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Senate

The Senate met at 9:30 a.m. and was called to order by the Hon. JOHN E. SUNUNU, a Senator from the State of New Hampshire.

PRAYER

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

Let us pray:

Our Father and our God, we come today seeking a deeper understanding of Your ways. Life often seems like a difficult riddle, but in spite of its challenges, You sustain us with Your majesty and Your indestructible love. Lord, forgive us when we think too often of ourselves and forget the pain of those around us. Thank You for hearing our prayers and for extending Your scepter of mercy. Make us willing to pay the price for freedom. May we remember that laudable goals usually require real effort and self-denial.

We bring to You the Members of this body. Empower them to bear the weight of responsibility. Give them the desire to honor You. Fill their hearts with gratitude for Your unfolding providence. Evaporate their fears like the morning mist. Help each of us to walk with our hand in Your hand. Remind us that only by doing Your will can we find true peace.

We pray this in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 2, 2003.

To the Senate:

Under the provisions of Rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. SUNUNU thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will be in a period of morning business for 60 minutes. Following that time, the Senate will resume consideration of the supplemental appropriations for Iraq security. Pending will be the McConnell amendment, which is a sense of the Senate supporting our troops. There will be 40 minutes remaining for debate on that amendment and therefore that vote will occur shortly after 11 a.m. this morning.

Following that vote, we will resume debate on the Biden amendment on tax rates. I understand there are a number of Members on both sides of the aisle who will want to speak to that amendment. Additional votes will occur throughout the day as we work through the pending amendments.

I thank the two managers for their efforts thus far. I believe there is an understanding to rotate back and forth on the amendments and that will help to keep an orderly process throughout.

I look forward to another day of constructive debate, and I encourage Members to communicate with the chairman and ranking member if they desire to offer an amendment to the bill. We need to work through these amendments in a sequential way, one at a time, so it is helpful if Senators will work in advance to schedule consideration of their amendments.

In addition, there are four judges who are ready for consideration. I look forward to talking to the leadership on the other side of the aisle as to an appropriate time that we can schedule votes for them as well.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The assistant minority leader is recognized.

THE SENATE CHAPLAIN

Mr. REID. Mr. President, while the majority leader is on the floor, I was thinking of the words spoken by the Chaplain this morning. It came to my mind that there haven't been enough accolades extended. There were others involved, but the two I know involved were you and Senator MIKULSKI, working to have this fine man brought here as the Senate Chaplain.

I have been able to visit with him on a couple of occasions and of course every morning to hear the wonderful prayers he utters on behalf of the Senate and the country. I simply want to extend thanks to Senator MIKULSKI and you and any others involved in this selection. Here is a man who is qualified to do so many different things. There aren't many people who can be referred to as ''doctor,'' ''chaplain,'' ''admiral,'' but Dr. Black can be, because he is all three and probably a lot more.

So I think, even though so much goes unsaid around here, this is something that should be said. This is a great addition to the Senate family. I, on behalf of the entire Senate, extend my

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

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appreciation to you and Senator MIKULSKI, who was so enthused about this man when she told us who the chaplain was going to be.

Mr. FRIST. Mr. President, I very much appreciate the comments by the assistant Democratic leader. I will just briefly add to that, because so many of our colleagues do have the opportunity to be with the Chaplain in many ways that America doesn't see. Just two nights ago we were at an event for adoption from foster homes. Our colleagues and others see the Chaplain open this body every day. That is something that is apparent. What they don't see is the fellowship, the contributions, the nights, like two nights ago, where the Chaplain represented, yes, the Senate; yes, the Congress; but indeed the United States at events at night, giving the invocation before 900 people, 6 blocks from here in the Reagan Building.

He is the 62nd Chaplain, a great heritage to follow. We are delighted to be able to have his fellowship, his leadership, and his counsel as we go forth each day.

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 be a period for morning business for up to 60 minutes, with the first 30 minutes of the time under the control of the Senator from Texas, Mrs. HUTCHISON, or her designee, the second 30 minutes of time under the control of the Democratic leader or his designee.

The Senator from Utah.

Mr. BENNETT. On behalf of the Senator from Texas, Mrs. HUTCHISON, I yield 5 minutes to the Senator from Oklahoma.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from Oklahoma is recognized for 5 minutes.

THE CONFIRMATION HEARING FOR GOVERNOR LEAVITT

Mr. INHOFE. It is my intention, Mr. President, to come down here and share something that happened last Tuesday that has never happened before in the history of this institution. I chair the Environment and Public Works Committee. We had a confirmation hearing for Governor Leavitt from Utah, a highly qualified nominee by the President to be administrator of the EPA. The Democrats boycotted the meeting. They obstructed the meeting just by boycotting it, not showing up. I am going to be talking later on today about that, but it is my intention now to talk about the subject the Senator from Utah and the Senator from Texas have before us, because it has such great ramifications to our Nation's security.

SUPPLEMENTAL APPROPRIATIONS FOR IRAQ SECURITY

Mr. INHOFE. The whole issue of the $87 billion is so misunderstood by most of the American people, I would like to try to put it in a context that is more understandable. First of all, you are talking about $87 billion, of which $66 billion is going back into the military. Most of that is rebuilding the military for what happened to the military during the 1990s, and to rebuild it, to get us up to be able to meet the challenges that are very serious today. I would like to go into more detail on that, but there is not time in this 5 minutes.

But I would say this, of the $87 billion—and you take away the $66 billion—we are talking about $20 billion, less $5 billion. It is very important we understand this; $5 billion of this will be going toward border security, having nothing to do with rebuilding infrastructure, rebuilding any of the water systems, electrical systems, the highways, the other infrastructure systems we are going to have to get done.

It leaves $15 billion.

The big discussion here is—and I know it sounds good to the American people and it sounds good to my wife—with all of the potential oil revenues, why don't we restructure this as a loan as opposed to a grant? There is very good reason for that.

CSIS has come up with an analysis of the debt that is owed currently by Iraq. It is not just $140 billion or the $200 billion figure you have heard. When you put the claims in there that would have to be subordinate to the $383 billion, if we do restructure this as a loan, it would come in only after $383 billion has been repaid by some source. We all know logically that would never ever happen. But the rewards of expending this $15 billion and doing it quickly, as the President is requesting, are immense. To have a friend in that country of Iraq in the Middle East would have a great benefit for us.

When you stop to think about just the cost of petroleum for the no-fly zone, that amounts to $15 billion each decade. If we don't do this, we are going to be right back in that box where we didn't finish the job we should have finished in 1991 and 1996. Now is the time to finish the job.

I suggest to you that the greatest disservice we could do to our troops on the ground over in Iraq would be to stall this thing, to not get over there and put the necessary money in to fix the infrastructure.

I am not sure how many people in this body know how much our troops are doing. They are actually putting roofs on buildings, they are actually constructing houses, and they are doing things on their own with their own labor. They desperately need to have us come in and make the necessary fixes.

We have had a success story. My gosh, we have had over 5,000 businesses started. The hospitals and clinics are now open. The schools opened 2 days ago, and 56,000 Iraqis are now working in the security control system.

