation, I congratulate the Conrath Post Office on its 100th anniversary and send my best wishes to all residents of the village of Conrath.●

HONORING AUDREY KIRKPATRICK

● Mr. JOHNSON. Mr. President, today I wish to honor Audrey Kirkpatrick, one of South Dakota's 2007 Congressional Coalition on Adoption Institute's Angels in Adoption Award recipients. Audrey has worked with Catholic Social Services in Rapid City, SD for 30 years, exhibiting empathy and dedication to birth families, adoptive parents, and adoptees. I am pleased to recognize Audrey for her years of service, and extend my congratulations to her on this special occasion.

Audrey was among the first social workers employed by Catholic Social Services in Rapid City when she began her work with pregnancy counseling and infant adoption in 1977. She remained with the agency until November 2002. At that time, Audrey believed the time had come for her to retire. However, when the program director of the agency resigned, Audrey was called upon to return to Catholic Social Services and fill in the gap during that critical time, despite suffering from ongoing health problems.

Audrey continues to be active in the agency on a part-time basis, and is often tapped by other social workers to answer questions, direct people to resources, and provide ideas on how to continue expanding and fulfilling the agency's mission to facilitate the adoption process, in addition to her role working directly with families.

Stories of Audrey's intense commitment abound. She has been available to families 24 hours a day, going so far as to venture out in the middle of the night to help a young birth mother whose car had broken down. On another occasion, she was present for a reunion of a birth mother and adult son, who she had helped to place in adoption as a child. The mother offered her thanks to Audrey, who had been such a comforting presence at the beginning and end of the adoption experience. It is not uncommon for people to come back to the agency to express their gratitude to Audrey, even years after she helped them through the adoption process.

Audrey is truly an Angel in Adoption. Her contributions to the communities of western South Dakota are inestimable. In the words of one of her coworkers, ''I can say with confidence that the gift Audrey offered to these individuals is stronger than words can express. Dedication, alone, cannot describe it.'' Audrey is beyond a doubt deserving of recognition for her commitment to ensuring that countless children in South Dakota have loving families and safe homes. It is clear that Audrey's legacy will be one of compassion and caring.●

HONORING BREWER FEDERAL CREDIT UNION

● Ms. SNOWE. Mr. President, today I congratulate the Brewer Federal Credit Union for being named the City of Brewer's 2007 Business of the Year. Founded in 1960, the Brewer Federal Credit Union has continually expanded its operations to serve an increasing number of communities in the Brewer area. With slightly over 20 employees, two branches, ATMs throughout the region, and Internet banking services, the credit union aims to make banking simpler for its roughly 8,400 members. Additionally, the Brewer Federal Credit Union's monthly newsletter provides useful information to assist customers, including updated information, news, and financial tips.

The city of Brewer recognized the Brewer Federal Credit Union for its outstanding service to the communities that it serves. Indeed, countless acts of generosity demonstrate well the commitment of the credit union to community service. During the Thanksgiving and Christmas holidays, the credit union assists the Brewer Community Service Council in collecting nonperishable foods that are put together in baskets to be distributed to local families in need. When a student from the town of Orrington was selected for the People to People program, the Brewer Federal Credit Union helped the student collect old cell phones and used ink cartridges which, in turn, were given to local businesses for recycling, to help finance his trip to Australia. During the annual Brewer Days, a fun-filled celebration held in September, the Brewer Federal Credit Union sponsors specific events, including a block party and street dance. In a similar vein, the credit union has sponsored events like the Brewer waterfront winter festival. Finally, the credit union generously supports local youth sports leagues, as well as Brewer High School athletic programs, various student musical ensembles, and the Boosters Club.

Helping others is clearly an integral part of the Brewer Federal Credit Union's equation for success. By providing a friendly and welcoming business atmosphere, combined with compassionate assistance to individuals and groups within the community, the credit union sets a truly remarkable example by leaving a positive mark on those whose lives it touches. The credit union's selection as Brewer's Business of the Year is a recognition of the positive impact that the credit union

brings to the city and a cogent reminder of the appreciation of Brewer's citizens for a local business that goes above and beyond the call of duty. I congratulate the Brewer Federal Credit Union for its recent award and wish everyone at the credit union continued success in their kind endeavors.●

MESSAGES FROM THE HOUSE

At 9:33 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 976) to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes, with amendments.

At 12:05 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. 3625. An act to make permanent the waiver authority of the Secretary of Education with respect to student financial assistance during a war or other military operation or national emergency.

At 1:43 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 1302. An act to require the President to develop and implement a comprehensive strategy to further the United States foreign policy objective of promoting the reduction of global poverty, the elimination of extreme global poverty, and the achievement of the United Nations Millennium Development Goal of reducing by one-half the proportion of people worldwide, between 1990 and 2015, who live on less than $1 per day.

H.R. 1400. An act to enhance United States diplomatic efforts with respect to Iran by imposing additional economic sanctions against Iran, and for other purposes.

H.R. 1943. An act to provide for an effective HIV/AIDS program in Federal prisons.

H. J. Res. 52. A resolution making continuing appropriations for the fiscal year 2008, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

Con. Res. 210. Concurrent resolution supporting the goals and ideals of Sickle Cell Disease Awareness Month.

The message further announced that pursuant to section 803(a) of the Congressional Recognition for Excellence in Arts Education Act (2 D.S.C. 803(a)), and the order of the House of January 4, 2007, the Minority Leader appoints Mr. Cliff Akiyama M.A. of California to the Congressional Award Board.

The message also announced that pursuant to section 803(a) of the Congressional Recognition for Excellence in Arts Education Act (2 D.S.C. 803(a)), and the order of the House of January 4, 2007, the Minority Leader appoints the following Member of the House of Representatives to the Congressional Award Board: Mr. GUS M. BILIRAKIS of Florida.

The message further announced that pursuant to section 803(a) of the Congressional Recognition for Excellence in Arts Education Act (2 D.S.C. 803(a)), and the order of the House of January 4, 2007, the Minority Leader appoints the following Member of the House of Representatives to the Congressional Award Board: Ms. SHEILA JACKSON LEE of Texas; and, in addition: Mr. Paxton Baker of Maryland, Mr. Vic Fazio of Virginia, Mrs. Annette Lantos of California, and Ms. Mary Rodgers of Pennsylvania.

The message also announced that pursuant to section 2 of the Migratory Bird Conservation Act (16 D.S.C. 715a) and the order of the House of January 4, 2007, the Speaker appoints the following Members of the House of Representatives to the Migratory Bird Conservation Commission: Mr. DINGELL of Michigan and Mr. GILCHREST of Maryland.

ENROLLED BILLS SIGNED

At 3:16 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1983. An act to amend the Federal Insecticide, Fungicide, and Rodenticide Act to renew and amend the provisions for the enhanced review of covered pesticide products, to authorize fees for certain pesticide products, to extend and improve the collection of maintenance fees, and for other purposes.

H.R. 3375. An act to extend the trade adjustment assistance program under the Trade Act of 1974 for 3 months.

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.

The enrolled bills were subsequently signed by the President pro tempore (Mr. BYRD).

At 5:09 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. 3668. An act to provide for the extension of transitional medical assistance (TMA), the abstinence education program, and the qualifying individuals (QI) program, 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 1302. An act to require the President to develop and implement a comprehensive strategy to further the United States foreign policy objective of promoting the reduction of global poverty, the elimination of extreme global poverty, and the achievement of the United Nations Millennium Development Goal of reducing by one-half the proportion of people worldwide, between 1990 and 2015, who live on less than $1 per day; to the Committee on Foreign Relations.

H.R 1400. An act to enhance United States diplomatic efforts with respect to Iran by imposing additional economic sanctions against Iran, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R 1943. An act to provide for an effective HIV/AIDS program in Federal prisons; to the Committee on the Judiciary.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 210. Concurrent resolution supporting the goals and ideals of Sickle Cell Disease Awareness Month; to the Committee on Health, Education, Labor, and Pensions.

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–3411. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Carriage Vessel Overhaul, Repair, and Maintenance'' (DFARS Case 2007–D001) received on September 11, 2007; to the Committee on Armed Services.

EC–3412. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Updated Statements of Legal Authority for the Export Administration Regulations'' (RIN0694–AD76) received on September 11, 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC–3413. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Implementation of the Understandings Reached at the June 2007 Australia Group Plenary Meeting; Addition to the List of States Parties to the Chemical Weapons Convention'' (RIN0694–AE08) received on September 25, 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC–3414. A communication from the Secretary, Division of Market Regulation, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Definitions of Terms and Exemptions Relating to the 'Broker' Exceptions for Banks'' (RIN3235–AJ74) received on September 24, 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC–3415. A communication from the Secretary, Division of Market Regulation, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Exemptions for Banks Under Section 3(a)(5) of the Securities Exchange Act of 1934 and Related Rules'' (RIN3235–AJ77) received on September 24, 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC–3416. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Iran as declared in Executive Order 12957; to the Committee on Banking, Housing, and Urban Affairs.

EC–3417. A communication from the Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant

to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; Temporary Rule; Inseason Retention Limit Adjustment'' (RIN0648–XC23) received on September 25, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3418. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Temporary Rule; Closure (Massachusetts 2007 Summer Flounder Commercial Fishery)'' (RIN0648–XC05) received on September 11, 2007; to the Committee on Commerce, Science, and Transportation.

EC–3419. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report entitled, ''Newtown Creek/Greenpoint Oil Spill Study''; to the Committee on Environment and Public Works.

EC–3420. A communication from the Director, Regulations and Disclosure Law, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''NAFTA: Merchandise Processing Fee Exemption and Technical Correction'' (RIN1505–AB58) received on September 25, 2007; to the Committee on Finance.

EC–3421. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Tier II Issue: Contractual Allowances'' (LMSB–04–0807–056) received on September 25, 2007; to the Committee on Finance.

EC–3422. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''2008 Transition Relief and Additional Guidance on the Application of Section 409A to Nonqualified Deferred Compensation Plans'' (Notice 2007–78) received on September 12, 2007; to the Committee on Finance.

EC–3423. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Insurance Company Proration Rules; Company Owned Life Insurance'' (Rev. Proc. 2007–61) received on September 12, 2007; to the Committee on Finance.

EC–3424. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Aggregation of Reverse 704(c) Gain'' (Rev. Proc. 2007–59) received on September 12, 2007; to the Committee on Finance.

EC–3425. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Guidance Under Section 812'' (Rev. Rul. 2007–54) received on September 12, 2007; to the Committee on Finance.

EC–3426. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Active Conduct of a Trade or Business'' (Notice 2007–60) received on September 12, 2007; to the Committee on Finance.

EC–3427. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed license for the export of firearms sold commercially in the amount of $1,000,000 or more to Malaysia; to the Committee on Foreign Relations.

EC–3428. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2007–181 to 2007–191); to the Committee on Foreign Relations.

EC–3429. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of two agreements reached between the American Institute in Taiwan and other organizations; to the Committee on Foreign Relations.

EC–3430. A communication from the Director of Administration, National Labor Relations Board, transmitting, pursuant to law, the Board's commercial activity inventory for fiscal year 2007; to the Committee on Health, Education, Labor, and Pensions.

EC–3431. A communication from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Food Additives Permitted for Direct Addition to Food for Human Consumption; Glycerol Ester of Tall Oil Rosin'' (Docket No. 2006F–0225) received on September 11, 2007; to the Committee on Health, Education, Labor, and Pensions.

EC–3432. A communication from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting , pursuant to law, the report of a rule entitled ''Food Additives Permitted for Direct Addition to Food for Human Consumption; Polydextrose'' (Docket No. 2006F–0059) received on September 11, 2007; to the Committee on Health, Education, Labor, and Pensions.

EC–3433. A communication from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Listing of Color Additives Subject to Certification; D and C Black No. 3; Confirmation of Effective Date'' (Docket No. 1995C–0286) received on September 11, 2007; to the Committee on Health, Education, Labor, and Pensions.

EC–3434. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, an annual report relative to the Food and Drug Administration's fulfillment of the conditions specified in the Medical Device User Fee and Modernization Act during fiscal year 2006; to the Committee on Health, Education, Labor, and Pensions.

EC–3435. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, an annual report relative to the Food and Drug Administration's collection and spending of animal drug user fees during fiscal year 2006; to the Committee on Health, Education, Labor, and Pensions.

EC–3436. A communication from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; General Hospital and Personal Use Devices; Classification of the Filtering Facepiece Respirator for Use by the General Public in Public Health Medical Emergencies'' (Docket No. 2007N–0198) received on September 12, 2007; to the Committee on Health, Education, Labor, and Pensions.

EC–3437. A communication from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Food Labeling: Safe Handling Statements: Labeling of Shell Eggs'' ((RIN0910–ZA23)(Docket No. 2004N–0382)) received on September 11, 2007; to the Committee on Health, Education, Labor, and Pensions.

EC–3438. A communication from the Chairperson, District of Columbia Commission on Judicial Disabilities and Tenure, transmitting, pursuant to law, the Commission's annual report for calendar year 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–3439. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled, ''Letter Report: Audit of Advisory Neighborhood Commission 7B for Fiscal Years 2005 Through 2007, as of March 31, 2007''; to the Committee on Homeland Security and Governmental Affairs.

EC–3440. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report relative to the Office's commercial activities during fiscal year 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–3441. A communication from the White House Liaison, Civil Rights Division, Department of Justice, transmitting, pursuant to law, the report of a vacancy and designation of an acting officer for the position of Assistant Attorney General, received on September 25, 2007; to the Committee on the Judiciary.

EC–3442. A communication from the Director of Regulations Management, National Cemetery Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Government-Furnished Headstone and Marker Regulation'' (RIN2900–AM64) received on September 25, 2007; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KERRY, from the Committee on Small Business and Entrepreneurship, with an amendment in the nature of a substitute:

S. 1671. A bill to reauthorize and improve the entrepreneurial development programs of the Small Business Administration, and for other purposes (Rept. No. 110-185).

By Mr. DODD, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

H.R. 835. A bill to reauthorize the programs of the Department of Housing and Urban Development for housing assistance for Native Hawaiians.

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

H.R. 2467. A bill to designate the facility of the United States Postal Service located at 69 Montgomery Street in Jersey City, New Jersey, as the ''Frank J. Guarini Post Office Building''.

H.R. 2587. A bill to designate the facility of the United States Postal Service located at 555 South 3rd Street Lobby in Memphis, Tennessee, as the ''Kenneth T. Whalum, Sr. Post Office Building''.

H.R. 2654. A bill to designate the facility of the United States Postal Service located at 202 South Dumont Avenue in Woonsocket, South Dakota, as the ''Eleanor McGovern Post Office Building''.

H.R. 2765. A bill to designate the facility of the United States Postal Service located at 44 North Main Street in Hughesville, Pennsylvania, as the ''Master Sergeant Sean Michael Thomas Post Office''.

H.R. 2778. A bill to designate the facility of the United States Postal Service located at 3 Quaker Ridge Road in New Rochelle, New York, as the ''Robert Merrill Postal Station''.

H.R. 2825. A bill to designate the facility of the United States Postal Service located at 326 South Main Street in Princeton, Illinois, as the ''Owen Lovejoy Princeton Post Office Building''.

H.R. 3052. A bill to designate the facility of the United States Postal Service located at 954 Wheeling Avenue in Cambridge, Ohio, as the ''John Herschel Glenn, Jr. Post Office Building''.

H.R. 3106. A bill to designate the facility of the United States Postal Service located at 805 Main Street in Ferdinand, Indiana, as the ''Staff Sergeant David L. Nord Post Office''.

S. 2023. A bill to designate the facility of the United States Postal Service located at 805 Main Street in Ferdinand, Indiana, as the ''Staff Sergeant David L. Nord Post Office''.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LIEBERMAN for the Committee on Homeland Security and Governmental Affairs.

*Julie L. Myers, of Kansas, to be Assistant Secretary of Homeland Security.

By Mrs. FEINSTEIN for the Committee on Rules and Administration.

*Robert Charles Tapella, of Virginia, to be Public Printer.

*Steven T. Walther, of Nevada, to be a Member of the Federal Election Commission for a term expiring April 30, 2009.

*Hans von Spakovsky, of Georgia, to be a Member of the Federal Election Commission for a term expiring April 30, 2011.

*David M. Mason, of Virginia, to be a Member of the Federal Election Commission for a term expiring April 30, 2009.

*Robert D. Lenhard, of Maryland, to be a Member of the Federal Election Commission for a term expiring April 30, 2011.

(*Signifies nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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. SANDERS:

S. 2094. A bill to increase the wages and benefits of blue collar workers by strengthening labor provisions in the H–2B program, to provide for labor recruiter accountability, and for other purposes; to the Committee on the Judiciary.

By Mr. BROWN:

S. 2095. A bill to amend the Agricultural Marketing Act of 1946 to require country of origin labeling for processed food items; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DORGAN (for himself, Mr. STEVENS, Mr. SCHUMER, Mr. ENSIGN, Mr. KERRY, Mr. KOHL, Mr. FEINGOLD, Mrs. CLINTON, Mrs. FEINSTEIN, and Mr. NELSON of Florida):

S. 2096. A bill to amend the Do-Not-Call Implementation Act to eliminate the automatic removal of telephone numbers registered on the Federal ''do-not-call'' registry; to the Committee on Commerce, Science, and Transportation.

By Mr. FEINGOLD:

S. 2097. A bill to modify the optional method of computing net earnings from self-employment; to the Committee on Finance.

By Mr. DORGAN (for himself and Mr. CONRAD):

S. 2098. A bill to establish the Northern Plains Heritage Area in the State of North Dakota; to the Committee on Energy and Natural Resources.

By Mr. SALAZAR (for himself, Mr. ROBERTS, and Ms. CANTWELL):

S. 2099. A bill to amend title XVIII of the Social Security Act to repeal the Medicare competitive bidding project for clinical laboratory services; to the Committee on Finance.

By Mr. JOHNSON (for himself and Mr. BARRASSO):

S. 2100. A bill to require that Federal forfeiture funds be used, in part, to clean up methamphetamine laboratories; to the Committee on the Judiciary.

By Mr. BINGAMAN (for himself, Mr. KERRY, Mr. SALAZAR, and Ms. STABENOW):

S. 2101. A bill to amend title XIX of the Social Security Act to assist low-income Medicare beneficiaries by improving eligibility and services under the Medicare Savings Program, and for other purposes; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Mr. OBAMA, Mr. SALAZAR, Mr. BROWN, Mr. KERRY, Ms. STABENOW, Ms. CANTWELL, and Mrs. CLINTON):

S. 2102. A bill to amend title II of the Social Security Act to phase out the 24-month waiting period for disabled individuals to become eligible for Medicare benefits, to eliminate the waiting period for individuals with life-threatening conditions, and for other purposes; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Mr. OBAMA, Mr. SALAZAR, Ms. COLLINS, and Mr. LIEBERMAN):

S. 2103. A bill to amend title XVIII of the Social Security Act to eliminate the in the home restriction for Medicare coverage of mobility devices for individuals with expected long-term needs; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. MIKULSKI (for herself and Mr. CARDIN):

S. Res. 332. A resolution expressing the sense of the Senate that the Department of Defense and the Department of Veterans Affairs should increase their investment in pain management research; to the Committee on Armed Services.

By Mr. REID (for himself and Mr. MCCONNELL):

S. Res. 333. A resolution to authorize the production of records by the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs; considered and agreed to.

ADDITIONAL COSPONSORS

S. 38

At the request of Mr. DOMENICI, the name of the Senator from Texas (Mrs. HUTCHISON) 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. 400

At the request of Mr. SUNUNU, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor 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. 502

At the request of Mr. CRAPO, the names of the Senator from Iowa (Mr. GRASSLEY), the Senator from Indiana (Mr. LUGAR) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. 502, a bill to repeal the sunset on the reduction of capital gains rates for individuals and on the taxation of dividends of individuals at capital gains rates.

S. 543

At the request of Mr. NELSON of Nebraska, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 543, a bill to improve Medicare beneficiary access by extending the 60 percent compliance threshold used to determine whether a hospital or unit of a hospital is an inpatient rehabilitation facility under the Medicare program.

S. 700

At the request of Mr. CRAPO, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 700, a bill to amend the Internal Revenue Code to provide a tax credit to individuals who enter into agreements to protect the habitats of endangered and threatened species, and for other purposes.

S. 774

At the request of Mr. DURBIN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 774, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children, and for other purposes.

S. 897

At the request of Ms. MIKULSKI, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 897, a bill to amend the Internal Revenue Code of 1986 to provide more help to Alzheimer's disease caregivers.

S. 898

At the request of Ms. MIKULSKI, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 898, a bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention.

S. 1015

At the request of Mr. COCHRAN, the name of the Senator from Kentucky

(Mr. BUNNING) was added as a cosponsor of S. 1015, a bill to reauthorize the National Writing Project.

S. 1164

At the request of Mr. CARDIN, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 1164, a bill to amend title XVIII of the Social Security Act to improve patient access to, and utilization of, the colorectal cancer screening benefit under the Medicare Program.

S. 1233

At the request of Mr. AKAKA, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1233, a bill to provide and enhance intervention, rehabilitative treatment, and services to veterans with traumatic brain injury, and for other purposes.

S. 1240

At the request of Mrs. CLINTON, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1240, a bill to provide for the provision by hospitals receiving Federal funds through the Medicare program or Medicaid program of emergency contraceptives to women who are survivors of sexual assault.

S. 1267

At the request of Mr. DODD, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1267, a bill to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media.

S. 1310

At the request of Mr. SCHUMER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1310, a bill to amend title XVIII of the Social Security Act to provide for an extension of increased payments for ground ambulance services under the Medicare program.

S. 1328

At the request of Mr. LEAHY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1328, a bill to amend the Immigration and Nationality Act to eliminate discrimination in the immigration laws by permitting permanent partners of United States citizens and lawful permanent residents to obtain lawful permanent resident status in the same manner as spouses of citizens and lawful permanent residents and to penalize immigration fraud in connection with permanent partnerships.

S. 1651

At the request of Mr. SMITH, the name of the Senator from Maine (Ms. SNOWE) 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. 1718

At the request of Mr. BROWN, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1718, a bill to amend the Servicemembers Civil Relief Act to provide for reimbursement to servicemembers of tuition for programs of education interrupted by military service, for deferment of students loans and reduced interest rates for servicemembers during periods of military service, and for other purposes.

S. 1825

At the request of Mr. WEBB, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1825, a bill to provide for the study and investigation of wartime contracts and contracting processes in Operation Iraqi Freedom and Operation Enduring Freedom, and for other purposes.

S. 1895

At the request of Mr. REED, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1895, a bill to aid and support pediatric involvement in reading and education.

S. 1916

At the request of Mr. BURR, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1916, a bill to amend the Public Health Service Act to modify the program for the sanctuary system for surplus chimpanzees by terminating the authority for the removal of chimpanzees from the system for research purposes.

S. 1930

At the request of Mr. WYDEN, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 1930, a bill to amend the Lacey Act Amendments of 1981 to prevent illegal logging practices, and for other purposes.

S. 1944

At the request of Mr. LAUTENBERG, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1944, a bill to provide justice for victims of state-sponsored terrorism.

S. 1982

At the request of Mr. SANDERS, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1982, a bill to provide for the establishment of the United States Employee Ownership Bank, and for other purposes.

S. 2035

At the request of Mr. SPECTER, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2035, a bill to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media.

S. 2085

At the request of Mr. BROWN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2085, a bill to delay for 6 months the requirement to use of tamper-resistant prescription pads under the Medicaid program.

S. 2088

At the request of Mr. FEINGOLD, the names of the Senator from Illinois (Mr. OBAMA) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 2088, a bill to place reasonable limitations on the use of National Security Letters, and for other purposes.

S. 2089

At the request of Mr. NELSON of Florida, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 2089, a bill to amend title XVIII of the Social Security Act to reduce the coverage gap in prescription drug coverage under part D of such title based on savings to the Medicare program resulting from the negotiation of prescription drug prices.

S. 2092

At the request of Mr. DURBIN, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 2092, a bill to amend title 11, United States Code, to improve protections for employees and retirees in business bankruptcies.

S. CON. RES. 36

At the request of Mr. CASEY, the names of the Senator from New Jersey (Mr. MENENDEZ), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Georgia (Mr. ISAKSON), the Senator from Washington (Mrs. MURRAY) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. Con. Res. 36, a concurrent resolution supporting the goals and ideals of National Teen Driver Safety Week.

S. RES. 273

At the request of Ms. MIKULSKI, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. Res. 273, a resolution expressing the sense of the Senate that the United States Postal Service should issue a semipostal stamp to support medical research relating to Alzheimer's disease.

S. RES. 299

At the request of Mr. MENENDEZ, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of S. Res. 299, a resolution recognizing the religious and historical significance of the festival of Diwali.

AMENDMENT NO. 2251

At the request of Mr. LAUTENBERG, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of amendment No. 2251 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. 2919

At the request of Mr. DURBIN, the name of the Senator from Vermont

(Mr. SANDERS) was added as a cosponsor of amendment No. 2919 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. 2982

At the request of Mr. COLEMAN, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of amendment No. 2982 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. 2997

At the request of Mr. BIDEN, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Ohio (Mr. BROWN), the Senator from Delaware (Mr. CARPER) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of amendment No. 2997 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. 2999

At the request of Mr. WEBB, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of amendment No. 2999 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. 3017

At the request of Mr. KYL, the names of the Senator from Tennessee (Mr. CORKER), the Senator from South Dakota (Mr. THUNE) and the Senator from Arizona (Mr. MCCAIN) were added as cosponsors of amendment No. 3017 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. 3024

At the request of Mrs. DOLE, her name was added as a cosponsor of amendment No. 3024 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. 3034

At the request of Mr. GREGG, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of amendment No. 3034 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. 3035

At the request of Mr. KENNEDY, the names of the Senator from Vermont (Mr. LEAHY), the Senator from Pennsylvania (Mr. SPECTER), the Senator from New Jersey (Mr. MENENDEZ), the Senator from Connecticut (Mr. DODD), the Senator from Maine (Ms. COLLINS), the Senator from Indiana (Mr. BAYH), the Senator from Colorado (Mr. SALAZAR), the Senator from Massachusetts (Mr. KERRY), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Illinois (Mr. OBAMA), the Senator from New York (Mrs. CLINTON), the Senator from Maine (Ms. SNOWE), the Senator from Washington (Mrs. MURRAY), the Senator from Rhode Island (Mr. REED), the Senator from California (Mrs. FEINSTEIN), the Senator from Hawaii (Mr. INOUYE), the Senator from Ohio (Mr. BROWN), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Illinois (Mr. DURBIN), the Senator from New York (Mr. SCHUMER), the Senator from California (Mrs. BOXER), the Senator from Maryland (Mr. CARDIN), the Senator from Rhode Island (Mr. WHITEHOUSE), the Senator from Maryland (Ms. MIKULSKI), the Senator from Vermont (Mr. SANDERS), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Pennsylvania (Mr. CASEY), the Senator from Oregon (Mr. WYDEN), the Senator from South Dakota (Mr. JOHNSON), the Senator from Iowa (Mr. HARKIN), the Senator from Delaware (Mr. BIDEN), the Senator from Washington (Ms. CANTWELL) and the Senator from Virginia (Mr. WEBB) were added as cosponsors of amendment No. 3035 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. 3045

At the request of Mr. COBURN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of amendment No. 3045 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. SANDERS:

S. 2094. A bill to increase the wages and benefits of blue collar workers by strengthening labor provisions in the H–2B program, to provide for labor recruiter accountability, and for other purposes; to the Committee on the Judiciary.

Mr. SANDERS. Mr. President, today I am introducing the Increasing American Wages and Benefits Act of 2007.

Since 2000, key economic indicators confirm that the economic security of Americans is moving in the wrong direction: nearly 5 million more Americans are living in poverty; nonelderly household income has declined by nearly $2,500; over 3 million manufacturing jobs have been lost; and 8.6 million more Americans are without health insurance. While the rich have gotten richer, every other income group over the past 7 years has lost ground economically, with the middle class and working families losing the most.

The Increasing American Wages and Benefits Act would begin to reverse this downward economic trend for workers employed in construction, forestry, ski resorts, stone quarries, asphalt paving, hotels, restaurants, landscaping, housekeeping and many other industries by reforming the H–2B guest-worker program.

Under current law and existing Federal regulations, employers applying for H–2B visas must first certify that capable U.S. workers are not available, efforts were made to recruit U.S. workers for these positions first, and the employment of guest workers will not adversely affect the wages and working conditions of similarly employed U.S. workers.

As documented by the AFL–CIO, Change to Win, the Southern Poverty Law Center and other groups, the H–2B program is frequently used by employers to drive down the wages and benefits of U.S. workers, while cheating H–2B workers out of earned benefits. These abuses have clearly undermined the legislative and regulatory intent of this temporary guest-worker program.

The Increasing American Wages and Benefits Act would reform the H–2B program to ensure that workers receive the wages and benefits they deserve and prevent employers from abusing the system.

Specifically, this legislation: requires employers to do a much better job at recruiting American workers first at higher wages before being able to hire H–2B guest-workers; provides the Department of Labor with the explicit authority to enforce labor law violations pertaining to the H–2B program; allows workers who have been directly and adversely affected by the H–2B program

to have their day in court against unscrupulous employers; prohibits companies that have announced mass layoffs within the past year from hiring H–2B guest-workers. Allows the Legal Services Corporation to provide the same legal services to H–2B workers as it provides to H–2A workers; requires employers to pay for the transportation expenses for H–2B guest workers both to the United States and back to their country of origin once the employment period ends; and provides other important protections for H–2B guest-workers.

This legislation improves and strengthens the H–2B program so that it can be used by employers during emergency labor shortages, while increasing the wages and benefits for both American workers and guestworkers.

I am proud that the Increasing American Wages and Benefits Act has the strong support of the AFL–CIO; the Service Employees International Union, SEIU; the International Brotherhood of Teamsters; the Southern Poverty Law Center; the Building and Construction Trades Department; the Laborers' International Union of North America; the United Food and Commercial Workers; the International Brotherhood of Electrical Workers; the Alliance of Forest Workers and Harvesters; the United Farmworkers of America; and the Farmworkers Support Committee.

I ask unanimous consent to have printed in the RECORD letters of support.

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

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, DC, September 19, 2007.

Hon. BERNARD SANDERS,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR SANDERS: The AFL–CIO strongly supports the ''Increasing American Wages and Benefits Act of 2007,'' which would strengthen necessary labor protections within the H–2B seasonal non-agricultural guest worker program.

As demonstrated by a recent report issued by the Southern Poverty Law Center, ''Close to Slavery,'' employers and recruiters who seek to import seasonal workers through this program have all too often engaged in questionable tactics and subjected workers to exploitation. This exploitation often goes undetected because the investigative and enforcement mechanisms of the H–2B program are largely non-existent.

Adequate enforcement of labor standards within the H–2B seasonal guest worker program would not only help deter the abuse of an imported foreign workforce, but would also protect the wages and benefits offered to American workers, who are unfairly forced to compete for jobs by employers who appreciate the benefits of filling vacancies with a more vulnerable workforce.

The suffering of one segment of our workforce has an inevitable and damaging impact on every worker. We must stop unscrupulous employers from padding their profit margins by endangering workers and driving down wages and workplace standards. We applaud your efforts to protect the living standards of all who labor within our borders.

Sincerely,

WILLIAM SAMUEL,
Director, Department of Legislation.

IMMIGRANT JUSTICE PROJECT,
SOUTHERN POVERTY LAW CENTER,
Montgomery, AL, September 17, 2007.

Hon. BERNIE SANDERS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SANDERS: I write on behalf of the Southern Poverty Law Center in support of the legislation you recently introduced to reform the H–2B guestworker program. The bill, ''The Increasing American Wages and Benefits Act,'' would substantially improve the legal protections available to H–2B workers and to American workers laboring in industries that rely heavily on guestworkers.

Founded in 1971, the Southern Poverty Law Center is a civil rights organization dedicated to advancing and protecting the rights of minorities, the poor and victims of injustice in significant civil rights and social justice matters. Our Immigrant Justice Project represents low-income immigrant workers in litigation across the Southeast.

During my legal career, I have represented and spoken with literally thousands of H–2 guestworkers in many states. Currently, the Southern Poverty Law Center is representing workers in seven class action lawsuits on behalf of guestworkers. We have also recently published a report about the H–2 guestworker program in the United States entitled ''Close to Slavery,'' which can be accessed at http://www.splcenter.org/pdf/static/SPLCguestworker.pdf.

Our report, which discusses in detail the abuses suffered by guestworkers, is based upon thousands of interviews with workers as well as a review of the research on guestworker programs, scores of legal cases and the experience of legal experts from around the country. As the report reflects, guestworkers are systematically exploited because the very structure of the program places them at the mercy of a single employer and provides no realistic means for workers to exercise the few rights they have.

The H–2B guestworker program permits U.S. employers to import human beings on a temporary basis from other nations to perform work when the employer certifies that ''qualified persons in the United States are not available and . . . the terms of employment will not adversely affect the wages and working conditions of workers in the U.S. similarly employed.'' Those workers generally cannot bring with them their immediate family members, and their status provides them no route to permanent residency in the United States.

The program is rife with abuses. The abuses typically start long before the worker has arrived in the United States, with the recruitment process, and they continue through and even after his or her employment here. Unlike U.S. citizens, guest workers do not enjoy the most fundamental protection of a competitive labor market—the ability to change jobs if they are mistreated. If guestworkers complain about abuses, they face deportation, blacklisting or other retaliation.

Our report documents rampant wage violations, recruitment abuses, seizure of identity documents and squalid living conditions, among other things. H–2B workers simply have very few legal protections under our current law.

In addition, H–2B workers cannot reasonably enforce the few rights they have under our current system. Providing workers a way to enforce promises made to them by employers and giving them access to legal services attorneys are important steps in helping workers combat abuse and protect their rights.

In conclusion, current guestworker programs for low-skilled workers in the United States lack adequate worker protections and lack any real means to enforce the protections that do exist under federal law. Vulnerable workers desperately need Congress to take the lead in demanding reform of this system. Passage of this bill would go a long way toward remedying the abuses that vulnerable workers experience in U.S. guestworker programs.

Sincerely,

MARY BAUER,
Director.

UNITED FOOD & COMMERCIAL WORKERS INTERNATIONAL UNION, CLC,
Washington, DC, September 21, 2007.

Hon. BERNARD SANDERS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SANDERS: On behalf of the 1.3 million members of the United Food and Commercial Workers International Union (UFCW), I am writing to thank you for introducing the ''Increasing American Wages and Benefits Act of 2007.'' UFCW supports this legislation that will improve the legal protections to H–2B seasonal non-agricultural workers.

It is clear that the current temporary nonimmigrant programs have not worked as intended and it is long past the time for reform. UFCW has long advocated for reform of existing guestworker programs. Many employers and recruiters who recruit and hire workers through this program have engaged in questionable tactics, and many of the workers have been subjected to exploitation.

In addition, we believe that many of these jobs could and would be filled by American workers, especially if the employers offer appropriate wages and working conditions to attract domestic workers. The ''Increasing American Wages and Benefits Act'' will increase the enforcement for the program, deter abuse of guestworkers, and would improve the wages, benefits, and working conditions offered to these workers and all American workers, who are unfairly forced to compete for these jobs.

UFCW has been a long-time proponent of reforming guestworker programs because, in spite of the theory, the real world impact is that they have created an underclass of workers, have held down wages, discouraged reporting of workplace complaints, and reduced workers' ability to organize and collectively bargain. In addition, the result of the existing programs is that they have engendered discriminatory attitudes toward individuals who are afforded neither full rights nor benefits on the job, nor participation in our society. Our experience is that no matter how many worker protections have been written into temporary worker programs, the approach inherently provides employers with the opportunity to exploit workers and turn permanent jobs into low-wage, no-benefit, and no-future jobs.

UFCW supports your reform efforts and we look forward to working with you to enact this important legislation.

Sincerely,

MICHAEL J. WILSON,
International Vice President, Director, Legislative and Political Action Department.

FARMWORKER JUSTICE,
Washington, DC, September 19, 2007.

Re reform of the H–2B Temporary Foreign Worker Program.

Senator BERNARD SANDERS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SANDERS: Thank you for introducing the Increasing American Wages and Benefits Act to reform the H–2B guestworker program for seasonal employment Farmworker Justice, a national advocacy and litigation organization for agricultural workers, has had substantial experience helping U.S. and foreign workers affected by the H–2B program as well as the H–2A agricultural guestworker program. Our research and direct experience cause us to conclude that substantial reforms of the program are needed. We support the legislation and hope that Congress enacts it immediately.

Currently, the H–2B law instructs the Department of Labor to prevent employers that hire H–2B guestworkers based on claimed labor shortages from displacing United States workers and from adversely affecting their wages and working conditions. The law's provisions fail to achieve these objectives. The law also fails to prevent exploitation of foreign citizens who, due to their poverty and the temporary, nonimmigrant status of the H–2B visa, are vulnerable to accepting substandard and often illegal employment conditions. Further, the Department of Labor's policies and actions fail to meet the statutory goals. The H–2B law must be improved and your legislation would do so.

The need for strong protections in guestworker programs has been demonstrated time and time again, in the hiring of Chinese workers in the 1860's to 1870's, in the employment of Mexican workers in the Bracero guestworker program in the 1940's to 1960's, and in the H–2A and H–2B guestworker programs. Many employers find guestworkers advantageous because they usually come from poor countries, where wages are a small fraction of those in the U.S., and often will work at very high productivity rates for significantly lower wages than will U.S. workers. Guestworker programs have displaced U.S. workers and depressed wage rates.

Your legislation is also important because it would begin a process of regulating the international recruitment of guestworkers by labor contracting firms that are hired by employers in the United States. The guestworker recruitment system often enables the ultimate employers to escape responsibility for the mistreatment of the foreign citizens.

While we support reform of the H–2B program, we remain skeptical that any guestworker program is consistent with America's economic and democratic freedoms. We are a nation of immigrants, not a nation of guestworkers. In America, workers should have the freedom to switch employers, demand better wages and working conditions, join unions and become citizens with the right to vote. Although reform is one critical step to protect U.S. workers from displacement and wage depression and guestworkers from exploitation, ultimately Congress should consider abolishing the program and replacing it with a system based on a true immigration status for workers who are needed in this country.

Thank you very much for introducing the Increasing American Wages and Benefits Act.

Sincerely,

BRUCE GOLDSTEIN,
Excecutive Director.

COMITE DE APOYO A LOS TRANSBAJADORES AGRICOLAS—FARMWORKERS SUPPORT COMMITTEE,
Glassboro, NJ, September 19, 2007.

Re endorsement for the increasing American Wages and Benefits Act.

Senator SANDERS,
U.S. Senate,
Washington DC.

DEAR SENATOR SANDERS: CATA—El Comite de Apoyo a los Trabajadores Agricolas, The Farmworker Support Committee, is a grassroots migrant and immigrant worker organization whose mission is to educate and empower workers so they are able to defend their rights.

We at CATA acknowledge that the H–2B reform bill you have prepared would provide greater protection to workers. Thank you for your support in combating the abuse of current H–2B workers.

We believe that maintaining equivalent wages between American workers and guestworkers is critical for sustaining appropriate working conditions and preventing the creation of an underclass. We at CATA remain adamant that enforcement of any legislation is key to its effectiveness at protecting workers' rights.

We at CATA recommend further legislation to address the portability of jobs to eliminate worker vulnerability under the current law. We also insist on developing a mechanism for H–2B workers to achieve permanent residence. Despite not addressing these critical concerns that CATA has, the Increasing American Wages and Benefits Act is a decisive step forward for human rights.

Sincerely,

NELSON CARRASQUILLO,
Executive Director.

By Mr. DORGAN (for himself, Mr. STEVENS, Mr. SCHUMER, Mr. ENSIGN, Mr. KERRY, Mr. KOHL, Mr. FEINGOLD, Mrs. CLINTON, Mrs. FEINSTEIN, and Mr. NELSON of Florida):

S. 2096. A bill to amend the Do-Not-Call Implementation Act to eliminate the automatic removal of telephone numbers registered on the Federal ''do-not-call'' registry; to the Committee on Commerce, Science, and Transportation.

Mr. DORGAN. Mr. President, today I am introducing, along with Senators STEVENS, SCHUMER, ENSIGN, KERRY, KOHL, FEINGOLD, CLINTON, FEINSTEIN, and NELSON of Florida, the Do-Not-Call Improvement Act of 2007. We seek with this bill to ensure that millions of Americans who signed up for the ''Do-Not-Call'' registry do not face a resumption of unwanted calls from telemarketers next year when registrations on the registry begin to expire.

Most Americans are unaware that their registration on the list is set to expire after 5 years. The expiration is unnecessary, most people who initially wanted to be rid of telemarketing calls likely still want to block these calls. The system automatically removes numbers that are disconnected and reassigned.

The automatic expiration will only create a hassle for Americans as they start receiving calls again and have to go through the process of re-registering. The U.S. Government would have to spend money to let people know they need to sign up again.

This bill would prevent the automatic expiration and removal of numbers from the registry.

Congress established the ''Do Not Call'' registry in 2003. It quickly became one of the most popular consumer protection programs in history. Congress did not provide for automatic expiration of ''Do Not Call'' list registrations, but the FTC and FCC included an automatic five year expiration for registrations when they wrote the rules for implementing the program.

That was not what Congress intended. As things stand today, 52 million Americans will either have to re-register on October 1, 2008, or get ready to hear their telephones ringing during supper time again with unwanted, commercial solicitation calls.

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 placed in the RECORD, as follows:

S. 2096

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 ''Do-Not-Call Improvement Act of 2007''.

SEC. 2. PROHIBITION OF EXPIRATION DATE FOR REGISTERED TELEPHONE NUMBERS.

The Do-Not-Call Implementation Act (15 U.S.C. 6101 note) is amended—

(1) by inserting ''Such rule shall not provide any date of expiration for telephone numbers registered on the 'do-not-call' registry, nor for any predetermined time limitation for telephone numbers to remain on the registry.'' after the first sentence in section 3; and

(2) by adding at the end the following:

''SEC. 5. PROHIBITION OF EXPIRATION DATE.

''In issuing regulations regarding the 'do-not-call' registry of the Telemarketing Sales Rule (16 C. F. R. 310.4(b)(1)(iii)), the Federal Trade Commission shall not provide for any date of expiration for telephone numbers registered on the 'do-not-call' registry, nor for any predetermined time limitation for telephone numbers to remain on the registry.''.

By Mr. FEINGOLD:

S. 2097. A bill to modify the optional method of computing net earnings from self-employment; to the Committee on Finance.