All of this can continue only if we get the $15 billion over there for the reparations and to take care of the infrastructure. If we don't do that, we are leaving our troops out there in a very dangerous situation.

I would like for everyone to remember their history a little bit.

The Treaty of Versailles was in 1919, at the end of World War I. France insisted on leaving $32 billion in debt for the Germans to pay. As a result of being covered up with debt and knowing there was no possible way out, they became ripe for Hitler to come along. And we know the rest of the story.

That is the same situation we are facing in Iraq right now. If we don't come to the table with the $15 billion and get in there and start repairing the infrastructure and continue the success we have had so far, and do it immediately, then we are going to leave our troops hanging out there to dry.

For the sake of national security, the most significant thing we probably will be dealing with—certainly in this year and maybe during our entire careers—is to get the money in there and get the job done, and this time not do what we did in 1991 or 1996 but finish the job and bring this country back up so it can be our ally in the Middle East.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. BENNETT. Mr. President, one of the anecdotes about politics I enjoy the most and that I think is most illustrative of some of the situation that is going on now with respect to Iraq relates to the late Pauline Kael. She was the movie editor for the New Yorker magazine. In 1972, when Richard Nixon won an overwhelming and historic victory in the Presidential election, carrying every single State except Massachusetts and the District of Columbia, Pauline Kael was terribly surprised. She said when commenting on this: Nixon can't possibly have won. I don't know a single person who voted for him.

There might be some who will say that speaks well of her circle of friends, but it demonstrates that she lived in a very tight intellectual circle and had no real contact with what was happening in the country as a whole.

I cite that because I think that is what is happening with respect to reporting in Iraq right now. I had an experience over the weekend which I will share briefly before I yield the remainder of our morning business time to the Senator from Texas.

An old friend from Utah and his wife came to Washington on a tourist visit, and I took them around to the various monuments. This man and his wife expressed great concern about Iraq. The wife said: We have real problems in

Iraq. I said: Yes, we do. Tell me what they are, from your perspective.

She said: People are dying all the time, and we are making no progress whatsoever, and we have no plan of making progress. We are in real trouble in Iraq. I said to her: Let me ask you a few things. I said: Are you aware of the fact that about 90 percent of the country is peaceful and that the attacks on Americans are taking place only in what is known as the Sunni Triangle, which goes from Baghdad to Tikrit, and that outside of the Sunni Triangle Americans are not being attacked and killed? She said: No, I didn't know that.

I said: Which country do you think is providing the most troops other than America to help fight for security in Iraq? She said: I guess it is the British. I said: No, it is not the British. Not the British? Is there another country that has more troops in Iraq fighting for Iraq besides the British? I said: Yes. It is the Iraqis. She said: What do you mean? Why, there are close to 50,000 Iraqis under arms providing security support for Americans. She said: I didn't know that.

I said: How many schools do you think have been reopened since the war? She said: I assume probably none. I said: No. I said: 90 percent of the schools and hospitals are now operating. She said: I didn't know.

I will not prolong the time because the Senator from Texas wishes to speak. But the point is that we have in the American press today a lot of Pauline Kaels, someone who said, I don't know a single person who voted for Richard Nixon, in the face of the most historic landslide we had with Richard Nixon. We have press people who are telling us what is going on in Iraq who don't know anybody who has anything good to say about what is going on in Iraq.

I have said before and I will conclude with this: During the height of hostilities in Iraq, to watch television, it was clear we were losing the war on CNN. But, fortunately, we won it on Fox. Ultimately, the fact that we won came through even to the CNN executives.

I think the good things that are happening in Iraq will eventually come through, even to the people at CNN and the New York Times and some of the other places that are living in a Pauline Kael world.

I yield the remainder of our morning business time to the Senator from Texas.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. CORNYN. Mr. President, I inquire how much time remains on our side.

The ACTING PRESIDENT pro tempore. The Senator from Texas has 20 minutes remaining.

Mr. CORNYN. I thank the President, and I thank the Senator from Utah for the courtesy and the opportunity to rise to say a few words about the President's budget request.

I want to be clear about this. The sooner we accomplish our mission of securing Iraq and freeing the economy and stabilizing the government, the sooner our young men and women will be able to come home and we can turn Iraq over to the Iraqis so that they can enjoy the blessings of self-government and liberty.

By the same token, the longer we delay in voting on this supplemental request, the longer we delay in getting money that is needed both to support our troops and to restructure that troubled region and the longer it will be before our troops will be able to come home to their families. Slowing this funding request merely delays the return of our troops from harm's way. And that should not be the role of the Senate, either unintentionally or otherwise.

We all know that the Congress voted to authorize the President to use necessary force to remove Saddam Hussein's regime last November. But there are some in this body today who appear to be playing the politics of the moment, making claims that seem to exploit for political gain the hardships that our military is enduring in serving the cause of freedom. This is nothing more than crass political games. They certainly have no place in this body.

I have the utmost respect and regard for my fellow Senators. Yet I must confess that I am dumbfounded at how soon some have appeared to forget the truth of Saddam's vile regime. The fundamental question we ought to be asking is, Are the Iraqi people better off today than they were under Saddam's regime? The answer to that is unequivocally yes. Are the American people safer today than they were when Saddam was in power? Again, the answer is unequivocally yes. The only remaining question is, Have we finished the job we started with Saddam's ouster? The answer to that question is no. But we must and we will.

I had the honor of traveling to Iraq with members of the Senate Armed Services Committee last June. I was sickened by the inhumanity evidenced by the mass graves, holding some 300,000 Iraqis and others who were victims of Saddam's regime. I was also shocked to learn from a U.N. representative that there are some 1.5 million people simply missing. We do not know whether they are dead or alive.

The suggestion in the face of these silent witnesses that Iraq, the Middle East, indeed the entire free world, are not better off today than before we took Saddam down is simply false.

Today there is religious freedom and human rights in Iraq unlike anything experienced during Saddam's regime. The Iraqi people now have hope, they have a future, something that must have seemed only like a dream to them a few short months ago.

I am proud to commend President Bush for the resolute leadership that he has demonstrated in pursuing the war on terror both in Iraq and around the world. Everyone who has been engaged in this fight, whether it is the most junior recruit or the Commander in Chief, is doing a remarkable job under extraordinarily difficult circumstances. I strongly believe we must remain committed to finishing the job in Iraq by supporting this supplemental.

I ask those who oppose this supplemental or who want to slow it down or who want to cut it in pieces and engage in lengthy delay, what is the message America sends to our enemies in the war on terror if we are shaken in our commitment? Do we doubt our mission so easily? Do our international commitments mean so little? We did not undertake the war against terror because it was easy. We undertook it because it was the right thing to do, because it was necessary to make America safer.

As I said, there are some in the Senate who have advocated separating the moneys requested in this $87 billion supplemental between assistance to the troops and reconstruction of Iraq. I am opposed to any such separation and I am glad we voted down an amendment yesterday on that issue. Some argue that we should loan the money to Iraq instead of providing it to Iraq in the form of a grant—that is, that portion that should go to reconstruction. If we are to get our young men and women in uniform back home as soon as possible, which should be our goal, and turn the government over to the Iraqi people as soon as possible, which should also be our goal, we should not allow for any delay in the delivery of these funds.

General Abizaid, the CENTCOM commander, testified before the Senate Armed Services Committee that these reconstruction funds are inextricably intertwined with the security of our men and women on the ground.

I also believe it would be foolish to extract what would be only an illusory guarantee of loan repayment, and the delay in getting such loan funds to those who need it on the ground will likely jeopardize the security of our troops, according to General Abizaid.

The economic assistance and the reconstruction support requested today are essential to the success and security of our troops and essential to our success in Iraq. We must build up Iraqi security, we must gain the confidence of the Iraqi people by improving the infrastructure, and we must begin the capacity to deal with all of the threats they face on the ground.

I share my colleagues' concerns and their sense of fiscal responsibility when dealing with taxpayer dollars. I strongly believe we should be good stewards of the taxpayers' money at all times. I wish this newfound concern pervaded all aspects of our fiscal responsibilities in Congress, not just this one. We cannot preach fiscal restraint on one hand and practice fiscal irresponsibility on the other. True, responsibility cannot depend on political convenience.

The numbers we are dealing with today are hard for many to grasp but boil down to the American taxpayer, according to a recent USA Today article, this way: Each year American households spend about 1 percent of their income on alcoholic beverages, another 1 percent on tobacco products, and we spent about .7 percent of our income on cosmetics. To put it into context, if this request were approved, our combined operations to combat terror in the Middle East and Afghanistan will have cost .8 percent of our income next year, a bit more than we annually spend on makeup and shampoo and a bit less than we annually spend on alcohol and tobacco. Significant? Yes. Budget busting? No. Worth it? Yes.

The American people are well aware that we are engaged in a Presidential election season and they recognize the difference between those with an honest difference of opinion and those who seek to exploit the President's handling of the war purely in order to gain political advantage. I find something particularly unsavory about the comments of those who seek political advantage in questioning our commitment to our troops and our dedication to winning the war on terror. Those who spend their time playing political games with our mission in Iraq, even as our young men and women labor to secure and stabilize that fledgling nation, do a dishonor not only to themselves but to our soldiers in the field and the memories of those who have sacrificed everything they had opposing Saddam's blood thirsty regime.

There are clearly obstacles to overcome in Iraq and there will certainly be setbacks along the way, as we have seen. I only hope the politics of the moment do not drive criticism that only serves to undermine our commitment to winning the war on terror and American resolve. We must not cut and run. We must not leave the Iraqi people with a promise unfulfilled. We owe it to our young men and women in uniform to give them our unequivocal support as they labor on in a dangerous place for an honorable cause.

Our troops, I am convinced, have the will to win. I only hope our politicians share that will to win.

As President Kennedy said 42 years ago:

> Let every nation know whether it wishes us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe, to assure the survival and the success of liberty.

I only wish those who are consciously or not intent on denying our troops what they need to finish the job and to get home as soon as possible will stop to reconsider. We have liberated Iraq of Saddam Hussein and now we must simply finish the job. We seek to make Iraq secure, to make it a place where the rule of law can be established so that civilian leaders, including the Iraqi Governing Council, can establish a new government for a new nation. This is not an easy task and it is not without cost. But it must be done, so Iraq can flourish as a free nation, and so that the victories won, the lives lost, will not be in vain.

Mr. President, I yield the floor and suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

CONFIRMATION PROCESS

Mr. CORNYN. Mr. President, I understand Senator DOLE is coming to the floor, and I just want to, until she gets here, say a few words about what happened at the Environment and Public Works Committee yesterday when the confirmation of Governor Leavitt of Utah was being considered.

I have the honor of serving on four committees in the Senate, including the Judiciary Committee, which, as we all know, has proven to be a particularly contentious committee, with the unprecedented filibuster of some of President Bush's most highly qualified nominees.

But yesterday, for the first time, we saw some of the politics of the Judiciary Committee, the obstructionism there, pervading the Environment and Public Works Committee, for the first time, when it came to considering and voting on the nomination of Governor Leavitt of Utah to serve as the Administrator of the Environmental Protection Agency. Rather than have a debate, rather than have an honest debate, and then an up-or-down vote on this important nomination, what we saw was simply a boycott. Members of the committee on the other side of the aisle simply decided not to show up, making it impossible for us to achieve a quorum and impossible for us to vote on the confirmation of Governor Leavitt.

For the life of me, I cannot understand how those who claim to be pro-environment would simply obstruct the confirmation of a highly qualified nominee and leave the Environmental Protection Agency headless. Denying leadership to that large agency concerned with the protection of our environment and enforcement of our environmental laws and claiming to be pro-environment strikes me as inconsistent.

So I fear that as the primary season approaches for the Presidential race in 2004, what we are seeing again is the unfortunate intrusion of Presidential election politics into the work of the Senate.

Unfortunately, what that means is the people's work is not being done; the Environmental Protection Agency is denied the confirmation of a highly qualified nominee and is left leaderless. Certainly that cannot be pro-environment under any stretch of the imagination.

Some said there were 400 questions in writing that had been submitted to Governor Leavitt, which, in fact, he did his best to answer. But at least one Senator said: Well, I don't really care about the answers to the questions. I am going to vote to confirm him, but I want him to go through the exercise of answering those questions anyway so we can get him on record.

Well, the problem is that the nominee is somebody who has not yet served in that position. He is hobbled, to some extent, to be able to answer some of the questions that have been proposed. So he has to say: Well, if confirmed as Administrator of the Environmental Protection Agency, I will do everything within my power to investigate this issue, and to get to the bottom of it, and to respond to your concern, Senator.

But, otherwise, he is left without the opportunity for an up-or-down vote, and the EPA is left without a head—hardly a place where we need to be. We would not be in that condition if it were not for Presidential election politics pervading yet another committee's work when it is concerned with the protection of our environment.

I know in the Judiciary Committee this morning we have another nominee of the President who we are going to take back up, Judge Charles Pickering. It remains to be seen whether Judge Pickering's name will be added to the growing list of those who are being denied an up-or-down vote in this body because a minority of the Senate refuses to allow that up-or-down vote—an unprecedented act of obstruction and something which has not occurred before the obstruction of Miguel Estrada's nomination, that of Priscilla Owen, that of Bill Pryor. I hope that list is not further lengthened by adding the name of Charles Pickering.

Mr. President, with that, I yield the floor and suggest the absence of a quorum.

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

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

Mr. REID. Mr. President, it is my understanding that the time of the majority has expired; is that right?

The ACTING PRESIDENT pro tempore. The time of the majority has expired.

CONFIRMATION OF JUDGES

Mr. REID. Mr. President, I was not planning on speaking this morning. However, my friend from Texas, the junior Senator from Texas, talked about something that I think deserves a response.

The Senator from Texas said—and I quote—there has been ''an unprecedented act of obstruction.'' He is referring to President Bush's nominees being withheld, not allowing votes on judges.