Mr. FEINGOLD. Mr. President, today I am introducing legislation to address an injustice in the Tax Code that is threatening family farmers and other self-employed individuals. Some of my constituents, primarily Wisconsin farmers, have requested Congress's assistance to correct the Tax Code so they can protect their families. The legislation I introduce today, the Farmer Tax Fairness Act of 2007, is similar to legislation I introduced in the last two Congresses and will solve the problem for today and into the future.

Farming is vital to Wisconsin. Wisconsin's agricultural industry plays a large and important role in the growth

and prosperity of the entire State. Wisconsin's status as ''America's Dairyland'' is central to our State's agriculture industry. Wisconsin's dairy farmers produce approximately 23 billion pounds of milk and lead the Nation in cheese production with over 25 percent or 2.5 billion pounds of cheese a year. But Wisconsin's farmers produce much more than milk; they also are national leaders in the production of butter, potatoes, ginseng, cranberries, various processing vegetables, and many organic foods. So when the hardworking farmers of Wisconsin need help, I will do all I can to assist.

One concern that I have heard from Wisconsin farmers is that the Tax Code can limit their eligibility for social safety net programs, including old age, survivors, and disability insurance, OASDI, under Social Security and the hospital insurance HI part of Medicare. These programs are paid for through payroll taxes on workers and through the self-employment tax on the income of self-employed individuals. To be eligible for OSADI and HI benefits an individual must be fully insured and must have earned a minimum amount of income in the years immediately preceding the need for coverage. Every year, the Social Security Administration, SSA, sets the amount of earned income that individuals must pay taxes on to earn quarters of coverage, QCs, and maintain their benefits. An individual's eligibility requirements depend upon the age at which death or disability occurs, but for workers over 31 years of age, they must have earned at least 20 QCs within the past 10 years.

Self-employed individuals can have highly variable income, and, particularly for farmers who are at the whim of Mother Nature, not every year is a good year. During lean years, individuals may not earn enough income to maintain adequate coverage under OASDI and HI. Therefore, the Tax Code provides options to allow self-employed individuals to maintain eligibility for benefits. These options allow individuals to choose to pay taxes based on $1,600 of earned income, thus allowing self-employed entrepreneurs to maintain the same Federal protections even when their income varies.

Unfortunately, both the options for farmers and nonfarmers, Social Security Act §211(a) and I.R.C. §1402(a), have not kept pace with inflation, and they no longer provide security to families across the country. Decades ago, self-employment income of $1,600 earned an individual four QCs under SSA's calculations. In 2001, the amount needed to earn a QC rose to $830 of earned income, so individuals electing the optional methods were only able to earn one QC per year; making it much harder for them to remain eligible for benefits because they must average 2 QCs per year to be eligible. With inflation, there is no chance of the amount needed to earn a QC dropping on its own and it has steadily risen since 2001, so legislation is needed to fix this unanticipated erosion in this option for farmers and the self-employed.

Congress's failure to address this problem threatens the ability of self-employed individuals to maintain eligibility for OASDI and HI. I have heard from several of my constituent who want these options to be fixed so they can make sure their families will be taken care of in the event that something unforeseen occurs.

Therefore, I am introducing the Farmer Tax Fairness Act of 2007 in order to provide farmers and self-employed individuals with a fair choice. Under this bill, they will continue to be able to elect the optional method if they so choose. When individuals do elect the option, this legislation provides an update to the Tax Code so farmers and self-employed individuals can retain full eligibility for OASDI and HI benefits. It indexes the optional income levels to SSA's QC calculations, allowing these farmers and self-employed individuals to claim enough earned income to qualify for four OCs annually. In addition, by linking the earned income level to SSA's requirements for QCs, the bill will ensure that the amount of income deemed to be earned under the optional methods will not need to be adjusted by Congress again.

Along with providing security to self-employed individuals and farmers across the country, this solution is fiscally responsible. It could even provide a short run increase in U.S. Treasury revenues while having negligible impact upon the Social Security trust fund in the long run.

Let me take a moment to acknowledge the efforts of the Senator from Iowa, Mr. GRASSLEY, to address this problem in the 107th Congress. As chairman of the Senate Finance Committee, he included similar legislative language in the chairman's mark for the Small Business and Farm Economic Recovery Act of 2002. The Senate Finance Committee held a markup on the legislation on September 19, 2002, but the changes to the optional methods did not become law.

When incomes fall, the Tax Code provides optional methods for calculating net earnings to ensure that farmers and self-employed individuals maintain eligibility for social safety net programs. When these provisions were developed, Congress intended self-employed individuals to have the ability to pay enough to earn a full 4 QCs. Unfortunately the Tax Code has not kept up with the times and due to inflation many farmers are losing eligibility for some of Social Security's programs. Congress needs to provide security to farm families and other self-employed individuals. I urge my colleagues to support the Farmer Tax Fairness Act of 2007.

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 placed in the RECORD, as follows:

S. 2097

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 ''Farmer Tax Fairness Act of 2007''.

SEC. 2. MODIFICATION TO OPTIONAL METHOD OF COMPUTING NET EARNINGS FROM SELF-EMPLOYMENT.

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—The matter following paragraph (15) of section 1402(a) of the Internal Revenue Code of 1986 is amended—

(A) by striking ''$2,400'' each place it appears and inserting ''the upper limit'', and

(B) by striking ''$1,600'' each place it appears and inserting ''the lower limit''.

(2) DEFINITIONS.—Section 1402 of such Code is amended by adding at the end the following new subsection:

''(l) UPPER AND LOWER LIMITS.—For purposes of subsection (a)—

''(1) LOWER LIMIT.—The lower limit for any taxable year is the sum of the amounts required under section 213(d) of the Social Security Act for a quarter of coverage in effect with respect to each calendar quarter ending with or within such taxable year.

''(2) UPPER LIMIT.—The upper limit for any taxable year is the amount equal to 150 percent of the lower limit for such taxable year.''.

(b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—

(1) IN GENERAL.—The matter following paragraph (15) of section 211(a) of the Social Security Act is amended—

(A) by striking ''$2,400'' each place it appears and inserting ''the upper limit'', and

(B) by striking ''$1,600'' each place it appears and inserting ''the lower limit''.

(2) DEFINITIONS.—Section 211 of such Act is amended by adding at the end the following new subsection:

''Upper and Lower Limits

''(k) For purposes of subsection (a)—

''(1) The lower limit for any taxable year is the sum of the amounts required under section 213(d) for a quarter of coverage in effect with respect to each calendar quarter ending with or within such taxable year.

''(2) The upper limit for any taxable year is the amount equal to 150 percent of the lower limit for such taxable year.''.

(3) CONFORMING AMENDMENT.—Section 212 of such Act is amended—

(A) in subsection (b), by striking ''For'' and inserting ''Except as provided in subsection (c), for''; and

(B) by adding at the end the following new subsection:

''(c) For the purpose of determining average indexed monthly earnings, average monthly wage, and quarters of coverage in the case of any individual who elects the option described in clause (ii) or (iv) in the matter following section 211(a)(15) for any taxable year that does not begin with or during a particular calendar year and end with or during such year, the self-employment income of such individual deemed to be derived during such taxable year shall be allocated to the two calendar years, portions of which are included within such taxable year, in the same proportion to the total of such deemed self-employment income as the sum of the amounts applicable under section 213(d) for the calendar quarters ending with or within each such calendar year bears to the lower limit for such taxable year specified in section 211(k)(1).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

By Mr. DORGAN (for himself and Mr. CONRAD):

S. 2098. A bill to establish the Northern Plains Heritage Area in the State of North Dakota; to the Committee on Energy and Natural Resources.

Mr. DORGAN. Mr. President, today I am pleased to be joined by Senator CONRAD to introduce legislation called the Northern Plains Heritage Area Act. This legislation would designate a core area of historically significant resources in Burleigh, McLean, Mercer, Morton and Oliver counties in North Dakota.

This National Heritage Area extends nearly the entire length of the last of the free-flowing Missouri River in North Dakota, the last place the river can be seen as it was seen by Lewis and Clark and the ancestors of today's Mandan and Hidatsa tribes.

But what makes this area a particularly good fit for a National Heritage Area designation is the distinction arising from the patterns of human activity shaped by geography. This is the northern extremity of Native agriculture on the Great Plains.

The scenic breaks of North Dakota's Missouri Valley overlook a rich agricultural tradition stretching back a thousand years. Along the length of the State's remaining free-flowing Missouri River, from Huff National Landmark on the south to the Knife River Indian Villages National Historic Site on the north, the Northern Plains Heritage Area would encompass the ancient homeland of the Mandan and Hidatsa nations.

While farming methods have changed, the agricultural traditions and the scenic, cultural and historic values remain. The same attributes of geography and climate that attracted the Mandan and Hidatsa later appealed to homesteading farmers and ranchers and the energy industry, all of whom benefited from the natural resources of the land.

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. 2098

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 ''Northern Plains Heritage Area Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) HERITAGE AREA.—The term ''Heritage Area'' means the Northern Plains Heritage Area established by section 3(a).

(2) MANAGEMENT ENTITY.—The term ''management entity'' means the management entity for the Heritage Area designated by section 3(d).

(3) MANAGEMENT PLAN.—The term ''management plan'' means the management plan for the Heritage Area required under section 5.

(4) MAP.—The term ''map'' means the map entitled ''Proposed Northern Plains National Heritage Area''.

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

(6) STATE.—The term ''State'' means the State of North Dakota.

SEC. 3. ESTABLISHMENT.

(a) IN GENERAL.—There is established in the State the Northern Plains National Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall consist of—

(1) a core area of resources in Burleigh, McLean, Mercer, Morton, and Oliver Counties in the State; and

(2) any sites, buildings, and districts within the core area recommended by the management plan for inclusion in the Heritage Area.

(c) MAP.—A map of the Heritage Area shall be—

(1) included in the management plan; and

(2) on file and available for public inspection in the appropriate offices of the National Park Service.

(d) MANAGEMENT ENTITY.—The management entity for the Heritage Area shall be the Northern Plains Heritage Foundation, a nonprofit corporation established under the laws of the State.

SEC. 4. ADMINISTRATION.

(a) IN GENERAL.—For purposes of carrying out the management plan, the Secretary, acting through the management entity, may use amounts made available under this Act to—

(1) make grants to the State or a political subdivision of the State, nonprofit organizations, and other persons;

(2) enter into cooperative agreements with, or provide technical assistance to, the State or a political subdivision of the State, nonprofit organizations, and other interested parties;

(3) hire and compensate staff, including individuals with expertise in natural, cultural, and historical resources protection and heritage programming;

(4) obtain money or services from any source, including under any other Federal law or program;

(5) contract for goods or services; and

(6) carry out any other activity that—

(A) furthers the purposes of the Heritage Area; and

(B) is consistent with the approved management plan.

(b) DUTIES.—The management entity shall—

(1) in accordance with section 5, prepare and submit a management plan for the Heritage Area to the Secretary;

(2) give priority to implementing actions covered by the management plan, including assisting units of local government, regional planning organizations, and nonprofit organizations in carrying out the approved management plan by—

(A) carrying out programs and projects that recognize, protect, and enhance important resource values in the Heritage Area;

(B) establishing and maintaining interpretive exhibits and programs in the Heritage Area;

(C) developing recreational and educational opportunities in the Heritage Area;

(D) increasing public awareness of, and appreciation for, natural, historical, scenic, and cultural resources of the Heritage Area;

(E) protecting and restoring historic sites and buildings in the Heritage Area that are consistent with the themes of the Heritage Area;

(F) ensuring that clear, consistent, and appropriate signs identifying points of public access and sites of interest are posted throughout the Heritage Area; and

(G) promoting a wide range of partnerships among governments, organizations, and individuals to further the Heritage Area;

(3) consider the interests of diverse units of government, businesses, organizations, nonprofit groups, and individuals in the Heritage Area in the preparation and implementation of the management plan;

(4) conduct meetings open to the public at least semiannually regarding the development and implementation of the management plan;

(5) for any year for which Federal funds have been received under this Act—

(A) submit an annual report to the Secretary that describes the activities, expenses, and income of the management entity, including any grants to any other entities;

(B) make available to the Secretary for audit all records relating to the expenditure of the Federal funds and any matching funds; and

(C) require, with respect to all agreements authorizing the expenditure of Federal funds by other organizations, that the organizations receiving the Federal funds make available to the Secretary for audit all records concerning the expenditure of the funds; and

(6) encourage by appropriate means economic viability that is consistent with the Heritage Area.

(c) PROHIBITION ON THE ACQUISITION OF REAL PROPERTY.—The management entity shall not use Federal funds made available under this Act to acquire real property or any interest in real property.

(d) COST-SHARING REQUIREMENT.—The Federal share of the cost of any activity carried out using any Federal funds made available under this Act shall be 50 percent.

(e) OTHER SOURCES.—Nothing in this Act precludes the management entity from using Federal funds form other sources for authorized purposes.

SEC. 5. MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the management entity shall submit to the Secretary for approval a proposed management plan for the Heritage Area.

(b) REQUIREMENTS.—The management plan shall—

(1) incorporate an integrated and cooperative approach for the protection, enhancement, and interpretation of the natural, cultural, historic, scenic, and recreational resources of the Heritage Area;

(2) take into consideration State and local plans;

(3) include—

(A) an inventory of—

(i) the resources located in the core area described in section 3(b)(1); and

(ii) any other property in the core area that—

(I) is related to the themes of the Heritage Area; and

(II) should be preserved, restored, managed, or maintained because of the significance of the property;

(B) comprehensive policies, strategies and recommendations for the conservation, funding, management, and development of the Heritage Area;

(C) a description of actions that governments, private organizations, and individuals have agreed to take to protect the natural, historical and cultural resources of the Heritage Area;

(D) a program of implementation for the management plan by the management entity that includes a description of—

(i) actions to facilitate ongoing collaboration among partners to promote plans for resource protection, restoration, and construction; and

(ii) specific commitments for implementation that have been made by the management entity or any government, organization, or individual for the first 5 years of operation of the Heritage Area;

(E) the identification of sources of funding for carrying out the management plan;

(F) analysis and recommendations for means by which Federal, State, and local programs may best be coordinated to carry out this Act, including recommendations for the role of the National Park Service in the Heritage Area; and

(G) an interpretive plan for the Heritage Area; and

(4) recommend policies and strategies for resource management that consider and describe the application of appropriate land and water management techniques, including the development of intergovernmental and interagency cooperative agreements to protect the natural, historical, cultural, educational, scenic, and recreational resources of the Heritage Area.

(c) DEADLINE.—If a proposed management plan is not submitted to the Secretary by the date that is 3 years after the date of enactment of this Act, the management entity shall be ineligible to receive additional funding under this Act until the date on which the Secretary approves a management plan.

(d) APPROVAL OR DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of receipt of the management plan under subsection (a), the Secretary, in consultation with the State, shall approve or disapprove the management plan.

(2) CRITERIA FOR APPROVAL.—In determining whether to approve the management plan, the Secretary shall consider whether—

(A) the management entity is representative of the diverse interests of the Heritage Area, including governments, natural and historic resource protection organizations, educational institutions, businesses, and recreational organizations;

(B) the management entity has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation of the management plan; and

(C) the resource protection and interpretation strategies contained in the management plan, if implemented, would adequately protect the natural, historical, and cultural resources of the Heritage Area.

(3) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves the management plan under paragraph (1), the Secretary shall—

(A) advise the management entity in writing of the reasons for the disapproval;

(B) make recommendations for revisions to the management plan; and

(C) not later than 180 days after the receipt of any proposed revision of the management plan from the management entity, approve or disapprove the proposed revision.

(4) AMENDMENTS.—

(A) IN GENERAL.—The Secretary shall approve or disapprove each amendment to the management plan that the Secretary determines would make a substantial change to the management plan.

(B) USE OF FUNDS.—The management entity shall not use Federal funds authorized by this Act to carry out any amendments to the management plan until the Secretary has approved the amendments.

SEC. 6. RELATIONSHIP TO OTHER FEDERAL AGENCIES.

(a) IN GENERAL.—Nothing in this Act affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) TECHNICAL AND FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—On the request of the management entity, the Secretary may provide financial assistance and, on a reimbursable or nonreimbursable basis, technical assistance to the management entity to develop and implement the management plan.

(2) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the management entity and other public or private entities to provide technical or financial assistance under paragraph (1).

(3) PRIORITY.—In assisting the Heritage Area, the Secretary shall give priority to actions that assist in—

(A) conserving the significant natural, historic, cultural, and scenic resources of the Heritage Area; and

(B) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

(c) CONSULTATION AND COORDINATION.—To the maximum extent practicable, the head of any Federal agency planning to conduct activities that may have an impact on the Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the management entity.

(d) OTHER FEDERAL AGENCIES.—Nothing in this Act—

(1) modifies or alters any laws (including regulations) authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of the Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

SEC. 7. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.

Nothing in this Act—

(1) abridges the rights of any owner of public or private property, including the right to refrain from participating in any plan, project, program, or activity conducted within the Heritage Area;

(2) requires any property owner to—

(A) permit public access (including access by Federal, State, or local agencies) to the property of the property owner; or

(B) modify public access to, or use of, the property of the property owner under any other Federal, State, or local law;

(3) alters any land use regulation, approved land use plan, or other regulatory authority of any Federal, State, or local agency;

(4) conveys any land use or other regulatory authority to the management entity;

(5) authorizes or implies the reservation or appropriation of water or water rights;

(6) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the Heritage Area; or

(7) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

SEC. 8. EVALUATION; REPORT.

(a) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the Heritage Area under section 10, the Secretary shall—

(1) conduct an evaluation of the accomplishments of the Heritage Area; and

(2) prepare a report in accordance with subsection (c).

(b) EVALUATION.—An evaluation conducted under subsection (a)(1) shall—

(1) assess the progress of the management entity with respect to—

(A) accomplishing the purposes of this Act for the Heritage Area; and

(B) achieving the goals and objectives of the approved management plan for the Heritage Area;

(2) analyze the Federal, State, local, and private investments in the Heritage Area to determine the leverage and impact of the investments; and

(3) review the management structure, partnership relationships, and funding of the Heritage Area for purposes of identifying the critical components for sustainability of the Heritage Area.

(c) REPORT.—

(1) IN GENERAL.—Based on the evaluation conducted under subsection (a)(1), the Secretary shall prepare a report that includes recommendations for the future role of the National Park Service, if any, with respect to the Heritage Area.

(2) REQUIRED ANALYSIS.—If the report prepared under paragraph (1) recommends that Federal funding for the Heritage Area be reauthorized, the report shall include an analysis of—

(A) ways in which Federal funding for the Heritage Area may be reduced or eliminated; and

(B) the appropriate time period necessary to achieve the recommended reduction or elimination.

(3) SUBMISSION TO CONGRESS.—On completion of the report, the Secretary shall submit the report to—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $10,000,000, of which not more than $1,000,000 may be made available for any fiscal year.

SEC. 10. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance under this Act terminates on the date that is 15 years after the date of enactment of this Act.

By Mr. BINGAMAN (for himself, Mr. KERRY, Mr. SALAZAR, and Ms. STABENOW):

S. 2101. A bill to amend title XIX of the Social Security Act to assist low-income Medicare beneficiaries by improving eligibility and services under the Medicare Savings Program, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today with Senators KERRY, SALAZAR and STABENOW to introduce the Medicare Savings Program Improvement Act of 2007. This legislation would make critical improvements to the Medicare Savings Programs, which provide important cost-assistance for low-income Medicare beneficiaries through the Medicaid program and include the Qualified Medicare Beneficiary, QMB, Specified Low-income Medicare Beneficiary, SLMB, and Qualified Individuals–1, QI–1, programs.

One of the most significant improvements within this legislation is to make permanent the QI–1 program, which expires at the end of this month. This program provides vital assistance to low-income Medicare beneficiaries in paying for Medicare Part B premiums. It was established as part of the Balanced Budget Act of 1997 and was authorized for 5 years. Unfortunately, every few years we in Congress

must act to reauthorize this program, providing unnecessary uncertainty for beneficiaries and State Medicaid programs.

Congress should not participate in this annual last minute scramble to try and extend the program for a few months or a year. It is a disservice to the States, who must watch the Congress closely to constantly prepare to send out disenrollment notices and lay off staff, even though they are relatively certain the program will be extended. But, more importantly, it is a disservice to the 185,000 beneficiaries that need this important assistance, as many of those enrolled worry this benefit will be taken away and many of those never enrolled are not told of the benefit since States and advocates are spending their time trying to get the program extended rather than conducting outreach.

While I remain very hopeful that the Congress will pass an extension of the QI–1 program for an additional period in the coming week, I am introducing the Medicare Savings Program Improvement Act of 2007 today in the hope that Congress will end this process of temporary extensions and permanently authorize the program, as provided for in this legislation.

Furthermore, the bill proposes several improvements to the Medicare Savings Programs and application processes that will make these low-income benefits both more efficient to administer and more accessible to the individuals who need them. It would also seek to simplify the process of applying for Medicare Savings Programs and make the Programs more understandable to low-income senior citizens and people with disabilities, as well as State and Federal Government officials.

Rates of enrollment in the Medicare Savings Programs are well below those of other means-tested benefit programs. The Congressional Budget Office estimates that only 33 percent of eligible people are participating in the QMB program, and that the participation rate in the SLMB program is only 13 percent—these figures exclude people who are eligible for full Medicaid benefits. In comparison, participation rates are estimated to be 75 percent in the earned income tax credit, 66 percent to 73 percent for Supplemental Security Income, and 66 percent to 70 percent for Medicaid.

In New Mexico, over 1,500 low-income Medicare beneficiaries receive the QI–1 benefit, which saves them almost $1,000 in Medicare Part B premium out-of-pocket costs annually. Unfortunately, according to estimates made by the Medicare Rights Center using Census Bureau data, over 11,000 are likely to be eligible. Many are completely unaware of the assistance this program offers. This is usually because many eligible individuals are difficult to reach or communicate with because they are isolated, cannot read or speak English, have difficulty seeing or hearing, or lack transportation.

To briefly describe the most critical aspects of the legislation, Section 2 of the bill provides for one unified name for the Federal programs that offer cost sharing and benefit assistance for low income Medicare beneficiaries. Rather than separately referring to the QMB, SLMB, and QI–1 programs, the bill provides one common name for all of these programs, the ''Medicare Savings Programs.'' Aligning these programs under one title helps to establish greater uniformity in income and resource limits, simplifies the application process, makes more people eligible for subsidies and increases the enrollment in programs.

Low enrollment in these assistance programs is in large part due to the lack of knowledge and understanding of the programs or benefits offered. For example, 79 percent of non-enrolled eligible people have ever heard of the Medicare Savings Programs and two thirds of enrollees need assistance in completing the lengthy application form. This simple change has been pilot tested with Medicare beneficiary groups and found to elicit a positive response and interest from Medicare beneficiaries.

Section 3 of the legislation would make permanent the QI–1 category by incorporating these individuals into the SLMB category at 100 percent Federal medical percentage, FMAP, matching rate. In addition to simplifying and making permanent the program, such a change would ensure funding for QI–1 cost-sharing.

Section 5 eliminates the limit on assets, which is set at $4,000 for an individual and $6,000 for a couple and disqualifies millions of Medicare beneficiaries with very low incomes from qualifying for assistance. Many potential beneficiaries do not apply for benefits because they incorrectly assume that they have too many assets to qualify or fear losing their estate. Some States have waived or disallowed the counting of some assets for the purposes of eligibility determination and have seen much higher enrollment rates. The requirements to document one's assets also makes the application process burdensome and deters potential enrollees who might pass the asset test.

Finally, section 8 eliminates some of the critical barriers to enrollment. As I noted earlier, rates of enrollment in the Medicare Savings Programs are well below those of other means-tested. benefit programs. This section provides for several important enrollment simplification procedures, such as allowing self-certification of income and continuous eligibility, and expanded outreach efforts. For instance, instead of requiring people to apply for benefits at the state Medicaid office, the Social Security Administration took applications and forwarded them to Medicaid offices for processing and increased enrollment by 10 percent. Perhaps with more outreach efforts provided within this bill, even more low-income Medicare beneficiaries will receive the health care for which they are eligible.

I urge the Congress to pass a temporary extension of the QI–1 program early next week, but then to immediately begin work to permanently authorize the QI–1 program and to simplify and streamline all the Medicare Savings Programs. Our Nation's low-income Medicare beneficiaries and the States deserve nothing less.

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

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

S. 2101

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 ''Medicare Savings Program Improvement Act of 2007''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. REFERENCES TO MEDICARE SAVINGS PROGRAM.

The low-income assistance programs for Medicare beneficiaries under the Medicaid program under title XIX of the Social Security Act now popularly referred to the ''QMB'' and ''SLMB'' programs are to be known as the ''Medicare Savings Program''.

SEC. 3. INCREASE IN INCOME LEVELS FOR ELIGIBILITY.

(a) INCREASE TO 135 PERCENT OF FPL FOR QUALIFIED MEDICARE BENEFICIARIES.—

(1) IN GENERAL.—Section 1905(p)(2) of the Social Security Act (42 U.S.C. 1396d(p)(2)) is amended—

(A) in subparagraph (A), by striking ''100 percent'' and inserting ''135 percent'';

(B) in subparagraph (B)—

(i) by striking ''and'' at the end of clause (ii);

(ii) by striking the period at the end of clause (iii) and inserting '', and''; and

(iii) by adding at the end the following:

''(iv) January 1, 2008, is 135 percent.''; and

(C) in subparagraph (C)—

(i) by striking ''and'' at the end of clause (iii);

(ii) by striking the period at the end of clause (iv) and inserting '', and''; and

(iii) by adding at the end the following:

''(v) January 1, 2008, is 135 percent.''.

(2) APPLICATION OF INCOME TEST BASED ON FAMILY SIZE.—Section 1905(p)(2)(A) of such

Act (42 U.S.C. 1396d(p)(2)(A)) is amended by adding at the end the following: ''For purposes of this subparagraph, family size means the applicant, the spouse (if any) of the applicant if living in the same household as the applicant, and the number of individuals who are related to the applicant (or applicants), who are living in the same household as the applicant (or applicants), and who are dependent on the applicant (or the applicant's spouse) for at least one-half of their financial support.''.

(3) NOT COUNTING IN-KIND SUPPORT AND MAINTENANCE AS INCOME.—Section 1905(p)(2)(D) of such Act (42 U.S.C. 1396d(p)(2)(D)) is amended by adding at the end the following new clause:

''(iii) In determining income under this subsection, support and maintenance furnished in kind shall not be counted as income.''.

(b) EXPANSION OF SPECIFIED LOW-INCOME MEDICARE BENEFICIARY (SLMB) PROGRAM.—

(1) ELIGIBILITY OF INDIVIDUALS WITH INCOMES BELOW 150 PERCENT OF FPL.—Section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396b(a)(10)(E)) is amended—

(A) by adding ''and'' at the end of clause (ii);

(B) in clause (iii)—

(i) by striking ''and 120 percent in 1995 and years thereafter'' and inserting '', or 120 percent in 1995 and any succeeding year before 2008, or 150 percent beginning in 2008''; and

(ii) by striking ''and'' at the end; and

(C) by striking clause (iv).

(2) PROVIDING 100 PERCENT FEDERAL FINANCING.—The third sentence of section 1905(b) of such Act (42 U.S.C. 1396d(b)) is amended by inserting before the period at the end the following: ''and with respect to medical assistance for medicare cost-sharing provided under section 1902(a)(10)(E)(iii)''.

(3) REFERENCES.—Section 1905(p)(1) of such Act (42 U.S.C. 1396d(p)(1)) is amended by adding at and below subparagraph (C) the following: ''The term 'specified low-income medicare beneficiary' means an individual described in section 1902(a)(10)(E)(iii).''.

(c) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on January 1, 2008, and, with respect to title XIX of the Social Security Act, shall apply to calendar quarters beginning on or after January 1, 2008.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 4. ELIMINATION OF APPLICATION OF ESTATE RECOVERY FOR MEDICARE SAVINGS PROGRAM BENEFICIARIES.

(a) IN GENERAL.—Section 1917(b)(1)(B)(ii) of the Social Security Act (42 U.S.C. 1396p(b)(1)(B)(ii)) is amended by inserting ''(but not including medical assistance for medicare cost-sharing or for benefits described in section 1902(a)(10)(E))'' before the period at the end.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions commencing on or after January 1, 2008.

SEC. 5. MODIFICATION OF ASSET TEST.

(a) FOR QMBS.—Section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)) is amended—

(1) in paragraph (1), by amending subparagraph (C) to read as follows:

''(C) whose resources (as determined under section 1613 for purposes of the supplemental income security program, except as provided in paragraph (6)(C)) do not exceed the amount described in paragraph (6)(A).'';

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following:

''(6)(A) The resource level specified in this subparagraph for—

''(i) for 2008 is six times the maximum amount of resources that an individual may have and obtain benefits under the supplemental security income program under title XVI; or

''(ii) for a subsequent year is the resource level specified in this subparagraph for the previous year increased by the annual percentage increase in the consumer price index (all items; U.S. city average) as of September of such previous year.

Any dollar amount established under clause (ii) that is not a multiple of $10 shall be rounded to the nearest multiple of $10.

''(B) In determining the resources of an individual (and their eligible spouse, if any) under section 1613 for purposes of paragraph (1)(C) (relating to qualified medicare beneficiaries) or section 1902(a)(10)(E)(iii) (relating to individuals popularly known as specified low-income medicare beneficiaries), the following additional exclusions shall apply—

''(i) No part of the value of any life insurance policy shall be taken into account.

''(ii) No balance in any pension or retirement plan or account shall be taken into account.''.

(b) FOR SLMBS.—

(1) PERMITTING GREATER ASSETS.—Section 1902(a)(10)(E)(iii) of such Act (42 U.S.C. 1396b(a)(10)(E)(iii)) is amended by inserting before the semicolon the following: ''or but for the fact that their resources exceed the resource level specified in section 1905(p)(6)(A) but does not exceed the resource level specified in section 1905(p)(6)(B)''.

(2) HIGHER RESOURCE LEVEL SPECIFIED.—Section 1905(p)(6) of such Act, as inserted by subsection (a)(3), is amended by inserting after subparagraph (A) the following new subparagraph:

''(B) The resource level specified in this subparagraph for—

''(i) for 2008, is $27,500 (or $55,000 in the case of the combined value of the individual's assets or resources and the assets or resources of the individual's spouse); and

''(ii) for a subsequent year is the applicable resource level specified in this subparagraph for the previous year increased by the annual percentage increase in the consumer price index (all items; U.S. city average) as of September of such previous year.

Any dollar amount established under clause (ii) that is not a multiple of $10 shall be rounded to the nearest multiple of $10.''.

(c) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to calendar quarters beginning on or after January 1, 2008.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 6. ELIGIBILITY FOR OTHER PROGRAMS.

(a) IN GENERAL.—Section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)), as amended by section 4(a), is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph:

''(7) Medical assistance for some or all medicare cost-sharing under this title shall not be treated as benefits or otherwise taken into account in determining an individual's eligibility for, or the amount of benefits under, any other Federal program.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to eligibility for benefits on or after January 1, 2008.

SEC. 7. EFFECTIVE DATE OF MSP BENEFITS.

(a) PROVIDING FOR 3 MONTHS RETROACTIVE ELIGIBILITY.—

(1) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended, in the matter preceding paragraph (1), by striking ''described in subsection (p)(1), if provided after the month'' and inserting ''described in subsection (p)(1) or a specified low-income medicare beneficiary described in section 1902(a)(10)(E)(iii), if provided in or after the third month before the month in which the individual expresses an interest in applying to become such a beneficiary, as determined in the manner provided for assistance under section 1860D–14''.

(2) CONFORMING AMENDMENTS.—(A) The first sentence of section 1902(e)(8) of such Act (42 U.S.C. 1396a(e)(8)), as amended by section 4(c)(2), is amended by striking ''(8)'' and the first sentence.

(B) Section 1848(g)(3) of such Act (42 U.S.C. 1395w–4(g)(3)) is amended by adding at the end the following new subparagraph:

''(C) TREATMENT OF RETROACTIVE ELIGIBILITY.—In the case of an individual who is determined to be eligible for medical assistance described in subparagraph (A) retroactively, the Secretary shall provide a process whereby claims which are submitted for services furnished during the period of retroactive eligibility and during a month in which the individual otherwise would have been eligible for such assistance and which were not submitted in accordance with such subparagraph are resubmitted and re-processed in accordance with such subparagraph.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2008, but shall not result in eligibility for benefits for medicare cost-sharing for months before January 2008.

SEC. 8. EXPEDITING ELIGIBILITY UNDER THE MEDICARE SAVINGS PROGRAM.

(a) INCREASING ELIGIBILITY THROUGH THE SOCIAL SECURITY OFFICE.—

(1) IN GENERAL.—Title XVIII of the Social Security Act is amended by inserting after section 1808 the following new section:

''EXPEDITED ENROLLMENT UNDER THE MEDICARE SAVINGS PROGRAM THROUGH SOCIAL SECURITY OFFICES

''SEC. 1809. (a) IN GENERAL.—The Secretary shall provide, in cooperation with the Commissioner of Social Security, for an expedited process under this section for individuals to apply and qualify for benefits under the Medicare Savings Program. For purposes of this section, the term 'Medicare Savings Program' means medical assistance for medicare cost-sharing (as defined in section 1905(p)(3)) for qualified medicare beneficiaries and specified low-income medicare beneficiaries under title XIX.

''(b) PROCESS.—The process shall be consistent with the following:

''(1) COORDINATION WITH SOCIAL SECURITY AND MEDICARE ENROLLMENT PROCESS.—The application shall be part of the process for applying for benefits under title II and this title.

''(2) SIMPLIFIED APPLICATION PROCESS.—The application may be made over the Internet, by telephone, or by mail, without the need for an interview in person by the applicant or a representative of the applicant.

''(3) CONTENTS OF APPLICATION.—The application shall contain a description (in English, Spanish and other languages determined appropriate by the Secretary) of the availability of and the requirements for obtaining benefits under the Medicare Savings Program.

''(4) TRAINING.—Employees of the Social Security office involved shall be trained to assist individuals completing such applications.

''(5) SELF-CERTIFICATION AND VERIFICATION.—In determining whether an individual is eligible for benefits under the Medicare Savings Program, the Secretary shall permit individuals to qualify on the basis of self certifications of income and resources meeting applicable standards without the need to provide additional documentation. The Secretary shall verify that information provided in the application is correct.

''(6) TRANSMITTAL OF APPLICATION.—

''(A) ELIGIBLE APPLICANTS.—In the case of an applicant determined by the Social Security office to be eligible for benefits under the Medicare Savings Program based on income and resources meeting the standards otherwise applicable, the office shall transmit to the applicable State Medicaid office the application so that the applicant can be enrolled within 30 days based on the information collected by the office.

''(B) USE OF ELECTRONIC TRANSFER SYSTEM.—Not later than two years after the date of implementation of improvements of the electronic data transfer system under section 8(c) of the Medicare Savings Program Improvement Act of 2007, the process under this paragraph shall use the such system for information transmittal.

''(C) INELIGIBLE APPLICANTS.—In the case of other applicants whose income and resources do not meet such standards, the Social Security office shall transmit to the applicable State Medicaid office the application so that the application may be considered under State standards that may be more generous than the standards otherwise generally applicable.

The process under this subsection shall be established and implemented one year after the date of the enactment of this section.

''(c) DISTRIBUTION OF APPLICATION FORM.—The Secretary shall distribute the application form used under subsection (b) to any organization that requests them, including entities receiving grants from the Secretary for programs designed to provide services to individuals 65 years of age or older and people with disabilities. The Commissioner of Social Security shall make such forms available at local offices of the Social Security Administration.

''(d) STATE RESPONSE AND APPLICATION PROCESS.—

''(1) IN GENERAL.—In the case of an application transmitted under subsection (b)(6), the State agency responsible for determinations of eligibility for benefits under the State's Medicare Savings Program—

''(A) shall make a determination on the application within 30 days of the date of its receipt; and

''(B) shall notify the applicant of the determination within 10 days after it is made.

''(2) USE OF SIMPLIFIED APPLICATION PROCESS.—In the case of an application other than an application transmitted under subsection (b)(6), a State plan under title XIX shall provide that an application for benefits under the Medicare Savings Program may be made over the Internet, by telephone, or by mail, without the need for an interview in person by the applicant or a representative of the applicant.

''(e) EXPEDITED APPLICATION AND ELIGIBILITY PROCESS.—

''(1) EXPEDITED PROCESS.—

''(A) IN GENERAL.—As part of the expedited process for obtaining benefits under the Medicare Savings Program, the Secretary shall through a request to the Secretary of the Treasury to obtain information sufficient to identify whether the individual involved is likely eligible for such benefits based on such information and the type of assistance under the Medicare Savings Program for which they would qualify based on such information. Such process shall be conducted in cooperation with the Commissioner of Social Security.

''(B) OPT IN FOR NEWLY ELIGIBLE INDIVIDUALS.—Not later than 60 days after the date of the enactment of this subsection, the Secretary shall ensure that, as part of the Medicare enrollment process, enrolling individuals—

''(i) receive information describing the Medicare Savings Program provided under this section; and

''(ii) are provided the opportunity to opt-in to the expedited process described in this subsection by requesting that the Commissioner of Social Security screen the individual involved for eligibility for the Medicare Savings Program through a request to the Secretary of the Treasury under section 6103(l)(21) of the Internal Revenue Code of 1986.

''(C) TRANSITION FOR CURRENTLY ELIGIBLE INDIVIDUALS.—In the case of any Medicare Savings Program eligible individual to which subparagraph (B) did not apply at the time of such individual's enrollment, the Secretary shall, not later than 60 days after the date of the implementation of subparagraph (B), request that the Commissioner of Social Security screen such individual for eligibility for the Medicare Savings Program provided under this section through a request to the Secretary of the Treasury under section 6103(l)(21) of the Internal Revenue Code of 1986.

''(2) NOTIFICATION OF POTENTIALLY ELIGIBLE INDIVIDUALS.—Under such process, in the case of each individual identified under paragraph (1) who has not otherwise applied for, or been determined eligible for, benefits under the Medicare Savings Program (or who has applied for and been determined ineligible for such benefits based only on standards in effect before January 1, 2008), the Secretary shall send them a letter (using basic, uncomplicated language) containing the following:

''(A) ELIGIBILITY.—A statement that, based on the information obtained under process under this section, the individual is likely eligible for benefits under the Medicare Savings Program.

''(B) AMOUNT OF ASSISTANCE.—A description of the amount of assistance under such program for which the individual would likely be eligible based on such information.

''(C) ATTESTATION.—A one-page application form that provides for a signed attestation, under penalty of law, as to the amount of income and assets of the individual and constitutes an application for the benefits under the Medicare Savings Program. Such form—

''(i) shall not require the submittal of additional documentation regarding income or assets; and

''(ii) shall allow for the specification of a language (other than English) that is preferred by the individual for subsequent communications with respect to the individual under this title and title XIX.

''(D) INFORMATION ON OUTREACH GROUPS.—Information on how the individual may contact the a State outreach effort or other groups that receive grants from the Secretary to conduct outreach to individuals to receive benefits under the Medicare Savings Program.

''(3) FOLLOW-UP COMMUNICATIONS.—If the individual does not respond to the letter described in paragraph (2) by completing an attestation described in paragraph (2)(C) or declining to do so, the Secretary shall make additional attempts to contact the individual to obtain such an affirmative response.

''(4) HOLD-HARMLESS.—Under such process, if an individual in good faith and in the absence of fraud executes an attestation described in paragraph (2)(C) and is provided benefits under the Medicare Savings Program on the basis of such attestation, if the individual is subsequently found not eligible for such benefits, there shall be no recovery made against the individual because of such benefits improperly paid.

''(5) USE OF PREFERRED LANGUAGE IN SUBSEQUENT COMMUNICATIONS.—In the case an attestation described in paragraph (2)(C) is completed and in which a language other than English is specified under clause (ii) of such paragraph, the Secretary shall provide that subsequent communications to the individual under this subsection shall be in such language.

''(6) CONSTRUCTION.—Nothing in this subsection shall be construed as precluding the Secretary from taking additional outreach efforts to enroll eligible individuals under the Medicare Savings Program.

''(f) ELECTRONIC COMMUNICATION BETWEEN SOCIAL SECURITY AND STATE MEDICAID AGENCIES AND THE SECRETARY.—

''(1) NOTICE BY SOCIAL SECURITY TO SECRETARY AND STATE MEDICAID AGENCIES.—In the case of a determination of eligibility of an individual under section 1860D–14(a)(3)(B)(i) by the Commissioner of Social Security, the Commissioner shall provide for notice, preferably in electronic form, to the Secretary and to State medicaid agency under title XIX of such determination for purposes of enabling the individual to automatically qualify for benefits under the Medicare Savings Program under such title through the operation of section 1905(p)(8).

''(2) NOTICE BY STATES TO SECRETARY.—In the case that the State determines that an individual is a qualified medicare beneficiary or a specified low-income medicare beneficiary under title XIX, the State shall provide for notice, preferably in electronic form, to the Secretary of such determination for purposes of enabling the individual to automatically qualify for low-income subsidies under section 1860D–14 through the operation of section 1905(a)(3)(G).

''(3) DEADLINE.—Each State (as defined for purposes of title XIX) and the Secretary shall establish the notification process described in this subsection not later than 1 year after the date of the enactment of this section.''.

(2) DISCLOSURE OF RETURN INFORMATION FOR PURPOSES OF SCREENING INDIVIDUALS FOR ELIGIBILITY FOR BENEFITS UNDER THE MEDICARE SAVINGS PROGRAM.—

(A) IN GENERAL.—Subsection (l) of section 6103 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(21) DISCLOSURE OF RETURN INFORMATION FOR PURPOSES OF PROVIDING BENEFITS UNDER THE MEDICARE SAVINGS PROGRAM.—

''(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE TO SOCIAL SECURITY ADMINISTRATION.—The Secretary, upon written request from the Commissioner of Social Security under section 1809(e)(1)(A) of the Social Security Act, shall disclose to the Commissioner with respect to any taxpayer identified by the Commissioner—

''(i)(I) whether the adjusted gross income, as modified in accordance with specifications of the Secretary of Health and Human Services for purposes of carrying out such section, of such taxpayer and, if applicable, such taxpayer's spouse, for the applicable year, exceeds the amounts specified by the Secretary of Health and Human Services in order to apply the 135 and 150 percent poverty lines under section 1905(p) and section 1902(a)(10)(E)(ii) of such Act;

''(II) the adjusted gross income (as determined under subclause (I)), in the case of a taxpayer with respect to which such adjusted gross income exceeds the amount so specified for applying the 135 percent poverty line and does not exceed the amount so specified for applying the 150 percent poverty line;

''(III) whether the return was a joint return for the applicable year; and

''(IV) the applicable year; or

''(ii) if applicable, the fact that there is no return filed for such taxpayer for the applicable year.