Mr. President, I do not know—and I do not mean this to be cute or smart or mean spirited, but I do not know what kind of math my friend from Texas is using if he is talking about unprecedented acts of obstruction.

Right now in the Federal judiciary there is a 5-percent vacancy rate. We have four judges on the calendar now, and they will be approved within the next, probably, 24 hours. So that will bring the number of judges approved during the Bush administration to nearly 170. I do not have the exact number. I have lost track of it but nearly 170.

Three judges have been turned down: Bill Pryor from Alabama, Miguel Estrada from the District of Columbia, and Priscilla Owen from Texas.

Unprecedented obstructionism? We are talking about 170 to 3. So my math indicates that is pretty good.

When Senator DASCHLE took control of the Senate as majority leader, a decision was made that there would be no payback. It would not be payback time. In fact, a decision was made that we would do everything we could to get the nominations approved that were sent to us by President Bush. We have done that. The record is clear.

However, my friend from Texas should go back and look at how President Clinton was treated. People waited for years and years and were not even allowed a hearing. As we know, it was necessary on a number of occasions to file cloture. Cloture was invoked, and the judges were approved.

It is easy to come on the Senate floor and throw out terms such as ''unprecedented acts of obstructionism,'' but it is not true. No matter how many times you say it, it still is not true.

PAT LEAHY, who has been the chairman and ranking member of the Judiciary Committee during the approximately 3 years of the Bush Presidency, has done an outstanding job of moving these judges. I don't know how we could do better. I guess we could be a rubber stamp for the President's nominees. That is not what the Founding Fathers envisioned. They believed these names should be submitted to the Senate. The Senate should evaluate them and make a decision at that time whether or not the nominees are what the country should have in the way of judges.

A decision was made in the case of Miguel Estrada. He didn't answer questions. He would not supply his memoranda from his time as Solicitor General. For those and other reasons, he was not approved. Priscilla Owen was criticized by the President's own lawyer, Mr. Gonzales, who is now the White House chief lawyer. He and Priscilla Owen served together on the Texas Supreme Court. She was criticized very heavily by Mr. Gonzales at that time. That is just a little bit of her problem. We know that she, by almost any standard, was quite radical—an activist, for lack of a better word. And we know Attorney General Pryor from Alabama was someone whose record was not such that he should become a lifetime appointment on the Federal bench.

That is 3, 3 to approximately 170. I do not know the exact number, but that is fairly close. By any math course you ever took, 170 to 3 is pretty good. In fact, it is real good. I wish we had had that kind of treatment when Bill Clinton was President.

I again remind everyone the vacancy rate in the Federal judiciary is now 5 percent. It is the best it has been in decades. Rather than having people come and push these little barbs at the Democrats on the Judiciary Committee, they should be giving them accolades for the cooperation they have maintained during President Bush's tenure.

Mr. President, it is my understanding the distinguished Senator from North Carolina wishes to speak as in morning business. Her time is gone.

Mrs. DOLE. Mr. President, I ask unanimous consent to proceed for up to 1 minute.

Mr. REID. And let us have a minute on our side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from North Carolina is recognized for up to 1 minute.

THANKING BOB SCHIEFFER

Mrs. DOLE. Mr. President, I want to publicly thank our friend, Bob Schieffer, of CBS for revealing the story of his battle with bladder cancer. His going public will save the lives of countless others, especially men. In most every cancer case, early detection of and proper treatment can save your life. Bob Schieffer had a problem and immediately sought medical advice. The result was that in less than 8 months, he is cancer free. Thank you, Bob, for giving others direction and hope.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time? The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, the Senate is in morning business?

The ACTING PRESIDENT pro tempore. The Senate is in a period of morning business. The minority side has 25 minutes remaining.

Mr. HARKIN. I thank the Chair.

CALL FOR APPOINTMENT OF SPECIAL COUNSEL

Mr. HARKIN. Mr. President, many of my colleagues and I have been urging the Justice Department to appoint a special counsel to review and investigate the leak that revealed the identity of an undercover CIA agent. Some of my colleagues on the other side of the aisle have responded by saying that we are blowing things out of proportion, that our motives are political. I have to disagree. This is a serious issue, and it is not just those on my side of the aisle who have concerns about the obvious conflict of interest for the Justice Department to investigate this matter on its own.

I am referring to the Washington Post-ABC poll that was released. The poll found that nearly 7 in 10 Americans believe a special type of prosecutor should be named to investigate allegations that the Bush administration officials illegally leaked the name of an undercover CIA agent. The survey found that 81 percent of Americans considered the matter serious, while 72 percent thought it was likely that someone in the White House leaked the agent's name. It's clear the people of this country want a full, fair and independent investigation.

I would also like to take a minute to respond to comments from my colleague from Minnesota that were made earlier Wednesday. I believe he may have been misinformed. I wanted to make sure my colleague from Minnesota was clear on the difference between an independent counsel and a special counsel. Yesterday I had again stated the need for the Attorney General to appoint a special counsel to investigate this leak regarding an undercover CIA agent. We all know that a Federal law was broken—that is clear—a law that provides for stiff penalties, imprisonment, and fines. It is a Federal crime, under the Intelligence Identities and Protection Act of 1982 to intentionally disclose information identifying a covert agent to anyone not authorized to receive this classified information.

Columnist Robert Novak printed that information. We need to know who the senior administration official or officials were that gave him that information. But we also need to find out who gave that information to the administration officials.

Let me be clear about this. There is a cancer spreading in this administration. Most have focused only on who it was who gave the name of the undercover agent to Mr. Novak, the columnist. Clearly that is illegal. But there is another question behind that. How did that individual or individuals get access to this classified information about this undercover agent? Who gave that individual this information? Did it come from the National Security Council? Did it come from the State Department? Did it come from the CIA itself? Did someone in the White House request this dossier on Mr. Wilson and his wife? Or was it voluntarily given to them by someone in the CIA or the National Security Council or somewhere else? This is an even deeper question because it goes to what they wanted this information for. Why would individuals high in the administration want the information about who was

an undercover agent and who was not, unless they had the intention of using that information to intimidate Mr. Wilson, to put a chilling effect on those who might want to disagree with this administration's position on Iraq.

That, I believe, is another concern we have—the chilling effect. The greatest weapon we have in our fight against international terrorism is not a ballistic missile, it is not this missile defense shield that people want to build over this country, it is not our laser-guided bombs; the best weapon we have against international terrorism is the intelligence and information we get from agents in the field around the globe, working with our friends and allies and others, so that we can get to the terrorists in their incubation, before they are able to carry out their dastardly deeds, break up their cells, break up their lines of communication. It is the intelligence and information that we need to win this battle against terrorism.

If, however, one of our agents in the field and all that agent's contacts now think that at some time this administration, or an administration in the future, can ''out'' them, release their name, then that puts kind of a damper on whether or not they are going to get information. That could put people's lives in jeopardy, put them at risk in the future.

For example, the woman who was outed, Valerie Plame, had in fact traveled overseas as an undercover agent. I assume now people will be looking at whom she contacted, whom she talked to, who were her sources of information. This is not, as I said the other day, some little real estate deal out in Arkansas. This is not just some President philandering with some White House aide. This has to do with the security of our country.