''(B) DEFINITION OF APPLICABLE YEAR.—For the purposes of this paragraph, the term 'applicable year' means the most recent taxable year for which information is available in the Internal Revenue Service's taxpayer data information systems, or, if there is no return filed for such taxpayer for such year, the prior taxable year.

''(C) RESTRICTION ON INDIVIDUALS FOR WHOM DISCLOSURE IS REQUESTED.—The Commissioner of Social Security shall only request information under this paragraph with respect to individuals who have requested that such request be made under section 1809(e) of the Social Security Act.

''(D) RETURN INFORMATION FROM SOCIAL SECURITY ADMINISTRATION TO DEPARTMENT OF HEALTH AND HUMAN SERVICES.—The Commissioner of Social Security shall, upon written request from the Secretary of Health and Human Services, disclose to the Secretary of Health and Human Services the information described in clauses (i) and (ii) of subparagraph (A).

''(E) PERMISSIVE DISCLOSURE TO OFFICERS, EMPLOYEES, AND CONTRACTORS.—The information described in clauses (i) and (ii) of subparagraph (A) may be disclosed among officers, employees, and contractors of the Social Security Administration and the Department of Health and Human Services for the purposes described in subparagraph (F).

''(F) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under this paragraph may be used only for the purposes of identifying eligible individuals for, and administering—

''(i) low-income subsidies under section 1860D–14 of the Social Security Act; and

''(ii) the Medicare Savings Program implemented under clauses (i) and (ii) of section 1902(a)(10)(E) of such Act.''.

(B) CONFIDENTIALITY.—Paragraph (3) of section 6103(a) of such Code is amended by striking ''or (20)'' and inserting ''(20), or (21)''.

(C) PROCEDURES AND RECORD KEEPING RELATED TO DISCLOSURES.—Paragraph (4) of section 6103(p) of such Code is amended by striking ''or (20)'' each place it appears and inserting ''(20), or (21)''.

(D) UNAUTHORIZED DISCLOSURE OR INSPECTION.—Paragraph (2) of section 7213(a) of such Code is amended by striking ''or (20)'' and inserting ''(20), or (21)''.

(b) TWO-WAY DEEMING BETWEEN MEDICARE SAVINGS PROGRAM AND LOW-INCOME SUBSIDY PROGRAM.—

(1) MEDICARE SAVINGS PROGRAM.—Section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)), as amended by sections 4(a) and 5(a), is amended—

(A) by redesignating paragraph (8) as paragraph (9); and

(B) by inserting after paragraph (7) the following new paragraph:

''(8) An individual who has been determined eligible for premium and cost-sharing subsidies under—

''(A) section 1860D–14(a)(1) is deemed, for purposes of this title and without the need to file any additional application, to be a qualified medicare beneficiary for purposes of this title; or

''(B) section 1860D–14(a)(2) is deemed, for purposes of this title and without the need to file any additional application, to qualify for medical assistance as a specified low-income medicare beneficiary (described in section 1902(a)(10)(E)(iii)).''.

(2) LOW-INCOME SUBSIDY PROGRAM.—Section 1860D–14(a)(3) of such Act (42 U.S.C. 1395w–104(a)(3)) is amended by adding at the end the following new subparagraph:

''(G) DEEMED TREATMENT FOR QUALIFIED MEDICARE BENEFICIARIES AND SPECIFIED LOW-INCOME MEDICARE BENEFICIARIES.—

''(i) QMBS ELIGIBLE FOR FULL SUBSIDY.—A part D eligible individual who has been determined for purposes of title XIX to be a qualified medicare beneficiary is deemed, for purposes of this part and without the need to file any additional application, to be a subsidy eligible individual described in paragraph (1).

''(ii) SLMBS ELIGIBLE FOR PARTIAL SUBSIDY.—A part D eligible individual who has been determined to be a specified low-income medicare beneficiary (as defined in section 1905(p)(1)) and who is not described in paragraph (1) is deemed, for purposes of this part and without the need to file any additional application, to be a subsidy eligible individual who is not described in paragraph (1).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to eligibility for months beginning on or after January 2008.

(c) IMPROVEMENTS IN ELECTRONIC COMMUNICATION BETWEEN SOCIAL SECURITY, STATE MEDICAID AGENCIES, AND THE SECRETARY OF HEALTH AND HUMAN SERVICES.—

(1) IN GENERAL.—Not later than two years after the date of the enactment of this Act, the Commissioner of Social Security, the Secretary of Health and Human Services, and the directors of State Medicaid agencies shall implement improvements to the electronic data transfer system by which they communicate directly and electronically with each other with respect to individuals who have enrolled for benefits under any part of the Medicare Savings Program in order to ensure that each of them has exactly the same list of beneficiaries who are signed up for the Medicare Savings Program.

(2) INCREASED ADMINISTRATIVE MATCH.—In order to implement paragraph (1)—

(A) the Medicaid administrative match under section 1903(a)(7) of the Social Security Act shall be increased to 75 percent with respect to expenditures made in carrying out such paragraph; and

(B) there is appropriated to the Commissioner of Social Security and the Secretary of Health and Human Services, from any amounts in the Treasury not otherwise appropriated, $2,000,000 each for each of fiscal years 2008 and 2009 to implement paragraph (1).

(3) USE OF SYSTEM.—After the implementation of the improvements to the electronic data transfer system under paragraph (1), the Commissioner of Social Security, State Medicaid agencies, and the Secretary of Health and Human Services shall primarily use this system for the Commissioner and the Secretary to inform the State Medicaid agencies to enroll a beneficiary for the Medicare Savings Program.

(d) IMPROVED COORDINATION WITH STATE, LOCAL, AND OTHER PARTNERS.—

(1) STATE GRANTS.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall enter into contracts with States (as defined for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) to provide funds to States to use information identified under subsection (c), and other appropriate information, in order to do ex parte determinations or utilize other methods for identifying and enrolling individuals who are potentially—

(i) eligible for benefits under the Medicare Savings Program (under sections 1905(p) of the Social Security Act, 42 U.S.C. 1396d(p)); or

(ii) entitled to a premium or cost-sharing subsidy under section 1860D–14 of such Act (42 U.S.C. 1395w–114).

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to the Secretary of Health and Human Services for the purpose of making contracts under this paragraph.

(2) FUNDING OF STATE HEALTH INSURANCE COUNSELING AND SIMILAR PROGRAMS.—

(A) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds authorized to be appropriated, there are authorized to be appropriated $3,000,000 for each of calendar years 2008 through 2012 to carry out activities described in subparagraph (B).

(B) ACTIVITIES DESCRIBED.—The activities described in this subparagraph are the following:

(i) Activities under section 4360 of the Omnibus Budget Reconciliation Act of 1990 for the purpose of outreach to low-income Medicare beneficiaries to assist in applying for and obtaining benefits under the Medicare Savings Program (under title XIX of the Social Security Act) and the low-income subsidy program under section 1860D–14 of such Act.

(ii) Activities of the National Center on Senior Benefits Outreach and Enrollment (as described in section 202(a)(20)(B) of the Older Americans Act of 1965 (42 U.S.C. 3012(a)(20)(B)).

(iii) Similar activities carried out by other qualified agencies designated by the Secretary of Health and Human Services.

SEC. 9. TREATMENT OF QUALIFIED MEDICARE BENEFICIARIES, SPECIFIED LOW-INCOME MEDICARE BENEFICIARIES, AND OTHER DUAL ELIGIBLES AS MEDICARE BENEFICIARIES.

(a) IN GENERAL.—Section 1862 of the Social Security Act (42 U.S.C. 1395y) is amended by adding at the end the following new subsection:

''(n) TREATMENT OF QUALIFIED MEDICARE BENEFICIARIES (QMBS), SPECIFIED LOW-INCOME MEDICARE BENEFICIARIES (SLMBS), AND OTHER DUAL ELIGIBLES.—Nothing in this title shall be construed as authorizing a provider of services or supplier to discriminate (through a private contractual arrangement or otherwise) against an individual who is otherwise entitled to services under this title on the basis that the individual is a qualified medicare beneficiary (as defined in section 1905(p)(1)), a specified low-income medicare beneficiary, or is otherwise eligible for medical assistance for medicare cost-sharing or other benefits under title XIX.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items and services furnished on or after the date of the enactment of this Act.

SEC. 10. MEDICAID TREATMENT OF CERTAIN MEDICARE PROVIDERS.

(a) IN GENERAL.—Section 1902(n) of the Social Security Act (42 U.S.C. 1396a(n)) is amended by adding at the end the following new paragraph:

''(4) A State plan shall not deny a claim from a provider or supplier with respect to medicare cost-sharing described in subparagraph (B), (C), or (D) of section 1905(p)(3) for an item or service which is eligible for payment under title XVIII on the basis that the provider or supplier does not have a provider agreement in effect under this title or does not otherwise serve all individuals entitled to medical assistance under this title.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items and services furnished on or after the date of the enactment of this Act.

SEC. 11. MONITORING AND ENFORCEMENT OF LIMITATION ON BENEFICIARY LIABILITY.

Section 1902(n) of the Social Security Act (42 U.S.C. 1396b(n)), as amended by section 9(a), is further amended by adding at the end the following new paragraph:

''(5)(A) The Inspector General of the Department of Health and Human Services shall examine, not later than one year after the date of the enactment of this paragraph and every three years thereafter, whether providers have attempted to make qualified medicare beneficiaries liable for deductibles, coinsurance, and co-payments in violation of paragraph (3)(B). The Inspector General shall submit to the Secretary a report on such examination and a finding as to whether qualified medicare beneficiaries have been held liable in violation of such paragraph.

''(B) If a report under subparagraph (A) includes a finding that qualified medicare beneficiaries have been held liable in violation of such paragraph, not later than 60 days after the date of receiving such report the Secretary shall submit to Congress a report that includes a plan of action on how to enforce provisions of such paragraph.''.

SEC. 12. STATE PROVISION OF MEDICAL ASSISTANCE TO DUAL ELIGIBLES IN MA PLANS.

(a) IN GENERAL.—Section 1902(n) of the Social Security Act (42 U.S.C. 1396b(n)), as amended by section 10, is further amended by adding at the end the following new paragraph:

''(6)(A) Each State shall—

''(i) identify those individuals who are eligible for medical assistance for medicare cost-sharing and who are enrolled with a Medicare Advantage plan under part C of title XVIII; and

''(ii) for the individuals so identified, provide for payment of medical assistance for the medicare cost-sharing (including cost-sharing under a Medicare Advantage plan) to which they are entitled.

''(B)(i) The Inspector General of the Department of Health and Human Services shall examine, not later than one year after the date of the enactment of this paragraph and every three years thereafter, whether States are providing for medical assistance for medicare cost-sharing for individuals enrolled in Medicare Advantage plans in accordance with this title. The Inspector General shall submit to the Secretary a report on such examination and a finding as to whether States are failing to provide such medical assistance.

''(ii) If a report under clause (i) includes a finding that States are failing to provide such medical assistance, not later than 60 days after the date of receiving such report the Secretary shall submit to Congress a report that includes a plan of action on how to enforce such requirement.''.

(b) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to calendar quarters beginning on or after the date of the enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendment made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

By Mr. BINGAMAN (for himself, Mr. OBAMA, Mr. SALAZAR, Mr. BROWN, Mr. KERRY, Ms. STABENOW, Ms. CANTWELL, and Mrs. CLINTON):

S. 2102. A bill to amend title II of the Social Security Act to phase out the 24-month waiting period for disabled individuals to become eligible for Medicare benefits, to eliminate the waiting period for individuals with life-threatening conditions, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce bipartisan legislation entitled ''Ending the Medicare Disability Waiting Period Act of 2007 with Senators OBAMA, SALAZAR, BROWN, KERRY, STABENOW, CANTWELL, and CLINTON. This legislation would phase-out the current 2 year waiting period that people with disabilities must endure after qualifying for Social Security Disability Insurance SSDI. In the interim or as the waiting period is being phased out, the bill would also create a process by which the secretary can immediately waive the waiting period for people with life threatening illnesses.

When Medicare was expanded in 1972 to include people with significant disabilities, lawmakers created the 24-month waiting period. According to a April 2007 report from the Commonwealth Fund, it is estimated that over 1.5 million SSDI beneficiaries are in the Medicare waiting period at any given time, ''all of whom are unable to work because of their disability and most of whom have serious health problems, low incomes, and limited access to health insurance.'' Nearly 39 percent of these individuals do not have health insurance coverage for some point during the waiting period and 26 percent have no health insurance during this period.

The stated reason at the time was to limit the fiscal cost of the provision. However, Mr. President, I would assert that there is no reason, be it fiscal or moral, to tell people that they must wait longer than two years after becoming severely disabled before we give provide them access to much needed health care.

In fact, it is important to note that there really are actually three waiting periods that are imposed upon people seeking to qualify for SSDI. First, there is the disability determination process through the Social Security Administration, which often takes many months or even longer than a year in some cases. Second, once a worker has been certified as having a severe or permanent disability, they must wait an additional five months before receiving their first SSDI check. And third, after receiving that first SSDI check, there is the 2-year period that people must wait before their Medicare coverage begins.

What happens to the health and well-being of people waiting more than 2½ years before they finally receive critically needed Medicare coverage? According to Karen Davis, president of the Commonwealth Fund, which has conducted several important studies on the issue, ''Individuals in the waiting period for Medicare suffer from a broad range of debilitating diseases and are in urgent need of appropriate medical care to manage their conditions. Eliminating the 2-year wait would ensure access to care for those already on the way to Medicare.''

Again, we are talking about individuals that have been determined to be unable to engage in any ''substantial, gainful activity'' because of either a physical or mental impairment that is expected to result in death or to continue for at least 12 months. These are people that, by definition, are in more need of health coverage than anybody else in our society. The consequences are unacceptable and are, in fact, dire.

The majority of people who become disabled were, before their disability, working full-time jobs and paying into Medicare like all other employed Americans. At the moment these men and women need coverage the most, just when they have lost their health, their jobs, their income, and their health insurance, Federal law requires them to wait two full years to become eligible for Medicare. Many of these individuals are needlessly forced to accumulate tens-of-thousands of dollars in healthcare debt or compromise their health due to forgone medical treatment. Many individuals are forced to

sell their homes or go bankrupt. Even more tragically, more than 16,000 disabled beneficiaries annually, about 4 percent of beneficiaries, do not make it through the waiting period. They die before their Medicare coverage ever begins.

Removing the waiting period is well worth the expense. According to the Commonwealth Fund, analyses have shown providing men and women with Medicare at the time that Social Security certifies them as disabled would cost $8.7 billion annually. This cost would be partially offset by $4.3 billion in reduced Medicaid spending by Medicaid, which many individuals require during the waiting period. In addition, untold expenses borne by the individuals involved could be avoided, as well as the costs of charity care on which many depend. Moreover, there may be additional savings to the Medicare program itself, which often has to bear the expense of addressing the damage done during the waiting period. During this time, deferred health care can worsen conditions, creating additional health problems and higher costs.

Further exacerbating the situation, some beneficiaries have had the unfortunate fate of having received SSI and Medicaid coverage, applied for SSDI, and then lost their Medicaid coverage because they were not aware the change in income when they received SSDI would push them over the financial limits for Medicaid. In such a case, and let me emphasize this point, the government is effectively taking their health care coverage away because they are so severely disabled.

Therefore, for some in the waiting period, their battle is often as much with the Government as it is with their medical condition, disease, or disability.

Nobody could possible think this makes any sense.

As the Medicare Rights Center has said, ''By forcing Americans with disabilities to wait 24 months for Medicare coverage, the current law effectively sentences these people to inadequate health care, poverty, or death. . . . Since disability can strike anyone, at any point in life, the 24-month waiting period. should be of concern to everyone, not just the millions of Americans with disabilities today.''

Although elimination of the Medicare waiting period will certainly increase Medicare costs, it is important to note that there will be some corresponding decrease in Medicaid costs. Medicaid, which is financed by both Federal and State governments, often provides coverage for a subset of disabled Americans in the waiting period, as long as they meet certain income and asset limits. Income limits are typically at or below the poverty level, including at just 74 percent of the poverty line in New Mexico, with assets generally limited to just $2,000 for individuals and $3,000 for couples.

Furthermore, from a continuity of care point of view, it makes little sense that somebody with disabilities must leave their job and their health providers associated with that plan, move on to Medicaid, often have a different set of providers, then switch to Medicare and yet another set of providers. The cost, both financial and personal, of not providing access to care or poorly coordinated care services for these seriously ill people during the waiting period may be greater in many cases than providing health coverage.

Finally, private-sector employers and employees in those risk-pools would also benefit from the passage of the bill. As the Commonwealth Fund has noted, ''. . . to the extent that disabled adults rely on coverage through their prior employer or their spouse's employer, eliminating the waiting period would also produce savings to employers who provide this coverage.''

To address concerns about costs and immediate impact on the Medicare program, the legislation phases out the waiting period over a 10-year period. In the interim, the legislation would create a process by which others with life-threatening illnesses could also get an exception to the waiting period. Congress has previously extended such an exception to the waiting period individuals with amyothrophic lateral sclerosis, ALS, also known as Lou Gehrig's disease, and for hospice services. The ALS exception passed the Congress in December 2000 and went into effect July 1, 2001. Thus, the legislation would extend the exception to all people with life-threatening illnesses in the waiting period.

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. 2102

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 ''Ending the Medicare Disability Waiting Period Act of 2007''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. PHASE-OUT OF WAITING PERIOD FOR MEDICARE DISABILITY BENEFITS.

(a) IN GENERAL.—Section 226(b) of the Social Security Act (42 U.S.C. 426(b)) is amended—

(1) in paragraph (2)(A), by striking '', and has for 24 calendar months been entitled to,'' and inserting '', and for the waiting period (as defined in subsection (k)) has been entitled to,'';

(2) in paragraph (2)(B), by striking '', and has been for not less than 24 months,'' and inserting '', and has been for the waiting period (as defined in subsection (k)),'';

(3) in paragraph (2)(C)(ii), by striking '', including the requirement that he has been entitled to the specified benefits for 24 months,'' and inserting '', including the requirement that the individual has been entitled to the specified benefits for the waiting period (as defined in subsection (k)),''; and

(4) in the flush matter following paragraph (2)(C)(ii)(II)—

(A) in the first sentence, by striking ''for each month beginning with the later of (I) July 1973 or (II) the twenty-fifth month of his entitlement or status as a qualified railroad retirement beneficiary described in paragraph (2), and'' and inserting ''for each month beginning after the waiting period (as so defined) for which the individual satisfies paragraph (2) and'';

(B) in the second sentence, by striking ''the 'twenty-fifth month of his entitlement' refers to the first month after the twenty-fourth month of entitlement to specified benefits referred to in paragraph (2)(C) and''; and

(C) in the third sentence, by striking '', but not in excess of 78 such months''.

(b) SCHEDULE FOR PHASE-OUT OF WAITING PERIOD.—Section 226 of the Social Security Act (42 U.S.C. 426) is amended by adding at the end the following new subsection:

''(k) For purposes of subsection (b) (and for purposes of section 1837(g)(1) of this Act and section 7(d)(2)(ii) of the Railroad Retirement Act of 1974), the term 'waiting period' means—

''(1) for 2008, 18 months;
''(2) for 2009, 16 months;
''(3) for 2010, 14 months;
''(4) for 2011, 12 months;
''(5) for 2012, 10 months;
''(6) for 2013, 8 months;
''(7) for 2014, 6 months;
''(8) for 2015, 4 months;
''(9) for 2016, 2 months; and
''(10) for 2017 and each subsequent year, 0 months.''.

(c) CONFORMING AMENDMENTS.—

(1) SUNSET.—Effective January 1, 2017, subsection (f) of section 226 of the Social Security Act (42 U.S.C. 426) is repealed.

(2) MEDICARE DESCRIPTION.—Section 1811(2) of such Act (42 U.S.C. 1395c(2)) is amended by striking ''entitled for not less than 24 months'' and inserting ''entitled for the waiting period (as defined in section 226(k))''.

(3) MEDICARE COVERAGE.—Section 1837(g)(1) of such Act (42 U.S.C. 1395p(g)(1)) is amended by striking ''of the later of (A) April 1973 or (B) the third month before the 25th month of such entitlement'' and inserting ''of the third month before the first month following the waiting period (as defined in section 226(k)) applicable under section 226(b)''.

(4) RAILROAD RETIREMENT SYSTEM.—Section 7(d)(2)(ii) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(d)(2)(ii)) is amended—

(A) by striking '', for not less than 24 months'' and inserting '', for the waiting period (as defined in section 226(k) of the Social Security Act); and

(B) by striking ''could have been entitled for 24 calendar months, and'' and inserting ''could have been entitled for the waiting period (as defined in section 226(k) of the Social Security Act), and''.

(d) EFFECTIVE DATE.—Except as provided in subsection (c)(1), the amendments made by this section shall apply to insurance benefits under title XVIII of the Social Security Act with respect to items and services furnished in months beginning at least 90 days after the date of the enactment of this Act (but in no case earlier than January 1, 2008).

SEC. 3. ELIMINATION OF WAITING PERIOD FOR INDIVIDUALS WITH LIFE-THREATENING CONDITIONS.

(a) IN GENERAL.—Section 226(h) of the Social Security Act (42 U.S.C. 426(h)) is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) in the matter preceding subparagraph (A) (as redesignated by paragraph (1)), by inserting ''(1)'' after ''(h)'';

(3) in paragraph (1) (as designated by paragraph (2))—

(A) in the matter preceding subparagraph (A) (as redesignated by paragraph (1)), by inserting ''or any other life-threatening condition identified by the Secretary'' after ''amyotrophic lateral sclerosis (ALS)''; and

(B) in subparagraph (B) (as redesignated by paragraph (1)), by striking ''(rather than twenty-fifth month)''; and

(4) by adding at the end the following new paragraph:

''(2) For purposes of identifying life-threatening conditions under paragraph (1), the Secretary shall compile a list of conditions that are fatal without medical treatment. In compiling such list, the Secretary shall consult with the Director of the National Institutes of Health (including the Office of Rare Diseases), the Director of the Centers for Disease Control and Prevention, the Director of the National Science Foundation, and the Institute of Medicine of the National Academy of Sciences.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to insurance benefits under title XVIII of the Social Security Act with respect to items and services furnished in months beginning at least 90 days after the date of the enactment of this Act (but in no case earlier than January 1, 2008).

SEC. 4. INSTITUTE OF MEDICINE STUDY AND REPORT ON DELAY AND PREVENTION OF DISABILITY CONDITIONS.

(a) STUDY.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall request that the Institute of Medicine of the National Academy of Sciences conduct a study on the range of disability conditions that can be delayed or prevented if individuals receive access to health care services and coverage before the condition reaches disability levels.

(b) REPORT.—Not later than the date that is 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report containing the results of the Institute of Medicine study authorized under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $750,000 for the period of fiscal years 2008 and 2009.

By Mr. BINGAMAN (for himself, Mr. OBAMA, Mr. SALAZAR, Ms. COLLINS, and Mr. LIEBERMAN):

S. 2103. A bill to amend title XVIII of the Social Security Act to eliminate the in the home restriction for Medicare coverage of mobility devices for individuals with expected long-term needs; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today with Senators OBAMA, SALAZAR, COLLINS, and LIEBERMAN to introduce the Medicare Independent Living Act of 2007. This legislation would eliminate Medicare's ''in the home'' restriction for the coverage of mobility devices, including wheelchairs and scooters, for those with disabilities and expected long-term needs. This includes people with multiple sclerosis, paraplegia, osteoarthritis, and cerebrovascular disease that includes acute stroke and conditions like aneurysms.

As currently interpreted by the Centers for Medicare and Medicaid Services, CMS, the ''in the home'' restriction only permits beneficiaries to obtain wheelchairs that are necessary for use inside the home. As a result, seriously disabled beneficiaries who would primarily utilize a wheelchair outside the home are prevented from receiving this critical and basic equipment through Medicare. For example, this restriction prevents beneficiaries from receiving wheelchairs to access their work, the community-at-large, place of worship, school, physician's offices, or pharmacies.

On July 13, 2005, 34 senators wrote Secretary Leavitt asking the Department of Health and Human Services, or HHS, to modify the ''in the home'' requirement so as to ''improve community access for Medicare beneficiaries with mobility impairments.'' Unfortunately, CMS continues to impose the ''in the home'' restriction on Medicare beneficiaries in need of mobility devices.

As the Medicare Rights Center in a report entitled ''Forced Isolation: Medicare's 'In The home' Coverage Standards for Wheelchairs'' in March 2004 notes, ''This effectively disqualifies you from leaving your home without the assistance of others.''

Furthermore, in a Kansas City Star article dated July 3, 2005, Mike Oxford with the National Council on Independent Living noted, ''You look at mobility assistance as a way to liberate yourself.'' He added that the restriction ''is just backward.''

In fact, policies such as these are not only backward but directly contradict numerous initiatives aimed at increasing community integration of people with disabilities, including the Americans with Disabilities Act, the Ticket-to-Work Program, the New Freedom Initiative, and the Olmstead Supreme Court decision.

According to the Medicare Rights Center update dated March 23, 2006, ''This results in arbitrary denials. People with apartments too small for a power wheelchair are denied a device that could also get them down the street. Those in more spacious quarters get coverage, allowing them to scoot from room to room and to the grocery store. People who summon all their willpower and strength to hobble around a small apartment get no help for tasks that are beyond them and their front door.''

In New Mexico, I have heard this complaint about the law repeatedly from our State's most vulnerable disabled and senior citizens. People argue the provision is being misinterpreted by the administration and results in Medicare beneficiaries being trapped in their home.

The ITEM Coalition adds in a letter to CMS on this issue in November 25, 2005, ''There continues to be no clinical basis for the 'in the home' restriction and by asking treating practioners to document medical need only within the home setting, CMS is severely restricting patients from receiving the most appropriate devices to meet their mobility needs.''

My legislation would clarify that this restriction does not apply to mobility devices, including wheelchairs, for people with disabilities in the Medicare Program. The language change is fairly simple and simply clarifies that the ''in the home'' restriction for durable medical equipment does not apply in the case of mobility devices needed by Medicare beneficiaries with expected long-term needs for use ''in customary settings such as normal domestic, vocational, and community activities.''

This legislation is certainly not intended to discourage CMS from dedicating its resources to reducing waste, fraud, and abuse in the Medicare system, as those efforts are critical to ensuring that Medicare remains financially viable and strong in the future. However, it should be noted that neither Medicaid nor the Department of Veterans Affairs impose such ''in the home'' restrictions on mobility devices.

Mr. President, I ask unanimous consent that the text of the bill and a letter sent to Secretary Leavitt be printed in the RECORD.

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

S. 2103

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 ''Medicare Independent Living Act of 2007''.

SEC. 2. ELIMINATION OF IN THE HOME RESTRICTION FOR MEDICARE COVERAGE OF MOBILITY DEVICES FOR INDIVIDUALS WITH EXPECTED LONG-TERM NEEDS.

(a) IN GENERAL.—Section 1861(n) of the Social Security Act (42 U.S.C. 1395x(n) is amended by inserting ''or, in the case of a mobility device required by an individual with expected long-term need, used in customary settings for the purpose of normal domestic, vocational, or community activities'' after ''1819(a)(1))''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items furnished on or after the date of enactment of this Act.

JULY 13, 2005.

SENATE LETTER OPPOSING IN HOME RESTRICTION

Hon. MICHAEL O. LEAVITT,
Secretary, Department of Health and Human Services, Washington, DC.

DEAR SECRETARY LEAVITT: The undersigned members write to request that you modify the ''in the home'' requirement in Medicare's wheeled mobility benefit to improve community access for Medicare beneficiaries with mobility impairments.

We commend CMS for its dedication to reducing waste, fraud and abuse in the Medicare system, particularly under the mobility device benefit, and fully support your intention to protect precious Medicare funds and resources. Additionally, we commend the agency for recently taking on the task of creating a new and, hopefully, more appropriate Medicare coverage criteria for mobility devices. However, we are concerned that CMS' current interpretation of the ''in the

home'' requirement may continue to act as an inappropriate restriction in meeting the real-life mobility needs of Medicare beneficiaries with physical disabilities and mobility impairments.

Recently CMS announced a final National Coverage Determination (NCD) for mobility assistance equipment (MAE) that fails to adequately address the concerns of beneficiaries and other parties with the ''in the home'' restriction.

In order to ensure that the ''in the home'' requirement does not act as a barrier to community participation for Medicare beneficiaries with disabilities and mobility impairments; we ask that you modify this requirement through the regulatory process. Additionally, if your agency concludes that the ''in the home'' requirement cannot be addressed through the regulatory process, we request that you respond with such information as quickly as possible, so that Congress may begin examining legislative alternatives.

We thank you for your consideration of this matter.

Sincerely,

Jeff Bingaman; Rick Santorum; John Kerry; Joseph I. Lieberman; Barbara Mikulski; Maria Cantwell; Edward M. Kennedy; Patty Murray; Evan Bayh; Mark Dayton; Jack Reed; Johnny Isakson; Sam Brownback; Jon S. Corzine; James M. Talent; Pat Roberts; Frank Lautenberg; James M. Jeffords; Christopher S. Bond; Mike DeWine; Daniel K. Akaka; Mary L. Landrieu; Debbie Stabenow; Charles E. Schumer; Ron Wyden; Herb Kohl; Patrick J. Leahy; Arlen Specter; Hillary Rodham Clinton; Christopher J. Dodd; John McCain; Carl Levin; Tom Harkin; Olympia J. Snowe.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 332—EXPRESSING THE SENSE OF THE SENATE THAT THE DEPARTMENT OF DEFENSE AND THE DEPARTMENT OF VETERANS AFFAIRS SHOULD INCREASE THEIR INVESTMENT IN PAIN MANAGEMENT RESEARCH

Ms. MIKULSKI (for herself and Mr. CARDIN) submitted the following resolution; which was referred to the Committee on Armed Services:

S. RES. 332

Whereas the characteristics of modern warfare, including the global war on terror, expose members of the uniformed services to many adverse and dangerous environment-related diseases and living conditions;

Whereas today's war zone conditions, including areas replete with noxious gases released from explosive devices in Iraq and Afghanistan, produce traumatic, life-altering battlefield injuries in degrees unheard of in previous wars including infections, instant crushing of skulls and other bones, loss of sight and limbs, dehydration, blood and other body infections, and, in some cases, severe impairment or total loss of mental and physical functions;

Whereas military medical rapid response teams provide superb, state of the art, life-saving medical and psychological treatment and care at battlefield sites with an extraordinarily high success rate;

Whereas military, Department of Veterans Affairs, and specialty civilian health care treatment facilities are overburdened with caring for the most serious and most painful battlefield casualties ever witnessed from war; and

Whereas the Nation's medical and mental health care professionals have not been provided with sufficient resources to adequately research, diagnose, treat, and manage acute and chronic pain associated with present day battlefield casualties: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) Federal funding for pain management research, treatment and therapies at the Department of Defense, Department of Veterans Affairs and at the National Institutes of Health should be significantly increased;

(2) Congress and the administration should redouble their efforts to ensure that an effective pain management program is uniformly established and implemented for military and Department of Veterans Affairs treatment facilities; and

(3) the Department of Defense and the Department of Veterans Affairs should increase their investment in pain management clinical research by improving and accelerating clinical trials at military and Department of Veterans Affairs treatment facilities and affiliated university medical centers and research programs.

SENATE RESOLUTION 333—TO AUTHORIZE THE PRODUCTION OF RECORDS BY THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS OF THE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. REID (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 333

Whereas, the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs conducted an investigation in 2003 and 2004 into abusive practices by the credit counseling industry;

Whereas, the Subcommittee has received a request from a federal law enforcement agency for access to records of the Subcommittee's investigation;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Ranking Minority Member of the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs, acting jointly, are authorized to provide to federal or state law enforcement or regulatory agencies and officials records of the Subcommittee's investigation into abusive practices by the credit counseling industry.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3048. Mr. SESSIONS 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.

SA 3049. Mr. SANDERS (for himself, Mr. BYRD, Mr. BROWN, and Mr. FEINGOLD) 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 3050. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 976, to amend title XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table.

SA 3051. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 3052. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 3053. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 3054. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 3055. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 3056. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 3057. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 3058. Mr. KENNEDY (for himself, Mrs. MCCASKILL, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. AKAKA, Mr. BROWN, and Mr. DODD) 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.

SA 3059. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 976, to amend title XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table.

SA 3060. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 3061. Mr. CRAPO submitted an amendment intended to be proposed by him to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 3062. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 3063. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 3064. Mr. MCCONNELL (for himself, Mr. LOTT, Mr. KYL, Mr. DEMINT, Mr. COBURN, Mr. CORNYN, Mr. BUNNING, Mr. ISAKSON, and Mr. BARRASSO) submitted an amendment intended to be proposed by him to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 3065. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 3066. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 3067. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 3068. Mr. REID (for Mr. OBAMA (for himself, Mr. BOND, Mr. LIEBERMAN, Mrs. BOXER, and 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.

SA 3069. Mr. HATCH 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 3070. Mr. SESSIONS 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 3071. Mr. REID proposed an amendment to the bill H.R. 976, to amend title XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program, and for other purposes.

SA 3072. Mr. REID proposed an amendment to amendment SA 3071 proposed by Mr. REID to the bill H.R. 976, supra.

SA 3073. Mr. REID (for Mr. OBAMA (for himself and Mr. WHITEHOUSE)) 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.

SA 3074. Mr. SPECTER (for himself and Mr. CASEY) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 52, making continuing appropriations for the fiscal year 2008, and for other purposes; which was ordered to lie on the table.

SA 3075. Mr. BIDEN (for himself, Mr. GRAHAM, Mr. CASEY, Mr. SANDERS, Mr. BROWN, and Mrs. LINCOLN) 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.

TEXT OF AMENDMENTS

SA 3048. Mr. SESSIONS 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 B of title I, add the following:

SEC. 115. M4 CARBINE RIFLE.

(a) FINDINGS.—Congress makes the following findings:

(1) The members of the Armed Forces are entitled to the best individual combat weapons available in the world today.

(2) Full and open competition in procurement is required by law, and is the most effective way of selecting the best individual combat weapons for the Armed Forces at the best price.

(3) The M4 carbine rifle is currently the individual weapon of choice for the Army, and it is procured through a sole source contract.

(4) The M4 carbine rifle has been proven in combat and meets or exceeds the existing requirements for carbines.

(5) The Army Training and Doctrine Command is conducting a full Capabilities Based Assessment (CBA) of the small arms of the Army which will determine whether or not gaps exist in the current capabilities of such small arms and inform decisions as to whether or not a new individual weapon is required to address such gaps.

(b) REPORT ON CAPABILITIES BASED ASSESSMENT.—Not later than 90 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 Capabilities Based Assessment of the small arms of the Army referred to in subsection (a)(5).

(c) COMPETITION FOR NEW INDIVIDUAL WEAPON.—

(1) COMPETITION REQUIRED.—In the event the Capabilities Based Assessment identifies gaps in the current capabilities of the small arms of the Army and the Secretary of the Army determines that a new individual weapon is required to address such gaps, the Secretary shall procure the new individual weapon through one or more contracts entered into after full and open competition described in paragraph (2).

(2) FULL AND OPEN COMPETITION.—The full and open competition described in this paragraph is full and open competition among all responsible manufacturers that—

(A) is open to all developmental item solutions and nondevelopmental item (NDI) solutions; and

(B) provides for the award of the contract or contracts concerned based on selection criteria that reflect the key performance parameters and attributes identified in an Army-approved service requirements document.

(d) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, Secretary of Defense shall submit to the congressional defense committees a report on the feasibility and advisability of each of the following:

(1) The certification of a Joint Enhanced Carbine requirement that does not require commonality with existing technical data.

(2) The award of contracts for all available nondevelopmental carbines in lieu of a developmental program intended to meet the proposed Joint Enhanced Carbine requirement.

(3) The reprogramming of funds for the procurement of small arms from the procurement of M4 Carbines to the procurement of Joint Enhanced Carbines authorized only as the result of competition.

(4) The use of rapid equipping authority to procure weapons under $2,000 per unit that meet service-approved requirements, with such weapons being nondevelopmental items selected through full and open competition.

SA 3049. Mr. SANDERS (for himself, Mr. BYRD, Mr. BROWN, and Mr. FEINGOLD) 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 III, add the following:

SEC. 325. GULF WAR ILLNESSES RESEARCH.

(a) FUNDING.—Of the amount authorized to be appropriated by section 301(5) for operation and maintenance for Defense-wide activities, $15,000,000 shall be available for the Army Medical Research and Materiel Command to carry out, as part of its Medical Research Program required by Congress, a program for Gulf War Illnesses Research.

(b) PURPOSE.—The purpose of the program shall be to develop diagnostic markers and treatments for the complex of symptoms commonly known as ''Gulf War Illnesses (GWI)'', including widespread pain, cognitive impairment, and persistent fatigue in conjunction with diverse other symptoms and abnormalities, that are associated with service in the Southwest Asia theater of operations in the early 1990s during the Persian Gulf War.

(c) PROGRAM ACTIVITIES.—

(1) Highest priority under the program shall be afforded to pilot and observational studies of treatments for the complex of symptoms described in subsection (b) and comprehensive clinical trials of such treatments that have demonstrated effectiveness in previous past pilot and observational studies.

(2) Secondary priority under the program shall be afforded to studies that identify objective markers for such complex of symptoms and biological mechanisms underlying such complex of symptoms that can lead to the identification and development of such markers and treatments.

(3) No study shall be funded under the program that is based on psychiatric illness and psychological stress as the central cause of such complex of symptoms (as is consistent with current research findings).

(d) COMPETITIVE SELECTION AND PEER REVIEW.—The program shall be conducted using competitive selection and peer review for the identification of activities having the most substantial scientific merit, utilizing individuals with recognized expertise in Gulf War illnesses in the design of the solicitation and in the scientific and programmatic review processes.

SA 3050. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 976, to amend the

XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 2111 of the Social Security Act, as added by section 112 of the House amendment to the text, add the following:

''(d) COVER KIDS FIRST IMPLEMENTATION REQUIREMENT.—Notwithstanding the preceding subsections of this section, no funds shall be available under this title for child health assistance or other health benefits coverage that is provided for any other adult other than a pregnant woman, and this title shall be applied with respect to a State without regard to such subsections, for each fiscal year quarter that begins prior to the date on which the State demonstrates to the Secretary that the State has enrolled in the State child health plan at least 95 percent of the targeted low-income children who reside in the State.''.

SA 3051. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 976, to amend the XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title I of the House amendment to the text, add the following:

SEC. 117. COVER LOW-INCOME KIDS FIRST.

Section 2105(c) (42 U.S.C. 1397ee(c)), as amended section 601(a), is amended by adding at the end the following new paragraph:

''(13) NO PAYMENTS FOR EXPENDITURES FOR CHILD HEALTH ASSISTANCE OR HEALTH BENEFITS COVERAGE FOR INDIVIDUALS WHOSE GROSS FAMILY INCOME EXCEEDS 200 PERCENT OF THE POVERTY LINE UNLESS AT LEAST 95 PERCENT OF ELIGIBLE LOW-INCOME CHILDREN ENROLLED.—Notwithstanding any other provision of this title, for fiscal years beginning with fiscal year 2008, no payments shall be made to a State under subsection (a)(1), or any other provision of this title, for any fiscal year quarter that begins prior to the date on which the State demonstrates to the Secretary that the State has enrolled in the State child health plan at least 95 percent of the low-income children who reside in the State and are eligible for child health assistance under this State child health plan with respect to any expenditures for providing child health assistance or health benefits coverage for any individual whose gross family income exceeds 200 percent of the poverty line.''.

SA 3052. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 976, to amend the XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title I of the House amendment to the text, add the following:

SEC. 117. REMOVING THE INCENTIVE TO COVER CHILDREN AT HIGHER INCOME LEVELS RATHER THAN LOWER INCOME LEVELS.

(a) ELIMINATION OF ENHANCED FMAP.—Section 2105 (42 U.S.C. 1397ee) is amended—

(1) in subsection (a)(1), in the matter preceding subparagraph (A), by striking ''enhanced FMAP (or, in the case of expenditures described in subparagraph (B), the Federal medical assistance percentage (as defined in the first sentence of section 1905(b)))'' and inserting ''Federal medical assistance percentage'';

(2) in subparagraph (A), by striking ''on the basis of an enhanced FMAP'';

(3) by striking subsection (b) and inserting the following:

''(b) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The term 'Federal medical assistance percentage' has the meaning given such term in the first sentence of section 1905(b).'';

(4) in subsection (d)(B)(ii), by striking ''an enhanced FMAP'' and inserting ''payments''; and

(5) in subsection (g)(1)(B)(i), by striking ''the additional amount'' and all that follows through the period and inserting ''the Federal medical assistance percentage with respect to expenditures described in clause (ii).''.

(b) CONFORMING AMENDMENTS TO TITLE XIX.—Section 1905 (42 U.S.C. 1396d)) is amended—

(1) in subsection (b)—

(A) in the first sentence by striking ''and (4)'' and all that follows up to the period;

(B) in the last sentence—

(i) by inserting ''the Federal medical assistance percentage shall apply only'' after ''Notwithstanding the first sentence of this subsection,''; and

(ii) by striking ''section 2104'' and all that follows through the period and inserting ''section 2104.''; and

(2) in subsection (u)(4), by striking ''an enhanced FMAP described in section 2105(b)'' and inserting ''this subsection''.

(c) CONFORMING AMENDMENTS TO TITLE XXI AND THE AMENDMENTS MADE BY OTHER PROVISIONS OF THIS ACT.—

(1) Subsections (a)(2) and (b)(1) of section 2111, as added by section 106(a), are each amended by striking subparagraph (C).

(2) Section 2111(b)(2)(B), as so added, is amended—

(A) in clause (ii), by striking ''applicable percentage determined under clause (iii) or (iv) for'' and inserting ''Federal medical assistance percentage of'';

(B) by striking clauses (iii) and (iv); and

(C) by redesignating clauses (v) and (vi) as clauses (iii) and (iv), respectively.

(3) This Act shall be applied without regard to the amendment to section 2105(c) made by section 110.