According to the Washington Post, a senior administration official told the Post that before Novak's column appeared, two top White House officials called at least six journalists and disclosed the identity of the CIA agent. Now the Justice Department is investigating.

So let's get this straight. The Attorney General, appointed by the President, is investigating the President's office. As I said yesterday, and I say again this morning, if an investigation ever cried out for a special counsel, this is it. Again, I point to an article that appeared on the front page of the New York Times today, which said: Attorney General is closely linked to inquiry figures. Rove was a consultant. Deep political ties between top White House aides and Attorney General John Ashcroft have put him into a delicate position as the Justice Department begins a full investigation into whether administration officials illegally disclosed the name of an undercover CIA agent. Karl Rove, Mr. Bush's top political advisor, whose possible role in the case has raised questions, was a paid consultant to three of Mr. Ashcroft's campaigns in Missouri—twice for Governor and for United States Senator in the 1980s and 1990s. Jack Oliver, the deputy finance chairman of Mr. Bush's 2004 reelection campaign, was the director of Mr. Ashcroft's 1994 Senate campaign and later worked as Mr. Ashcroft's deputy chief of staff.

Does anyone really believe that this Attorney General can, with a straight face, say they are going to investigate these people when they work for them and they have close ties? As I said, a special counsel is needed desperately.

In response yesterday morning, when I called for this, my colleague from Minnesota accused some of my colleagues and me of ''rank political hypocrisy'' when it comes to calling for a special counsel. He said this, and I quote from the RECORD today:

> I'm a slight student of history. I believe in 1999 there was an effort in this body, led by Senator Collins from Maine, a bipartisan effort to put in place a provision to allow for a special prosecutor. And it was blocked. It was stopped by the very same folks today that are talking about needs for a special prosecutor. I think, and I am going to be very blunt here, what we are hearing is a little rank political hypocrisy when it comes to calls for a special prosecutor.

That is in the CONGRESSIONAL RECORD today from Senator COLEMAN of Minnesota. I think Senator COLEMAN needs to brush up on his history. In 1999, the independent counsel law expired. Republicans were in charge of the Senate and they chose not to reauthorize it. This law allows the Attorney General to recommend an independent counsel, to lead an investigation, and a three-judge panel chooses that counsel. That independent counsel was accountable to no one. It had its own staff, budget, and missions. The investigations could go on indefinitely.

My main problem with the Office of Independent Counsel was that the investigations could go on forever, with a bottomless budget that taxpayers had to pay. The Collins alternative was a step in the right direction, which limited the time on these investigations. But the Republican leadership never scheduled a vote—never scheduled a vote.

By the way, former independent counsel Kenneth Starr opposed renewing that law. Regardless, appointing an independent counsel or prosecutor is not what I have been talking about. I don't believe I've ever mentioned appointing an independent counsel. I have said the Attorney General should appoint a special counsel. There is a big difference. The Attorney General alone can appoint an outside special counsel if he believes there is an inherent conflict of interest or if he deems it is in the public interest for a special counsel to be appointed. The special counsel reports to the Attorney General, who pays the counsel's salary and the salary of his or her staff.

The key to the special counsel is this. At the end of the investigation, the Attorney General must report to Congress all instances where he blocked the special counsel from taking an action, such as subpoenaing documents or putting a witness before a grand jury. That is the kind of balance we need in this kind of situation, when the administration is obligated to investigate itself.

So I think the Senator from Minnesota not only needs to brush up on his history but also definitions. It was an entirely different issue in 1999. The law had expired. The Republican majority did not move to reauthorize it and to even call for a vote to reauthorize the independent counsel law. Quite frankly, I am one of those who don't believe in these independent counsels because they go on forever and they are accountable to no one. They can investigate whatever they want. That is not what I am calling for.

What I am calling for is the Attorney General to use the authority he has under the law to appoint a special counsel, someone of prominence, someone of integrity, someone who would assure the American people the investigation will be done fairly, objectively, and thoroughly, and let the chips fall where they may. It would not go on forever. The Attorney General decides the salary and the pay and how much staff. But the key is this: The special counsel would have, under the auspices of the Attorney General, the ability to subpoena witnesses, to subpoena documents and records, to take a person before a grand jury. The Attorney General could say no and stop it, but at least we would know that. The people of America would know whether or not the Attorney General stopped the special counsel from getting certain documents or referring a witness to a grand jury. Therein lies the check and balance that is so important to making sure we have an open and transparent system of Government.

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

Mr. HARKIN. It is time we have a special counsel.

I am honored to yield to my friend from Nevada.

Mr. REID. I ask my friend this question: If someone within the CIA had divulged the name of this operative, that person, it seems to me, would be subject to criminal penalties and would be considered a traitor; is that true?

Mr. HARKIN. I know the person would be subject to criminal penalties. I am not certain I know the definition of a ''traitor,'' but I think it would be closely akin to that. I don't want to make a statement. I don't know the absolute definition of ''traitor,'' I say to my friend. Obviously, it would be subject to penalties. We have Aldrich Ames right now spending his life in prison without parole because he divulged the name of operatives, undercover agents, whose associates and others were killed in the former Soviet Union, and Aldrich Ames today is where he ought to be: in prison for life without parole.

The same applies here, it would seem to me, I say to my friend from Nevada, that this is a case where not only someone in the CIA but anyone in a position who has access to this classified information would be subject to this. Again, I say to my friend from Nevada, since he is on the floor, I really think many of the people who are inquiring about this are stopping short because they are only focusing on who gave the information to Mr. Novak. There is a deeper and I think even more profound question to be asked: How did those individuals in the administration get that classified information? How did they come by that information to know this Valerie Plame was an undercover agent? That raises very serious questions.

Mr. REID. If I can answer and ask a question. First of all, Webster's compact dictionary I have in my desk says a traitor is one who betrays trust. So certainly if a CIA agent leaked to the press the name of one of his colleagues who is an undercover agent, he would be a traitor.

Mr. HARKIN. I accept that definition. I say to my friend, my feelings and my senses are that someone with this kind of information who leaked it I think has violated the law and betrayed the government and the citizens of the United States.

Mr. REID. The next question I ask my friend: So if a CIA operative would be subject to criminal penalties and would be considered a traitor for doing this activity, certainly someone working within the administration, within the White House, would be considered the same; is that not true?

Mr. HARKIN. I think the Senator from Nevada has it exactly right. That is true, they would be considered the same. I thank the Senator for asking the question because it does clarify a point.

If I can take off from what the Senator from Nevada just asked me—and it is a good point, it should be made—what would happen in the administration if someone in the CIA had leaked this kind of information about an undercover agent. What would happen? I will tell you what would happen. They would have that person locked up in jail before nightfall, and they would be prosecuted to the full extent of the law. My friend from Nevada raises a good question: What is the difference between that and someone in the White House or administration doing the same thing?