(4) Section 2105(g)(4)(A), as added by section 111, is amended by striking ''the additional amount'' and all that follows through the period and inserting ''the Federal medical assistance percentage with respect to expenditures described in subparagraph (B).''.

(5) The amendment made by paragraph (1) of section 201(b) of this Act is amended to read as follows:

''(1) in the matter preceding subparagraph (A) (as amended by section 112(a)(1)(A)), by inserting '(or, in the case of expenditures described in subparagraph (D)(iv), 75 percent)' after 'Federal medical assistance percentage'; and''.

(6) Section 2105(c)(9), as added by section 301(c)(1), is amended by striking ''enhanced FMAP'' and inserting ''Federal medical assistance percentage''.

(7) Section 601(a)(2) of this Act is amended by striking '', rather than on the basis of an enhanced FMAP (as defined in section 2105(b) of such Act)''.

(8) Section 2105(c)(11), as added by section 602(a)(1), is amended by striking ''enhanced FMAP'' and inserting ''Federal medical assistance percentage''.

SA 3053. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 976, to amend title XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title VI of the House amendment to the text, add the following:

SEC. 620. PERSONAL EMPOWERMENT THROUGH INDIVIDUAL RESPONSIBILITY.

Section 2103(e) (42 U.S.C. 1397cc(e)) is amended by adding at the end the following new paragraph:

''(5) PERSONAL EMPOWERMENT THROUGH INDIVIDUAL RESPONSIBILITY.—Notwithstanding the preceding provisions of this subsection or any other provision of this title, for fiscal years beginning with fiscal year 2008, a State shall not be considered to have an approved State child health plan unless the State has submitted a State plan amendment to the Secretary specifying how the State will impose premiums, deductibles, coinsurance, and other cost-sharing under the State child health plan (regardless of whether such plan is implemented under this title, title XIX, or both) for populations of individuals whose family income exceeds the effective income eligibility level applicable under the State child health plan for that population on the date of the enactment of the Children's Health Insurance Program Reauthorization Act of 2007, in a manner that is consistent with the authority and limitations for imposed cost-sharing under section 1916A.''.

SA 3054. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 976, to amend title XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

Strike clause (ii) of section 2105(c)(11)(B) of the Social Security Act, as added by section 301(a) of the House amendment to the text, and insert the following:

(ii) INCLUSION OF HIGH DEDUCTIBLE HEALTH PLANS; EXCLUSION OF FLEXIBLE SPENDING ARRANGEMENTS.—Such term—

(I) includes coverage consisting of a high deductible health plan (as defined in section 223(c)(2) of such Code) purchased in conjunction with a health savings account (as defined under section 223(d) of such Code); but

(II) does not include coverage consisting of benefits provided under a health flexible spending arrangement (as defined in section 106(c)(2) of the Internal Revenue Code of 1986).

SA 3055. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 976, to amend title XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII of the House amendment to the text, add the following:

SEC. 704. DISEASE PREVENTION AND TREATMENT RESEARCH TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to establishment of trust funds) is amended by adding at the end the following new section:

''SEC. 9511. DISEASE PREVENTION AND TREATMENT RESEARCH TRUST FUND.

''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Disease Prevention and Treatment Research Trust Fund', consisting of such amounts as may be appropriated or credited to the Disease Prevention and Treatment Research Trust Fund.

''(b) TRANSFER TO DISEASE PREVENTION AND TREATMENT RESEARCH TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—There are hereby appropriated to the Disease Prevention and Treatment Research Trust Fund amounts equivalent to the taxes received in the Treasury attributable to the amendments made by section 701 of the Children's Health Insurance Program Reauthorization Act of 2007.

''(c) EXPENDITURES FROM TRUST FUND.—

''(1) IN GENERAL.—Amounts in the Disease Prevention and Treatment Research Trust Fund shall be available, as provided by appropriation Acts, for the purposes of funding the disease prevention and treatment research activities of the National Institutes of Health. Amounts appropriated from the Disease Prevention and Treatment Research Trust Fund shall be in addition to any other funds provided by appropriation Acts for the National Institutes of Health.

''(2) DISEASE PREVENTION AND TREATMENT RESEARCH ACTIVITIES.—Disease prevention and treatment research activities shall include activities relating to:

''(A) CANCER.—Disease prevention and treatment research in this category shall include activities relating to pediatric, lung, breast, ovarian, uterine, prostate, colon, rectal, oral, skin, bone, kidney, liver, stomach, bladder, thyroid, pancreatic, brain and nervous system, and blood-related cancers, including leukemia and lymphoma. Priority in this category shall be given to disease prevention and treatment research into pediatric cancers.

''(B) RESPIRATORY DISEASES.—Disease prevention and treatment research in this category shall include activities relating to chronic obstructive pulmonary disease, tuberculosis, bronchitis, asthma, and emphysema.

''(C) CARDIOVASCULAR DISEASES.—Disease prevention and treatment research in this category shall include activities relating to peripheral arterial disease, heart disease, valve disease, stroke, and hypertension.

''(D) OTHER DISEASES, CONDITIONS, AND DISORDERS.—Disease prevention and treatment research in this category shall include activities relating to autism, diabetes (including type I diabetes, also known as juvenile diabetes, and type II diabetes), muscular dystrophy, Alzheimer's disease, Parkinson's disease, multiple sclerosis, amyotrophic lateral sclerosis, cerebral palsy, cystic fibrosis, spinal muscular atrophy, osteoporosis, human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS), depression and other mental health disorders, infertility, arthritis, anaphylaxis, lymphedema, psoriasis, eczema, lupus, cleft lip and palate, fibromyalgia, chronic fatigue and immune dysfunction syndrome, alopecia areata, and sepsis.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 9511. Disease Prevention and Treatment Research Trust Fund.''.

SA 3056. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 976, to amend title XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 112 of the House amendment to the text and insert the following:

SEC. 112. ELIMINATION OF COVERAGE FOR NONPREGNANT ADULTS.

(a) ELIMINATION OF COVERAGE.—Title XXI (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following new section:

''SEC. 2111. ELIMINATION OF COVERAGE FOR NONPREGNANT ADULTS.

''(a) NO COVERAGE FOR NONPREGNANT CHILDLESS ADULTS AND NONPREGNANT PARENTS.—

''(1) TERMINATION OF COVERAGE UNDER APPLICABLE EXISTING WAIVERS.—No funds shall be available under this title for child health assistance or other health benefits coverage that is provided for any other adult other than a pregnant woman after September 30, 2007.

''(2) NO NEW WAIVERS.—Notwithstanding section 1115 or any other provision of this title the Secretary shall not on or after the date of the enactment of the Children's Health Insurance Program Reauthorization Act of 2007, approve or renew a waiver, experimental, pilot, or demonstration project that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage for any other adult other than a pregnant woman.

''(b) INCREASED OUTREACH AND COVERAGE OF LOW-INCOME CHILDREN.—A State that, but for the application of subsections (a) and (b), would have expended funds for child health assistance or other health benefits coverage for an adult other than a pregnant woman after fiscal year 2007 shall use the funds that would have been expended for such assistance or coverage to conduct outreach to, and provide child health assistance for, low-income children who are eligible for such assistance under the State child health plan.

''(c) NONAPPLICATION.—Beginning with fiscal year 2008, this title shall be applied without regard to any provision of this title that would be contrary to the prohibition on providing child health assistance or health benefits coverage for an adult other than a pregnant woman established under this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 2107(f) (42 U.S.C. 1397gg(f)) is amended—

(A) by striking '', the Secretary'' and inserting '':

''(1) The Secretary'';

(B) in the first sentence, by inserting ''or a nonpregnant parent (as defined in section 2111(d)(2)) of a targeted low-income child'' before the period;

(C) by striking the second sentence; and

(D) by adding at the end the following new paragraph:

''(2) The Secretary may not approve, extend, renew, or amend a waiver, experimental, pilot, or demonstration project with respect to a State after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2007 that would waive or modify the requirements of section 2111.''.

(2) Section 6102(c) of the Deficit Reduction Act of 2005 (Public Law 109–171; 120 Stat. 131) is amended by striking ''Nothing'' and inserting ''Subject to section 2111 of the Social Security Act, as added by section 106(a)(1) of the Children's Health Insurance Program Reauthorization Act of 2007, nothing''.

SA 3057. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill H.R. 976, to amend the XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted to the text by the House amendment to the text, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''State Children's Health Insurance Program Reauthorization Act of 2007''.

SEC. 2. 5-YEAR SCHIP REAUTHORIZATION FOR COVERAGE OF LOW-INCOME CHILDREN.

(a) FUNDING.—

(1) INCREASE IN NATIONAL APPROPRIATION.—Section 2104(a) of the Social Security Act (42 U.S.C. 1397dd(a)) is amended—

(A) in paragraph (9), by striking ''and'' at the end;

(B) in paragraph (10), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(11) for each of fiscal years 2008 through 2012, $7,000,000,000.''.

(2) CONTINUATION OF ADDITIONAL ALLOTMENTS TO TERRITORIES AT FISCAL YEAR 2007 LEVEL OF AUTHORITY.—Section 2104(c)(4)(B) of the Social Security Act (42 U.S.C. 1397dd(c)(4)(B)) is amended by striking ''fiscal year 2007'' and inserting ''each of fiscal years 2007 through 2012''.

(3) APPLICATION TO OTHER SCHIP FUNDING FOR FISCAL YEAR 2008.—Notwithstanding any other provision of law, if funds are appropriated under any law (other than this Act) to provide allotments to States under title XXI of the Social Security Act for all (or any portion) of fiscal year 2008—

(A) any amounts that are so appropriated that are not so allotted and obligated before the date of the enactment of this Act are rescinded; and

(B) any amount provided for such title XXI allotments to a State under this Act (and the amendments made by this Act) for such fiscal year shall be reduced by the amount of such appropriations so allotted and obligated before such date.

(b) NO FEDERAL MATCHING PAYMENTS FOR COVERAGE OF INDIVIDUALS WHOSE GROSS FAMILY INCOME EXCEEDS 200 PERCENT OF THE POVERTY LINE.—Section 2105(c) of the Social Security Act (42 U.S.C. 1397ee(c)) is amended by adding at the end the following new paragraph:

''(8) NO PAYMENTS FOR EXPENDITURES FOR CHILD HEALTH ASSISTANCE OR HEALTH BENEFITS COVERAGE FOR INDIVIDUALS WHOSE GROSS FAMILY INCOME EXCEEDS 200 PERCENT OF THE POVERTY LINE.—Notwithstanding any other provision of this title, for fiscal years beginning with fiscal year 2008, no payments shall be made to a State under subsection (a)(1), or any other provision of this title, for any expenditures for providing child health assistance or health benefits coverage for any individual whose gross family income exceeds 200 percent of the poverty line.''.

(c) NO FEDERAL MATCHING PAYMENTS FOR COVERAGE OF INDIVIDUALS WHO ARE ELIGIBLE FOR EMPLOYER-SPONSORED COVERAGE.—

(1) IN GENERAL.—Section 2105(c) of such Act (42 U.S.C. 1397ee(c)), as amended by subsection (c), is amended by adding at the end the following new paragraph:

''(9) REQUIREMENT REGARDING EMPLOYER-SPONSORED COVERAGE.—

''(A) IN GENERAL.—No payment may be made under this title with respect to an individual who is eligible for coverage under qualified employer-sponsored coverage, either as an individual or as part of family coverage, except with respect to expenditures for providing a premium assistance subsidy for such coverage in accordance with the requirements of this paragraph.

''(B) QUALIFIED EMPLOYER SPONSORED COVERAGE.—

''(i) IN GENERAL.—In this paragraph, the term 'qualified employer sponsored coverage' means a group health plan or health insurance coverage offered through an employer that is—

''(I) substantially equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2);

''(II) made similarly available to all of the employer's employees and for which the employer makes a contribution to the premium that is not less for employees receiving a premium assistance subsidy under any option available under the State child health plan under this title or the State plan under title XIX to provide such assistance than the employer contribution provided for all other employees; and

''(III) cost-effective, as determined under clause (ii).

''(ii) COST-EFFECTIVENESS.—A group health plan or health insurance coverage offered through an employer shall be considered to be cost-effective if—

''(I) the marginal premium cost to purchase family coverage through the employer is less than the State cost of providing child health assistance through the State child health plan for all the children in the family who are targeted low-income children; or

''(II) the marginal premium cost between individual coverage and purchasing family coverage through the employer is not greater than 175 percent of the cost to the State to provide child health assistance through the State child health plan for a targeted low-income child.

''(iii) HIGH DEDUCTIBLE HEALTH PLANS INCLUDED.—The term 'qualified employer sponsored coverage' includes a high deductible health plan (as defined in section 223(c)(2) of the Internal Revenue Code of 1986) purchased through a health savings account (as defined under section 223(d) of such Code).

''(C) PREMIUM ASSISTANCE SUBSIDY.—

''(i) IN GENERAL.—In this paragraph, the term 'premium assistance subsidy' means, with respect to a targeted low-income child, the amount equal to the difference between the employee contribution required for enrollment only of the employee under qualified employer sponsored coverage and the employee contribution required for enrollment of the employee and the child in such coverage, less any applicable premium cost-sharing applied under the State child health plan, subject to the annual aggregate cost-sharing limit applied under section 2103(e)(3)(B).

''(ii) STATE PAYMENT OPTION.—Subject to clause (iii), a State may provide a premium assistance subsidy directly to an employer or as reimbursement to an employee for out-of-pocket expenditures.

''(iii) REQUIREMENT FOR DIRECT PAYMENT TO EMPLOYEE.—A State shall not pay a premium assistance subsidy directly to the employee, unless the State has established procedures to ensure that the targeted low-income child on whose behalf such payments are made are actually enrolled in the qualified employer sponsored coverage.

''(iv) TREATMENT AS CHILD HEALTH ASSISTANCE.—Expenditures for the provision of premium assistance subsidies shall be considered child health assistance described in paragraph (1)(C) of subsection (a) for purposes of making payments under that subsection.

''(v) STATE OPTION TO REQUIRE ACCEPTANCE OF SUBSIDY.—A State may condition the provision of child health assistance under the State child health plan for a targeted low-income child on the receipt of a premium assistance subsidy for enrollment in qualified employer sponsored coverage if the State determines the provision of such a subsidy to be more cost-effective in accordance with subparagraph (B)(ii).

''(vi) NOT TREATED AS INCOME.—Notwithstanding any other provision of law, a premium assistance subsidy provided in accordance with this paragraph shall not be treated as income to the child or the parent of the child for whom such subsidy is provided.

''(D) NO REQUIREMENT TO PROVIDE SUPPLEMENTAL COVERAGE FOR BENEFITS AND ADDITIONAL COST-SHARING PROTECTION PROVIDED UNDER THE STATE CHILD HEALTH PLAN.—

''(i) IN GENERAL.—A State that elects the option to provide a premium assistance subsidy under this paragraph shall not be required to provide a targeted low-income child enrolled in qualified employer sponsored coverage with supplemental coverage for items or services that are not covered, or are only partially covered, under the qualified employer sponsored coverage or cost-sharing protection other than the protection required under section 2103(e)(3)(B).

''(ii) NOTICE OF COST-SHARING REQUIREMENTS.—A State shall provide a targeted low-income child or the parent of such a child (as appropriate) who is provided with a premium assistance subsidy in accordance with this paragraph with notice of the cost-sharing requirements and limitations imposed under the qualified employer sponsored coverage in which the child is enrolled upon the enrollment of the child in such coverage and annually thereafter.

''(iii) RECORD KEEPING REQUIREMENTS.—A State may require a parent of a targeted low-income child that is enrolled in qualified employer-sponsored coverage to bear the responsibility for keeping track of out-of-pocket expenditures incurred for cost-sharing imposed under such coverage and to notify the State when the limit on such expenditures imposed under section 2103(e)(3)(B) has been reached for a year from the effective date of enrollment for such year.

''(iv) STATE OPTION FOR REIMBURSEMENT.—A State may retroactively reimburse a parent of a targeted low-income child for out-of-pocket expenditures incurred after reaching the 5 percent cost-sharing limitation imposed under section 2103(e)(3)(B) for a year.

''(E) 6-MONTH WAITING PERIOD REQUIRED.—A State shall impose at least a 6-month waiting period from the time an individual is enrolled in private health insurance prior to the provision of a premium assistance subsidy for a targeted low-income child in accordance with this paragraph.

''(F) NON APPLICATION OF WAITING PERIOD FOR ENROLLMENT IN THE STATE MEDICAID PLAN OR THE STATE CHILD HEALTH PLAN.—A targeted low-income child provided a premium assistance subsidy in accordance with this paragraph who loses eligibility for such subsidy shall not be treated as having been enrolled in private health insurance coverage for purposes of applying any waiting period imposed under the State child health plan or the State plan under title XIX for the enrollment of the child under such plan.

''(G) ASSURANCE OF SPECIAL ENROLLMENT PERIOD UNDER GROUP HEALTH PLANS IN CASE OF ELIGIBILITY FOR PREMIUM SUBSIDY ASSISTANCE.—No payment shall be made under subsection (a) for amounts expended for the provision of premium assistance subsidies under this paragraph unless a State provides assurances to the Secretary that the State has in effect laws requiring a group health plan, a health insurance issuer offering group health insurance coverage in connection with a group health plan, and a self-funded health plan, to permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a child of such an employee if the child is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if the employee's child becomes eligible for a premium assistance subsidy under this paragraph.

''(H) NO EFFECT ON PREVIOUSLY APPROVED PREMIUM ASSISTANCE PROGRAMS.—Nothing in this paragraph shall be construed as limiting the authority of a State to offer premium assistance under section 1906, a waiver described in paragraph (2)(B) or (3), a waiver approved under section 1115, or other authority in effect on June 28, 2007.

''(I) NOTICE OF AVAILABILITY.—A State shall—

''(i) include on any application or enrollment form for child health assistance a notice of the availability of premium assistance subsidies for the enrollment of targeted low-income children in qualified employer sponsored coverage;

''(ii) provide, as part of the application and enrollment process under the State child health plan, information describing the availability of such subsidies and how to elect to obtain such a subsidy; and

''(iii) establish such other procedures as the State determines necessary to ensure that parents are informed of the availability of such subsidies under the State child health plan.''.

(2) APPLICATION TO MEDICAID.—Section 1906 of the Social Security Act (42 U.S.C. 1396e) is amended by adding at the end the following new subsection:

''(d) The provisions of section 2105(c)(9) shall apply to a child who is eligible for medical assistance under the State plan in the same manner as such provisions apply to a targeted low-income child under a State child health plan under title XXI. Section 1902(a)(34) shall not apply to a child who is provided a premium assistance subsidy under the State plan in accordance with the preceding sentence.''.

SEC. 3. GRANTS FOR OUTREACH AND ENROLLMENT.

(a) GRANTS.—Title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following:

''SEC. 2111. GRANTS TO IMPROVE OUTREACH AND ENROLLMENT.

''(a) OUTREACH AND ENROLLMENT GRANTS; NATIONAL CAMPAIGN.—

''(1) IN GENERAL.—From the amounts appropriated for a fiscal year under subsection (f), subject to paragraph (2), the Secretary shall award grants to eligible entities to conduct outreach and enrollment efforts that are designed to increase the enrollment and participation of eligible children under this title and title XIX.

''(2) 10 PERCENT SET ASIDE FOR NATIONAL ENROLLMENT CAMPAIGN.—An amount equal to 10 percent of such amounts for the fiscal year shall be used by the Secretary for expenditures during the fiscal year to carry out a national enrollment campaign in accordance with subsection (g).

''(b) AWARD OF GRANTS.—

''(1) PRIORITY FOR AWARDING.—

''(A) IN GENERAL.—In awarding grants under subsection (a), the Secretary shall give priority to eligible entities that—

''(i) propose to target geographic areas with high rates of—

''(I) eligible but unenrolled children, including such children who reside in rural areas; or

''(II) racial and ethnic minorities and health disparity populations, including those proposals that address cultural and linguistic barriers to enrollment; and

''(ii) submit the most demonstrable evidence required under paragraphs (1) and (2) of subsection (c).

''(B) 10 PERCENT SET ASIDE FOR OUTREACH TO INDIAN CHILDREN.—An amount equal to 10 percent of the funds appropriated under subsection (f) for a fiscal year shall be used by the Secretary to award grants to Indian Health Service providers and urban Indian organizations receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.) for outreach to, and enrollment of, children who are Indians.

''(2) 2-YEAR AVAILABILITY.—A grant awarded under this section for a fiscal year shall remain available for expenditure through the end of the succeeding fiscal year.

''(c) APPLICATION.—An eligible entity that desires to receive a grant under subsection (a) shall submit an application to the Secretary in such form and manner, and containing such information, as the Secretary may decide. Such application shall include—

''(1) evidence demonstrating that the entity includes members who have access to, and credibility with, ethnic or low-income populations in the communities in which activities funded under the grant are to be conducted;

''(2) evidence demonstrating that the entity has the ability to address barriers to enrollment, such as lack of awareness of eligibility, stigma concerns and punitive fears associated with receipt of benefits, and other cultural barriers to applying for and receiving child health assistance or medical assistance;

''(3) specific quality or outcomes performance measures to evaluate the effectiveness of activities funded by a grant awarded under this section; and

''(4) an assurance that the eligible entity shall—

''(A) conduct an assessment of the effectiveness of such activities against the performance measures;

''(B) cooperate with the collection and reporting of enrollment data and other information in order for the Secretary to conduct such assessments.

''(C) in the case of an eligible entity that is not the State, provide the State with enrollment data and other information as necessary for the State to make necessary projections of eligible children and pregnant women.

''(d) SUPPLEMENT, NOT SUPPLANT.—Federal funds awarded under this section shall be used to supplement, not supplant, non-Federal funds that are otherwise available for activities funded under this section.

''(e) DEFINITIONS.—In this section:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means any of the following:

''(A) A State with an approved child health plan under this title.

''(B) A local government.

''(C) An Indian tribe or tribal consortium, a tribal organization, an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.), or an Indian Health Service provider.

''(D) A Federal health safety net organization.

''(E) A State, national, local, or community-based public or nonprofit private organization.

''(F) A faith-based organization or consortia, to the extent that a grant awarded to such an entity is consistent with the requirements of section 1955 of the Public Health Service Act (42 U.S.C. 300x–65) relating to a grant award to non-governmental entities.

''(G) An elementary or secondary school.

''(H) A national, local, or community-based public or nonprofit private organization, including organizations that use community health workers or community-based doula programs.

''(2) FEDERAL HEALTH SAFETY NET ORGANIZATION.—The term 'Federal health safety net organization' means—

''(A) a Federally-qualified health center (as defined in section 1905(l)(2)(B));

''(B) a hospital defined as a disproportionate share hospital for purposes of section 1923;

''(C) a covered entity described in section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)); and

''(D) any other entity or consortium that serves children under a federally-funded program, including the special supplemental nutrition program for women, infants, and children (WIC) established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the head start and early head start programs under the Head Start Act (42 U.S.C. 9801 et seq.), the school lunch program established under the Richard B. Russell National School Lunch Act, and an elementary or secondary school.

''(3) INDIANS; INDIAN TRIBE; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—The terms 'Indian', 'Indian tribe', 'tribal organization', and 'urban Indian organization' have the meanings given such terms in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

''(4) COMMUNITY HEALTH WORKER.—The term 'community health worker' means an individual who promotes health or nutrition within the community in which the individual resides—

''(A) by serving as a liaison between communities and health care agencies;

''(B) by providing guidance and social assistance to community residents;

''(C) by enhancing community residents' ability to effectively communicate with health care providers;

''(D) by providing culturally and linguistically appropriate health or nutrition education;

''(E) by advocating for individual and community health or nutrition needs; and

''(F) by providing referral and followup services.

''(f) APPROPRIATION.—

''(1) IN GENERAL.—There is appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of awarding grants under this section $100,000,000 for each of fiscal years 2008 through 2012.

''(2) GRANTS IN ADDITION TO OTHER AMOUNTS PAID.—Amounts appropriated and paid under the authority of this section shall be in addition to amounts appropriated under section 2104 and paid to States in accordance with section 2105, including with respect to expenditures for outreach activities in accordance with subsections (a)(1)(D)(iii) and (c)(2)(C) of that section.

''(g) NATIONAL ENROLLMENT CAMPAIGN.—From the amounts made available under subsection (a)(2) for a fiscal year, the Secretary shall develop and implement a national enrollment campaign to improve the enrollment of underserved child populations in the programs established under this title and title XIX. Such campaign may include—

''(1) the establishment of partnerships with the Secretary of Education and the Secretary of Agriculture to develop national campaigns to link the eligibility and enrollment systems for the assistance programs each Secretary administers that often serve the same children;

''(2) the integration of information about the programs established under this title and title XIX in public health awareness campaigns administered by the Secretary;

''(3) increased financial and technical support for enrollment hotlines maintained by the Secretary to ensure that all States participate in such hotlines;

''(4) the establishment of joint public awareness outreach initiatives with the Secretary of Education and the Secretary of Labor regarding the importance of health insurance to building strong communities and the economy;

''(5) the development of special outreach materials for Native Americans or for individuals with limited English proficiency; and

''(6) such other outreach initiatives as the Secretary determines would increase public awareness of the programs under this title and title XIX.''.

(b) NONAPPLICATION OF ADMINISTRATIVE EXPENDITURES CAP.—Section 2105(c)(2) of the Social Security Act (42 U.S.C. 1397ee(c)(2)) is amended by adding at the end the following:

''(C) NONAPPLICATION TO EXPENDITURES FOR OUTREACH AND ENROLLMENT.—The limitation under subparagraph (A) shall not apply with respect to expenditures for outreach activities under section 2102(c)(1), or for enrollment activities, for children eligible for child health assistance under the State child health plan or medical assistance under the State plan under title XIX.''.

SEC. 4. EXPANSION OF CHILD HEALTH CARE INSURANCE COVERAGE THROUGH TAX FAIRNESS.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

''SEC. 36. CHILD HEALTH INSURANCE COSTS.

''(a) IN GENERAL.—In the case of an eligible taxpayer, there shall be allowed as a credit against the tax imposed by this subtitle an amount equal to—

''(1) the amount paid by the taxpayer during the taxable year for qualified health insurance for any dependent child of such taxpayer, plus

''(2) if such amount does not exceed the limitation under subsection (b), an amount equal to such difference and paid by the Secretary into a designated account of the taxpayer for the sole benefit of such dependent child.

''(b) LIMITATIONS.—

''(1) IN GENERAL.—The amount allowed as a credit under subsection (a) to an eligible taxpayer for the taxable year shall not exceed the sum of the monthly limitations for coverage months during such taxable year for the individual referred to in subsection (a) for whom such taxpayer paid during the taxable year any amount for coverage under qualified health insurance.

''(2) MONTHLY LIMITATION.—The monthly limitation for an individual for each coverage month of such individual during the taxable year is the amount equal to 1/12th of $1,200.

''(3) COVERAGE MONTH.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'coverage month' means, with respect to an individual, any month if—

''(i) as of the first day of such month such individual is covered by qualified health insurance, and

''(ii) the premium for coverage under such insurance for such month is paid by an eligible taxpayer.

''(B) MEDICARE AND MEDICAID.—Such term shall not include any month with respect to an individual if, as of the first day of such month, such individual—

''(i) is entitled to any benefits under title XVIII of the Social Security Act, or

''(ii) is a participant in the program under title XIX or XXI of such Act.

''(C) CERTAIN OTHER COVERAGE.—Such term shall not include any month during a taxable year with respect to an individual if, at any

time during such year, any benefit is provided to such individual under—

''(i) chapter 89 of title 5, United States Code, or

''(ii) any medical care program under the Indian Health Care Improvement Act.

''(D) INSUFFICIENT PRESENCE IN UNITED STATES.—Such term shall not include any month during a taxable year with respect to an individual if such individual is present in the United States on fewer than 183 days during such year (determined in accordance with section 7701(b)(7)).

''(c) QUALIFIED HEALTH INSURANCE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified health insurance' means insurance which constitutes medical care as defined in section 213(d) without regard to—

''(A) paragraph (1)(C) thereof, and

''(B) so much of paragraph (1)(D) thereof as relates to qualified long-term care insurance contracts.

''(2) EXCLUSION OF CERTAIN OTHER CONTRACTS.—Such term shall not include insurance if a substantial portion of its benefits are excepted benefits (as defined in section 9832(c)).

''(d) DESIGNATED ACCOUNTS.—

''(1) DESIGNATED ACCOUNT.—For purposes of this section, the term 'designated account' means any specified account established and maintained by the provider of an eligible taxpayer's qualified health insurance—

''(A) which is designated by the taxpayer (in such form and manner as the Secretary may provide) on the return of tax for the taxable year, and

''(B) which, under the terms of the account, accepts the payment described in subparagraph (A) on behalf of the taxpayer.

''(2) SPECIFIED ACCOUNT.—For purposes of this paragraph, the term 'specified account' means—

''(A) any health savings account under section 223 or Archer MSA under section 220, or

''(B) any health insurance reserve account.

''(3) HEALTH INSURANCE RESERVE ACCOUNT.—For purposes of this subsection, the term 'health insurance reserve account' means a trust created or organized in the United States as a health insurance reserve account exclusively for the purpose of paying the qualified medical expenses (within the meaning of section 223(d)(2)) of the account beneficiary (as defined in section 223(d)(3)), but only if the written governing instrument creating the trust meets the requirements described in subparagraphs (B), (C), (D), and (E) of section 223(d)(1). Rules similar to the rules under subsections (g) and (h) of section 408 shall apply for purposes of this subparagraph.

''(4) TREATMENT OF PAYMENT.—Any payment under subsection (a)(2) to a designated account shall—

''(A) not be taken into account with respect to any dollar limitation which applies with respect to contributions to such account (or to tax benefits with respect to such contributions),

''(B) be includible in the gross income of an eligible taxpayer for the taxable year in which the payment is made (except as provided in subparagraph (C)), and

''(C) be taken into account in determining any deduction or exclusion from gross income in the same manner as if such contribution were made by such taxpayer.

''(e) ELIGIBLE TAXPAYER; DEPENDENT; CHILD.—For purposes of this section—

''(1) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer'means any taxpayer whose income exceeds 200 percent but not 300 percent of the poverty level applicable to a family of the size involved, as determined in accordance with criteria established by the Director of the Office of Management and Budget.

''(2) DEPENDENT.—The term 'dependent' has the meaning given such term by section 152. An individual to whom section 152(e) applies shall be treated as a dependent of the custodial parent for a coverage month unless the custodial and noncustodial parent provide otherwise.

''(3) CHILD.—The term 'child' means a qualifying child (as defined in section 152(c).

''(f) SPECIAL RULES.—

''(1) COORDINATION WITH MEDICAL DEDUCTION, ETC.—Any amount paid by an eligible taxpayer for insurance to which subsection (a) applies shall not be taken into account in computing the amount allowable to such taxpayer as a credit under section 35 or as a deduction under section 213(a) or 162(l).

''(2) DENIAL OF CREDIT TO DEPENDENTS.—No credit shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

''(3) MARRIED COUPLES MUST FILE JOINT RETURN.—

''(A) IN GENERAL.—If an eligible taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and his spouse file a joint return for the taxable year.

''(B) MARITAL STATUS; CERTAIN MARRIED INDIVIDUALS LIVING APART.—Rules similar to the rules of paragraphs (3) and (4) of section 21(e) shall apply for purposes of this paragraph.

''(4) VERIFICATION OF COVERAGE, ETC.—No credit shall be allowed under this section with respect to any individual unless such individual's coverage (and such related information as the Secretary may require) is verified in such manner as the Secretary may prescribe.

''(5) INSURANCE WHICH COVERS OTHER INDIVIDUALS; TREATMENT OF PAYMENTS.—Rules similar to the rules of paragraphs (7) and (8) of section 35(g) shall apply for purposes of this section.

''(6) ELECTION NOT TO CLAIM CREDIT.—This section shall not apply to an eligible taxpayer for any taxable year if such taxpayer elects to have this section not apply for such taxable year.

''(g) COORDINATION WITH ADVANCE PAYMENTS.—With respect to any taxable year, the amount which would (but for this subsection) be allowed as a credit to an eligible taxpayer under subsection (a) shall be reduced (but not below zero) by the aggregate amount paid on behalf of such taxpayer under section 7527A for months beginning in such taxable year.

''(h) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to an eligible taxpayer under this section.''.

(b) INFORMATION REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to information concerning transactions with other persons) is amended by inserting after section 6050V the following new section:

''SEC. 6050W. RETURNS RELATING TO PAYMENTS FOR QUALIFIED HEALTH INSURANCE.

''(a) IN GENERAL.—Any person who, in connection with a trade or business conducted by such person, receives payments during any calendar year from any individual for coverage of such individual or any other individual under creditable health insurance, shall make the return described in subsection (b) (at such time as the Secretary may by regulations prescribe) with respect to each individual from whom such payments were received.

''(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

''(1) is in such form as the Secretary may prescribe, and

''(2) contains—

''(A) the name, address, and TIN of the individual from whom payments described in subsection (a) were received,

''(B) the name, address, and TIN of each individual who was provided by such person with coverage under creditable health insurance by reason of such payments and the period of such coverage, and

''(C) such other information as the Secretary may reasonably prescribe.

''(c) CREDITABLE HEALTH INSURANCE.—For purposes of this section, the term 'creditable health insurance' means qualified health insurance (as defined in section 36(c)).

''(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required under subsection (b)(2)(A) to be set forth in such return a written statement showing—

''(1) the name and address of the person required to make such return and the phone number of the information contact for such person,

''(2) the aggregate amount of payments described in subsection (a) received by the person required to make such return from the individual to whom the statement is required to be furnished, and

''(3) the information required under subsection (b)(2)(B) with respect to such payments.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

''(e) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).''.

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) of such Code (relating to definitions) is amended by redesignating clauses (xv) through (xx) as clauses (xvi) through (xxi), respectively, and by inserting after clause (xi) the following new clause:

''(xv) section 6050W (relating to returns relating to payments for qualified health insurance),''.

(B) Paragraph (2) of section 6724(d) of such Code is amended by striking the period at the end of subparagraph (CC) and inserting '', or'' and by adding at the end the following new subparagraph:

''(DD) section 6050W(d) (relating to returns relating to payments for qualified health insurance).''.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6050V the following new item:

''Sec. 6050W. Returns relating to payments for qualified health insurance.''.

(c) ADVANCE PAYMENT OF CREDIT FOR PURCHASERS OF QUALIFIED HEALTH INSURANCE.—

(1) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7529. ADVANCE PAYMENT OF HEALTH INSURANCE CREDIT FOR PURCHASERS OF QUALIFIED HEALTH INSURANCE.

''(a) GENERAL RULE.—In the case of an eligible individual, the Secretary shall make payments to the provider of such individual's qualified health insurance equal to such individual's qualified health insurance credit advance amount with respect to such provider.

''(b) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term 'eligible individual' means any individual—

''(1) who purchases qualified health insurance (as defined in section 36(c)), and

''(2) for whom a qualified health insurance credit eligibility certificate is in effect.

''(c) QUALIFIED HEALTH INSURANCE CREDIT ELIGIBILITY CERTIFICATE.—For purposes of this section, a qualified health insurance credit eligibility certificate is a statement furnished by an individual to the Secretary which—

''(1) certifies that the individual will be eligible to receive the credit provided by section 36 for the taxable year,

''(2) estimates the amount of such credit for such taxable year, and

''(3) provides such other information as the Secretary may require for purposes of this section.

''(d) QUALIFIED HEALTH INSURANCE CREDIT ADVANCE AMOUNT.—For purposes of this section, the term 'qualified health insurance credit advance amount' means, with respect to any provider of qualified health insurance, the Secretary's estimate of the amount of credit allowable under section 36 to the individual for the taxable year which is attributable to the insurance provided to the individual by such provider.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 77 of such Code is amended by adding at the end the following new item:

''Sec. 7529. Advance payment of health insurance credit for purchasers of qualified health insurance.''.

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period '', or from section 36 of such Code''.

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the last item and inserting the following new items:

''Sec. 36. Health insurance costs.
''Sec. 37. Overpayments of tax.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 5. LIMITATION ON EMPLOYER-PROVIDED HEALTH CARE COVERAGE.

(a) IN GENERAL.—Section 106 of the Internal Revenue Code of 1986 (relating to contributions by employer to accident and health plans) is amended by adding at the end the following new subsection:

''(e) LIMITATION ON EMPLOYER-PROVIDED HEALTH CARE COVERAGE.—

''(1) IN GENERAL.—The amount of any exclusion under subsection (a) for any taxable year with respect to—

''(A) any employer-provided coverage under an accident or health plan which constitutes medical care, and

''(B) any employer contribution to an Archer MSA or a health savings account which is treated by subsection (b) or (d) as employer-provided coverage for medical expenses under an accident or health plan,

shall not exceed $20,000 per employee.

''(2) MEDICAL CARE DEFINED.—For purposes of paragraph (1), the term 'medical care' has the meaning given to such term in section 213(d) determined without regard to—

''(A) paragraph (1)(C) thereof, and

''(B) so much of paragraph (1)(D) thereof as relates to qualified long-term care insurance.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 6. STATE HEALTH REFORM PROJECTS.

(a) PURPOSE; ESTABLISHMENT OF STATE HEALTH CARE EXPANSION AND IMPROVEMENT PROGRAM.—The purposes of the programs approved under this section shall include, but not be limited to—

(1) achieving the goals of increased health coverage and access;

(2) ensuring that patients receive high-quality, appropriate health care;

(3) improving the efficiency of health care spending; and

(4) testing alternative reforms, such as building on the public or private health systems, or creating new systems, to achieve the objectives of this Act.

(b) APPLICATIONS BY STATES, LOCAL GOVERNMENTS, AND TRIBES.—

(1) ENTITIES THAT MAY APPLY.—

(A) IN GENERAL.—A State, in consultation with local governments, Indian tribes, and Indian organizations involved in the provision of health care, may apply for a State health care expansion and improvement program for the entire State (or for regions of the State) under paragraph (2).

(B) REGIONAL GROUPS.—A regional entity consisting of more than one State may apply for a multi-State health care expansion and improvement program for the entire region involved under paragraph (2).

(C) DEFINITION.—In this Act, the term ''State'' means the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico. Such term shall include a regional entity described in subparagraph (B).

(2) SUBMISSION OF APPLICATION.—In accordance with this section, each State desiring to implement a State health care expansion and improvement program may submit an application to the State Health Innovation Commission under subsection (c) (referred to in this section as the ''Commission'') for approval.

(3) LOCAL GOVERNMENT APPLICATIONS.—

(A) IN GENERAL.—Where a State declines to submit an application under this section, a unit of local government of such State, or a consortium of such units of local governments, may submit an application directly to the Commission for programs or projects under this subsection. Such an application shall be subject to the requirements of this section.

(B) OTHER APPLICATIONS.—Subject to such additional guidelines as the Secretary may prescribe, a unit of local government, Indian tribe, or Indian health organization may submit an application under this section, whether or not the State submits such an application, if such unit of local government can demonstrate unique demographic needs or a significant population size that warrants a substate program under this subsection.

(c) STATE HEALTH INNOVATION COMMISSION.—

(1) IN GENERAL.—Within 90 days after the date of the enactment of this Act, the Secretary shall establish a State Health Innovation Commission that shall—

(A) be comprised of—

(i) the Secretary;

(ii) four State governors to be appointed by the National Governors Association on a bipartisan basis;

(iii) two members of a State legislature to be appointed by the National Conference of State Legislators on a bipartisan basis;

(iv) two county officials to be appointed by the National Association of Counties on a bipartisan basis;

(v) two mayors to be appointed by the United States Conference of Mayors and the National League of Cities on a joint and bipartisan basis;

(vi) two individuals to be appointed by the Speaker of the House of Representatives;

(vii) two individuals to be appointed by the minority leader of the House of Representatives;

(viii) two individuals to be appointed by the majority leader of the Senate;

(ix) two individuals to be appointed by the minority leader of the Senate; and

(x) two individuals who are members of federally-recognized Indian tribes to be appointed on a bipartisan basis by the National Congress of American Indians;

(B) upon approval of ⅔ of the members of the Commission, provide the States with a variety of reform options for their applications, such as tax credit approaches, expansions of public programs such as medicaid and the State Children's Health Insurance Program, the creation of purchasing pooling arrangements similar to the Federal Employees Health Benefits Program, individual market purchasing options, single risk pool or single payer systems, health savings accounts, a combination of the options described in this clause, or other alternatives determined appropriate by the Commission, including options suggested by States, Indian tribes, or the public;

(C) establish, in collaboration with a qualified and independent organization such as the Institute of Medicine, minimum performance measures and goals with respect to coverage, quality, and cost of State programs, as described under subsection (d)(1);

(D) conduct a thorough review of the grant application from a State and carry on a dialogue with all State applicants concerning possible modifications and adjustments;

(E) submit the recommendations and legislative proposal described in subsection (d)(4)(B);

(F) be responsible for monitoring the status and progress achieved under program or projects granted under this section;

(G) report to the public concerning progress made by States with respect to the performance measures and goals established under this Act, the periodic progress of the State relative to its State performance measures and goals, and the State program application procedures, by region and State jurisdiction;

(H) promote information exchange between States and the Federal Government; and

(I) be responsible for making recommendations to the Secretary and the Congress, using equivalency or minimum standards, for minimizing the negative effect of State program on national employer groups, provider organizations, and insurers because of differing State requirements under the programs.

(2) PERIOD OF APPOINTMENT; REPRESENTATION REQUIREMENTS; VACANCIES.—Members shall be appointed for a term of 5 years. In appointing such members under paragraph (1)(A), the designated appointing individuals shall ensure the representation of urban and rural areas and an appropriate geographic distribution of such members. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(3) CHAIRPERSON, MEETINGS.—

(A) CHAIRPERSON.—The Commission shall select a Chairperson from among its members.

(B) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(C) MEETINGS.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting. The Commission shall meet at the call of the Chairperson.

(4) POWERS OF THE COMMISSION.—

(A) NEGOTIATIONS WITH STATES.—The Commission may conduct detailed discussions and negotiations with States submitting applications under this section, either individually or in groups, to facilitate a final set of recommendations for purposes of subsection (d)(4)(B). Such negotiations shall include consultations with Indian tribes, and be conducted in a public forum.

(B) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subsection.

(C) MEETINGS.—In addition to other meetings the Commission may hold, the Commission shall hold an annual meeting with the participating States under this section for the purpose of having States report progress toward the purposes in subsection (a)(1) and for an exchange of information.