Again, it is time for a special counsel. As the New York Times said this morning on the front page, both Mr. Rove and Mr. Oliver have close connections with Mr. Ashcroft. I don't know whether they are involved in this or not, but they are both very high in the administration. There are too many close ties between Attorney General Ashcroft and people high in this administration for the people of this country to be assured that we are going to have a fair, independent, full, and thorough investigation. Let the chips fall where they may and prosecute—yes, prosecute—the people responsible for leaking this information.

Mr. President, I intend to take the floor of the Senate every day to talk about this issue. We cannot allow this to be swept under the rug. We cannot allow a coverup to go on day after day. This is a President elected by the people, a servant of the people. And I don't think it is enough for any President to say: We will let the Attorney General investigate. The buck stops on the President's desk. I can only say if an allegation had been made about someone on my staff doing something like that, I would call them in, and I would have them sign a notarized legal document right there: I, so and so, had nothing to do with any leak and know no information about it whatsoever. Sign it.

That is what the President can do, and we can have this information out about who called Mr. Novak, who called these other reporters. We would know it before the sun went down today. That is why this coverup cannot continue to go on. The American people deserve better than this, and they are going to get it. We are going to find out who put our country at risk, who committed these treasonous activities.

I yield the floor.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR IRAQ AND AFGHANISTAN SECURITY AND RECONSTRUCTION, 2004

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1689, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1689) making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

Pending:

McConnell modified amendment No. 1795, to commend the Armed Forces of the United States in the War on Terrorism.

Biden amendment No. 1796, to provide funds for the security and stabilization of Iraq by suspending a portion of the reductions in the highest income tax rate for individual taxpayers.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 40 minutes divided in the usual form on the McConnell amendment No. 1795.

The Senator from Kentucky.

AMENDMENT NO. 1795

Mr. McCONNELL. Mr. President, before proceeding to my remarks about the pending amendment, I point out to Members of the Senate that we are all familiar with the National Endowment for Democracy and the fact that it provides funds to the International Republican Institute and the National Democratic Institute, which operate overseas to help promote democracy, human rights, and all of the things that Americans believe are important.

The National Democratic Institute recently issued a report on Iraq that I think is noteworthy, and I am going to point out some excerpts from that.

I ask unanimous consent that excerpts from this report be printed in the RECORD.

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

(See exhibit 1.)

Mr. McCONNELL. Former Secretary of State Madeleine Albright currently chairs the National Democratic Institute and she points out:

> The past half-century provides ample proof that democracy is more than just another form of government; it is also a powerful generator of international security, prosperity and peace.

According to the NDI, inside Iraq there is an explosion of democratic politics.

> . . . NDI will find fertile ground for democracy promotion initiatives on a scale not seen since the heady days of the fall of the Berlin wall.

That bears repeating, that the National Democratic Institute finds within Iraq today an explosion of democracy, and fertile ground for democracy promotion initiatives on a scale not seen since the fall of the Berlin wall.

Another finding of the NDI that I think is noteworthy is that the Iraqis are grateful for their liberation. There has been some notion promoted, I think by many in the press, that somehow the Iraqis are sorry that Saddam is gone. The NDI, headed by Madeleine Albright, finds that the Iraqis are grateful for their liberation.

In addition, the NDI finds significant evidence of support for the United States. For example, they say:

> In Kirkuk, there was a large painted sign reading ''Thank you USA'' in English and in Kurdish.

Additionally, the NDI found overwhelming support for liberation, but lack of stability or economic opportunity obviously does erode, to some extent, support for the U.S.

They found that security and jobs are a precondition to democracy. We know that, and that is what this supplemental is all about. They found Iraqi frustrations are due to fear and uncertainty, not hostility toward the United

States. This is the National Democratic Institute, headed by Madeleine Albright, which said that Iraqi frustrations are due to fear and uncertainty, not to hostility toward the United States.

The NDI also found that the Iraqis need our help now, and that is what this supplemental is all about. They also found that chaos and slow progress would feed the forces of radicalism, which seems an obvious statement to this Senator, and I believe their findings highlight the fact that time to act on the supplemental is now. That is why this bill is before the Senate and why we are moving forward with this important supplemental to finish the job in Iraq and give the Iraqis a chance to realize their aspirations.

As we all have recognized, the world changed dramatically on September 11, 2001. It changed in that the unprovoked attack on America required that America defend itself from the shadowy network of international terrorism.

To protect American lives and buildings, the President announced his intention to go after international terrorists wherever they were and after the regimes that supported those efforts, whoever they were. He warned that the costs would be high, that patience would be required, but that America would win the struggle.

Today we are here to pay the price of freedom by moving this supplemental forward. Many have already paid the ultimate price for freedom, whether it was soldiers in Iraq or Afghanistan, civilians in the World Trade Towers, passengers in airlines wrestling control from terrorist hijackers, or the passengers themselves giving their own lives. Yes, many have paid the ultimate price of freedom. The question is, Will Congress pay?

Some say the price of freedom is too high and we have already paid too much. So while we have won the war in Iraq, the struggle today is whether America will pay the price to win the peace, just as we did after World War II. This is a question, of course, we have struggled with before.

In the past, we have sometimes won wars but actually lost the peace. But not always. At the end of the Civil War, President Lincoln foreswore revenge, retribution, and reparation payments against the South. His spirit marched on as America paid for the reconstruction of the South, ravaged by the effects of 5 years of a new, more devastating type of warfare. Clearly, if we look at America today, we won that peace.

At the end of World War II, America again won the peace. We did not want the emergence of another Weimar Republic of Germany, which, racked by debt and desolation, would spawn yet another new greater threat. Of course, that was the result after World War I, costing us a second payment of even more lives and paying the price for freedom in World War II. Instead of a failed peace, such as we had after World War I, in 1948 the Marshall plan of aid and trade inaugurated a restoration of Europe, a halt to Communism and an unprecedented expansion of freedom and peace.

This is a picture of President Truman signing the Marshall plan in 1948. Interestingly enough, that was in the middle of a tough Presidential election. It would have been easy for the Republican-controlled Congress to have politicized that effort, to have criticized President Truman for advocating that kind of spending on the reconstruction of Europe, but instead they came together on a bipartisan basis.

Arthur Vandenberg, Joseph Barton, and the other Republicans who were in the majority in the Congress that year joined hands with President Truman and said: Let's make this bipartisan, let's finish the job in Europe, let's do it right and give the Europeans a chance to develop democracy and freedom, something that was lost after World War I.

Today we face the very same challenges. Historians may very well record that now is when the American Millennium began anew, and an unprecedented expansion phase, not of America herself, but of the idea that America represents and shares with all freedom-loving countries.

Through one of history's great ironies, the very ideas that were attacked on September 11, 2001, American ideas like democracy, individual freedom, limited government, and free markets—these ideas when attacked did not retreat but were revitalized, not just here but in countries where history records little evidence of even the most basic human rights.

But now, here, today, the scribes of history can say this is when civilization, freedom, and peace began a new march forward, rather than a stagnant period of isolationism of war, oppression, and decline.

I agree this will be the defining debate of this Congress. As history hangs in the balance, as the world wonders whether America will promote the freedom and democracy we brought to Western Europe and Japan after World War II, and to Eastern Europe and Russia after the cold war victory, America should look on this debate with hope and fear. America should hope we in Congress will come together to give peace and freedom a birth in a region not known for it, but we fear that politics may prevent that.