(D) INFORMATION.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subsection. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission if the head of the department or agency involved determines it appropriate.

(E) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(5) PERSONNEL MATTERS.—

(A) COMPENSATION.—Each member of the Commission who is not an officer or employee of the Federal Government or of a State or local government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(B) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(C) STAFF.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(D) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(E) TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(6) FUNDING.—For the purpose of carrying out this subsection, there are authorized to be appropriated $3,000,000 for fiscal year 2007 and each fiscal year thereafter.

(d) REQUIREMENTS FOR PROGRAMS.—

(1) STATE PLAN.—A State that seeks to receive a grant under subsection (f) to operate a program under this section shall prepare and submit to the Commission, as part of the application under subsection (b), a State health care plan that shall have as its goal improvements in coverage, quality and costs. To achieve such goal, the State plan shall comply with the following:

(A) COVERAGE.—With respect to coverage, the State plan shall—

(i) provide and describe the manner in which the State will ensure that an increased number of individuals residing within the State will have expanded access to health care coverage with a specific 5-year target for reduction in the number of uninsured individuals through either private or public program expansion, or both, in accordance with the options established by the Commission;

(ii) describe the number and percentage of current uninsured individuals who will achieve coverage under the State health program;

(iii) describe the minimum benefits package that will be provided to all classes of beneficiaries under the State health program;

(iv) identify Federal, State, or local and private programs that currently provide health care services in the State and describe how such programs could be coordinated with the State health program, to the extent practicable; and

(v) provide for improvements in the availability of appropriate health care services that will increase access to care in urban, rural, and frontier areas of the State with medically underserved populations or where there is an inadequate supply of health care providers.

(B) QUALITY.—With respect to quality, the State plan shall—

(i) provide a plan to improve health care quality in the State, including increasing effectiveness, efficiency, timeliness, patient focused, equity while reducing health disparities, and medical errors; and

(ii) contain appropriate results-based quality indicators established by the Commission that will be addressed by the State as well as State-specific quality indicators.

(C) COSTS.—With respect to costs, the State plan shall—

(i) provide that the State will develop and implement systems to improve the efficiency of health care, including a specific 5-year target for reducing administrative costs (including paperwork burdens);

(ii) describe the public and private sector financing to be provided for the State health program;

(iii) estimate the amount of Federal, State, and local expenditures, as well as, the costs to business and individuals under the State health program;

(iv) describe how the State plan will ensure the financial solvency of the State health program; and

(v) provide that the State will prepare and submit to the Secretary and the Commission such reports as the Secretary or Commission may require to carry out program evaluations.

(D) HEALTH INFORMATION TECHNOLOGY.—With respect to health information technology, the State plan shall provide methodology for the appropriate use of health information technology to improve infrastructure, such as improving the availability of evidence-based medical and outcomes data to providers and patients, as well as other health information (such as electronic health records, electronic billing, and electronic prescribing).

(2) TECHNICAL ASSISTANCE.—The Secretary shall, if requested, provide technical assistance to States to assist such States in developing applications and plans under this section, including technical assistance by private sector entities if determined appropriate by the Commission.

(3) INITIAL REVIEW.—With respect to a State application for a grant under subsection (b), the Secretary and the Commission shall complete an initial review of such State application within 60 days of the receipt of such application, analyze the scope of the proposal, and determine whether additional information is needed from the State. The Commission shall advise the State within such period of the need to submit additional information.

(4) FINAL DETERMINATION.—

(A) IN GENERAL.—Not later than 90 days after completion of the initial review under paragraph (3), the Commission shall determine whether to submit a State proposal to Congress for approval.

(B) VOTING.—

(i) IN GENERAL.—The determination to submit a State proposal to Congress under subparagraph (A) shall be approved by ⅔ of the members of the Commission who are eligible to participate in such determination subject to clause (ii).

(ii) ELIGIBILITY.—A member of the Commission shall not participate in a determination under subparagraph (A) if—

(I) in the case of a member who is a Governor, such determination relates to the State of which the member is the Governor; or

(II) in the case of member not described in subclause (I), such determination relates to the geographic area of a State of which such member serves as a State or local official.

(C) SUBMISSION.—Not later than 90 days prior to October 1 of each fiscal year, the Commission shall submit to Congress a list, in the form of a legislative proposal, of the State applications that the Commission recommends for approval under this section.

(D) APPROVAL.—With respect to a fiscal year, a State proposal that has been recommended under subparagraph (B) shall be deemed to be approved, and subject to the availability of appropriations, Federal funds shall be provided to such program, unless a joint resolution has been enacted disapproving such proposal as provided for in subsection (e). Nothing in the preceding sentence shall be construed to include the approval of State proposals that involve waivers or modifications in applicable Federal law.

(5) PROGRAM OR PROJECT PERIOD.—A State program or project may be approved for a period of 5 years and may be extended for subsequent 5-year periods upon approval by the Commission and the Secretary, based upon achievement of targets, except that a shorter period may be requested by a State and granted by the Secretary.

(e) EXPEDITED CONGRESSIONAL CONSIDERATION.—

(1) INTRODUCTION AND COMMITTEE CONSIDERATION.—

(A) INTRODUCTION.—The legislative proposal submitted pursuant to subsection (d)(4)(B) shall be in the form of a joint resolution (in this subsection referred to as the ''resolution''). Such resolution shall be introduced in the House of Representatives by the Speaker, and in the Senate, by the majority leader, immediately upon receipt of the language and shall be referred to the appropriate committee of Congress. If the resolution is not introduced in accordance with the preceding sentence, the resolution may be introduced in either House of Congress by any member thereof.

(B) COMMITTEE CONSIDERATION.—A resolution introduced in the House of Representatives shall be referred to the Committee on Ways and Means of the House of Representatives. A resolution introduced in the Senate shall be referred to the Committee on Finance of the Senate. Not later than 15 calendar days after the introduction of the resolution, the committee of Congress to which the resolution was referred shall report the resolution or a committee amendment thereto. If the committee has not reported such resolution (or an identical resolution) at the end of 15 calendar days after its introduction or at the end of the first day after there has been reported to the House involved a resolution, whichever is earlier, such committee shall be deemed to be discharged from further consideration of such reform bill and such reform bill shall be placed on the appropriate calendar of the House involved.

(2) EXPEDITED PROCEDURE.—

(A) CONSIDERATION.—Not later than 5 days after the date on which a committee has been discharged from consideration of a resolution, the Speaker of the House of Representatives, or the Speaker's designee, or the majority leader of the Senate, or the leader's designee, shall move to proceed to the consideration of the committee amendment to the resolution, and if there is no such amendment, to the resolution. It shall also be in order for any member of the House of Representatives or the Senate, respectively, to move to proceed to the consideration of the resolution at any time after the conclusion of such 5-day period. All points of order against the resolution (and against consideration of the resolution) are waived. A motion to proceed to the consideration of the resolution is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, to a motion to postpone consideration of the resolution, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion to proceed is agreed to or not agreed to shall not be in order. If the motion to proceed is agreed to, the House of Representatives or the Senate, as the case may be, shall immediately proceed to consideration of the resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the House of Representatives or the Senate, as the case may be, until disposed of.

(B) CONSIDERATION BY OTHER HOUSE.—If, before the passage by one House of the resolution that was introduced in such House, such House receives from the other House a resolution as passed by such other House—

(i) the resolution of the other House shall not be referred to a committee and may only be considered for final passage in the House that receives it under clause (iii);

(ii) the procedure in the House in receipt of the resolution of the other House, with respect to the resolution that was introduced in the House in receipt of the resolution of the other House, shall be the same as if no resolution had been received from the other House; and

(iii) notwithstanding clause (ii), the vote on final passage shall be on the reform bill of the other House.

Upon disposition of a resolution that is received by one House from the other House, it shall no longer be in order to consider the resolution bill that was introduced in the receiving House.

(C) CONSIDERATION IN CONFERENCE.—Immediately upon a final passage of the resolution that results in a disagreement between the two Houses of Congress with respect to the resolution, conferees shall be appointed and a conference convened. Not later than 10 days after the date on which conferees are appointed, the conferees shall file a report with the House of Representatives and the Senate resolving the differences between the Houses on the resolution. Notwithstanding any other rule of the House of Representatives or the Senate, it shall be in order to immediately consider a report of a committee of conference on the resolution filed in accordance with this subclause. Debate in the House of Representatives and the Senate on the conference report shall be limited to 10 hours, equally divided and controlled by the Speaker of the House of Representatives and the minority leader of the House of Representatives or their designees and the majority and minority leaders of the Senate or their designees. A vote on final passage of the conference report shall occur immediately at the conclusion or yielding back of all time for debate on the conference report.

(3) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and is deemed to be part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(4) LIMITATION.—The amount of Federal funds provided with respect to any State proposal that is deemed approved under subsection (d)(3) shall not exceed the cost provided for such proposals within the concurrent resolution on the budget as enacted by Congress for the fiscal year involved.

(f) FUNDING.—

(1) IN GENERAL.—The Secretary shall provide a grant to a State that has an application approved under subsection (b) to enable such State to carry out an innovative State health program in the State.

(2) AMOUNT OF GRANT.—The amount of a grant provided to a State under paragraph (1) shall be determined based upon the recommendations of the Commission, subject to the amount appropriated under subsection (k).

(3) PERFORMANCE-BASED FUNDING ALLOCATION AND PRIORITIZATION.—In awarding grants under paragraph (1), the Secretary shall—

(A) fund a diversity of approaches as provided for by the Commission in subsection (c)(1)(B);

(B) give priority to those State programs that the Commission determines have the greatest opportunity to succeed in providing expanded health insurance coverage and in providing children, youth, and other vulnerable populations with improved access to health care items and services; and

(C) link allocations to the State to the meeting of the goals and performance measures relating to health care coverage, quality, and health care costs established under this Act through the State project application process.

(4) MAINTENANCE OF EFFORT.—A State, in utilizing the proceeds of a grant received under paragraph (1), shall maintain the expenditures of the State for health care coverage purposes for the support of direct health care delivery at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the grant is received.

(5) REPORT.—At the end of the 5-year period beginning on the date on which the Secretary awards the first grant under paragraph (1), the State Health Innovation Advisory Commission established under subsection (c) shall prepare and submit to the appropriate committees of Congress, a report on the progress made by States receiving grants under paragraph (1) in meeting the goals of expanded coverage, improved quality, and cost containment through performance measures established during the 5-year period of the grant. Such report shall contain the recommendation of the Commission concerning any future action that Congress should take concerning health care reform, including whether or not to extend the program established under this subsection.

(g) MONITORING AND EVALUATION.—

(1) ANNUAL REPORTS AND PARTICIPATION BY STATES.—Each State that has received a program approval shall—

(A) submit to the Commission an annual report based on the period representing the respective State's fiscal year, detailing compliance with the requirements established by the Commission and the Secretary in the approval and in this section; and

(B) participate in the annual meeting under subsection (c)(4)(B).

(2) EVALUATIONS BY COMMISSION.—The Commission, in consultation with a qualified and independent organization such as the Institute of Medicine, shall prepare and submit to the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce, the Committee on Education and Labor, and the Committee on Ways and Means of the House of Representatives annual reports that shall contain—

(A) a description of the effects of the reforms undertaken in States receiving approvals under this section;

(B) a description of the recommendations of the Commission and actions taken based on these recommendations;

(C) an evaluation of the effectiveness of such reforms in—

(i) expanding health care coverage for State residents;

(ii) improving the quality of health care provided in the States; and

(iii) reducing or containing health care costs in the States;

(D) recommendations regarding the advisability of increasing Federal financial assistance for State ongoing or future health program initiatives, including the amount and source of such assistance; and

(E) as required by the Commission or the Secretary under subsection (f)(5), a periodic, independent evaluation of the program.

(h) NONCOMPLIANCE.—

(1) CORRECTIVE ACTION PLANS.—If a State is not in compliance with a requirement of this section, the Secretary shall develop a corrective action plan for such State.

(2) TERMINATION.—For good cause and in consultation with the Commission, the Secretary may revoke any program granted under this section. Such decisions shall be subject to a petition for reconsideration and

appeal pursuant to regulations established by the Secretary.

(i) RELATIONSHIP TO FEDERAL PROGRAMS.—

(1) IN GENERAL.—Nothing in this Act, or in section 1115 of the Social Security Act (42 U.S.C. 1315) shall be construed as authorizing the Secretary, the Commission, a State, or any other person or entity to alter or affect in any way the provisions of title XIX of such Act (42 U.S.C. 1396 et seq.) or the regulations implementing such title.

(2) MAINTENANCE OF EFFORT.—No payment may be made under this section if the State adopts criteria for benefits, income, and resource standards and methodologies for purposes of determining an individual's eligibility for medical assistance under the State plan under title XIX that are more restrictive than those applied as of the date of enactment of this Act.

(j) MISCELLANEOUS PROVISIONS.—

(1) APPLICATION OF CERTAIN REQUIREMENTS.—

(A) RESTRICTION ON APPLICATION OF PREEXISTING CONDITION EXCLUSIONS.—

(i) IN GENERAL.—Subject to subparagraph (B), a State shall not permit the imposition of any preexisting condition exclusion for covered benefits under a program or project under this section.

(ii) GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.—If the State program or project provides for benefits through payment for, or a contract with, a group health plan or group health insurance coverage, the program or project may permit the imposition of a preexisting condition exclusion but only insofar and to the extent that such exclusion is permitted under the applicable provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 and title XXVII of the Public Health Service Act.

(B) COMPLIANCE WITH OTHER REQUIREMENTS.—Coverage offered under the program or project shall comply with the requirements of subpart 2 of part A of title XXVII of the Public Health Service Act insofar as such requirements apply with respect to a health insurance issuer that offers group health insurance coverage.

(2) PREVENTION OF DUPLICATIVE PAYMENTS.—

(A) OTHER HEALTH PLANS.—No payment shall be made to a State under this section for expenditures for health assistance provided for an individual to the extent that a private insurer (as defined by the Secretary by regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), a service benefit plan, and a health maintenance organization) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided health assistance under the plan.

(B) OTHER FEDERAL GOVERNMENTAL PROGRAMS.—Except as provided in any other provision of law, no payment shall be made to a State under this section for expenditures for health assistance provided for an individual to the extent that payment has been made or can reasonably be expected to be made promptly (as determined in accordance with regulations) under any other federally operated or financed health care insurance program, other than an insurance program operated or financed by the Indian Health Service, as identified by the Secretary. For purposes of this paragraph, rules similar to the rules for overpayments under section 1903(d)(2) of the Social Security Act shall apply.

(3) APPLICATION OF CERTAIN GENERAL PROVISIONS.—The following sections of the Social Security Act shall apply to States under this section in the same manner as they apply to a State under such title XIX:

(A) TITLE XIX PROVISIONS.—

(i) Section 1902(a)(4)(C) (relating to conflict of interest standards).

(ii) Paragraphs (2), (16), and (17) of section 1903(i) (relating to limitations on payment).

(iii) Section 1903(w) (relating to limitations on provider taxes and donations).

(iv) Section 1920A (relating to presumptive eligibility for children).

(B) TITLE XI PROVISIONS.—

(i) Section 1116 (relating to administrative and judicial review), but only insofar as consistent with this title.

(ii) Section 1124 (relating to disclosure of ownership and related information).

(iii) Section 1126 (relating to disclosure of information about certain convicted individuals).

(iv) Section 1128A (relating to civil monetary penalties).

(v) Section 1128B(d) (relating to criminal penalties for certain additional charges).

(vi) Section 1132 (relating to periods within which claims must be filed).

(4) RELATION TO OTHER LAWS.—

(A) HIPAA.—Health benefits coverage provided under a State program or project under this section shall be treated as creditable coverage for purposes of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and subtitle K of the Internal Revenue Code of 1986.

(B) ERISA.—Nothing in this section shall be construed as affecting or modifying section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) with respect to a group health plan (as defined in section 2791(a)(1) of the Public Health Service Act (42 U.S.C. 300gg–91(a)(1))).

(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary in each fiscal year. Amounts appropriated for a fiscal year under this subsection and not expended may be used in subsequent fiscal years to carry out this section.

SA 3058. Mr. KENNEDY (for himself, Mrs. MCCASKILL, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. AKAKA, Mr. BROWN, and Mr. DODD) 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. MODIFICATION TO PUBLIC-PRIVATE COMPETITION REQUIREMENTS BEFORE CONVERSION TO CONTRACTOR PERFORMANCE.

(a) COMPARISON OF RETIREMENT SYSTEM COSTS.—Section 2461(a)(1) of title 10, United States Code, is amended—

(1) in subparagraph (F), by striking ''and'' at the end;

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by inserting after subparagraph (F) the following new subparagraph (G):

''(G) requires that the contractor shall not receive an advantage for a proposal that would reduce costs for the Department of Defense by—

''(i) not making an employer-sponsored health insurance plan (or payment that could be used in lieu of such a plan), health savings account, or medical savings account, available to the workers who are to be employed to perform the function under the contract;

''(ii) offering to such workers an employer-sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than the amount that is paid by the Department of Defense for health benefits for civilian employees of the Department under chapter 89 of title 5; or

''(iii) offering to such workers a retirement benefit that, in any year, costs less than the annual retirement cost factor applicable to civilian employees of the Department of Defense under chapter 84 of title 5; and''.

(b) CONFORMING AMENDMENTS.—Such title is further amended—

(1) by striking section 2467; and

(2) in section 2461—

(A) by redesignating subsections (b) through (d) as subsections (c) through (e); and

(B) by inserting after subsection (a) the following new subsection (b):

''(b) REQUIREMENT TO CONSULT DOD EMPLOYEES.—(1) Each officer or employee of the Department of Defense responsible for determining under Office of Management and Budget Circular A–76 whether to convert to contractor performance any function of the Department of Defense—

''(A) shall, at least monthly during the development and preparation of the performance work statement and the management efficiency study used in making that determination, consult with civilian employees who will be affected by that determination and consider the views of such employees on the development and preparation of that statement and that study; and

''(B) may consult with such employees on other matters relating to that determination.

''(2)(A) In the case of employees represented by a labor organization accorded exclusive recognition under section 7111 of title 5, consultation with representatives of that labor organization shall satisfy the consultation requirement in paragraph (1).

''(B) In the case of employees other than employees referred to in subparagraph (A), consultation with appropriate representatives of those employees shall satisfy the consultation requirement in paragraph (1).

''(C) The Secretary of Defense shall prescribe regulations to carry out this subsection. The regulations shall include provisions for the selection or designation of appropriate representatives of employees referred to in subparagraph (B) for purposes of consultation required by paragraph (1).''.

(c) TECHNICAL AMENDMENTS.—Section 2461 of such title, as amended by subsection (a), is further amended—

(1) in subsection (a)(1)—

(A) in subparagraph (B), by inserting after ''2003'' the following: '', or any successor circular''; and

(B) in subparagraph (D), by striking ''and reliability'' and inserting '', reliability, and timeliness''; and

(2) in subsection (c)(2), as redesignated under subsection (b)(2), by inserting ''of'' after ''examination''.

SEC. 359. BID PROTESTS BY FEDERAL EMPLOYEES IN ACTIONS UNDER OFFICE OF MANAGEMENT BUDGET CIRCULAR A–76.

(a) ELIGIBILITY TO PROTEST PUBLIC-PRIVATE COMPETITIONS.—Section 3551(2) of title 31, United States Code, is amended to read as follows:

''(2) The term 'interested party'—

''(A) with respect to a contract or a solicitation or other request for offers described in paragraph (1), means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract; and

''(B) with respect to a public-private competition conducted under Office of Management and Budget Circular A–76 with respect to the performance of an activity or function of a Federal agency, or a decision to convert a function performed by Federal employees to private sector performance without a competition under Office of Management and Budget Circular A–76, includes—

''(i) any official who submitted the agency tender in such competition; and

''(ii) any one individual who, for the purpose of representing the Federal employees engaged in the performance of the activity or function for which the public-private competition is conducted in a protest under this subchapter that relates to such public-private competition, has been designated as the agent of the Federal employees by a majority of such employees.''.

(b) EXPEDITED ACTION.—

(1) IN GENERAL.—Subchapter V of chapter 35 of such title is amended by adding at the end the following new section:

''SEC. 3557. EXPEDITED ACTION IN PROTESTS OF PUBLIC-PRIVATE COMPETITIONS.

''For any protest of a public-private competition conducted under Office of Management and Budget Circular A–76 with respect to the performance of an activity or function of a Federal agency, the Comptroller General shall administer the provisions of this subchapter in the manner best suited for expediting the final resolution of the protest and the final action in the public-private competition.''.

(2) CLERICAL AMENDMENT.—The chapter analysis at the beginning of such chapter is amended by inserting after the item relating to section 3556 the following new item:

''3557. Expedited action in protests of public-private competitions.''.

(c) RIGHT TO INTERVENE IN CIVIL ACTION.—Section 1491(b) of title 28, United States Code, is amended by adding at the end the following new paragraph:

''(5) If an interested party who is a member of the private sector commences an action described in paragraph (1) with respect to a public-private competition conducted under Office of Management and Budget Circular A–76 regarding the performance of an activity or function of a Federal agency, or a decision to convert a function performed by Federal employees to private sector performance without a competition under Office of Management and Budget Circular A–76, then an interested party described in section 3551(2)(B) of title 31 shall be entitled to intervene in that action.''.

(d) APPLICABILITY.—Subparagraph (B) of section 3551(2) of title 31, United States Code (as added by subsection (a)), and paragraph (5) of section 1491(b) of title 28, United States Code (as added by subsection (c)), shall apply to—

(1) a protest or civil action that challenges final selection of the source of performance of an activity or function of a Federal agency that is made pursuant to a study initiated under Office of Management and Budget Circular A–76 on or after January 1, 2004; and

(2) any other protest or civil action that relates to a public-private competition initiated under Office of Management and Budget Circular A–76, or to a decision to convert a function performed by Federal employees to private sector performance without a competition under Office of Management and Budget Circular A–76, on or after the date of the enactment of this Act.

SEC. 360. PUBLIC-PRIVATE COMPETITION REQUIRED BEFORE CONVERSION TO CONTRACTOR PERFORMANCE.

(a) IN GENERAL.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

''SEC. 43. PUBLIC-PRIVATE COMPETITION REQUIRED BEFORE CONVERSION TO CONTRACTOR PERFORMANCE.

''(a) PUBLIC-PRIVATE COMPETITION.—(1) A function of an executive agency performed by 10 or more agency civilian employees may not be converted, in whole or in part, to performance by a contractor unless the conversion is based on the results of a public-private competition that—

''(A) formally compares the cost of performance of the function by agency civilian employees with the cost of performance by a contractor;

''(B) creates an agency tender, including a most efficient organization plan, in accordance with Office of Management and Budget Circular A–76, as implemented on May 29, 2003, or any successor circular;

''(C) includes the issuance of a solicitation;

''(D) determines whether the submitted offers meet the needs of the executive agency with respect to factors other than cost, including quality, reliability, and timeliness;

''(E) examines the cost of performance of the function by agency civilian employees and the cost of performance of the function by one or more contractors to demonstrate whether converting to performance by a contractor will result in savings to the Government over the life of the contract, including—

''(i) the estimated cost to the Government (based on offers received) for performance of the function by a contractor;

''(ii) the estimated cost to the Government for performance of the function by agency civilian employees; and

''(iii) an estimate of all other costs and expenditures that the Government would incur because of the award of such a contract;

''(F) requires continued performance of the function by agency civilian employees unless the difference in the cost of performance of the function by a contractor compared to the cost of performance of the function by agency civilian employees would, over all performance periods required by the solicitation, be equal to or exceed the lesser of—

''(i) 10 percent of the personnel-related costs for performance of that function in the agency tender; or

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

''(G) examines the effect of performance of the function by a contractor on the agency mission associated with the performance of the function.

''(2) A function that is performed by the executive agency and is reengineered, reorganized, modernized, upgraded, expanded, or changed to become more efficient, but still essentially provides the same service, shall not be considered a new requirement.

''(3) In no case may a function being performed by executive agency personnel be—

''(A) modified, reorganized, divided, or in any way changed for the purpose of exempting the conversion of the function from the requirements of this section; or

''(B) converted to performance by a contractor to circumvent a civilian personnel ceiling.

''(b) REQUIREMENT TO CONSULT EMPLOYEES.—(1) Each civilian employee of an executive agency responsible for determining under Office of Management and Budget Circular A–76 whether to convert to contractor performance any function of the executive agency—

''(A) shall, at least monthly during the development and preparation of the performance work statement and the management efficiency study used in making that determination, consult with civilian employees who will be affected by that determination and consider the views of such employees on the development and preparation of that statement and that study; and

''(B) may consult with such employees on other matters relating to that determination.

''(2)(A) In the case of employees represented by a labor organization accorded exclusive recognition under section 7111 of title 5, consultation with representatives of that labor organization shall satisfy the consultation requirement in paragraph (1).

''(B) In the case of employees other than employees referred to in subparagraph (A), consultation with appropriate representatives of those employees shall satisfy the consultation requirement in paragraph (1).

''(C) The head of each executive agency shall prescribe regulations to carry out this subsection. The regulations shall include provisions for the selection or designation of appropriate representatives of employees referred to in paragraph (2)(B) for purposes of consultation required by paragraph (1).

''(c) CONGRESSIONAL NOTIFICATION.—(1) Before commencing a public-private competition under subsection (a), the head of an executive agency shall submit to Congress a report containing the following:

''(A) The function for which such public-private competition is to be conducted.

''(B) The location at which the function is performed by agency civilian employees.

''(C) The number of agency civilian employee positions potentially affected.

''(D) The anticipated length and cost of the public-private competition, and a specific identification of the budgetary line item from which funds will be used to cover the cost of the public-private competition.

''(E) A certification that a proposed performance of the function by a contractor is not a result of a decision by an official of an executive agency to impose predetermined constraints or limitations on such employees in terms of man years, end strengths, full-time equivalent positions, or maximum number of employees.

''(2) The report required under paragraph (1) shall include an examination of the potential economic effect of performance of the function by a contractor on—

''(A) agency civilian employees who would be affected by such a conversion in performance; and

''(B) the local community and the Government, if more than 50 agency civilian employees perform the function.

''(3)(A) A representative individual or entity at a facility where a public-private competition is conducted may submit to the head of the executive agency an objection to the public private competition on the grounds that the report required by paragraph (1) has not been submitted or that the certification required by paragraph (1)(E) is not included in the report submitted as a condition for the public private competition. The objection shall be in writing and shall be submitted within 90 days after the following date:

''(i) In the case of a failure to submit the report when required, the date on which the representative individual or an official of the representative entity authorized to pose the objection first knew or should have known of that failure.

''(ii) In the case of a failure to include the certification in a submitted report, the date on which the report was submitted to Congress.

''(B) If the head of the executive agency determines that the report required by paragraph (1) was not submitted or that the required certification was not included in the

submitted report, the function for which the public-private competition was conducted for which the objection was submitted may not be the subject of a solicitation of offers for, or award of, a contract until, respectively, the report is submitted or a report containing the certification in full compliance with the certification requirement is submitted.

''(d) EXEMPTION FOR THE PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED PERSONS.—This section shall not apply to a commercial or industrial type function of an executive agency that—

''(1) is included on the procurement list established pursuant to section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47); or

''(2) is planned to be changed to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped persons in accordance with that Act.

''(e) INAPPLICABILITY DURING WAR OR EMERGENCY.—The provisions of this section shall not apply during war or during a period of national emergency declared by the President or Congress.''.

(b) CLERICAL AMENDMENT.—The table of sections in section 1(b) of such Act is amended by adding at the end the following new item:

''Sec. 43. Public-private competition required before conversion to contractor performance.''.

SEC. 361. PERFORMANCE OF CERTAIN WORK BY FEDERAL GOVERNMENT EMPLOYEES.

(a) GUIDELINES.—

(1) IN GENERAL.—The Under Secretary of Defense for Personnel and Readiness shall prescribe guidelines and procedures for ensuring that consideration is given to using Federal Government employees on a regular basis for new work and work that is performed under Department of Defense contracts and could be performed by Federal Government employees.

(2) CRITERIA.—The guidelines and procedures prescribed under paragraph (1) shall provide for special consideration to be given to contracts that—

(A) have been performed by Federal Government employees at any time on or after October 1, 1980;

(B) are associated with the performance of inherently governmental functions;

(C) have been performed by a contractor pursuant to a contract that was awarded on a noncompetitive basis, either a contract for a function once performed by Federal employees that was awarded without the conduct of a public-private competition or a contract that was last awarded without the conduct of an actual competition between contractors; or

(D) have been performed poorly by a contractor because of excessive costs or inferior quality, as determined by a contracting officer within the last five years .

(3) DEADLINE FOR ISSUANCE OF GUIDELINES.—The Secretary of Defense shall implement the guidelines required under paragraph (1) by not later than 60 days after the date of the enactment of this Act.

(4) ESTABLISHMENT OF CONTRACTOR INVENTORY.—The Secretary of Defense shall establish an inventory of Department of Defense contracts to determine which contracts meet the criteria set forth in paragraph (2).

(b) NEW REQUIREMENTS.—

(1) LIMITATION ON REQUIRING PUBLIC-PRIVATE COMPETITION.—No public-private competition may be required for any Department of Defense function before—

(A) the commencement of the performance by civilian employees of the Department of Defense of a new Department of Defense function;

(B) the commencement of the performance by civilian employees of the Department of Defense of any Department of Defense function described in subparagraphs (B) through (D) of subsection (a)(2); or

(C) the expansion of the scope of any Department of Defense function performed by civilian employees of the Department of Defense.

(2) CONSIDERATION OF FEDERAL GOVERNMENT EMPLOYEES.—The Secretary of Defense shall, to the maximum extent practicable, ensure that Federal Government employees are fairly considered for the performance of new requirements, with special consideration given to new requirements that include functions that—

(A) are similar to functions that have been performed by Federal Government employees at any time on or after October 1, 1980; or

(B) are associated with the performance of inherently governmental functions.

(c) USE OF FLEXIBLE HIRING AUTHORITY.—The Secretary may use the flexible hiring authority available to the Secretary under the National Security Personnel System, as established pursuant to section 9902 of title 5, United States Code, to facilitate the performance by civilian employees of the Department of Defense of functions described in subsection (b).

(d) INSPECTOR GENERAL REPORT.—Not later than 180 days after the enactment of this Act, the Inspector General of the Department of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the compliance of the Secretary of Defense with the requirements of this section.

(e) DEFINITIONS.—In this section:

(1) The term ''National Security Personnel System'' means the human resources management system established under the authority of section 9902 of title 5, United States Code.

(2) The term ''inherently governmental function'' has the meaning given that term in section 5 of the Federal Activities Inventory Reform Act of 1998 (Public Law 105–270; 112 Stat. 2384; 31 U.S.C. 501 note).

(f) CONFORMING REPEAL.—The National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163) is amended by striking section 343.

SEC. 362. RESTRICTION ON OFFICE OF MANAGEMENT AND BUDGET INFLUENCE OVER DEPARTMENT OF DEFENSE PUBLIC-PRIVATE COMPETITIONS.

(a) RESTRICTION ON OFFICE OF MANAGEMENT AND BUDGET.—The Office of Management and Budget may not direct or require the Secretary of Defense or the Secretary of a military department to prepare for, undertake, continue, or complete a public-private competition or direct conversion of a Department of Defense function to performance by a contractor under Office of Management and Budget Circular A–76, or any other successor regulation, directive, or policy.

(b) RESTRICTION ON SECRETARY OF DEFENSE.—The Secretary of Defense or the Secretary of a military department may not prepare for, undertake, continue, or complete a public-private competition or direct conversion of a Department of Defense function to performance by a contractor under Office of Management and Budget Circular A–76, or any other successor regulation, directive, or policy by reason of any direction or requirement provided by the Office of Management and Budget.

SEC. 363. PUBLIC-PRIVATE COMPETITION AT END OF PERIOD SPECIFIED IN PERFORMANCE AGREEMENT NOT REQUIRED.

Section 2461(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(4) A military department or defense agency may not be required to conduct a public-private competition under Office of Management and Budget Circular A–76 or any other provision of law at the end of the period specified in the performance agreement entered into in accordance with this section for any function of the Department of Defense performed by Department of Defense civilian employees.''.

SA 3059. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 976, to amend title XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. TREATMENT OF UNBORN CHILDREN.

(a) CODIFICATION OF CURRENT REGULATIONS.—Section 2110(c)(1) (42 U.S.C. 1397jj(c)(1)) is amended by striking the period at the end and inserting the following: '', and includes, at the option of a State, an unborn child. For purposes of the previous sentence, the term 'unborn child' means a member of the species Homo sapiens, at any stage of development, who is carried in the womb.''.

(b) CLARIFICATIONS REGARDING COVERAGE OF MOTHERS.—Section 2103 (42 U.S.C. 1397cc) is amended by adding at the end the following new subsection:

''(g) CLARIFICATIONS REGARDING AUTHORITY TO PROVIDE POSTPARTUM SERVICES AND MATERNAL HEALTH CARE.—Any State that provides child health assistance to an unborn child under the option described in section 2110(c)(1) may continue to provide such assistance to the mother, as well as postpartum services, through the end of the month in which the 60-day period (beginning on the last day of pregnancy) ends, in the same manner as such assistance and postpartum services would be provided if provided under the State plan under title XIX, but only if the mother would otherwise satisfy the eligibility requirements that apply under the State child health plan (other than with respect to age) during such period.''.

SA 3060. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 976, to amend title XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. ___. STANDARDIZATION OF DETERMINATION OF FAMILY INCOME.

(a) ELIGIBILITY BASED ON GROSS INCOME.—

(1) IN GENERAL.—Section 2110 (42 U.S.C. 1397jj) is amended by adding at the end the following new subsection:

''(d) STANDARDIZATION OF DETERMINATION OF FAMILY INCOME.—A State shall determine family income for purposes of determining income eligibility for child health assistance or other health benefits coverage under the State child health plan (or under a waiver of such plan under section 1115) solely on the basis of the gross income (as defined by the Secretary) of the family.''.

(2) PROHIBITION ON WAIVER OF REQUIREMENTS.—Section 2107(f) (42 U.S.C. 1397gg(f)), as amended by section 106(a)(2)(A), is amended by adding at the end the following new paragraph:

''(3) The Secretary may not approve a waiver, experimental, pilot, or demonstration project with respect to a State after the

date of enactment of the Children's Health Insurance Program Reauthorization Act of 2007 that would waive or modify the requirements of section 2110(d) (relating to determining income eligibility on the basis of gross income) and regulations promulgated to carry out such requirements.''.

(b) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall promulgate interim final regulations defining gross income for purposes of section 2110(d) of the Social Security Act, as added by subsection (a)(1).

(c) APPLICATION TO CURRENT ENROLLEES.—The interim final regulations promulgated under subsection (b) shall not be used to determine the income eligibility of any individual enrolled in a State child health plan under title XXI of the Social Security Act on the date of enactment of this Act before the date on which such eligibility of the individual is required to be redetermined under the plan as in effect on such date. In the case of any individual enrolled in such plan on such date who, solely as a result of the application of subsection (d) of section 2110 of the Social Security Act (as added by subsection (a)(1))) and the regulations promulgated under subsection (b), is determined to be ineligible for child health assistance under the State child health plan, a State may elect, subject to substitution of the Federal medical assistance percentage for the enhanced FMAP under section 2105(a)(1) of the Social Security Act, to continue to provide the individual with such assistance for so long as the individual otherwise would be eligible for such assistance and the individual's family income, if determined under the income and resource standards and methodologies applicable under the State child health plan on September 30, 2007, would not exceed the income eligibility level applicable to the individual under the State child health plan.

SA 3061. Mr. CRAPO submitted an amendment intended to be proposed by him to the bill H.R. 976, to amend title XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 613 of the proposed House amendment to the text of the Act.

SA 3062. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 976, to amend title XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

''SEC.____. Exclusion from Program.

1. No person who is not a United States citizen is eligible to receive benefits in this title.

SA 3063. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 976, to amend title XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 301 of the House amendment to the text and insert the following:

SEC. 301. PREMIUM ASSISTANCE FOR HIGHER INCOME CHILDREN AND PREGNANT WOMEN WITH ACCESS TO EMPLOYER-SPONSORED COVERAGE.

(a) IN GENERAL.—Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 211(c) is amended by adding at the end the following:

''(11) PREMIUM ASSISTANCE.—

''(A) IN GENERAL.—Beginning with fiscal year 2008, a State may only provide child health assistance for a targeted low-income child or a pregnant woman whose family income exceeds 200 percent of the poverty line and who has access to qualified employer sponsored coverage (as defined in subparagraph (B)) through the provision of a premium assistance subsidy in accordance with the requirements of this paragraph.

''(B) QUALIFIED EMPLOYER SPONSORED COVERAGE.—

''(i) IN GENERAL.—In this paragraph, the term 'qualified employer sponsored coverage' means a group health plan or health insurance coverage offered through an employer that is—

''(I) substantially equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2);

''(II) for which the employer contribution toward any premium for such coverage is at least 50 percent (75 percent, in the case of an employer with more than 50 employees);

''(III) made similarly available to all of the employer's employees and for which the employer makes a contribution to the premium that is not less for employees receiving a premium assistance subsidy under any option available under the State child health plan under this title or the State plan under title XIX to provide such assistance than the employer contribution provided for all other employees; and

''(IV) cost-effective, as determined under clause (ii).

''(ii) COST-EFFECTIVENESS.—A group health plan or health insurance coverage offered through an employer shall be considered to be cost-effective if—

''(I) the marginal premium cost to purchase family coverage through the employer is less than the State cost of providing child health assistance through the State child health plan for all the children in the family who are targeted low-income children; or

''(II) the marginal premium cost between individual coverage and purchasing family coverage through the employer is not greater than 175 percent of the cost to the State to provide child health assistance through the State child health plan for a targeted low-income child.

''(iii) HIGH DEDUCTIBLE HEALTH PLANS INCLUDED.—The term 'qualified employer sponsored coverage' includes a high deductible health plan (as defined in section 223(c)(2) of the Internal Revenue Code of 1986) purchased through a health savings account (as defined under section 223(d) of such Code).

''(C) PREMIUM ASSISTANCE SUBSIDY.—

''(i) IN GENERAL.—In this paragraph, the term 'premium assistance subsidy' means, with respect to a targeted low-income child, the amount equal to the difference between the employee contribution required for enrollment only of the employee under qualified employer sponsored coverage and the employee contribution required for enrollment of the employee and the child in such coverage, less any applicable premium cost-sharing applied under the State child health plan, subject to the annual aggregate cost-sharing limit applied under section 2103(e)(3)(B).

''(ii) STATE PAYMENT OPTION.—Subject to clause (iii), a State may provide a premium assistance subsidy directly to an employer or as reimbursement to an employee for out-of-pocket expenditures.

''(iii) REQUIREMENT FOR DIRECT PAYMENT TO EMPLOYEE.—A State shall not pay a premium assistance subsidy directly to the employee, unless the State has established procedures to ensure that the targeted low-income child on whose behalf such payments are made are actually enrolled in the qualified employer sponsored coverage.

''(iv) TREATMENT AS CHILD HEALTH ASSISTANCE.—Expenditures for the provision of premium assistance subsidies shall be considered child health assistance described in paragraph (1)(C) of subsection (a) for purposes of making payments under that subsection.

''(v) STATE OPTION TO REQUIRE ACCEPTANCE OF SUBSIDY.—A State may condition the provision of child health assistance under the State child health plan for a targeted low-income child on the receipt of a premium assistance subsidy for enrollment in qualified employer sponsored coverage if the State determines the provision of such a subsidy to be more cost-effective in accordance with subparagraph (B)(ii).

''(vi) NOT TREATED AS INCOME.—Notwithstanding any other provision of law, a premium assistance subsidy provided in accordance with this paragraph shall not be treated as income to the child or the parent of the child for whom such subsidy is provided.

''(D) NO REQUIREMENT TO PROVIDE SUPPLEMENTAL COVERAGE FOR BENEFITS AND ADDITIONAL COST-SHARING PROTECTION PROVIDED UNDER THE STATE CHILD HEALTH PLAN.—

''(i) IN GENERAL.—A State that elects the option to provide a premium assistance subsidy under this paragraph shall not be required to provide a targeted low-income child enrolled in qualified employer sponsored coverage with supplemental coverage for items or services that are not covered, or are only partially covered, under the qualified employer sponsored coverage or cost-sharing protection other than the protection required under section 2103(e)(3)(B).

''(ii) NOTICE OF COST-SHARING REQUIREMENTS.—A State shall provide a targeted low-income child or the parent of such a child (as appropriate) who is provided with a premium assistance subsidy in accordance with this paragraph with notice of the cost-sharing requirements and limitations imposed under the qualified employer sponsored coverage in which the child is enrolled upon the enrollment of the child in such coverage and annually thereafter.

''(iii) RECORD KEEPING REQUIREMENTS.—A State may require a parent of a targeted low-income child that is enrolled in qualified employer-sponsored coverage to bear the responsibility for keeping track of out-of-pocket expenditures incurred for cost-sharing imposed under such coverage and to notify the State when the limit on such expenditures imposed under section 2103(e)(3)(B) has been reached for a year from the effective date of enrollment for such year.

''(iv) STATE OPTION FOR REIMBURSEMENT.—A State may retroactively reimburse a parent of a targeted low-income child for out-of-pocket expenditures incurred after reaching the 5 percent cost-sharing limitation imposed under section 2103(e)(3)(B) for a year.

''(E) 6-MONTH WAITING PERIOD REQUIRED.—A State shall impose at least a 6-month waiting period from the time an individual is enrolled in private health insurance prior to the provision of a premium assistance subsidy for a targeted low-income child in accordance with this paragraph.

''(F) NON APPLICATION OF WAITING PERIOD FOR ENROLLMENT IN THE STATE MEDICAID PLAN OR THE STATE CHILD HEALTH PLAN.—A targeted low-income child provided a premium assistance subsidy in accordance with this

paragraph who loses eligibility for such subsidy shall not be treated as having been enrolled in private health insurance coverage for purposes of applying any waiting period imposed under the State child health plan or the State plan under title XIX for the enrollment of the child under such plan.

''(G) ASSURANCE OF SPECIAL ENROLLMENT PERIOD UNDER GROUP HEALTH PLANS IN CASE OF ELIGIBILITY FOR PREMIUM SUBSIDY ASSISTANCE.—No payment shall be made under subsection (a) for amounts expended for the provision of premium assistance subsidies under this paragraph unless a State provides assurances to the Secretary that the State has in effect laws requiring a group health plan, a health insurance issuer offering group health insurance coverage in connection with a group health plan, and a self-funded health plan, to permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a child of such an employee if the child is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if the employee's child becomes eligible for a premium assistance subsidy under this paragraph.

''(H) NO EFFECT ON PREVIOUSLY APPROVED PREMIUM ASSISTANCE PROGRAMS.—Nothing in this paragraph shall be construed as limiting the authority of a State to offer premium assistance under section 1906, a waiver described in paragraph (2)(B) or (3), a waiver approved under section 1115, or other authority in effect on June 28, 2007, for targeted low-income children or pregnant women whose family income does not exceed 200 percent of the poverty line.

''(I) NOTICE OF AVAILABILITY.—A State shall—

''(i) include on any application or enrollment form for child health assistance a notice of the availability of premium assistance subsidies for the enrollment of targeted low-income children in qualified employer sponsored coverage and the requirement to provide such subsidies to the individuals described in subparagraph (A);

''(ii) provide, as part of the application and enrollment process under the State child health plan, information describing the availability of such subsidies and how to elect to obtain such a subsidy, or if required, to obtain such subsidies; and

''(iii) establish such other procedures as the State determines necessary to ensure that parents are informed of the availability of such subsidies under the State child health plan.''.

(b) APPLICATION TO MEDICAID.—Section 1906 (42 U.S.C. 1396e) is amended by inserting after subsection (c) the following:

''(d) The provisions of section 2105(c)(11) shall apply to a child who is eligible for medical assistance under the State plan in the same manner as such provisions apply to a targeted low-income child under a State child health plan under title XXI. Section 1902(a)(34) shall not apply to a child who is provided a premium assistance subsidy under the State plan in accordance with the preceding sentence.''.

SA 3064. Mr. MCCONNELL (for himself, Mr. LOTT, Mr. KYL, Mr. DEMINT, Mr. COBURN, Mr. CORNYN, Mr. BUNNING, Mr. ISAKSON, and Mr. BARRASSO) 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 1, line 3, strike all after ''Section'' and insert the following:

1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Kids First Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—STATE CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION

SEC. 101. 5-YEAR REAUTHORIZATION.

(a) INCREASE IN NATIONAL ALLOTMENT.—Section 2104(a) of the Social Security Act (42 U.S.C. 1397dd(a)) is amended—

(1) in paragraph (9), by striking ''and'' at the end;

(2) in paragraph (10), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(11) for fiscal year 2008, $7,000,000,000;

''(12) for fiscal year 2009, $7,200,000,000;

''(13) for fiscal year 2010, $7,600,000,000;

''(14) for fiscal year 2011, $8,300,000,000; and

''(15) for fiscal year 2012, $8,800,000,000.''.

(b) CONTINUATION OF ADDITIONAL ALLOTMENTS TO TERRITORIES.—Section 2104(c)(4)(B) of the Social Security Act (42 U.S.C. 1397dd(c)(4)(B)) is amended—

(1) by striking ''and'' after ''2006,''; and

(2) by inserting before the period the following: '', $56,000,000 for fiscal year 2008, $58,000,000 for fiscal year 2009, $61,000,000 for fiscal year 2010, $66,000,000 for fiscal year 2011, and $70,000,000 for fiscal year 2012''.

SEC. 102. ALLOTMENTS FOR THE 50 STATES AND THE DISTRICT OF COLUMBIA BASED ON EXPENDITURES AND NUMBERS OF LOW-INCOME CHILDREN.

(a) IN GENERAL.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by adding at the end the following new subsection:

''(i) DETERMINATION OF ALLOTMENTS FOR THE 50 STATES AND THE DISTRICT OF COLUMBIA FOR FISCAL YEARS 2008 THROUGH 2012.—

''(1) IN GENERAL.—Notwithstanding the preceding provisions of this subsection and subject to paragraph (3), the Secretary shall allot to each subsection (b) State for each of fiscal years 2008 through 2012,, the amount determined for the fiscal year that is equal to the product of—

''(A) the amount available for allotment under subsection (a) for the fiscal year, reduced by the amount of allotments made under subsection (c) (determined without regard to paragraph (4) thereof) for the fiscal year; and

''(B) the sum of the State allotment factors determined under paragraph (2) with respect to the State and weighted in accordance with subparagraph (B) of that paragraph for the fiscal year.

''(2) STATE ALLOTMENT FACTORS.—

''(A) IN GENERAL.—For purposes of paragraph (1)(B), the State allotment factors are the following:

''(i) The ratio of the projected expenditures for targeted low-income children under the State child health plan and pregnant women under a waiver of such plan for the fiscal year to the sum of such projected expenditures for all States for the fiscal year, multiplied by the applicable percentage weight assigned under subparagraph (B).

''(ii) The ratio of the number of low-income children who have not attained age 19 with no health insurance coverage in the State, as determined by the Secretary on the basis of the arithmetic average of the number of such children for the 3 most recent Annual Social and Economic Supplements to the Current Population Survey of the Bureau of the Census available before the beginning of the calendar year before such fiscal year begins, to the sum of the number of such children determined for all States for such fiscal year, multiplied by the applicable percentage weight assigned under subparagraph (B).

''(iii) The ratio of the projected expenditures for targeted low-income children under the State child health plan and pregnant women under a waiver of such plan for the preceding fiscal year to the sum of such projected expenditures for all States for such

preceding fiscal year, multiplied by the applicable percentage weight assigned under subparagraph (B).

''(iv) The ratio of the actual expenditures for targeted low-income children under the State child health plan and pregnant women under a waiver of such plan for the second preceding fiscal year to the sum of such actual expenditures for all States for such second preceding fiscal year, multiplied by the applicable percentage weight assigned under subparagraph (B).

''(B) ASSIGNMENT OF WEIGHTS.—For each of fiscal years 2008 through 2012, the following percentage weights shall be applied to the ratios determined under subparagraph (A) for each such fiscal year:

''(i) 40 percent for the ratio determined under subparagraph (A)(i).

''(ii) 5 percent for the ratio determined under subparagraph (A)(ii).

''(iii) 50 percent for the ratio determined under subparagraph (A)(iii).

''(iv) 5 percent for the ratio determined under subparagraph (A)(iv).

''(C) DETERMINATION OF PROJECTED AND ACTUAL EXPENDITURES.—For purposes of subparagraph (A):

''(i) PROJECTED EXPENDITURES.—The projected expenditures described in clauses (i) and (iii) of such subparagraph with respect to a fiscal year shall be determined on the basis of amounts reported by States to the Secretary on the May 15th submission of Form CMS–37 and Form CMS–21B submitted not later than June 30th of the fiscal year preceding such year.

''(ii) ACTUAL EXPENDITURES.—The actual expenditures described in clause (iv) of such subparagraph with respect to a second preceding fiscal year shall be determined on the basis of amounts reported by States to the Secretary on Form CMS–64 and Form CMS–21 submitted not later than November 30 of the preceding fiscal year.''.

(b) 2-YEAR AVAILABILITY OF ALLOTMENTS; EXPENDITURES COUNTED AGAINST OLDEST ALLOTMENTS.—Section 2104(e) of the Social Security Act (42 U.S.C. 1397dd(e)) is amended to read as follows:

''(e) AVAILABILITY OF AMOUNTS ALLOTTED.—

''(1) IN GENERAL.—Except as provided in the succeeding paragraphs of this subsection, amounts allotted to a State pursuant to this section—

''(A) for each of fiscal years 1998 through 2007, shall remain available for expenditure by the State through the end of the second succeeding fiscal year; and

''(B) for each of fiscal years 2008 through 2012, shall remain available for expenditure by the State only through the end of the succeeding fiscal year for which such amounts are allotted.

''(2) ELIMINATION OF REDISTRIBUTION OF ALLOTMENTS NOT EXPENDED WITHIN 3 YEARS.—Notwithstanding subsection (f), amounts allotted to a State under this section for fiscal years beginning with fiscal year 2008 that remain unexpended as of the end of the second succeeding fiscal year shall not be redistributed to other States and shall revert to the Treasury on October 1 of the third succeeding fiscal year.

''(3) RULE FOR COUNTING EXPENDITURES AGAINST FISCAL YEAR ALLOTMENTS.—Expenditures under the State child health plan made on or after October 1, 2007, shall be counted against allotments for the earliest fiscal year for which funds are available for expenditure under this subsection.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 2104(b)(1) of the Social Security Act (42 U.S.C. 1397dd(b)(1)) is amended by striking ''subsection (d)'' and inserting ''the succeeding subsections of this section''.

(2) Section 2104(f) of such Act (42 U.S.C. 1397dd(f)) is amended by striking ''The'' and inserting ''Subject to subsection (e)(2), the''.

SEC. 103. LIMITATIONS ON MATCHING RATES FOR POPULATIONS OTHER THAN LOW-INCOME CHILDREN OR PREGNANT WOMEN COVERED THROUGH A SECTION 1115 WAIVER.

(a) LIMITATION ON PAYMENTS.—Section 2105(c) of the Social Security Act (42 U.S.C. 1397ee(c)) is amended by adding at the end the following new paragraph:

''(8) LIMITATIONS ON MATCHING RATE FOR POPULATIONS OTHER THAN TARGETED LOW-INCOME CHILDREN OR PREGNANT WOMEN COVERED THROUGH A SECTION 1115 WAIVER.—For child health assistance or health benefits coverage furnished in any fiscal year beginning with fiscal year 2008:

''(A) FMAP APPLIED TO PAYMENTS FOR COVERAGE OF CHILDREN OR PREGNANT WOMEN COVERED THROUGH A SECTION 1115 WAIVER ENROLLED IN THE STATE CHILD HEALTH PLAN ON THE DATE OF ENACTMENT OF THE KIDS FIRST ACT AND WHOSE GROSS FAMILY INCOME IS DETERMINED TO EXCEED THE INCOME ELIGIBILITY LEVEL SPECIFIED FOR A TARGETED LOW-INCOME CHILD.—Notwithstanding subsections (b)(1)(B) and (d) of section 2110, in the case of any individual described in subsection (c) of section 105 of the Kids First Act who the State elects to continue to provide child health assistance for under the State child health plan in accordance with the requirements of such subsection, the Federal medical assistance percentage (as determined under section 1905(b) without regard to clause (4) of such section) shall be substituted for the enhanced FMAP under subsection (a)(1) with respect to such assistance.

''(B) FMAP APPLIED TO PAYMENTS ONLY FOR NONPREGNANT CHILDLESS ADULTS AND PARENTS AND CARETAKER RELATIVES ENROLLED UNDER A SECTION 1115 WAIVER ON THE DATE OF ENACTMENT OF THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION OF 2007.—The Federal medical assistance percentage (as determined under section 1905(b) without regard to clause (4) of such section) shall be substituted for the enhanced FMAP under subsection (a)(1) with respect to payments for child health assistance or health benefits coverage provided under the State child health plan for any of the following:

''(i) PARENTS OR CARETAKER RELATIVES ENROLLED UNDER A WAIVER ON THE DATE OF ENACTMENT OF THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION OF 2007.—A nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income child who is enrolled in the State child health plan under a waiver, experimental, pilot, or demonstration project on the date of enactment of the Kids First Act and whose family income does not exceed the income eligibility applied under such waiver with respect to that population on such date.

''(ii) NONPREGNANT CHILDLESS ADULTS ENROLLED UNDER A WAIVER ON SUCH DATE.—A nonpregnant childless adult enrolled in the State child health plan under a waiver, experimental, pilot, or demonstration project described in section 6102(c)(3) of the Deficit Reduction Act of 2005 (42 U.S.C. 1397gg note) on the date of enactment of the Kids First Act and whose family income does not exceed the income eligibility applied under such waiver with respect to that population on such date.

''(iii) NO REPLACEMENT ENROLLEES.—Nothing in clauses (i) or (ii) shall be construed as authorizing a State to provide child health assistance or health benefits coverage under a waiver described in either such clause to a nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income child, or a nonpregnant childless adult, who is not enrolled under the waiver on the date of enactment of the Kids First Act.

''(C) NO FEDERAL PAYMENT FOR ANY NEW NONPREGNANT ADULT ENROLLEES OR FOR SUCH ENROLLEES WHO NO LONGER SATISFY INCOME ELIGIBILITY REQUIREMENTS.—Payment shall not be made under this section for child health assistance or other health benefits coverage provided under the State child health plan or under a waiver under section 1115 for any of the following:

''(i) PARENTS OR CARETAKER RELATIVES UNDER A SECTION 1115 WAIVER APPROVED AFTER THE DATE OF ENACTMENT OF THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION OF 2007.—A nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income child under a waiver, experimental, pilot, or demonstration project that is approved on or after the date of enactment of the Kids First Act.

''(ii) PARENTS, CARETAKER RELATIVES, AND NONPREGNANT CHILDLESS ADULTS WHOSE FAMILY INCOME EXCEEDS THE INCOME ELIGIBILITY LEVEL SPECIFIED UNDER A SECTION 1115 WAIVER APPROVED PRIOR TO THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION OF 2007.—Any nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income child whose family income exceeds the income eligibility level referred to in subparagraph (B)(i), and any nonpregnant childless adult whose family income exceeds the income eligibility level referred to in subparagraph (B)(ii).

''(iii) NONPREGNANT CHILDLESS ADULTS, PARENTS, OR CARETAKER RELATIVES NOT ENROLLED UNDER A SECTION 1115 WAIVER ON THE DATE OF ENACTMENT OF THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION OF 2007.—Any nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income child who is not enrolled in the State child health plan under a section 1115 waiver, experimental, pilot, or demonstration project referred to in subparagraph (B)(i) on the date of enactment of the Kids First Act, and any nonpregnant childless adult who is not enrolled in the State child health plan under a section 1115 waiver, experimental, pilot, or demonstration project referred to in subparagraph (B)(ii)(I) on such date.

''(D) DEFINITION OF CARETAKER RELATIVE.—In this subparagraph, the term 'caretaker relative' has the meaning given that term for purposes of carrying out section 1931.

''(E) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as implying that payments for coverage of populations for which the Federal medical assistance percentage (as so determined) is to be substituted for the enhanced FMAP under subsection (a)(1) in accordance with this paragraph are to be made from funds other than the allotments determined for a State under section 2104.''.

(b) CONFORMING AMENDMENT.—Section 2105(a)(1) of the Social Security Act (42 U.S.C. 1397dd(a)(1)) is amended, in the matter preceding subparagraph (A), by inserting ''or subsection (c)(8)'' after ''subparagraph (B)''.

SEC. 104. PROHIBITION ON NEW SECTION 1115 WAIVERS FOR COVERAGE OF ADULTS OTHER THAN PREGNANT WOMEN.

(a) IN GENERAL.—Section 2107(f) of the Social Security Act (42 U.S.C. 1397gg(f)) is amended—

(1) by striking '', the Secretary'' and inserting '':

''(1) The Secretary''; and

(2) by adding at the end the following new paragraphs:

''(2) The Secretary may not approve, extend, renew, or amend a waiver, experimental, pilot, or demonstration project with

respect to a State after the date of enactment of the Kids First Act that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage for any other adult other than a pregnant woman whose family income does not exceed the income eligibility level specified for a targeted low-income child in that State under a waiver or project approved as of such date.

''(3) The Secretary may not approve, extend, renew, or amend a waiver, experimental, pilot, or demonstration project with respect to a State after the date of enactment of the Kids First Act that would waive or modify the requirements of section 2105(c)(8).''.

(b) CLARIFICATION OF AUTHORITY FOR COVERAGE OF PREGNANT WOMEN.—Section 2106 of the Social Security Act (42 U.S.C. 1397ff) is amended by adding at the end the following new subsection:

''(f) NO AUTHORITY TO COVER PREGNANT WOMEN THROUGH STATE PLAN.—For purposes of this title, a State may provide assistance to a pregnant woman under the State child health plan only—

''(1) by virtue of a waiver under section 1115; or

''(2) through the application of sections 457.10, 457.350(b)(2), 457.622(c)(5), and 457.626(a)(3) of title 42, Code of Federal Regulations (as in effect on the date of enactment of the Kids First Act).''.

(c) ASSURANCE OF NOTICE TO AFFECTED ENROLLEES.—The Secretary of Health and Human Services shall establish procedures to ensure that States provide adequate public notice for parents, caretaker relatives, and nonpregnant childless adults whose eligibility for child health assistance or health benefits coverage under a waiver under section 1115 of the Social Security Act will be terminated as a result of the amendments made by subsection (a), and that States otherwise adhere to regulations of the Secretary relating to procedures for terminating waivers under section 1115 of the Social Security Act.

SEC. 105. STANDARDIZATION OF DETERMINATION OF FAMILY INCOME.

(a) ELIGIBILITY BASED ON GROSS INCOME.—

(1) IN GENERAL.—Section 2110 of the Social Security Act (42 U.S.C. 1397jj) is amended by adding at the end the following new subsection:

''(d) STANDARDIZATION OF DETERMINATION OF FAMILY INCOME.—A State shall determine family income for purposes of determining income eligibility for child health assistance or other health benefits coverage under the State child health plan (or under a waiver of such plan under section 1115) solely on the basis of the gross income (as defined by the Secretary) of the family.''.

(2) PROHIBITION ON WAIVER OF REQUIREMENTS.—Section 2107(f) (42 U.S.C. 1397gg(f)), as amended by section 104(a), is amended by adding at the end the following new paragraph:

''(4) The Secretary may not approve a waiver, experimental, pilot, or demonstration project with respect to a State after the date of enactment of the Kids First Act that would waive or modify the requirements of section 2110(d) (relating to determining income eligibility on the basis of gross income) and regulations promulgated to carry out such requirements.''.

(b) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate interim final regulations defining gross income for purposes of section 2110(d) of the Social Security Act, as added by subsection (a).

(c) APPLICATION TO CURRENT ENROLLEES.—The interim final regulations promulgated under subsection (b) shall not be used to determine the income eligibility of any individual enrolled in a State child health plan under title XXI of the Social Security Act on the date of enactment of this Act before the date on which such eligibility of the individual is required to be redetermined under the plan as in effect on such date. In the case of any individual enrolled in such plan on such date who, solely as a result of the application of subsection (d) of section 2110 of the Social Security Act (as added by subsection (a)) and the regulations promulgated under subsection (b), is determined to be ineligible for child health assistance under the State child health plan, a State may elect, subject to substitution of the Federal medical assistance percentage for the enhanced FMAP under section 2105(c)(8)(A) of the Social Security Act (as added by section 103(a)), to continue to provide the individual with such assistance for so long as the individual otherwise would be eligible for such assistance and the individual's family income, if determined under the income and resource standards and methodologies applicable under the State child health plan on September 30, 2007, would not exceed the income eligibility level applicable to the individual under the State child health plan.

SEC. 106. GRANTS FOR OUTREACH AND ENROLLMENT.

(a) GRANTS.—Title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following:

''SEC. 2111. GRANTS TO IMPROVE OUTREACH AND ENROLLMENT.

''(a) OUTREACH AND ENROLLMENT GRANTS; NATIONAL CAMPAIGN.—

''(1) IN GENERAL.—From the amounts appropriated for a fiscal year under subsection (f), subject to paragraph (2), the Secretary shall award grants to eligible entities to conduct outreach and enrollment efforts that are designed to increase the enrollment and participation of eligible children under this title and title XIX.

''(2) 10 PERCENT SET ASIDE FOR NATIONAL ENROLLMENT CAMPAIGN.—An amount equal to 10 percent of such amounts for the fiscal year shall be used by the Secretary for expenditures during the fiscal year to carry out a national enrollment campaign in accordance with subsection (g).

''(b) AWARD OF GRANTS.—

''(1) PRIORITY FOR AWARDING.—

''(A) IN GENERAL.—In awarding grants under subsection (a), the Secretary shall give priority to eligible entities that—

''(i) propose to target geographic areas with high rates of—

''(I) eligible but unenrolled children, including such children who reside in rural areas; or

''(II) racial and ethnic minorities and health disparity populations, including those proposals that address cultural and linguistic barriers to enrollment; and

''(ii) submit the most demonstrable evidence required under paragraphs (1) and (2) of subsection (c).

''(B) 10 PERCENT SET ASIDE FOR OUTREACH TO INDIAN CHILDREN.—An amount equal to 10 percent of the funds appropriated under subsection (f) for a fiscal year shall be used by the Secretary to award grants to Indian Health Service providers and urban Indian organizations receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.) for outreach to, and enrollment of, children who are Indians.

''(2) 2-YEAR AVAILABILITY.—A grant awarded under this section for a fiscal year shall remain available for expenditure through the end of the succeeding fiscal year.

''(c) APPLICATION.—An eligible entity that desires to receive a grant under subsection (a) shall submit an application to the Secretary in such form and manner, and containing such information, as the Secretary may decide. Such application shall include—

''(1) evidence demonstrating that the entity includes members who have access to, and credibility with, ethnic or low-income populations in the communities in which activities funded under the grant are to be conducted;

''(2) evidence demonstrating that the entity has the ability to address barriers to enrollment, such as lack of awareness of eligibility, stigma concerns and punitive fears associated with receipt of benefits, and other cultural barriers to applying for and receiving child health assistance or medical assistance;

''(3) specific quality or outcomes performance measures to evaluate the effectiveness of activities funded by a grant awarded under this section; and

''(4) an assurance that the eligible entity shall—

''(A) conduct an assessment of the effectiveness of such activities against the performance measures;

''(B) cooperate with the collection and reporting of enrollment data and other information in order for the Secretary to conduct such assessments.

''(C) in the case of an eligible entity that is not the State, provide the State with enrollment data and other information as necessary for the State to make necessary projections of eligible children and pregnant women.

''(d) SUPPLEMENT, NOT SUPPLANT.—Federal funds awarded under this section shall be used to supplement, not supplant, non-Federal funds that are otherwise available for activities funded under this section.

''(e) DEFINITIONS.—In this section:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means any of the following:

''(A) A State with an approved child health plan under this title.

''(B) A local government.

''(C) An Indian tribe or tribal consortium, a tribal organization, an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.), or an Indian Health Service provider.

''(D) A Federal health safety net organization.

''(E) A State, national, local, or community-based public or nonprofit private organization.

''(F) A faith-based organization or consortia, to the extent that a grant awarded to such an entity is consistent with the requirements of section 1955 of the Public Health Service Act (42 U.S.C. 300x–65) relating to a grant award to non-governmental entities.

''(G) An elementary or secondary school.

''(H) A national, local, or community-based public or nonprofit private organization, including organizations that use community health workers or community-based doula programs.

''(2) FEDERAL HEALTH SAFETY NET ORGANIZATION.—The term 'Federal health safety net organization' means—

''(A) a Federally-qualified health center (as defined in section 1905(l)(2)(B));

''(B) a hospital defined as a disproportionate share hospital for purposes of section 1923;

''(C) a covered entity described in section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)); and

''(D) any other entity or consortium that serves children under a federally-funded program, including the special supplemental nutrition program for women, infants, and children (WIC) established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C.

1786), the head start and early head start programs under the Head Start Act (42 U.S.C. 9801 et seq.), the school lunch program established under the Richard B. Russell National School Lunch Act, and an elementary or secondary school.

''(3) INDIANS; INDIAN TRIBE; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—The terms 'Indian', 'Indian tribe', 'tribal organization', and 'urban Indian organization' have the meanings given such terms in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

''(4) COMMUNITY HEALTH WORKER.—The term 'community health worker' means an individual who promotes health or nutrition within the community in which the individual resides—

''(A) by serving as a liaison between communities and health care agencies;

''(B) by providing guidance and social assistance to community residents;

''(C) by enhancing community residents' ability to effectively communicate with health care providers;

''(D) by providing culturally and linguistically appropriate health or nutrition education;

''(E) by advocating for individual and community health or nutrition needs; and

''(F) by providing referral and followup services.

''(f) APPROPRIATION.—

''(1) IN GENERAL.—There is appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of awarding grants under this section—

''(A) $100,000,000 for each of fiscal years 2008 and 2009;

''(B) $75,000,000 for each of fiscal years 2010 and 2011; and

''(C) $50,000,000 for fiscal year 2012.

''(2) GRANTS IN ADDITION TO OTHER AMOUNTS PAID.—Amounts appropriated and paid under the authority of this section shall be in addition to amounts appropriated under section 2104 and paid to States in accordance with section 2105, including with respect to expenditures for outreach activities in accordance with subsections (a)(1)(D)(iii) and (c)(2)(C) of that section.

''(g) NATIONAL ENROLLMENT CAMPAIGN.—From the amounts made available under subsection (a)(2) for a fiscal year, the Secretary shall develop and implement a national enrollment campaign to improve the enrollment of underserved child populations in the programs established under this title and title XIX. Such campaign may include—

''(1) the establishment of partnerships with the Secretary of Education and the Secretary of Agriculture to develop national campaigns to link the eligibility and enrollment systems for the assistance programs each Secretary administers that often serve the same children;

''(2) the integration of information about the programs established under this title and title XIX in public health awareness campaigns administered by the Secretary;

''(3) increased financial and technical support for enrollment hotlines maintained by the Secretary to ensure that all States participate in such hotlines;

''(4) the establishment of joint public awareness outreach initiatives with the Secretary of Education and the Secretary of Labor regarding the importance of health insurance to building strong communities and the economy;

''(5) the development of special outreach materials for Native Americans or for individuals with limited English proficiency; and

''(6) such other outreach initiatives as the Secretary determines would increase public awareness of the programs under this title and title XIX.''.

(b) NONAPPLICATION OF ADMINISTRATIVE EXPENDITURES CAP.—Section 2105(c)(2) of the Social Security Act (42 U.S.C. 1397ee(c)(2)) is amended by adding at the end the following:

''(C) NONAPPLICATION TO EXPENDITURES FOR OUTREACH AND ENROLLMENT.—The limitation under subparagraph (A) shall not apply with respect to expenditures for outreach activities under section 2102(c)(1), or for enrollment activities, for children eligible for child health assistance under the State child health plan or medical assistance under the State plan under title XIX.''.

SEC. 107. IMPROVED STATE OPTION FOR OFFERING PREMIUM ASSISTANCE FOR COVERAGE THROUGH PRIVATE PLANS.

(a) IN GENERAL.—Section 2105(c) of the Social Security Act (42 U.S.C. 1397ee(c)), as amended by section 103(a) is amended by adding at the end the following:

''(9) ADDITIONAL STATE OPTION FOR OFFERING PREMIUM ASSISTANCE.—

''(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, a State may elect to offer a premium assistance subsidy (as defined in subparagraph (C)) for qualified employer sponsored coverage (as defined in subparagraph (B)) to all targeted low-income children who are eligible for child health assistance under the plan and have access to such coverage in accordance with the requirements of this paragraph.

''(B) QUALIFIED EMPLOYER SPONSORED COVERAGE.—

''(i) IN GENERAL.—In this paragraph, the term 'qualified employer sponsored coverage' means a group health plan or health insurance coverage offered through an employer that is—

''(I) substantially equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2);

''(II) made similarly available to all of the employer's employees and for which the employer makes a contribution to the premium that is not less for employees receiving a premium assistance subsidy under any option available under the State child health plan under this title or the State plan under title XIX to provide such assistance than the employer contribution provided for all other employees; and

''(III) cost-effective, as determined under clause (ii).

''(ii) COST-EFFECTIVENESS.—A group health plan or health insurance coverage offered through an employer shall be considered to be cost-effective if—

''(I) the marginal premium cost to purchase family coverage through the employer is less than the State cost of providing child health assistance through the State child health plan for all the children in the family who are targeted low-income children; or

''(II) the marginal premium cost between individual coverage and purchasing family coverage through the employer is not greater than 175 percent of the cost to the State to provide child health assistance through the State child health plan for a targeted low-income child.

''(iii) HIGH DEDUCTIBLE HEALTH PLANS INCLUDED.—The term 'qualified employer sponsored coverage' includes a high deductible health plan (as defined in section 223(c)(2) of the Internal Revenue Code of 1986) purchased through a health savings account (as defined under section 223(d) of such Code).

''(C) PREMIUM ASSISTANCE SUBSIDY.—

''(i) IN GENERAL.—In this paragraph, the term 'premium assistance subsidy' means, with respect to a targeted low-income child, the amount equal to the difference between the employee contribution required for enrollment only of the employee under qualified employer sponsored coverage and the employee contribution required for enrollment of the employee and the child in such coverage, less any applicable premium cost-sharing applied under the State child health plan, subject to the annual aggregate cost-sharing limit applied under section 2103(e)(3)(B).

''(ii) STATE PAYMENT OPTION.—Subject to clause (iii), a State may provide a premium assistance subsidy directly to an employer or as reimbursement to an employee for out-of-pocket expenditures.

''(iii) REQUIREMENT FOR DIRECT PAYMENT TO EMPLOYEE.—A State shall not pay a premium assistance subsidy directly to the employee, unless the State has established procedures to ensure that the targeted low-income child on whose behalf such payments are made are actually enrolled in the qualified employer sponsored coverage.

''(iv) TREATMENT AS CHILD HEALTH ASSISTANCE.—Expenditures for the provision of premium assistance subsidies shall be considered child health assistance described in paragraph (1)(C) of subsection (a) for purposes of making payments under that subsection.

''(v) STATE OPTION TO REQUIRE ACCEPTANCE OF SUBSIDY.—A State may condition the provision of child health assistance under the State child health plan for a targeted low-income child on the receipt of a premium assistance subsidy for enrollment in qualified employer sponsored coverage if the State determines the provision of such a subsidy to be more cost-effective in accordance with subparagraph (B)(ii).

''(vi) NOT TREATED AS INCOME.—Notwithstanding any other provision of law, a premium assistance subsidy provided in accordance with this paragraph shall not be treated as income to the child or the parent of the child for whom such subsidy is provided.

''(D) NO REQUIREMENT TO PROVIDE SUPPLEMENTAL COVERAGE FOR BENEFITS AND ADDITIONAL COST-SHARING PROTECTION PROVIDED UNDER THE STATE CHILD HEALTH PLAN.—

''(i) IN GENERAL.—A State that elects the option to provide a premium assistance subsidy under this paragraph shall not be required to provide a targeted low-income child enrolled in qualified employer sponsored coverage with supplemental coverage for items or services that are not covered, or are only partially covered, under the qualified employer sponsored coverage or cost-sharing protection other than the protection required under section 2103(e)(3)(B).

''(ii) NOTICE OF COST-SHARING REQUIREMENTS.—A State shall provide a targeted low-income child or the parent of such a child (as appropriate) who is provided with a premium assistance subsidy in accordance with this paragraph with notice of the cost-sharing requirements and limitations imposed under the qualified employer sponsored coverage in which the child is enrolled upon the enrollment of the child in such coverage and annually thereafter.

''(iii) RECORD KEEPING REQUIREMENTS.—A State may require a parent of a targeted low-income child that is enrolled in qualified employer-sponsored coverage to bear the responsibility for keeping track of out-of-pocket expenditures incurred for cost-sharing imposed under such coverage and to notify the State when the limit on such expenditures imposed under section 2103(e)(3)(B) has been reached for a year from the effective date of enrollment for such year.

''(iv) STATE OPTION FOR REIMBURSEMENT.—A State may retroactively reimburse a parent of a targeted low-income child for out-of-pocket expenditures incurred after reaching the 5 percent cost-sharing limitation imposed under section 2103(e)(3)(B) for a year.

''(E) 6-MONTH WAITING PERIOD REQUIRED.—A State shall impose at least a 6-month waiting period from the time an individual is enrolled in private health insurance prior to the provision of a premium assistance subsidy for a targeted low-income child in accordance with this paragraph.

''(F) NON APPLICATION OF WAITING PERIOD FOR ENROLLMENT IN THE STATE MEDICAID PLAN OR THE STATE CHILD HEALTH PLAN.—A targeted low-income child provided a premium assistance subsidy in accordance with this paragraph who loses eligibility for such subsidy shall not be treated as having been enrolled in private health insurance coverage for purposes of applying any waiting period imposed under the State child health plan or the State plan under title XIX for the enrollment of the child under such plan.

''(G) ASSURANCE OF SPECIAL ENROLLMENT PERIOD UNDER GROUP HEALTH PLANS IN CASE OF ELIGIBILITY FOR PREMIUM SUBSIDY ASSISTANCE.—No payment shall be made under subsection (a) for amounts expended for the provision of premium assistance subsidies under this paragraph unless a State provides assurances to the Secretary that the State has in effect laws requiring a group health plan, a health insurance issuer offering group health insurance coverage in connection with a group health plan, and a self-funded health plan, to permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a child of such an employee if the child is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if the employee's child becomes eligible for a premium assistance subsidy under this paragraph.

''(H) NO EFFECT ON PREVIOUSLY APPROVED PREMIUM ASSISTANCE PROGRAMS.—Nothing in this paragraph shall be construed as limiting the authority of a State to offer premium assistance under section 1906, a waiver described in paragraph (2)(B) or (3), a waiver approved under section 1115, or other authority in effect on June 28, 2007.

''(I) NOTICE OF AVAILABILITY.—A State shall—

''(i) include on any application or enrollment form for child health assistance a notice of the availability of premium assistance subsidies for the enrollment of targeted low-income children in qualified employer sponsored coverage;

''(ii) provide, as part of the application and enrollment process under the State child health plan, information describing the availability of such subsidies and how to elect to obtain such a subsidy; and

''(iii) establish such other procedures as the State determines necessary to ensure that parents are informed of the availability of such subsidies under the State child health plan.''.

(b) APPLICATION TO MEDICAID.—Section 1906 of the Social Security Act (42 U.S.C. 1396e) is amended by inserting after subsection (c) the following:

''(d) The provisions of section 2105(c)(9) shall apply to a child who is eligible for medical assistance under the State plan in the same manner as such provisions apply to a targeted low-income child under a State child health plan under title XXI. Section 1902(a)(34) shall not apply to a child who is provided a premium assistance subsidy under the State plan in accordance with the preceding sentence.''.

SEC. 108. TREATMENT OF UNBORN CHILDREN.

(a) CODIFICATION OF CURRENT REGULATIONS.—Section 2110(c)(1) of the Social Security Act (42 U.S.C. 1397jj(c)(1)) is amended by striking the period at the end and inserting the following: '', and includes, at the option of a State, an unborn child. For purposes of the previous sentence, the term 'unborn child' means a member of the species Homo sapiens, at any stage of development, who is carried in the womb.''.

(b) CLARIFICATIONS REGARDING COVERAGE OF MOTHERS.—Section 2103 of such Act (42 U.S.C. 1397cc) is amended by adding at the end the following new subsection:

''(g) CLARIFICATIONS REGARDING AUTHORITY TO PROVIDE POSTPARTUM SERVICES AND MATERNAL HEALTH CARE.—Any State that provides child health assistance to an unborn child under the option described in section 2110(c)(1) may—

''(1) continue to provide such assistance to the mother, as well as postpartum services, through the end of the month in which the 60-day period (beginning on the last day of pregnancy) ends; and

''(2) in the interest of the child to be born, have flexibility in defining and providing services to benefit either the mother or unborn child consistent with the health of both.''.

SEC. 109. 50 PERCENT MATCHING RATE FOR ALL MEDICAID ADMINISTRATIVE COSTS.

Section 1903(a) of the Social Security Act (42 U.S.C. 1396b(a)) is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraph (3)(E) as paragraph (2) and re-locating and indenting it appropriately;

(3) in paragraph (2), as so redesignated, by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), and indenting them appropriately;

(4) by striking paragraphs (3) and (4);

(5) in paragraph (5), by striking ''which are attributable to the offering, arranging, and furnishing'' and inserting ''which are for the medical assistance costs of furnishing'';

(6) by striking paragraph (6);

(7) in paragraph (7), by striking ''subject to section 1919(g)(3)(B),''; and

(8) by redesignating paragraphs (5) and (7) as paragraphs (3) and (4), respectively.

SEC. 110. REDUCTION IN PAYMENTS FOR MEDICAID ADMINISTRATIVE COSTS TO PREVENT DUPLICATION OF SUCH PAYMENTS UNDER TANF.

Section 1903 of such Act (42 U.S.C. 1396b) is amended—

(1) in subsection (a)(7), by striking ''section 1919(g)(3)(B)'' and inserting ''subsection (h)'';

(2) in subsection (a)(2)(D) by inserting '', subject to subsection (g)(3)(C) of such section'' after ''as are attributable to State activities under section 1919(g)''; and

(3) by adding after subsection (g) the following new subsection:

''(h) REDUCTION IN PAYMENTS FOR ADMINISTRATIVE COSTS TO PREVENT DUPLICATION OF PAYMENTS UNDER TITLE IV.—Beginning with the calendar quarter commencing October 1, 2007, the Secretary shall reduce the amount paid to each State under subsection (a)(7) for each quarter by an amount equal to ¼ of the annualized amount determined for the Medicaid program under section 16(k)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2025(k)(2)(B)).''.

SEC. 111. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b), the amendments made by this title take effect on October 1, 2007.

(b) DELAY IF STATE LEGISLATION REQUIRED.—In the case of a State child health plan under title XXI of the Social Security Act or a waiver of such plan under section 1115 of such Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan or waiver to meet the additional requirements imposed by the amendments made by this title, the State child health plan or waiver shall not be regarded as failing to comply with the requirements of such title XXI solely on the basis of its failure to meet such additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this title. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

TITLE II—HEALTH INSURANCE MARKETPLACE MODERNIZATION AND AFFORDABILITY

SEC. 200. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This title may be cited as the ''Health Insurance Marketplace Modernization and Affordability Act of 2007''.

(b) PURPOSES.—It is the purpose of this title to—

(1) make more affordable health insurance options available to small businesses, working families, and all Americans;

(2) assure effective State regulatory protection of the interests of health insurance consumers; and

(3) create a more efficient and affordable health insurance marketplace through collaborative development of uniform regulatory standards.

Subtitle A—Small Business Health Plans

SEC. 201. RULES GOVERNING SMALL BUSINESS HEALTH PLANS.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

''PART 8—RULES GOVERNING SMALL BUSINESS HEALTH PLANS

''SEC. 801. SMALL BUSINESS HEALTH PLANS.

''(a) IN GENERAL.—For purposes of this part, the term 'small business health plan' means a fully insured group health plan whose sponsor is (or is deemed under this part to be) described in subsection (b).

''(b) SPONSORSHIP.—The sponsor of a group health plan is described in this subsection if such sponsor—

''(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a bona fide trade association, a bona fide industry association (including a rural electric cooperative association or a rural telephone cooperative association), a bona fide professional association, or a bona fide chamber of commerce (or similar bona fide business association, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining medical care;

''(2) is established as a permanent entity which receives the active support of its members and requires for membership payment on a periodic basis of dues or payments necessary to maintain eligibility for membership;

''(3) does not condition membership, such dues or payments, or coverage under the plan on the basis of health status-related factors with respect to the employees of its members (or affiliated members), or the dependents of such employees, and does not condition such dues or payments on the basis of group health plan participation; and

''(4) does not condition membership on the basis of a minimum group size.

Any sponsor consisting of an association of entities which meet the requirements of paragraphs (1), (2), (3), and (4) shall be deemed to be a sponsor described in this subsection.

"SEC. 802. CERTIFICATION OF SMALL BUSINESS HEALTH PLANS.

''(a) IN GENERAL.—Not later than 6 months after the date of enactment of this part, the applicable authority shall prescribe by interim final rule a procedure under which the applicable authority shall certify small business health plans which apply for certification as meeting the requirements of this part.

''(b) REQUIREMENTS APPLICABLE TO CERTIFIED PLANS.—A small business health plan with respect to which certification under this part is in effect shall meet the applicable requirements of this part, effective on the date of certification (or, if later, on the date on which the plan is to commence operations).

''(c) REQUIREMENTS FOR CONTINUED CERTIFICATION.—The applicable authority may provide by regulation for continued certification of small business health plans under this part. Such regulation shall provide for the revocation of a certification if the applicable authority finds that the small business health plan involved is failing to comply with the requirements of this part.

''(d) EXPEDITED AND DEEMED CERTIFICATION.—

''(1) IN GENERAL.—If the Secretary fails to act on an application for certification under this section within 90 days of receipt of such application, the applying small business health plan shall be deemed certified until such time as the Secretary may deny for cause the application for certification.

''(2) CIVIL PENALTY.—The Secretary may assess a civil penalty against the board of trustees and plan sponsor (jointly and severally) of a small business health plan that is deemed certified under paragraph (1) of up to $500,000 in the event the Secretary determines that the application for certification of such small business health plan was willfully or with gross negligence incomplete or inaccurate.

"SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

''(a) SPONSOR.—The requirements of this subsection are met with respect to a small business health plan if the sponsor has met (or is deemed under this part to have met) the requirements of section 801(b) for a continuous period of not less than 3 years ending with the date of the application for certification under this part.

''(b) BOARD OF TRUSTEES.—The requirements of this subsection are met with respect to a small business health plan if the following requirements are met:

''(1) FISCAL CONTROL.—The plan is operated, pursuant to a plan document, by a board of trustees which pursuant to a trust agreement has complete fiscal control over the plan and which is responsible for all operations of the plan.

''(2) RULES OF OPERATION AND FINANCIAL CONTROLS.—The board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the plan and to meet all requirements of this title applicable to the plan.

''(3) RULES GOVERNING RELATIONSHIP TO PARTICIPATING EMPLOYERS AND TO CONTRACTORS.—

''(A) BOARD MEMBERSHIP.—

''(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business.

''(ii) LIMITATION.—

''(I) GENERAL RULE.—Except as provided in subclauses (II) and (III), no such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the plan.

''(II) LIMITED EXCEPTION FOR PROVIDERS OF SERVICES SOLELY ON BEHALF OF THE SPONSOR.—Officers or employees of a sponsor which is a service provider (other than a contract administrator) to the plan may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the plan other than on behalf of the sponsor.

''(III) TREATMENT OF PROVIDERS OF MEDICAL CARE.—In the case of a sponsor which is an association whose membership consists primarily of providers of medical care, subclause (I) shall not apply in the case of any service provider described in subclause (I) who is a provider of medical care under the plan.

''(iii) CERTAIN PLANS EXCLUDED.—Clause (i) shall not apply to a small business health plan which is in existence on the date of the enactment of the Health Insurance Marketplace Modernization and Affordability Act of 2007.

''(B) SOLE AUTHORITY.—The board has sole authority under the plan to approve applications for participation in the plan and to contract with insurers.

''(c) TREATMENT OF FRANCHISE NETWORKS.—In the case of a group health plan which is established and maintained by a franchiser for a franchise network consisting of its franchisees—

''(1) the requirements of subsection (a) and section 801(a) shall be deemed met if such requirements would otherwise be met if the franchiser were deemed to be the sponsor referred to in section 801(b), such network were deemed to be an association described in section 801(b), and each franchisee were deemed to be a member (of the association and the sponsor) referred to in section 801(b); and

''(2) the requirements of section 804(a)(1) shall be deemed met.