The challenge we face today to which I alluded earlier is to come together behind the President's request, like the Congress did on a bipartisan basis for President Truman and the Marshall plan: to give Iraq a true opportunity to become a bastion of democracy and freedom in the Middle East.

This bill signing I referred to earlier was the first of a total of $10.9 billion appropriated for the Marshall plan during 1949 to 1951, to rebuild Europe and Japan. When you adjust that for inflation, that is equivalent to about $83 billion in today's dollars, over 4 times what the President is calling for in the rebuilding of Iraq. The Marshall plan was four times larger than what the President is asking us to do today in rebuilding Iraq. Polling data back in that era, 1948, showed only 68 percent of Americans had heard of the Marshall plan, and only half of those who had heard of it approved of it. Back in 1948, clearly, spending money to rebuild Europe was not popular, but Republicans and Democrats put aside their differences, rallied behind President Truman and, as I indicated earlier, people like Arthur Vandenberg of Michigan, Charles Eaton of New Jersey, and Joseph Martin of Massachusetts, along with others in a Republican-controlled Congress, joined hands with President Truman to get the job done.

We need leaders like the Vandenbergs and Martins, leaders like those who crossed the aisle to enact President Truman's Marshall plan to rebuild Europe and Japan. We need those leaders today. The election is 13 months away. Let's not start it this soon. Let's do the right thing here in the Senate to give Iraq a real opportunity to achieve its dreams. Let's do what is right for America. The politics will take care of itself in the next year.

What I had hoped for was a high level of bipartisanship. Unfortunately, we have gotten a high level of politics out of all of this. This is the first great military challenge to America in the new millennium. We hear calls out on the Presidential campaign trail for the President's impeachment. One Member of the Senate said that. Or regime change, said another Member of the Senate running for the Presidency. We heard the war for Iraq was a fraud and that the removal of an unbelievably brutal dictator was described by one candidate as ''supposedly'' a good thing. We hear there is no chance for military success, like that of World War I, World War II, Korea, the cold war, or Desert Storm, that gave freedom to Western Europe, Japan, North Africa, South Korea, Russia, Eastern Europe, or Kuwait. We are told our military efforts can only end in a Vietnam-style quagmire and failure. We hear that paying the price to win the peace and bring our soldiers home is too much.

And last, and most destructively, we hear every benefit of the doubt given to a brutal dictator, while every conceivable doubt is hurled upon this administration, our intelligence networks, and our allies.

It should not be that way and it doesn't have to be that way. We can come together. The President's plan says yes, let's make aid and trade work together, not just to rebuild Iraq and end the terrorism, but to build a working democratic state based on individual freedom and free markets. That is how to win the peace. But, frankly, in its details, democracy and peace is pretty routine stuff. It doesn't get a lot

of press. Winning the war, that gets a lot of press. So do efforts that threaten the peace. But winning the peace itself involves terribly mundane stuff.

For example, taking out a terrorist training camp is news. But building police training academies is not. The former wins the war, the latter wins the peace.

Using bulldozers to cover the populations of whole Iraqi towns in mass graves is part of the horrific terror that gets press coverage. But using garbage trucks to keep towns clean and safe from pestilence and disease is the boredom of peacetime. When humans are treated as refuse, that is a sign of war. When human refuse is treated, that is a mark of peacetime.

Garbage trucks and police academies are the mundane, boring signposts that peace and democracy are progressing. We see all sorts of routine signs of progress that get no press. Fifty-eight of the largest cities of Iraq have hired police forces. Some 70,000 Iraqis are patrolling the streets of their country. No one reports this—no one. Medical supplies are flowing to hospitals, with regular paychecks going to doctors and nurses. No one is reporting that. Vaccinations are available across the country and antimalaria sprays are proceeding. No one is reporting that. Again, more mundane stuff that makes for peace and progress. Airports are reopening and so are ports. Provisional representative councils are formed in major cities, especially in Baghdad, and 150 newspapers are publishing, with foreign publications, radio and television broadcasts also available. That is a radical change over there, but show me the press clippings covering the progress. I haven't seen any—none.

We see other signs of progress we would call a normal life—120,000 Baghdad students returning to classrooms last May; 1.2 million school kits are being prepared for the coming school year which started this week; 5 million math and science books will be distributed. Banks are opening, crops are being harvested, the Baghdad symphony is performing, bookstores are reopening, and artists are displaying their works. None of this is reported because it is not newsworthy here in the United States. But it is news there, and proof of peace and democracy sprouting up all over Iraq.

Peace and democracy are sprouting in Iraq, but you would be hard pressed to find news reports here because mainly failure and setbacks count as news. And, of course, certain papers and broadcasters focus on the Presidential candidates, calling the President's efforts a failure. We should not be too surprised. Presidential politics is the most powerful political force in America. But I urge people to ask themselves, why didn't Presidential politics destroy the Marshall plan back in 1948, closer to a Presidential election year than we are now? Presidential politics did not destroy the Marshall plan because Members of the Senate on a bipartisan basis rose above that and did what was right for America and right for Europe.

I believe it was due to the fact that Republicans and Democrats alike wanted to ensure history did not repeat itself. They knew of their friends and comrades who died in World War II because they failed to win the peace after World War I. The threat of poverty and despair in Europe was real, and so was the effort by communists to take advantage of that. But mostly, they didn't want the sacrifice of their sons, brothers, fathers and husbands in World War II to be in vain. to them and us, lives and freedom should be more important than power and politics.

So I ask, can we set aside politics and ask what happens if we fail in Iraq? Perhaps we are not motivated by the good that can come from a democratic Iraq. But surely we should consider the disaster that can befall the world if in this war against terrorism, we fail to bring peace and democracy to Iraq and Afghanistan. Our children and their children will have lost their chance for peace, freedom and prosperity.

This is a defining moment, but if we look after the interest of the next generation rather than the next election—like President Truman and the Republican Congress did back in 1948 with the Marhsall plan—we can do something great for Iraq, for the world and for our children.

So, I ask us to think of the future generations like those who formed the Marshall plan considered in their deliberations. I ask us to come together to do what is right for future generations. I ask for unity, and to promote that end, I will offer an amendment that should unify this body. Let us set aside the rancor and agree that the Armed Forces of the United States have performed brilliantly in Operation Enduring Freedom in Afghanistan and in Operation Iraq Freedom in Iraq.

Since October 7, 2001, when the Armed Forces of the United States and its coalition allies launched military operations in Afghanistan, designed as Operation Enduring Freedom, our soldiers and allies have removed the Taliban regime, eliminated Afghanistan's terrorist infrastructure, and captured significant and numerous members of Al Qaeda.

Since March 19, 2003, when the Armed Forces of the United States and its coalition allies launched military operations, designated as Operation Iraqi Freedom, our soldiers have removed Saddam Hussein's regime, eliminated Iraq's terrorist infrastructure, ended Iraq's illicit and illegal programs to acquire weapons of mass destruction, and captured significant international terrorists.