The Secretary may by regulation define for purposes of this subsection the terms 'franchiser', 'franchise network', and 'franchisee'.

"SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

''(a) COVERED EMPLOYERS AND INDIVIDUALS.—The requirements of this subsection are met with respect to a small business health plan if, under the terms of the plan—

''(1) each participating employer must be—

''(A) a member of the sponsor;

''(B) the sponsor; or

''(C) an affiliated member of the sponsor, except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or such an affiliated member of the sponsor, participating employers may also include such employer; and

''(2) all individuals commencing coverage under the plan after certification under this part must be—

''(A) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers; or

''(B) the dependents of individuals described in subparagraph (A).

''(b) INDIVIDUAL MARKET UNAFFECTED.—The requirements of this subsection are met with respect to a small business health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee not covered under the plan which is similar to the coverage contemporaneously provided to employees of the employer under the plan, if such exclusion of the employee from coverage under the plan is based on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

''(c) PROHIBITION OF DISCRIMINATION AGAINST EMPLOYERS AND EMPLOYEES ELIGIBLE TO PARTICIPATE.—The requirements of this subsection are met with respect to a small business health plan if—

''(1) under the terms of the plan, all employers meeting the preceding requirements of this section are eligible to qualify as participating employers for all geographically available coverage options, unless, in the case of any such employer, participation or contribution requirements of the type referred to in section 2711 of the Public Health Service Act are not met;

''(2) information regarding all coverage options available under the plan is made readily available to any employer eligible to participate; and

''(3) the applicable requirements of sections 701, 702, and 703 are met with respect to the plan.

"SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

''(a) IN GENERAL.—The requirements of this section are met with respect to a small business health plan if the following requirements are met:

''(1) CONTENTS OF GOVERNING INSTRUMENTS.—

''(A) IN GENERAL.—The instruments governing the plan include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

''(i) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A)); and

''(ii) provides that the sponsor of the plan is to serve as plan sponsor (referred to in section 3(16)(B)).

''(B) DESCRIPTION OF MATERIAL PROVISIONS.—The terms of the health insurance coverage (including the terms of any individual certificates that may be offered to individuals in connection with such coverage) describe the material benefit and rating, and other provisions set forth in this section and such material provisions are included in the summary plan description.

''(2) CONTRIBUTION RATES MUST BE NONDISCRIMINATORY.—

''(A) IN GENERAL.—The contribution rates for any participating small employer shall not vary on the basis of any health status-related factor in relation to employees of such employer or their beneficiaries and shall not vary on the basis of the type of business or industry in which such employer is engaged.

''(B) EFFECT OF TITLE.—Nothing in this title or any other provision of law shall be construed to preclude a health insurance issuer offering health insurance coverage in connection with a small business health plan, and at the request of such small business health plan, from—

''(i) setting contribution rates for the small business health plan based on the claims experience of the plan so long as any variation in such rates complies with the requirements of clause (ii), except that small business health plans shall not be subject to paragraphs (1)(A) and (3) of section 2911(b) of the Public Health Service Act; or

''(ii) varying contribution rates for participating employers in a small business health plan in a State to the extent that such rates could vary using the same methodology employed in such State for regulating small group premium rates, subject to the terms of

part I of subtitle A of title XXIX of the Public Health Service Act (relating to rating requirements), as added by subtitle B of the Health Insurance Marketplace Modernization and Affordability Act of 2007.

''(3) EXCEPTIONS REGARDING SELF-EMPLOYED AND LARGE EMPLOYERS.—

''(A) SELF EMPLOYED.—

''(i) IN GENERAL.—Small business health plans with participating employers who are self-employed individuals (and their dependents) shall enroll such self-employed participating employers in accordance with rating rules that do not violate the rating rules for self-employed individuals in the State in which such self-employed participating employers are located.

''(ii) GUARANTEE ISSUE.—Small business health plans with participating employers who are self-employed individuals (and their dependents) may decline to guarantee issue to such participating employers in States in which guarantee issue is not otherwise required for the self-employed in that State.

''(B) LARGE EMPLOYERS.—Small business health plans with participating employers that are larger than small employers (as defined in section 808(a)(10)) shall enroll such large participating employers in accordance with rating rules that do not violate the rating rules for large employers in the State in which such large participating employers are located.

''(4) REGULATORY REQUIREMENTS.—Such other requirements as the applicable authority determines are necessary to carry out the purposes of this part, which shall be prescribed by the applicable authority by regulation.

''(b) ABILITY OF SMALL BUSINESS HEALTH PLANS TO DESIGN BENEFIT OPTIONS.—Nothing in this part or any provision of State law (as defined in section 514(c)(1)) shall be construed to preclude a small business health plan or a health insurance issuer offering health insurance coverage in connection with a small business health plan from exercising its sole discretion in selecting the specific benefits and services consisting of medical care to be included as benefits under such plan or coverage, except that such benefits and services must meet the terms and specifications of part II of subtitle A of title XXIX of the Public Health Service Act (relating to lower cost plans), as added by subtitle B of the Health Insurance Marketplace Modernization and Affordability Act of 2007.

''(c) DOMICILE AND NON-DOMICILE STATES.—

''(1) DOMICILE STATE.—Coverage shall be issued to a small business health plan in the State in which the sponsor's principal place of business is located.

''(2) NON-DOMICILE STATES.—With respect to a State (other than the domicile State) in which participating employers of a small business health plan are located but in which the insurer of the small business health plan in the domicile State is not yet licensed, the following shall apply:

''(A) TEMPORARY PREEMPTION.—If, upon the expiration of the 90-day period following the submission of a licensure application by such insurer (that includes a certified copy of an approved licensure application as submitted by such insurer in the domicile State) to such State, such State has not approved or denied such application, such State's health insurance licensure laws shall be temporarily preempted and the insurer shall be permitted to operate in such State, subject to the following terms:

''(i) APPLICATION OF NON-DOMICILE STATE LAW.—Except with respect to licensure and with respect to the terms of subtitle A of title XXIX of the Public Health Service Act (relating to rating and benefits as added by the Health Insurance Marketplace Modernization and Affordability Act of 2007), the laws and authority of the non-domicile State shall remain in full force and effect.

''(ii) REVOCATION OF PREEMPTION.—The preemption of a non-domicile State's health insurance licensure laws pursuant to this subparagraph, shall be terminated upon the occurrence of either of the following:

''(I) APPROVAL OR DENIAL OF APPLICATION.—The approval of denial of an insurer's licensure application, following the laws and regulations of the non-domicile State with respect to licensure.

''(II) DETERMINATION OF MATERIAL VIOLATION.—A determination by a non-domicile State that an insurer operating in a non-domicile State pursuant to the preemption provided for in this subparagraph is in material violation of the insurance laws (other than licensure and with respect to the terms of subtitle A of title XXIX of the Public Health Service Act (relating to rating and benefits added by the Health Insurance Marketplace Modernization and Affordability Act of 2007)) of such State.

''(B) NO PROHIBITION ON PROMOTION.—Nothing in this paragraph shall be construed to prohibit a small business health plan or an insurer from promoting coverage prior to the expiration of the 90-day period provided for in subparagraph (A), except that no enrollment or collection of contributions shall occur before the expiration of such 90-day period.

''(C) LICENSURE.—Except with respect to the application of the temporary preemption provision of this paragraph, nothing in this part shall be construed to limit the requirement that insurers issuing coverage to small business health plans shall be licensed in each State in which the small business health plans operate.

''(D) SERVICING BY LICENSED INSURERS.—Notwithstanding subparagraph (C), the requirements of this subsection may also be satisfied if the participating employers of a small business health plan are serviced by a licensed insurer in that State, even where such insurer is not the insurer of such small business health plan in the State in which such small business health plan is domiciled.

''SEC. 806. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

''(a) FILING FEE.—Under the procedure prescribed pursuant to section 802(a), a small business health plan shall pay to the applicable authority at the time of filing an application for certification under this part a filing fee in the amount of $5,000, which shall be available in the case of the Secretary, to the extent provided in appropriation Acts, for the sole purpose of administering the certification procedures applicable with respect to small business health plans.

''(b) INFORMATION TO BE INCLUDED IN APPLICATION FOR CERTIFICATION.—An application for certification under this part meets the requirements of this section only if it includes, in a manner and form which shall be prescribed by the applicable authority by regulation, at least the following information:

''(1) IDENTIFYING INFORMATION.—The names and addresses of—

''(A) the sponsor; and

''(B) the members of the board of trustees of the plan.

''(2) STATES IN WHICH PLAN INTENDS TO DO BUSINESS.—The States in which participants and beneficiaries under the plan are to be located and the number of them expected to be located in each such State.

''(3) BONDING REQUIREMENTS.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

''(4) PLAN DOCUMENTS.—A copy of the documents governing the plan (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits that will be provided to participants and beneficiaries under the plan.

''(5) AGREEMENTS WITH SERVICE PROVIDERS.—A copy of any agreements between the plan, health insurance issuer, and contract administrators and other service providers.

''(c) FILING NOTICE OF CERTIFICATION WITH STATES.—A certification granted under this part to a small business health plan shall not be effective unless written notice of such certification is filed with the applicable State authority of each State in which the small business health plans operate.

''(d) NOTICE OF MATERIAL CHANGES.—In the case of any small business health plan certified under this part, descriptions of material changes in any information which was required to be submitted with the application for the certification under this part shall be filed in such form and manner as shall be prescribed by the applicable authority by regulation. The applicable authority may require by regulation prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certification.

''SEC. 807. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

''A small business health plan which is or has been certified under this part may terminate (upon or at any time after cessation of accruals in benefit liabilities) only if the board of trustees, not less than 60 days before the proposed termination date—

''(1) provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date;

''(2) develops a plan for winding up the affairs of the plan in connection with such termination in a manner which will result in timely payment of all benefits for which the plan is obligated; and

''(3) submits such plan in writing to the applicable authority.

Actions required under this section shall be taken in such form and manner as may be prescribed by the applicable authority by regulation.

''SEC. 808. DEFINITIONS AND RULES OF CONSTRUCTION.

''(a) DEFINITIONS.—For purposes of this part—

''(1) AFFILIATED MEMBER.—The term 'affiliated member' means, in connection with a sponsor—

''(A) a person who is otherwise eligible to be a member of the sponsor but who elects an affiliated status with the sponsor, or

''(B) in the case of a sponsor with members which consist of associations, a person who is a member or employee of any such association and elects an affiliated status with the sponsor.

''(2) APPLICABLE AUTHORITY.—The term 'applicable authority' means the Secretary of Labor, except that, in connection with any exercise of the Secretary's authority with respect to which the Secretary is required under section 506(d) to consult with a State, such term means the Secretary, in consultation with such State.

''(3) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

''(4) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning provided in section 733(a)(1) (after applying subsection (b) of this section).

''(5) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning provided in section 733(b)(1), except that such term shall not include excepted benefits (as defined in section 733(c)).

''(6) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning provided in section 733(b)(2).

''(7) INDIVIDUAL MARKET.—

''(A) IN GENERAL.—The term 'individual market' means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

''(B) TREATMENT OF VERY SMALL GROUPS.—

''(i) IN GENERAL.—Subject to clause (ii), such term includes coverage offered in connection with a group health plan that has fewer than 2 participants as current employees or participants described in section 732(d)(3) on the first day of the plan year.

''(ii) STATE EXCEPTION.—Clause (i) shall not apply in the case of health insurance coverage offered in a State if such State regulates the coverage described in such clause in the same manner and to the same extent as coverage in the small group market (as defined in section 2791(e)(5) of the Public Health Service Act) is regulated by such State.

''(8) MEDICAL CARE.—The term 'medical care' has the meaning provided in section 733(a)(2).

''(9) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with a small business health plan, any employer, if any individual who is an employee of such employer, a partner in such employer, or a self-employed individual who is such employer (or any dependent, as defined under the terms of the plan, of such individual) is or was covered under such plan in connection with the status of such individual as such an employee, partner, or self-employed individual in relation to the plan.

''(10) SMALL EMPLOYER.—The term 'small employer' means, in connection with a group health plan with respect to a plan year, a small employer as defined in section 2791(e)(4).

''(11) TRADE ASSOCIATION AND PROFESSIONAL ASSOCIATION.—The terms 'trade association' and 'professional association' mean an entity that meets the requirements of section 1.501(c)(6)-1 of title 26, Code of Federal Regulations (as in effect on the date of enactment of this section).

''(b) RULE OF CONSTRUCTION.—For purposes of determining whether a plan, fund, or program is an employee welfare benefit plan which is a small business health plan, and for purposes of applying this title in connection with such plan, fund, or program so determined to be such an employee welfare benefit plan—

''(1) in the case of a partnership, the term 'employer' (as defined in section 3(5)) includes the partnership in relation to the partners, and the term 'employee' (as defined in section 3(6)) includes any partner in relation to the partnership; and

''(2) in the case of a self-employed individual, the term 'employer' (as defined in section 3(5)) and the term 'employee' (as defined in section 3(6)) shall include such individual.

''(c) RENEWAL.—Notwithstanding any provision of law to the contrary, a participating employer in a small business health plan shall not be deemed to be a plan sponsor in applying requirements relating to coverage renewal.

''(d) HEALTH SAVINGS ACCOUNTS.—Nothing in this part shall be construed to inhibit the development of health savings accounts pursuant to section 223 of the Internal Revenue Code of 1986.''.

(b) CONFORMING AMENDMENTS TO PREEMPTION RULES.—

(1) Section 514(b)(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

''(E) The preceding subparagraphs of this paragraph do not apply with respect to any State law in the case of a small business health plan which is certified under part 8.''.

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (b)(4), by striking ''Subsection (a)'' and inserting ''Subsections (a) and (d)'';

(B) in subsection (b)(5), by striking ''subsection (a)'' in subparagraph (A) and inserting ''subsection (a) of this section and subsections (a)(2)(B) and (b) of section 805'', and by striking ''subsection (a)'' in subparagraph (B) and inserting ''subsection (a) of this section or subsection (a)(2)(B) or (b) of section 805'';

(C) by redesignating subsection (d) as subsection (e); and

(D) by inserting after subsection (c) the following new subsection:

''(d)(1) Except as provided in subsection (b)(4), the provisions of this title shall supersede any and all State laws insofar as they may now or hereafter preclude a health insurance issuer from offering health insurance coverage in connection with a small business health plan which is certified under part 8.

''(2) In any case in which health insurance coverage of any policy type is offered under a small business health plan certified under part 8 to a participating employer operating in such State, the provisions of this title shall supersede any and all laws of such State insofar as they may establish rating and benefit requirements that would otherwise apply to such coverage, provided the requirements of subtitle A of title XXIX of the Public Health Service Act (as added by title II of the Health Insurance Marketplace Modernization and Affordability Act of 2007) (concerning health plan rating and benefits) are met.''.

(c) PLAN SPONSOR.—Section 3(16)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 102(16)(B)) is amended by adding at the end the following new sentence: ''Such term also includes a person serving as the sponsor of a small business health plan under part 8.''.

(d) SAVINGS CLAUSE.—Section 731(c) of the Employee Retirement Income Security Act of 1974 is amended by inserting ''or part 8'' after ''this part''.

(e) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

''PART 8—RULES GOVERNING SMALL BUSINESS HEALTH PLANS

''801. Small business health plans.
''802. Certification of small business health plans.
''803. Requirements relating to sponsors and boards of trustees.
''804. Participation and coverage requirements.
''805. Other requirements relating to plan documents, contribution rates, and benefit options.
''806. Requirements for application and related requirements.
''807. Notice requirements for voluntary termination.
''808. Definitions and rules of construction.''.

SEC. 202. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

''(d) CONSULTATION WITH STATES WITH RESPECT TO SMALL BUSINESS HEALTH PLANS.—

''(1) AGREEMENTS WITH STATES.—The Secretary shall consult with the State recognized under paragraph (2) with respect to a small business health plan regarding the exercise of—

''(A) the Secretary's authority under sections 502 and 504 to enforce the requirements for certification under part 8; and

''(B) the Secretary's authority to certify small business health plans under part 8 in accordance with regulations of the Secretary applicable to certification under part 8.

''(2) RECOGNITION OF DOMICILE STATE.—In carrying out paragraph (1), the Secretary shall ensure that only one State will be recognized, with respect to any particular small business health plan, as the State with which consultation is required. In carrying out this paragraph such State shall be the domicile State, as defined in section 805(c).''.

SEC. 203. EFFECTIVE DATE AND TRANSITIONAL AND OTHER RULES.

(a) EFFECTIVE DATE.—The amendments made by this subtitle shall take effect 12 months after the date of the enactment of this Act. The Secretary of Labor shall first issue all regulations necessary to carry out the amendments made by this subtitle within 6 months after the date of the enactment of this Act.

(b) TREATMENT OF CERTAIN EXISTING HEALTH BENEFITS PROGRAMS.—

(1) IN GENERAL.—In any case in which, as of the date of the enactment of this Act, an arrangement is maintained in a State for the purpose of providing benefits consisting of medical care for the employees and beneficiaries of its participating employers, at least 200 participating employers make contributions to such arrangement, such arrangement has been in existence for at least 10 years, and such arrangement is licensed under the laws of one or more States to provide such benefits to its participating employers, upon the filing with the applicable authority (as defined in section 808(a)(2) of the Employee Retirement Income Security Act of 1974 (as amended by this subtitle)) by the arrangement of an application for certification of the arrangement under part 8 of subtitle B of title I of such Act—

(A) such arrangement shall be deemed to be a group health plan for purposes of title I of such Act;

(B) the requirements of sections 801(a) and 803(a) of the Employee Retirement Income Security Act of 1974 shall be deemed met with respect to such arrangement;

(C) the requirements of section 803(b) of such Act shall be deemed met, if the arrangement is operated by a board of trustees which—

(i) is elected by the participating employers, with each employer having one vote; and

(ii) has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement;

(D) the requirements of section 804(a) of such Act shall be deemed met with respect to such arrangement; and

(E) the arrangement may be certified by any applicable authority with respect to its operations in any State only if it operates in such State on the date of certification.

The provisions of this subsection shall cease to apply with respect to any such arrangement at such time after the date of the enactment of this Act as the applicable requirements of this subsection are not met with respect to such arrangement or at such time that the arrangement provides coverage to participants and beneficiaries in any State other than the States in which coverage is provided on such date of enactment.

(2) DEFINITIONS.—For purposes of this subsection, the terms ''group health plan'',

''medical care'', and ''participating employer'' shall have the meanings provided in section 808 of the Employee Retirement Income Security Act of 1974, except that the reference in paragraph (7) of such section to an ''small business health plan'' shall be deemed a reference to an arrangement referred to in this subsection.

Subtitle B—Market Relief

SEC. 211. MARKET RELIEF.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

''TITLE XXX—HEALTH CARE INSURANCE MARKETPLACE MODERNIZATION

''SEC. 3001. GENERAL INSURANCE DEFINITIONS.

''In this title, the terms 'health insurance coverage', 'health insurance issuer', 'group health plan', and 'individual health insurance' shall have the meanings given such terms in section 2791.

''Subtitle A—Market Relief

''PART I—RATING REQUIREMENTS

''SEC. 3011. DEFINITIONS.

''(a) GENERAL DEFINITIONS.—In this part:

''(1) ADOPTING STATE.—The term 'adopting State' means a State that, with respect to the small group market, has enacted either the Model Small Group Rating Rules or, if applicable to such State, the Transitional Model Small Group Rating Rules, each in their entirety and as the exclusive laws of the State that relate to rating in the small group insurance market.

''(2) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the insurance laws of such State.

''(3) BASE PREMIUM RATE.—The term 'base premium rate' means, for each class of business with respect to a rating period, the lowest premium rate charged or that could have been charged under a rating system for that class of business by the small employer carrier to small employers with similar case characteristics for health benefit plans with the same or similar coverage.

''(4) ELIGIBLE INSURER.—The term 'eligible insurer' means a health insurance issuer that is licensed in a State and that—

''(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the Model Small Group Rating Rules or, as applicable, transitional small group rating rules in a State;

''(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer small group health insurance coverage in that State consistent with the Model Small Group Rating Rules, and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency); and

''(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such group health coverage) and filed with the State pursuant to subparagraph (B), a description in the insurer's contract of the Model Small Group Rating Rules and an affirmation that such Rules are included in the terms of such contract.

''(5) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means any coverage issued in the small group health insurance market, except that such term shall not include excepted benefits (as defined in section 2791(c)).

''(6) INDEX RATE.—The term 'index rate' means for each class of business with respect to the rating period for small employers with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

''(7) MODEL SMALL GROUP RATING RULES.—The term ' Model Small Group Rating Rules' means the rules set forth in subsection (b).

''(8) NONADOPTING STATE.—The term 'nonadopting State' means a State that is not an adopting State.

''(9) SMALL GROUP INSURANCE MARKET.—The term 'small group insurance market' shall have the meaning given the term 'small group market' in section 2791(e)(5).

''(10) STATE LAW.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

''(b) DEFINITION RELATING TO MODEL SMALL GROUP RATING RULES.—The term 'Model Small Group Rating Rules' means adapted rating rules drawn from the Adopted Small Employer Health Insurance Availability Model Act of 1993 of the National Association of Insurance Commissioners consisting of the following:

''(1) PREMIUM RATES.—Premium rates for health benefit plans to which this title applies shall be subject to the following provisions relating to premiums:

''(A) INDEX RATE.—The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business by more than 20 percent.

''(B) CLASS OF BUSINESSES.—With respect to a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage or the rates that could be charged to such employers under the rating system for that class of business, shall not vary from the index rate by more than 25 percent of the index rate under subparagraph (A).

''(C) INCREASES FOR NEW RATING PERIODS.—The percentage increase in the premium rate charged to a small employer for a new rating period may not exceed the sum of the following:

''(i) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the small employer carrier is no longer enrolling new small employers, the small employer carrier shall use the percentage change in the base premium rate, except that such change shall not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers.

''(ii) Any adjustment, not to exceed 15 percent annually and adjusted pro rata for rating periods of less then 1 year, due to the claim experience, health status or duration of coverage of the employees or dependents of the small employer as determined from the small employer carrier's rate manual for the class of business involved.

''(iii) Any adjustment due to change in coverage or change in the case characteristics of the small employer as determined from the small employer carrier's rate manual for the class of business.

''(D) UNIFORM APPLICATION OF ADJUSTMENTS.—Adjustments in premium rates for claim experience, health status, or duration of coverage shall not be charged to individual employees or dependents. Any such adjustment shall be applied uniformly to the rates charged for all employees and dependents of the small employer.

''(E) USE OF INDUSTRY AS A CASE CHARACTERISTIC.—A small employer carrier may utilize industry as a case characteristic in establishing premium rates, so long as the highest rate factor associated with any industry classification does not exceed the lowest rate factor associated with any industry classification by more than 15 percent.

''(F) CONSISTENT APPLICATION OF FACTORS.—Small employer carriers shall apply rating factors, including case characteristics, consistently with respect to all small employers in a class of business. Rating factors shall produce premiums for identical groups which differ only by the amounts attributable to plan design and do not reflect differences due to the nature of the groups assumed to select particular health benefit plans.

''(G) TREATMENT OF PLANS AS HAVING SAME RATING PERIOD.—A small employer carrier shall treat all health benefit plans issued or renewed in the same calendar month as having the same rating period.

''(H) RESTRICTED NETWORK PROVISIONS.—For purposes of this subsection, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain a similar provision if the restriction of benefits to network providers results in substantial differences in claims costs.

''(I) PROHIBITION ON USE OF CERTAIN CASE CHARACTERISTICS.—The small employer carrier shall not use case characteristics other than age, gender, industry, geographic area, family composition, group size, and participation in wellness programs without prior approval of the applicable State authority.

''(J) REQUIRE COMPLIANCE.—Premium rates for small business health benefit plans shall comply with the requirements of this subsection notwithstanding any assessments paid or payable by a small employer carrier as required by a State's small employer carrier reinsurance program.

''(2) ESTABLISHMENT OF SEPARATE CLASS OF BUSINESS.—Subject to paragraph (3), a small employer carrier may establish a separate class of business only to reflect substantial differences in expected claims experience or administrative costs related to the following:

''(A) The small employer carrier uses more than one type of system for the marketing and sale of health benefit plans to small employers.

''(B) The small employer carrier has acquired a class of business from another small employer carrier.

''(C) The small employer carrier provides coverage to one or more association groups that meet the requirements of this title.

''(3) LIMITATION.—A small employer carrier may establish up to 9 separate classes of business under paragraph (2), excluding those classes of business related to association groups under this title.

''(4) ADDITIONAL GROUPINGS.—The applicable State authority may approve the establishment of additional distinct groupings by small employer carriers upon the submission of an application to the applicable State authority and a finding by the applicable State authority that such action would enhance the efficiency and fairness of the small employer insurance marketplace.

''(5) LIMITATION ON TRANSFERS.—A small employer carrier shall not transfer a small employer involuntarily into or out of a class of business. A small employer carrier shall not offer to transfer a small employer into or out of a class of business unless such offer is made to transfer all small employers in the

class of business without regard to case characteristics, claim experience, health status or duration of coverage since issue.

''(6) SUSPENSION OF THE RULES.—The applicable State authority may suspend, for a specified period, the application of paragraph (1) to the premium rates applicable to one or more small employers included within a class of business of a small employer carrier for one or more rating periods upon a filing by the small employer carrier and a finding by the applicable State authority either that the suspension is reasonable when considering the financial condition of the small employer carrier or that the suspension would enhance the efficiency and fairness of the marketplace for small employer health insurance.

''SEC. 3012. RATING RULES.

''(a) IMPLEMENTATION OF MODEL SMALL GROUP RATING RULES.—Not later than 6 months after the enactment of this title, the Secretary shall promulgate regulations implementing the Model Small Group Rating Rules pursuant to section 3011(b).

''(b) TRANSITIONAL MODEL SMALL GROUP RATING RULES.—

''(1) IN GENERAL.—Not later than 6 months after the date of enactment of this title and to the extent necessary to provide for a graduated transition to the Model Small Group Rating Rules, the Secretary, in consultation with the NAIC, shall promulgate Transitional Model Small Group Rating Rules in accordance with this subsection, which shall be applicable with respect to certain nonadopting States for a period of not to exceed 5 years from the date of the promulgation of the Model Small Group Rating Rules pursuant to subsection (a). After the expiration of such 5-year period, the transitional model small group rating rules shall expire, and the Model Small Group Rating Rules shall then apply with respect to all non-adopting States pursuant to the provisions of this part.

''(2) PREMIUM VARIATION DURING TRANSITION.—

''(A) TRANSITION STATES.—During the transition period described in paragraph (1), small group health insurance coverage offered in a non-adopting State that had in place premium rating band requirements or premium limits that varied by less than 12.5 percent from the index rate within a class of business on the date of enactment of this title, shall not be subject to the premium variation provision of section 3011(b)(1) of the Model Small Group Rating Rules and shall instead be subject to the Transitional Model Small Group Rating Rules as promulgated by the Secretary pursuant to paragraph (1).

''(B) NON-TRANSITION STATES.—During the transition period described in paragraph (1), and thereafter, small group health insurance coverage offered in a non-adopting State that had in place premium rating band requirements or premium limits that varied by more than 12.5 percent from the index rate within a class of business on the date of enactment of this title, shall not be subject to the Transitional Model Small Group Rating Rules as promulgated by the Secretary pursuant to paragraph (1), and instead shall be subject to the Model Small Group Rating Rules effective beginning with the first plan year or calendar year following the promulgation of such Rules, at the election of the eligible insurer.

''(3) TRANSITIONING OF OLD BUSINESS.—In developing the transitional model small group rating rules under paragraph (1), the Secretary shall, after consultation with the National Association of Insurance Commissioners and representatives of insurers operating in the small group health insurance market, promulgate special transition standards and timelines with respect to independent rating classes for old and new business, to the extent reasonably necessary to protect health insurance consumers and to ensure a stable and fair transition for old and new market entrants.

''(4) OTHER TRANSITIONAL AUTHORITY.—In developing the Transitional Model Small Group Rating Rules under paragraph (1), the Secretary shall provide for the application of the Transitional Model Small Group Rating Rules in transition States as the Secretary may determine necessary for a an effective transition.

''(c) MARKET RE-ENTRY.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, a health insurance issuer that has voluntarily withdrawn from providing coverage in the small group market prior to the date of enactment of the Health Insurance Marketplace Modernization and Affordability Act of 2007 shall not be excluded from re-entering such market on a date that is more than 180 days after such date of enactment.

''(2) TERMINATION.—The provision of this subsection shall terminate on the date that is 24 months after the date of enactment of the Health Insurance Marketplace Modernization and Affordability Act of 2007.

''SEC. 3013. APPLICATION AND PREEMPTION.

''(a) SUPERSEDING OF STATE LAW.—

''(1) IN GENERAL.—This part shall supersede any and all State laws of a non-adopting State insofar as such State laws (whether enacted prior to or after the date of enactment of this subtitle) relate to rating in the small group insurance market as applied to an eligible insurer, or small group health insurance coverage issued by an eligible insurer, including with respect to coverage issued to a small employer through a small business health plan, in a State.

''(2) NONADOPTING STATES.—This part shall supersede any and all State laws of a nonadopting State insofar as such State laws (whether enacted prior to or after the date of enactment of this subtitle)—

''(A) prohibit an eligible insurer from offering, marketing, or implementing small group health insurance coverage consistent with the Model Small Group Rating Rules or transitional model small group rating rules; or

''(B) have the effect of retaliating against or otherwise punishing in any respect an eligible insurer for offering, marketing, or implementing small group health insurance coverage consistent with the Model Small Group Rating Rules or transitional model small group rating rules.

''(b) SAVINGS CLAUSE AND CONSTRUCTION.—

''(1) NONAPPLICATION TO ADOPTING STATES.—Subsection (a) shall not apply with respect to adopting states.

''(2) NONAPPLICATION TO CERTAIN INSURERS.—Subsection (a) shall not apply with respect to insurers that do not qualify as eligible insurers that offer small group health insurance coverage in a nonadopting State.

''(3) NONAPPLICATION WHERE OBTAINING RELIEF UNDER STATE LAW.—Subsection (a)(1) shall not supercede any State law in a nonadopting State to the extent necessary to permit individuals or the insurance department of the State (or other State agency) to obtain relief under State law to require an eligible insurer to comply with the Model Small Group Rating Rules or transitional model small group rating rules.

''(4) NO EFFECT ON PREEMPTION.—In no case shall this part be construed to limit or affect in any manner the preemptive scope of sections 502 and 514 of the Employee Retirement Income Security Act of 1974. In no case shall this part be construed to create any cause of action under Federal or State law or enlarge or affect any remedy available under the Employee Retirement Income Security Act of 1974.

''(c) EFFECTIVE DATE.—This section shall apply, at the election of the eligible insurer, beginning in the first plan year or the first calendar year following the issuance of the final rules by the Secretary under the Model Small Group Rating Rules or, as applicable, the Transitional Model Small Group Rating Rules, but in no event earlier than the date that is 12 months after the date of enactment of this title.

''SEC. 3014. CIVIL ACTIONS AND JURISDICTION.

''(a) IN GENERAL.—The courts of the United States shall have exclusive jurisdiction over civil actions involving the interpretation of this part.

''(b) ACTIONS.—An eligible insurer may bring an action in the district courts of the United States for injunctive or other equitable relief against any officials or agents of a nonadopting State in connection with any conduct or action, or proposed conduct or action, by such officials or agents which violates, or which would if undertaken violate, section 3013.

''(c) DIRECT FILING IN COURT OF APPEALS.—At the election of the eligible insurer, an action may be brought under subsection (b) directly in the United States Court of Appeals for the circuit in which the nonadopting State is located by the filing of a petition for review in such Court.

''(d) EXPEDITED REVIEW.—

''(1) DISTRICT COURT.—In the case of an action brought in a district court of the United States under subsection (b), such court shall complete such action, including the issuance of a judgment, prior to the end of the 120-day period beginning on the date on which such action is filed, unless all parties to such proceeding agree to an extension of such period.

''(2) COURT OF APPEALS.—In the case of an action brought directly in a United States Court of Appeal under subsection (c), or in the case of an appeal of an action brought in a district court under subsection (b), such Court shall complete all action on the petition, including the issuance of a judgment, prior to the end of the 60-day period beginning on the date on which such petition is filed with the Court, unless all parties to such proceeding agree to an extension of such period.

''(e) STANDARD OF REVIEW.—A court in an action filed under this section, shall render a judgment based on a review of the merits of all questions presented in such action and shall not defer to any conduct or action, or proposed conduct or action, of a nonadopting State.

''SEC. 3015. ONGOING REVIEW.

''Not later than 5 years after the date on which the Model Small Group Rating Rules are issued under this part, and every 5 years thereafter, the Secretary, in consultation with the National Association of Insurance Commissioners, shall prepare and submit to the appropriate committees of Congress a report that assesses the effect of the Model Small Group Rating Rules on access, cost, and market functioning in the small group market. Such report may, if the Secretary, in consultation with the National Association of Insurance Commissioners, determines such is appropriate for improving access, costs, and market functioning, contain legislative proposals for recommended modification to such Model Small Group Rating Rules.

''PART II—AFFORDABLE PLANS

''SEC. 3021. DEFINITIONS.

''In this part:

''(1) ADOPTING STATE.—The term 'adopting State' means a State that has enacted the Benefit Choice Standards in their entirety

and as the exclusive laws of the State that relate to benefit, service, and provider mandates in the group and individual insurance markets.

''(2) BENEFIT CHOICE STANDARDS.—The term 'Benefit Choice Standards' means the Standards issued under section 3022.

''(3) ELIGIBLE INSURER.—The term 'eligible insurer' means a health insurance issuer that is licensed in a nonadopting State and that—

''(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the Benefit Choice Standards in a nonadopting State;

''(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage in that State consistent with the Benefit Choice Standards, and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency) by the Secretary in regulations; and

''(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such group health coverage) and filed with the State pursuant to subparagraph (B), a description in the insurer's contract of the Benefit Choice Standards and that adherence to such Standards is included as a term of such contract.

''(4) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means any coverage issued in the group or individual health insurance markets, except that such term shall not include excepted benefits (as defined in section 2791(c)).

''(5) NONADOPTING STATE.—The term 'nonadopting State' means a State that is not an adopting State.

''(6) SMALL GROUP INSURANCE MARKET.—The term 'small group insurance market' shall have the meaning given the term 'small group market' in section 2791(e)(5).

''(7) STATE LAW.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

''SEC. 3022. OFFERING AFFORDABLE PLANS.

''(a) BENEFIT CHOICE OPTIONS.—

''(1) DEVELOPMENT.—Not later than 6 months after the date of enactment of this title, the Secretary shall issue, by interim final rule, Benefit Choice Standards that implement the standards provided for in this part.

''(2) BASIC OPTIONS.—The Benefit Choice Standards shall provide that a health insurance issuer in a State, may offer a coverage plan or plan in the small group market, individual market, large group market, or through a small business health plan, that does not comply with one or more mandates regarding covered benefits, services, or category of provider as may be in effect in such State with respect to such market or markets (either prior to or following the date of enactment of this title), if such issuer also offers in such market or markets an enhanced option as provided for in paragraph (3).

''(3) ENHANCED OPTION.—A health insurance issuer issuing a basic option as provided for in paragraph (2) shall also offer to purchasers (including, with respect to a small business health plan, the participating employers of such plan) an enhanced option, which shall at a minimum include such covered benefits, services, and categories of providers as are covered by a State employee coverage plan in one of the 5 most populous States as are in effect in the calendar year in which such enhanced option is offered.

''(4) PUBLICATION OF BENEFITS.—Not later than 3 months after the date of enactment of this title, and on the first day of every calendar year thereafter, the Secretary shall publish in the Federal Register such covered benefits, services, and categories of providers covered in that calendar year by the State employee coverage plans in the 5 most populous States.

''(b) EFFECTIVE DATES.—

''(1) SMALL BUSINESS HEALTH PLANS.—With respect to health insurance provided to participating employers of small business health plans, the requirements of this part (concerning lower cost plans) shall apply beginning on the date that is 12 months after the date of enactment of this title.

''(2) NON-ASSOCIATION COVERAGE.—With respect to health insurance provided to groups or individuals other than participating employers of small business health plans, the requirements of this part shall apply beginning on the date that is 15 months after the date of enactment of this title.

''SEC. 3023. APPLICATION AND PREEMPTION.

''(a) SUPERCEDING OF STATE LAW.—

''(1) IN GENERAL.—This part shall supersede any and all State laws insofar as such laws relate to mandates relating to covered benefits, services, or categories of provider in the health insurance market as applied to an eligible insurer, or health insurance coverage issued by an eligible insurer, including with respect to coverage issued to a small business health plan, in a nonadopting State.

''(2) NONADOPTING STATES.—This part shall supersede any and all State laws of a nonadopting State (whether enacted prior to or after the date of enactment of this title) insofar as such laws—

''(A) prohibit an eligible insurer from offering, marketing, or implementing health insurance coverage consistent with the Benefit Choice Standards, as provided for in section 3022(a); or

''(B) have the effect of retaliating against or otherwise punishing in any respect an eligible insurer for offering, marketing, or implementing health insurance coverage consistent with the Benefit Choice Standards.

''(b) SAVINGS CLAUSE AND CONSTRUCTION.—

''(1) NONAPPLICATION TO ADOPTING STATES.—Subsection (a) shall not apply with respect to adopting States.

''(2) NONAPPLICATION TO CERTAIN INSURERS.—Subsection (a) shall not apply with respect to insurers that do not qualify as eligible insurers who offer health insurance coverage in a nonadopting State.

''(3) NONAPPLICATION WHERE OBTAINING RELIEF UNDER STATE LAW.—Subsection (a)(1) shall not supercede any State law of a nonadopting State to the extent necessary to permit individuals or the insurance department of the State (or other State agency) to obtain relief under State law to require an eligible insurer to comply with the Benefit Choice Standards.

''(4) NO EFFECT ON PREEMPTION.—In no case shall this part be construed to limit or affect in any manner the preemptive scope of sections 502 and 514 of the Employee Retirement Income Security Act of 1974. In no case shall this part be construed to create any cause of action under Federal or State law or enlarge or affect any remedy available under the Employee Retirement Income Security Act of 1974.

''SEC. 3024. CIVIL ACTIONS AND JURISDICTION.

''(a) IN GENERAL.—The courts of the United States shall have exclusive jurisdiction over civil actions involving the interpretation of this part.

''(b) ACTIONS.—An eligible insurer may bring an action in the district courts of the United States for injunctive or other equitable relief against any officials or agents of a nonadopting State in connection with any conduct or action, or proposed conduct or action, by such officials or agents which violates, or which would if undertaken violate, section 3023.

''(c) DIRECT FILING IN COURT OF APPEALS.—At the election of the eligible insurer, an action may be brought under subsection (b) directly in the United States Court of Appeals for the circuit in which the nonadopting State is located by the filing of a petition for review in such Court.

''(d) EXPEDITED REVIEW.—

''(1) DISTRICT COURT.—In the case of an action brought in a district court of the United States under subsection (b), such court shall complete such action, including the issuance of a judgment, prior to the end of the 120-day period beginning on the date on which such action is filed, unless all parties to such proceeding agree to an extension of such period.

''(2) COURT OF APPEALS.—In the case of an action brought directly in a United States Court of Appeal under subsection (c), or in the case of an appeal of an action brought in a district court under subsection (b), such Court shall complete all action on the petition, including the issuance of a judgment, prior to the end of the 60-day period beginning on the date on which such petition is filed with the Court, unless all parties to such proceeding agree to an extension of such period.

''(e) STANDARD OF REVIEW.—A court in an action filed under this section, shall render a judgment based on a review of the merits of all questions presented in such action and shall not defer to any conduct or action, or proposed conduct or action, of a nonadopting State.

''SEC. 3025. RULES OF CONSTRUCTION.

''(a) IN GENERAL.—Notwithstanding any other provision of Federal or State law, a health insurance issuer in an adopting State or an eligible insurer in a non-adopting State may amend its existing policies to be consistent with the terms of this subtitle (concerning rating and benefits).

''(b) HEALTH SAVINGS ACCOUNTS.—Nothing in this subtitle shall be construed to inhibit the development of health savings accounts pursuant to section 223 of the Internal Revenue Code of 1986.''.

Subtitle C—Harmonization of Health Insurance Standards

SEC. 221. HEALTH INSURANCE STANDARDS HARMONIZATION.

Title XXIX of the Public Health Service Act (as added by section 201) is amended by adding at the end the following:

''Subtitle B—Standards Harmonization

''SEC. 3031. DEFINITIONS.

''In this subtitle:

''(1) ADOPTING STATE.—The term 'adopting State' means a State that has enacted the harmonized standards adopted under this subtitle in their entirety and as the exclusive laws of the State that relate to the harmonized standards.

''(2) ELIGIBLE INSURER.—The term 'eligible insurer' means a health insurance issuer that is licensed in a nonadopting State and that—

''(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage

consistent with the harmonized standards in a nonadopting State;

''(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage in that State consistent with the harmonized standards published pursuant to section 3032(d), and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency) by the Secretary in regulations; and

''(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such health coverage) and filed with the State pursuant to subparagraph (B), a description of the harmonized standards published pursuant to section 3032(g)(2) and an affirmation that such standards are a term of the contract.

''(3) HARMONIZED STANDARDS.—The term 'harmonized standards' means the standards certified by the Secretary under section 3032(d).

''(4) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means any coverage issued in the health insurance market, except that such term shall not include excepted benefits (as defined in section 2791(c).

''(5) NONADOPTING STATE.—The term 'nonadopting State' means a State that fails to enact, within 18 months of the date on which the Secretary certifies the harmonized standards under this subtitle, the harmonized standards in their entirety and as the exclusive laws of the State that relate to the harmonized standards.

''(6) STATE LAW.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

''SEC. 3032. HARMONIZED STANDARDS.

''(a) BOARD.—

''(1) ESTABLISHMENT.—Not later than 3 months after the date of enactment of this title, the Secretary, in consultation with the NAIC, shall establish the Health Insurance Consensus Standards Board (referred to in this subtitle as the 'Board') to develop recommendations that harmonize inconsistent State health insurance laws in accordance with the procedures described in subsection (b).

''(2) COMPOSITION.—

''(A) IN GENERAL.—The Board shall be composed of the following voting members to be appointed by the Secretary after considering the recommendations of professional organizations representing the entities and constituencies described in this paragraph:

''(i) Four State insurance commissioners as recommended by the National Association of Insurance Commissioners, of which 2 shall be Democrats and 2 shall be Republicans, and of which one shall be designated as the chairperson and one shall be designated as the vice chairperson.

''(ii) Four representatives of State government, two of which shall be governors of States and two of which shall be State legislators, and two of which shall be Democrats and two of which shall be Republicans.

''(iii) Four representatives of health insurers, of which one shall represent insurers that offer coverage in the small group market, one shall represent insurers that offer coverage in the large group market, one shall represent insurers that offer coverage in the individual market, and one shall represent carriers operating in a regional market.

''(iv) Two representatives of insurance agents and brokers.

''(v) Two independent representatives of the American Academy of Actuaries who have familiarity with the actuarial methods applicable to health insurance.

''(B) EX OFFICIO MEMBER.—A representative of the Secretary shall serve as an ex officio member of the Board.

''(3) ADVISORY PANEL.—The Secretary shall establish an advisory panel to provide advice to the Board, and shall appoint its members after considering the recommendations of professional organizations representing the entities and constituencies identified in this paragraph:

''(A) Two representatives of small business health plans.

''(B) Two representatives of employers, of which one shall represent small employers and one shall represent large employers.

''(C) Two representatives of consumer organizations.

''(D) Two representatives of health care providers.

''(4) QUALIFICATIONS.—The membership of the Board shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, health plans, providers of health services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives.

''(5) ETHICAL DISCLOSURE.—The Secretary shall establish a system for public disclosure by members of the Board of financial and other potential conflicts of interest relating to such members. Members of the Board shall be treated as employees of Congress for purposes of applying title I of the Ethics in Government Act of 1978 (Public Law 95–521).

''(6) DIRECTOR AND STAFF.—Subject to such review as the Secretary deems necessary to assure the efficient administration of the Board, the chair and vice-chair of the Board may—

''(A) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

''(B) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

''(C) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Board (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

''(D) make advance, progress, and other payments which relate to the work of the Board;

''(E) provide transportation and subsistence for persons serving without compensation; and

''(F) prescribe such rules as it deems necessary with respect to the internal organization and operation of the Board.

''(7) TERMS.—The members of the Board shall serve for the duration of the Board. Vacancies in the Board shall be filled as needed in a manner consistent with the composition described in paragraph (2).

''(b) DEVELOPMENT OF HARMONIZED STANDARDS.—

''(1) IN GENERAL.—In accordance with the process described in subsection (c), the Board shall identify and recommend nationally harmonized standards for each of the following process categories:

''(A) FORM FILING AND RATE FILING.—Form and rate filing standards shall be established which promote speed to market and include the following defined areas for States that require such filings:

''(i) Procedures for form and rate filing pursuant to a streamlined administrative filing process.

''(ii) Timeframes for filings to be reviewed by a State if review is required before they are deemed approved.

''(iii) Timeframes for an eligible insurer to respond to State requests following its review.

''(iv) A process for an eligible insurer to self-certify.

''(v) State development of form and rate filing templates that include only non-preempted State law and Federal law requirements for eligible insurers with timely updates.

''(vi) Procedures for the resubmission of forms and rates.

''(vii) Disapproval rationale of a form or rate filing based on material omissions or violations of non-preempted State law or Federal law with violations cited and explained.

''(viii) For States that may require a hearing, a rationale for hearings based on violations of non-preempted State law or insurer requests.

''(B) MARKET CONDUCT REVIEW.—Market conduct review standards shall be developed which provide for the following:

''(i) Mandatory participation in national databases.

''(ii) The confidentiality of examination materials.

''(iii) The identification of the State agency with primary responsibility for examinations.

''(iv) Consultation and verification of complaint data with the eligible insurer prior to State actions.

''(v) Consistency of reporting requirements with the recordkeeping and administrative practices of the eligible insurer.

''(vi) Examinations that seek to correct material errors and harmful business practices rather than infrequent errors.

''(vii) Transparency and publishing of the State's examination standards.

''(viii) Coordination of market conduct analysis.

''(ix) Coordination and nonduplication between State examinations of the same eligible insurer.

''(x) Rationale and protocols to be met before a full examination is conducted.

''(xi) Requirements on examiners prior to beginning examinations such as budget planning and work plans.

''(xii) Consideration of methods to limit examiners' fees such as caps, competitive bidding, or other alternatives.

''(xiii) Reasonable fines and penalties for material errors and harmful business practices.

''(C) PROMPT PAYMENT OF CLAIMS.—The Board shall establish prompt payment standards for eligible insurers based on standards similar to those applicable to the Social Security Act as set forth in section 1842(c)(2) of such Act (42 U.S.C. 1395u(c)(2)). Such prompt payment standards shall be consistent with the timing and notice requirements of the claims procedure rules to be specified under subparagraph (D), and shall include appropriate exceptions such as for fraud, nonpayment of premiums, or late submission of claims.

''(D) INTERNAL REVIEW.—The Board shall establish standards for claims procedures for eligible insurers that are consistent with the requirements relating to initial claims for benefits and appeals of claims for benefits

under the Employee Retirement Income Security Act of 1974 as set forth in section 503 of such Act (29 U.S.C. 1133) and the regulations thereunder.

''(2) RECOMMENDATIONS.—The Board shall recommend harmonized standards for each element of the categories described in subparagraph (A) through (D) of paragraph (1) within each such market. Notwithstanding the previous sentence, the Board shall not recommend any harmonized standards that disrupt, expand, or duplicate the benefit, service, or provider mandate standards provided in the Benefit Choice Standards pursuant to section 3022(a).

''(c) PROCESS FOR IDENTIFYING HARMONIZED STANDARDS.—

''(1) IN GENERAL.—The Board shall develop recommendations to harmonize inconsistent State insurance laws with respect to each of the process categories described in subparagraphs (A) through (D) of subsection (b)(1).

''(2) REQUIREMENTS.—In adopting standards under this section, the Board shall consider the following:

''(A) Any model acts or regulations of the National Association of Insurance Commissioners in each of the process categories described in subparagraphs (A) through (D) of subsection (b)(1).

''(B) Substantially similar standards followed by a plurality of States, as reflected in existing State laws, relating to the specific process categories described in subparagraphs (A) through (D) of subsection (b)(1).

''(C) Any Federal law requirement related to specific process categories described in subparagraphs (A) through (D) of subsection (b)(1).

''(D) In the case of the adoption of any standard that differs substantially from those referred to in subparagraphs (A), (B), or (C), the Board shall provide evidence to the Secretary that such standard is necessary to protect health insurance consumers or promote speed to market or administrative efficiency.

''(E) The criteria specified in clauses (i) through (iii) of subsection (d)(2)(B).

''(d) RECOMMENDATIONS AND CERTIFICATION BY SECRETARY.—

''(1) RECOMMENDATIONS.—Not later than 18 months after the date on which all members of the Board are selected under subsection (a), the Board shall recommend to the Secretary the certification of the harmonized standards identified pursuant to subsection (c).

''(2) CERTIFICATION.—

''(A) IN GENERAL.—Not later than 120 days after receipt of the Board's recommendations under paragraph (1), the Secretary shall certify the recommended harmonized standards as provided for in subparagraph (B), and issue such standards in the form of an interim final regulation.

''(B) CERTIFICATION PROCESS.—The Secretary shall establish a process for certifying the recommended harmonized standard, by category, as recommended by the Board under this section. Such process shall—

''(i) ensure that the certified standards for a particular process area achieve regulatory harmonization with respect to health plans on a national basis;

''(ii) ensure that the approved standards are the minimum necessary, with regard to substance and quantity of requirements, to protect health insurance consumers and maintain a competitive regulatory environment; and

''(iii) ensure that the approved standards will not limit the range of group health plan designs and insurance products, such as catastrophic coverage only plans, health savings accounts, and health maintenance organizations, that might otherwise be available to consumers.

''(3) EFFECTIVE DATE.—The standards certified by the Secretary under paragraph (2) shall be effective on the date that is 18 months after the date on which the Secretary certifies the harmonized standards.

''(e) TERMINATION.—The Board shall terminate and be dissolved after making the recommendations to the Secretary pursuant to subsection (d)(1).

''(f) ONGOING REVIEW.—Not earlier than 3 years after the termination of the Board under subsection (e), and not earlier than every 3 years thereafter, the Secretary, in consultation with the National Association of Insurance Commissioners and the entities and constituencies represented on the Board and the Advisory Panel, shall prepare and submit to the appropriate committees of Congress a report that assesses the effect of the harmonized standards on access, cost, and health insurance market functioning. The Secretary may, based on such report and applying the process established for certification under subsection (d)(2)(B), in consultation with the National Association of Insurance Commissioners and the entities and constituencies represented on the Board and the Advisory Panel, update the harmonized standards through notice and comment rulemaking.

''(g) PUBLICATION.—

''(1) LISTING.—The Secretary shall maintain an up to date listing of all harmonized standards certified under this section on the Internet website of the Department of Health and Human Services.

''(2) SAMPLE CONTRACT LANGUAGE.—The Secretary shall publish on the Internet website of the Department of Health and Human Services sample contract language that incorporates the harmonized standards certified under this section, which may be used by insurers seeking to qualify as an eligible insurer. The types of harmonized standards that shall be included in sample contract language are the standards that are relevant to the contractual bargain between the insurer and insured.

''(h) STATE ADOPTION AND ENFORCEMENT.—Not later than 18 months after the certification by the Secretary of harmonized standards under this section, the States may adopt such harmonized standards (and become an adopting State) and, in which case, shall enforce the harmonized standards pursuant to State law.

''SEC. 3033. APPLICATION AND PREEMPTION.

''(a) SUPERCEDING OF STATE LAW.—

''(1) IN GENERAL.—The harmonized standards certified under this subtitle shall supersede any and all State laws of a non-adopting State insofar as such State laws relate to the areas of harmonized standards as applied to an eligible insurer, or health insurance coverage issued by a eligible insurer, including with respect to coverage issued to a small business health plan, in a nonadopting State.

''(2) NONADOPTING STATES.—This subtitle shall supersede any and all State laws of a nonadopting State (whether enacted prior to or after the date of enactment of this title) insofar as they may—

''(A) prohibit an eligible insurer from offering, marketing, or implementing health insurance coverage consistent with the harmonized standards; or

''(B) have the effect of retaliating against or otherwise punishing in any respect an eligible insurer for offering, marketing, or implementing health insurance coverage consistent with the harmonized standards under this subtitle.

''(b) SAVINGS CLAUSE AND CONSTRUCTION.—

''(1) NONAPPLICATION TO ADOPTING STATES.—Subsection (a) shall not apply with respect to adopting States.

''(2) NONAPPLICATION TO CERTAIN INSURERS.—Subsection (a) shall not apply with respect to insurers that do not qualify as eligible insurers who offer health insurance coverage in a nonadopting State.

''(3) NONAPPLICATION WHERE OBTAINING RELIEF UNDER STATE LAW.—Subsection (a)(1) shall not supercede any State law of a nonadopting State to the extent necessary to permit individuals or the insurance department of the State (or other State agency) to obtain relief under State law to require an eligible insurer to comply with the harmonized standards under this subtitle.

''(4) NO EFFECT ON PREEMPTION.—In no case shall this subtitle be construed to limit or affect in any manner the preemptive scope of sections 502 and 514 of the Employee Retirement Income Security Act of 1974. In no case shall this subtitle be construed to create any cause of action under Federal or State law or enlarge or affect any remedy available under the Employee Retirement Income Security Act of 1974.

''(c) EFFECTIVE DATE.—This section shall apply beginning on the date that is 18 months after the date on harmonized standards are certified by the Secretary under this subtitle.

''SEC. 3034. CIVIL ACTIONS AND JURISDICTION.

''(a) IN GENERAL.—The district courts of the United States shall have exclusive jurisdiction over civil actions involving the interpretation of this subtitle.

''(b) ACTIONS.—An eligible insurer may bring an action in the district courts of the United States for injunctive or other equitable relief against any officials or agents of a nonadopting State in connection with any conduct or action, or proposed conduct or action, by such officials or agents which violates, or which would if undertaken violate, section 3033.

''(c) DIRECT FILING IN COURT OF APPEALS.—At the election of the eligible insurer, an action may be brought under subsection (b) directly in the United States Court of Appeals for the circuit in which the nonadopting State is located by the filing of a petition for review in such Court.

''(d) EXPEDITED REVIEW.—

''(1) DISTRICT COURT.—In the case of an action brought in a district court of the United States under subsection (b), such court shall complete such action, including the issuance of a judgment, prior to the end of the 120-day period beginning on the date on which such action is filed, unless all parties to such proceeding agree to an extension of such period.

''(2) COURT OF APPEALS.—In the case of an action brought directly in a United States Court of Appeal under subsection (c), or in the case of an appeal of an action brought in a district court under subsection (b), such Court shall complete all action on the petition, including the issuance of a judgment, prior to the end of the 60-day period beginning on the date on which such petition is filed with the Court, unless all parties to such proceeding agree to an extension of such period.

''(e) STANDARD OF REVIEW.—A court in an action filed under this section, shall render a judgment based on a review of the merits of all questions presented in such action and shall not defer to any conduct or action, or proposed conduct or action, of a nonadopting State.

''SEC. 3035. AUTHORIZATION OF APPROPRIATIONS; RULE OF CONSTRUCTION.

''(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

''(b) HEALTH SAVINGS ACCOUNTS.—Nothing in this subtitle shall be construed to inhibit the development of health savings accounts pursuant to section 223 of the Internal Revenue Code of 1986.''.

TITLE III—HEALTH SAVINGS ACCOUNTS

SEC. 301. SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES INCURRED BEFORE ESTABLISHMENT OF HEALTH SAVINGS ACCOUNT.

(a) IN GENERAL.—Paragraph (2) of section 223(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(D) CERTAIN MEDICAL EXPENSES INCURRED BEFORE ESTABLISHMENT OF ACCOUNT TREATED AS QUALIFIED.—An expense shall not fail to be treated as a qualified medical expense solely because such expense was incurred before the establishment of the health savings account if such expense was incurred—

''(i) during either—

''(I) the taxable year in which the health savings account was established, or

''(II) the preceding taxable year in the case of a health savings account established after the taxable year in which such expense was incurred but before the time prescribed by law for filing the return for such taxable year (not including extensions thereof), and

''(ii) for medical care of an individual during a period that such individual was an eligible individual.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 302. USE OF ACCOUNT FOR INDIVIDUAL HIGH DEDUCTIBLE HEALTH PLAN PREMIUMS.

(a) IN GENERAL.—Section 223(d)(2)(C) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by adding at the end the following new clause:

''(v) a high deductible health plan, other than a group health plan (as defined in section 5000(b)(1)).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 303. EXCEPTION TO REQUIREMENT FOR EMPLOYERS TO MAKE COMPARABLE HEALTH SAVINGS ACCOUNT CONTRIBUTIONS.

(a) GREATER EMPLOYER-PROVIDED CONTRIBUTIONS TO HSAS FOR CHRONICALLY ILL EMPLOYEES TREATED AS MEETING COMPARABILITY REQUIREMENTS.—Subsection (b) of section 4980G of the Internal Revenue Code of 1986 (relating to failure of employer to make comparable health savings account contributions) is amended to read as follows:

''(b) RULES AND REQUIREMENTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), rules and requirements similar to the rules and requirements of section 4980E shall apply for purposes of this section.

''(2) TREATMENT OF EMPLOYER-PROVIDED CONTRIBUTIONS TO HSAS FOR CHRONICALLY ILL EMPLOYEES.—For purposes of this section—

''(A) IN GENERAL.—Any contribution by an employer to a health savings account of an employee who is (or the spouse or any dependent of the employee who is) a chronically ill individual in an amount which is greater than a contribution to a health savings account of a comparable participating employee who is not a chronically ill individual shall not fail to be considered a comparable contribution.

''(B) NONDISCRIMINATION REQUIREMENT.—Subparagraph (A) shall not apply unless the excess employer contributions described in subparagraph (A) are the same for all chronically ill individuals who are similarly situated.

''(C) CHRONICALLY ILL INDIVIDUAL.—For purposes of this paragraph, the term 'chronically ill individual' means any individual whose qualified medical expenses for any taxable year are more than 50 percent greater than the average qualified medical expenses of all employees of the employer for such year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 304. CERTAIN HEALTH REIMBURSEMENT ARRANGEMENT COVERAGE DISREGARDED COVERAGE FOR HEALTH SAVINGS ACCOUNTS.

(a) IN GENERAL.—Section 223(c)(1)(B)(iii) of the Internal Revenue Code of 1986 is amended by inserting ''or a health reimbursement arrangement'' after ''health flexible a spending arrangement''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

TITLE IV—STUDY

SEC. 401. STUDY ON TAX TREATMENT OF AND ACCESS TO PRIVATE HEALTH INSURANCE.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of the Treasury shall study various options and make recommendations—

(A) for reforming the tax treatment of health insurance to improve tax equity and increase access to private health care coverage; and

(B) for providing meaningful assistance to low-income individuals and families to purchase private health insurance.

(2) CONSIDERATION OF VARIOUS OPTIONS.—In carrying out the study under paragraph (1), the Secretary of the Treasury shall consider—

(A) options which rely on changes to Federal law not included in the Internal Revenue Code of 1986;

(B) options which have a goal of minimizing Federal Government outlays;

(C) options which minimize tax increases;

(D) at least one option which retains the Federal tax exclusion for employer-provided health coverage;

(E) at least one option which is budget neutral; and

(F) at least one option which maintains the current distribution of the Federal income tax burden.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the Treasury shall report the results of the study and the recommendations required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SA 3065. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 976, to amend title XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 613 of the proposed House amendment to the text.

SA 3066. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 976, to amend title XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 615 of the House amendment to the text.

SA 3067. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill H.R. 976, to amend title XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title VI insert the following:

SEC. ___. BUDGET POINT OF ORDER AGAINST LEGISLATION THAT RAISES EXCISE TAX RATES.

Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following:

''POINT OF ORDER AGAINST RAISES IN EXCISE TAX RATES

''SEC. 316. (a) IN GENERAL.—It shall not be in order in the Senate to consider any bill, resolution, amendment, amendment between Houses, motion, or conference report that includes a Federal excise tax rate increase which disproportionately affects taxpayers with earned income of less than 200 percent of the Federal poverty level, as determined by the Joint Committee on Taxation. In this subsection, the term 'Federal excise tax rate increase' means any amendment to any section in subtitle D or E of the Internal Revenue Code of 1986, that imposes a new percentage or amount as a rate of tax and thereby increases the amount of tax imposed by any such section.

''(b) SUPERMAJORITY WAIVER AND APPEAL.—

''(1) WAIVER.—This section may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

''(2) APPEAL.—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.''.

SA 3068. Mr. REID (for Mr. OBAMA (for himself, Mr. BOND, Mr. LIEBERMAN, Mrs. BOXER, and 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 H of title V, add the following:

SEC. 594. ADMINISTRATIVE SEPARATIONS OF MEMBERS OF THE ARMED FORCES FOR PERSONALITY DISORDER.

(a) CLINICAL REVIEW OF ADMINISTRATIVE SEPARATIONS BASED ON PERSONALITY DISORDER.—

(1) TEMPORARY MORATORIUM ON SEPARATIONS OF CERTAIN MEMBERS.—Not later than 30 days after the date of the enactment of this Act, and continuing until the Secretary of Defense submits to Congress the report required by subsection (b) and the Comptroller General of the United States submits to Congress the report required by subsection (c), a covered member of the Armed Forces may not, except as provided in paragraph (2), be administratively separated from the Armed Forces on the basis of a personality disorder.

(2) CLINICAL REVIEW OF PROPOSED SEPARATIONS BASED ON PERSONALITY DISORDER.—

(A) IN GENERAL.—A covered member of the Armed Forces may be administratively separated from the Armed Forces on the basis of

a personality disorder under this paragraph if a clinical review of the case is conducted by a senior officer in the office of the Surgeon General of the Armed Force concerned who is a credentialed mental health provider and who is fully qualified to review cases involving maladaptive behavior (personality disorder), diagnosis and treatment of post-traumatic stress disorder, or other mental health conditions.

(B) PURPOSES OF REVIEW.—The purposes of the review with respect to a member under subparagraph (A) are as follows:

(i) To determine whether the diagnosis of personality order in the member is correct and fully documented.

(ii) To determine whether evidence of other mental health conditions (including depression, post-traumatic stress disorder, substance abuse, or traumatic brain injury) resulting from service in a combat zone may exist in the member which indicate that the separation of the member from the Armed Forces on the basis of a personality disorder is inappropriate pending diagnosis and treatment, and, if so, whether initiation of medical board procedures for the member is warranted.

(b) SECRETARY OF DEFENSE REPORT ON ADMINISTRATIVE SEPARATIONS BASED ON PERSONALITY DISORDER.—

(1) REPORT REQUIRED.—Not later than April 1, 2008, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on all cases of administrative separation from the Armed Forces of covered members of the Armed Forces on the basis of a personality disorder.

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) A statement of the total number of cases, by Armed Force, in which covered members of the Armed Forces have been separated from the Armed Forces on the basis of a personality disorder, and an identification of the various forms of personality order forming the basis for such separations.

(B) A statement of the total number of cases, by Armed Force, in which covered members of the Armed Forces who have served in Iraq and Afghanistan since October 2001 have been separated from the Armed Forces on the basis of a personality disorder, and the identification of the various forms of personality disorder forming the basis for such separations.

(C) A summary of the policies, by Armed Forces, controlling administrative separations of members of the Armed Forces based on personality disorder, and an evaluation of the adequacy of such policies for ensuring that covered members of the Armed Forces who may be eligible for disability evaluation due to mental health conditions are not separated from the Armed Forces prematurely or unjustly on the basis of a personality order.

(D) A discussion of measures being implemented to ensure that members of the Armed Forces who should be evaluated for disability separation or retirement due to mental health conditions are not prematurely or unjustly processed for separation from the Armed Forces on the basis of a personality disorder, and recommendations regarding how members of the Armed Forces who may have been so separated from the Armed Forces should be provided with expedited review by the applicable board for the correction of military records.

(c) COMPTROLLER GENERAL REPORT ON POLICIES ON ADMINISTRATIVE SEPARATION BASED ON PERSONALITY DISORDER.—

(1) REPORT REQUIRED.—Not later than June 1, 2008, the Comptroller General shall submit to Congress a report on the policies and procedures of the Department of Defense and of the military departments relating to the separation of members of the Armed Forces based on a personality disorder.

(2) ELEMENTS.—The report required by paragraph (1) shall—

(A) include an audit of a sampling of cases to determine the validity and clinical efficacy of the policies and procedures referred to in paragraph (1) and the extent, if any, of the divergence between the terms of such policies and procedures and the implementation of such policies and procedures; and

(B) include a determination by the Comptroller General of whether, and to what extent, the policies and procedures referred to in paragraph (1)—

(i) deviate from standard clinical diagnostic practices and current clinical standards; and

(ii) provide adequate safeguards aimed at ensuring that members of the Armed Forces who suffer from mental health conditions (including depression, post-traumatic stress disorder, or traumatic brain injury) resulting from service in a combat zone are not prematurely or unjustly separated from the Armed Forces on the basis of a personality disorder.

(d) COVERED MEMBER OF THE ARMED FORCES DEFINED.—In this section, the term ''covered member of the Armed Forces''includes the following:

(1) Any member of a regular component of the Armed Forces of the Armed Forces who has served in Iraq or Afghanistan since October 2001.

(2) Any member of the Selected Reserve of the Ready Reserve of the Armed Forces who served on active duty in Iraq or Afghanistan since October 2001.

SA 3069. Mr. HATCH 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 XI, add the following:

SEC. 1107. FEDERAL EMPLOYEES RETIREMENT SYSTEM AGE AND RETIREMENT TREATMENT FOR CERTAIN RETIREES OF THE ARMED FORCES.

(a) INCREASE IN MAXIMUM AGE LIMIT FOR POSITIONS SUBJECT TO FERS.—

(1) IN GENERAL.—Section 3307(e) of title 5, United States Code, is amended—

(A) by striking ''(e) The'' and inserting ''(e)(1) Except as provided in paragraph (2), the''; and

(B) by adding at the end the following:

''(2) The maximum age limit for an original appointment to a position as a law enforcement officer (as defined by section 8401(17)) shall be 47 years of age, in the case of an individual who, before the effective date of such appointment—

''(A) was discharged or released from active duty in the armed forces under honorable conditions; and

''(B) was a member of the Armed Services retired for age or years of service.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to appointments made on or after the date of the enactment of this Act.

(b) ELIGIBILITY FOR ANNUITY.—Section 8412(d) of title 5, United States Code, is amended—

(1) in paragraph (1), by striking ''or'' at the end;

(2) in paragraph (2), by adding ''or'' at the end; and

(3) by inserting after paragraph (2) the following:

''(3) after completing 10 years of service as a law enforcement officer, if such employee—

''(A) is originally appointed to a position as a law enforcement officer after the date of enactment of the National Defense Authorization Act for Fiscal Year 2008;

''(B) performs such 10 years of service after that original appointment;

''(C) was discharged or released from active duty in the armed forces under honorable conditions before such date of appointment; and

''(D) was a member of the Armed Services retired for age or years of service before such date of appointment, or''.

(c) MANDATORY SEPARATION.—Section 8425(b)(1) of title 5, United States Code, is amended in the first sentence by inserting '', except that a law enforcement officer eligible for retirement under 8412(d)(3) shall be separated from service on the last day of the month in which that employee becomes 57 years of age'' before the period.

(d) COMPUTATION OF BASIC ANNUITY.—Section 8415(d) of title 5, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking ''The annuity'' and inserting ''(1) Except as provided under paragraph (2), the annuity''

(3) by adding at the end the following:

''(2) The annuity of an employee retiring under section 8412(d)(3) is—

''(A) 1 7/10 percent of that individual's average pay multiplied by—

''(i) the 10 years of service described under section 8412(d)(3)(B); and

''(ii) so much of such individual's total service (other than the 10 years of service described under clause (i) of this subparagraph) as does not exceed 10 years; plus

''(B) 1 percent of that individual's average pay multiplied by so much of such individual's total service as exceeds 20 years.''.

SA 3070. Mr. SESSIONS 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 B of title I, add the following:

SEC. 115. M4 CARBINE RIFLE.

(a) FINDINGS.—Congress makes the following findings:

(1) The members of the Armed Forces are entitled to the best individual combat weapons available in the world today.

(2) Full and open competition in procurement is required by law, and is the most effective way of selecting the best individual combat weapons for the Armed Forces at the best price.

(3) The M4 carbine rifle is currently the individual weapon of choice for the Army, and it is procured through a sole source contract.

(4) The M4 carbine rifle has been proven in combat and meets or exceeds the existing requirements for carbines.

(5) The Army Training and Doctrine Command is conducting a full Capabilities Based Assessment (CBA) of the small arms of the Army which will determine whether or not

gaps exist in the current capabilities of such small arms and inform decisions as to whether or not a new individual weapon is required to address such gaps.

(b) REPORT ON CAPABILITIES BASED ASSESSMENT.—Not later than 90 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 Capabilities Based Assessment of the small arms of the Army referred to in subsection (a)(5).

(c) COMPETITION FOR NEW INDIVIDUAL WEAPON.—

(1) COMPETITION REQUIRED.—In the event the Capabilities Based Assessment identifies gaps in the current capabilities of the small arms of the Army and the Secretary of the Army determines that a new individual weapon is required to address such gaps, the Secretary shall procure the new individual weapon through one or more contracts entered into after full and open competition described in paragraph (2).

(2) FULL AND OPEN COMPETITION.—The full and open competition described in this paragraph is full and open competition among all responsible manufacturers that—

(A) is open to all developmental item solutions and nondevelopmental item (NDI) solutions; and

(B) provides for the award of the contract or contracts concerned based on selection criteria that reflect the key performance parameters and attributes identified in an Army-approved service requirements document.

(d) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, Secretary of Defense shall submit to the congressional defense committees a report on the feasibility and advisability of each of the following:

(1) The certification of a Joint Enhanced Carbine requirement that does not require commonality with currently fielded weapons.

(2) Contracting for a nondevelopmental carbine in lieu of a developmental program intended to meet the proposed Joint Enhanced Carbine requirement.

(3) The reprogramming of funds for the procurement of small arms from the procurement of M4 carbines to the procurement of Joint Enhanced Carbines authorized only as the result of competition.

(4) The use of rapid equipping authority to procure weapons under $2,000 per unit that meet service-approved requirements, with such weapons being nondevelopmental items selected through full and open competition.

SA 3071. Mr. REID proposed an amendment to the bill H.R. 976, to amend title XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program, and for other purposes; as follows:

At the end of the amendment add the following:

This section shall take effect 3 days after date of enactment.

SA 3072. Mr. REID proposed an amendment to amendment SA 3071 proposed by Mr. REID to the bill H.R. 976, to amend title XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program, and for other purposes; as follows:

In the amendment strike 3 and insert 1.

SA 3073. Mr. REID (for Mr. OBAMA (for himself and Mr. WHITEHOUSE)) 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 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 VIII, add the following:

SEC. 876. TRANSPARENCY AND ACCOUNTABILITY IN MILITARY AND SECURITY CONTRACTING.

(a) REPORTS ON IRAQ AND AFGHANISTAN CONTRACTS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense, the Secretary of State, the Secretary of the Interior, the Administrator of the United States Agency for International Development, and the Director of National Intelligence shall each submit to Congress a report that contains the information, current as of the date of the enactment of this Act, as follows:

(1) The number of persons performing work in Iraq and Afghanistan under contracts (and subcontracts at any tier) entered into by departments and agencies of the United States Government, including the Department of Defense, the Department of State, the Department of the Interior, and the United States Agency for International Development, respectively, and a brief description of the functions performed by these persons.

(2) The companies awarded such contracts and subcontracts.

(3) The total cost of such contracts.

(4) A method for tracking the number of persons who have been killed or wounded in performing work under such contracts.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary of Defense, the Secretary of State, the Secretary of the Interior, the Administrator of the United States Agency for International Development, and the Director of National Intelligence should make their best efforts to compile the most accurate accounting of the number of civilian contractors killed or wounded in Iraq and Afghanistan since October 1, 2001.

(c) DEPARTMENT OF DEFENSE REPORT ON STRATEGY FOR AND APPROPRIATENESS OF ACTIVITIES OF CONTRACTORS UNDER DEPARTMENT OF DEFENSE CONTRACTS IN IRAQ, AFGHANISTAN, AND THE GLOBAL WAR ON TERROR.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report setting forth the strategy of the Department of Defense for the use of, and a description of the activities being carried out by, contractors and subcontractors working in Iraq and Afghanistan in support of Department missions in Iraq, Afghanistan, and the Global War on Terror, including its strategy for ensuring that such contracts do not—

(1) have private companies and their employees performing inherently governmental functions; or

(2) place contractors in supervisory roles over United States Government personnel.

SA 3074. Mr. SPECTER (for himself and Mr. CASEY) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 52, making continuing appropriations for the fiscal year 2008, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ____. TWO-YEAR EXTENSION OF THE RECLASSIFICATION OF CERTAIN HOSPITALS UNDER THE MEDICARE PROGRAM.

(a) EXTENSION OF TAX RELIEF AND HEALTH CARE ACT PROVISION.—

(1) IN GENERAL.—Subsection (a) of section 106 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395 note) is amended by striking ''September 30, 2007'' and inserting ''September 30, 2009''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of such section 106.

(b) EXTENSION OF SPECIAL EXCEPTION RECLASSIFICATIONS.—Notwithstanding any other provision of law, in the case of a subsection (d) hospital (as defined for purposes of section 1886 of the Social Security Act (42 U.S.C. 1395ww)) with respect to which a special exception reclassification of its wage index for purposes of such section (made under the authority of subsection (d)(5)(I)(i) of such section and contained in the final rule promulgated by the Secretary of Health and Human Services in the Federal Register on August 11, 2004 (69 Fed. Reg. 49107)) would (but for this subsection) expire on September 30, 2007, such special exception reclassification of such hospital shall be extended through September 30, 2009. The previous sentence shall not be effected in a budget-neutral manner.

SA 3075. Mr. BIDEN (for himself, Mr. GRAHAM, Mr. CASEY, Mr. SANDERS, Mr. BROWN, and Mrs. LINCOLN) 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. IMPROVISED EXPLOSIVE DEVICE PROTECTION FOR MILITARY VEHICLES.

(a) PROCUREMENT OF ADDITIONAL MINE RESISTANT AMBUSH PROTECTED VEHICLES.—

(1) ADDITIONAL AMOUNT FOR ARMY OTHER PROCUREMENT.—The amount authorized to be appropriated by section 1501(5) for other procurement for the Army is hereby increased by $23,600,000,000.

(2) AVAILABILITY FOR PROCUREMENT OF ADDITIONAL MRAP VEHICLES.—Of the amount authorized to be appropriated by section 1501(5) for other procurement for the Army, as increased by paragraph (1), $23,600,000,000 may be available for the procurement of 15,200 Mine Resistant Ambush Protected (MRAP) Vehicles.

(b) REPORT.—Not later than 30 days after the date of the enactment of this Act, and every 30 days thereafter until the date that is two years after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report that includes the following:

(1) The current status of efforts to procure and deploy Mine Resistant Ambush Protected vehicles, including the following:

(A) The number of such vehicles procured, and the number of such vehicles deployed, as of the date of such report.

(B) Current plans for increasing the procurement and deployment of such vehicles.

(C) For each on-going contract for the procurement of such vehicles, the contract delivery target for such contract.

(D) For each contract described in subparagraph (C), the number of such vehicles delivered under such contract as of the date of such report.

(E) A description of the obstacles or problems, if any, faced by current contractors for the delivery of such vehicles and by the program for procurement and deployment of such vehicles in general.

(F) Any recommendations for legislative or administrative action that the Secretary considers appropriate to accelerate procurement and deployment of such vehicles.

(G) Any recommendations, including recommendations for additional legislative or administrative action, that the Secretary considers appropriate to enhance non-vehicle protection against improvised explosive devices for members of the Armed Forces.

(2) The status of current efforts to procure and deploy explosively formed penetrator protection for vehicles, including the following:

(A) The amount of such protection procured, and the amount of such protection deployed, as of the date of such report.

(B) Current plans for increasing the procurement and deployment of such protection.

(C) For each on-going contract for the procurement of such protection, the contract delivery target for such contract.

(D) For each contract described in subparagraph (C), the amount of such protection delivered under such contract as of the date of such report.

(E) A description of the obstacles or problems, if any, faced by current contractors for the delivery of such protection and by the program for procurement and deployment of such protection in general.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DURBIN. 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 26, 2007, at 9:30 a.m., in order to conduct a hearing entitled on ''The Role and Impact of Credit Rating Agencies on the Subprime Credit Markets.''

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to hold a hearing during the session of the Senate on Wednesday, September 26, 2007, at 10 a.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on S.1543, a bill to establish a national geothermal initiative to encourage increased production of energy from geothermal resources by creating a program of geothermal research, development, demonstration and commercial application to support the achievement of a national geothermal energy goal.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, September 26, 2007 at 9:30 a.m. in room 406 of the Dirksen Senate Office Building in order to conduct a hearing entitled, ''An Examination of the Impacts of Global Warming on the Chesapeake Bay.''

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

COMMITTEE ON FINANCE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, September 26, 2007, at 10 a.m., in room SD–215 of the Dirksen Senate Office Building, to hear testimony on the ''Offshore Tax Issues: Reinsurance and Hedge Funds''.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, September 26, 2007, at 10 a.m. for a business meeting to consider pending committee business.

Agenda

Nomination

The Honorable Julie L. Myers to be Assistant Secretary, U.S. Department of Homeland Security.

Postal Naming Bills

H.R. 2654, to designate the facility of the United States Postal Service located at 202 South Dumont Avenue in Woonsocket, South Dakota, as the ''Eleanor McGovern Post Office Building;''

H.R. 2467, to designate the facility of the United States Postal Service located at 69 Montgomery Street in Jersey City, New Jersey, as the ''Frank J. Guarini Post Office Building;''

H.R. 2587, to designate the facility of the United States Postal Service located at 555 South 3rd Street Lobby in Memphis, Tennessee, as the ''Kenneth T. Whalum, Sr. Post Office Building;''

H.R. 2778, to designate the facility of the United States Postal Service located at 3 Quaker Ridge Road in New Rochelle, New York, as the ''Robert Merrill Postal Station;''

H.R. 2825, to designate the facility of the United States Postal Service located at 326 South Main Street in Princeton, Illinois, as the ''Owen Lovejoy Princeton Post Office Building;''

H.R. 3052, to designate the facility of the United States Postal Service located at 954 Wheeling Avenue in Cambridge, Ohio, as the ''John Herschel Glenn Jr. Post Office Building;''

H.R. 3106/S. 2023, to designate the facility of the United States Postal Service located at 805 Main Street in Ferdinand, Indiana, as the ''Staff Sergeant David L. Nord Post Office;''

H.R. 2765, to designate the facility of the United States Postal Service located at 44 North Main Street in Hughesville, Pennsylvania, as the ''Master Sergeant Sean Michael Thomas Post Office.''

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

COMMITTEE ON THE JUDICIARY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet in order to conduct an Executive Nomination hearing on Wednesday, September 26, 2007 at 2:30 p.m. in the Dirksen Senate Office Building room 226.

Witness list:

Michael J. Sullivan to be Director, Bureau of Alcohol, Tobacco, Firearms and Explosives

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. DURBIN. 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 26, 2007, at 10 a.m. to conduct an executive business meeting to consider on the Nomination of Robert C. Tapella of Virginia, to be Public Printer, Government Printing Office; and the nominations of Steven T. Walther of Nevada, David M. Mason of Virginia, Robert D. Lenhard of Maryland, and Hans von Spakovsky of Georgia to be members of the Federal Election Commission.

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

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate in order to conduct a hearing entitled ''Improving Internet Access to Help Small Business Compete in a Global Economy,'' on Wednesday, September 26, 2007, beginning at 10 a.m., in room 428A of the Russell Senate Office Building.

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

ORDER FOR STAR PRINT

Mr. REID. Mr. President, I ask unanimous consent that Senate report 110–184 be star printed with the changes at the desk.

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

AUTHORIZATION FOR DOCUMENT PRODUCTION

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to S. Res. 333.

The PRESIDING OFFICER. The clerk will report the resolution by title.

A resolution (S. Res. 333) to authorize the production of records by the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, and that any statements relating there be printed in the RECORD.

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

The resolution (S. Res. 333) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 333

Whereas, the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs conducted an investigation in 2003 and 2004 into abusive practices by the credit counseling industry;

Whereas, the Subcommittee has received a request from a federal law enforcement agency for access to records of the Subcommittee's investigation;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Ranking Minority Member of the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs, acting jointly, are authorized to provide to federal or state law enforcement or regulatory agencies and officials records of the Subcommittee's investigation into abusive practices by the credit counseling industry.

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

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

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that tomorrow following the time for the two leaders, there be 2 hours for debate, equally divided between the two leaders, prior to the cloture vote on the Kennedy amendment No. 3035; that upon the completion of that time, the Senate vote on the cloture motion relative to that amendment; that if cloture is invoked there be 2 minutes for debate, equally divided in the usual form, followed by a vote on the amendment; that if cloture is not invoked the amendment be withdrawn; that there then be 2 minutes for debate prior to the cloture vote on the Hatch amendment No. 3047; that if cloture is invoked, there be 2 minutes for debate prior to the vote on the amendment; that if cloture is not invoked the amendment be withdrawn; that following the disposition of these amendments there then be 2 minutes for debate prior to the cloture vote on the motion to concur in House amendments to H.R. 976, the Children's Health Insurance bill; further, that the live quorums in each case under rule XXII be waived.

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

SCHEDULE

Mr. REID. Mr. President, I appreciate everyone's cooperation. I will say we have a lot to do. It is all up to us when we get it done. I hope it does not spill over into the weekend. If things work out right, we could finish everything tomorrow. We will have to see. But we are going to try to. I know that may be wishful thinking on my part. But we are going to try to get as much done as we can.

Mr. MCCONNELL. Will the leader yield?

Mr. REID. Yes.

Mr. MCCONNELL. It strikes me that there is no good reason why we should not wrap this up tomorrow. I think virtually all of the items left to be dealt with, there is broad agreement on on a bipartisan basis that we ought to pass.

I will be working with the majority leader to complete our work for the week at the earliest possible time.

Mr. REID. I say to my friend, I wish to be able to complete, prior to a week from Friday, the Defense appropriations bill.

I would also like to have a run at Commerce-State-Justice, which deals with the FBI and the Drug Enforcement Administration. I would like to be able to do those two appropriations bills before we leave. We have a tremendous burden to do the rest of the appropriations bills. The House has passed them. It is easier for them to do than us. I have requested that we start our conferences. I want real conferences like we used to have around here when the distinguished Republican leader and I were a little bit younger, when we actually had conferences where people sat down and talked about different issues. We are going to try to do that and get a number of these done so we can send them to the President. I think that is what will get this program moving along.

I have spoken to the head of the Office of Management and Budget. Even though he may not be able to agree with what I want, I have found him a person who is agreeable. I talk to him anytime I call him.

Maybe we can work our way through this. But we can't do it unless we have bills that are completed that we can send to the President. It is not just going to happen by magic. I personally believe it is not good for this country to have long-standing continuing resolutions. We need to do our job. That is why I hope we can complete our work so next week we can do the appropriations bills.

Mr. MCCONNELL. If the majority leader will yield once again, I concur with the goal of completing those two appropriations bills next week. I will be encouraging everyone on this side to work in a cooperative spirit to achieve the result the majority leader has laid out. It is good for the Senate and good for the country to get this work done. We will be cooperating in every way possible toward that end.

ORDERS FOR THURSDAY, SEPTEMBER 27, 2007

Mr. REID. I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9 a.m. tomorrow morning, September 27; that on September 27, 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 the Senate then resume consideration of H.R. 1585 as provided under the previous order; that Members have until 10:30 a.m. to file any germane second-degree amendments.

I would say, because of the request of a number of Members, I will not use any leader time in the morning. We will move immediately to the legislation before this body and have the full 2 hours. I will not use any leader time in the morning.

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

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. REID. If the Republican leader has nothing further, I ask unanimous consent that the Senate stand adjourned until 9 a.m. tomorrow.

There being no objection, the Senate, at 7:47 p.m., adjourned until Thursday, September 27, 2007, at 9 a.m.