During all this time, during the heat of battle, our soldiers have acted with all the efficiency that war time commands, but all the compassion and understanding that an emerging peace requires. They have acted in the finest tradition of U.S. soldiers and are to be commended by this body.

That is what this situation requires of us today. I hope as we move forward with this debate on the supplemental, Members will remember the importance of pulling together to finish the job in Iraq.

I yield.

EXHIBIT 1

EXCERPTS FROM A RECENT NATIONAL DEMOCRATIC INSTITUTE REPORT ON IRAQ

''The past half-century provides ample proof that democracy is more than just another form of government; it is also a powerful generator of international security, prosperity and peace.''—Madeleine K. Albright, NDI Chairman

An Explosion of democratic politics: ''After three days in Baghdad it is already clear that NDI will find fertile ground for democracy promotion initiatives on a scale not seen since the heady days of the fall of the Berlin wall. There has been a virtual explosion of politics in Iraq's capital city with as many as 200 parties and movements having made themselves known to the Coalition Provisional Authority.''

The Iraqis are grateful for their liberation. ''NDI's overwhelming finding—in the north, south, Baghdad, and among secular, religious, Sunni, Shiite, and Kurdish groups in both urban and rural areas—is a grateful welcoming of the demise of Saddam's regime and a sense that this is a pivotal moment in Iraq's history. A leading member of a newly formed umbrella movement, the Iraq Coalition for Democracy, put it this way, ''We already see the positive results the Americans have brought—we are free to talk to you, to organize a movement and party, free to meet and demonstrate and all of this was made possible by the Americans.''

Significant evidence of support for the United States: ''In Kirkuk, there was a large painted sign reading, ''Thank you USA!'' in English and in Kurdish. In Erbil and Suleimaniya, there were many ''Thank you to the USA'', ''Thank you to President George Bush'' banners as well as ''peace and prosperity come with democracy.''

Overwhelming support for liberation, but lack of stability or economic opportunity erode support for the U.S.: ''Across the board, the people of NDI met with in southern Iraq supported the forceful ouster of Saddam—a person many described as ''Nero'' and a ''criminal towards his people''. Although southerners were clearly conscious of the discrimination they had suffered under Saddam's Baathist rule, many were quick to add that poor security conditions and a lack of basic necessities are having a negative impact on attitudes toward the U.S.''

''The main findings of the research reveal that, in every community, the Iraqis are grateful for the ouster of Saddam Hussein but have a strong desire for order and governance. They feel a mix of excitement and fear about the prospect of freedom and democracy, and have differing views about the role of Islam in the country's new political order.''

Security and jobs are a precondition to Democracy. ''One former general, previously part of the Free Officers Movement, summed up the state of Iraqi ''anxious ambivalence'' this way, ''People need a rest. They need security and jobs and, maybe after a year they can be educated about political parties and democracy and then they can choose heir future properly.''

Iraqi frustrations are due to fear and uncertainty, not hostility to the United States. ''Faced with rising crime, uncertain economic prospects, and chaotic daily conditions, complaining—to anyone who will listen—has become a national pastime. Part of

the problem is a perceived lack of access to those in authority, but mostly the complaints are a symptom of uncertainty, not an expression of hostility to the United States or its aims in for Iraq.''

The Iraqis need our help now. ''Time is not on the side of the coalition or Iraqi democrats. Current conditions play into the hands of extremists—religious and nationalist—who point to lack of progress as proof of the need for a strong hand.''

Chaos and slow progress feed the forces of radicalism. ''In fact, many Iraqi political forces are benefiting from the societal chaos. Islamic forces, including the Shia dominated Da'awa party and Supreme Council for the Islamic Revolution in Iraq, with their inherent legitimacy, established networks, and communications facilities through the Mosque, are flourishing and establishing positions of dominance in Shiite slums, small cities and the underdeveloped countryside.''

Time to act on the supplemental is now. ''In conclusion, this is not a time for despair or second-guessing but for action. There is an urgent need for democratic education, party strengthening, for coalition building and for material assistance to democratic movements and organizations. The political vacuum is being filled by those with an interest in destroying and separating rather than uniting and building—only concerted efforts to strengthen the democratic middle can help stem that tide.''

Mr. REID. Mr. President, has the distinguished majority whip yielded his time?

The ACTING PRESIDENT pro tempore. The Senator from Kentucky controls an additional 1 minute. The minority side has 20 minutes remaining.

Mrs. BOXER. Mr. President, I am going to support the amendment introduced by Senator MCCONNELL for one reason and one reason only: I support our troops, and I share the sentiment all Americans have in holding our men and women in uniform in the highest regard.

It is a fact that there are differences in this country about United States policy toward Iraq. But there is no disagreement that our military personnel have been brave and courageous. They have made sacrifices for our country and more than 300 have made the ultimate sacrifice. I grieve for their loss and my heart goes out to their families and loved ones.

Families throughout America are proud of their sons, daughters, fathers and mothers who are fighting in Iraq and Afghanistan. They are anxious about reports of daily attacks on United States soldiers in central Iraq and are hopeful that already lengthy deployments are not further extended. I share both their pride and their anxiety. I, too, think about our troops every day. I think about their families. I thing about their sacrifices.

The McConnell amendment makes note of these sacrifices. It also commends organizations such as the USO and Operation Dear Abby that help support our troops. The amendment also states that there should be appropriate ceremonies to honor and welcome them home. I hope these ceremonies occur sooner rather than later.

California has a rich military tradition. Military personnel from across the State and from all branches have been serving bravely in Iraq and Afghanistan. I am especially proud of these military men and women and wish them a safe return home.

Mr. LEAHY. Mr. President, on March 20 of this year, the Senate passed S. Res. 95, a resolution commending the President and the men and women of the United States Armed Forces, and the civilian personnel supporting them, for their efforts in the war in Iraq. I cosponsored that resolution. While there was some language in that resolution I would have changed or deleted, I felt it was appropriate and drafted in a relatively non-political, balanced way such that even those of us who had opposed the resolution authorizing the use of unilateral, pre-emptive force could support.

Today, the Republican leadership has put forward another resolution, which again commends the President and the men and women of the Armed Forces, as well as the civilian personnel who have supported them. I will also vote for this resolution. Of course we commend the troops, their families, and the Defense Department's civilian personnel, for their courage and sacrifice for their country. I have commended the extraordinary efforts of our troops in virtually every statement I have made about Iraq.

But this resolution goes further than S. Res. 95, in ways that I disagree with. It commends the contribution of defense contractors, for example. I have nothing against defense contractors. Many deserve recognition for their indispensable, innovative contributions to the success of our Armed Forces, including defense contractors in my own State of Vermont. It is, for example, these companies that developed the precision-guided weapons that helped to reduce the number of civilian casualties in Iraq. But other contractors have engaged in practices that have bilked American taxpayers out of many millions of dollars, overcharging for their services or manipulating the bidding process. I do not commend those contractors.

I also disagree with some of the wording of this resolution, because it may leave the wrong impression. For example, at one point it states ''Whereas the United States pursued sustained diplomatic, political, and economic efforts to remove those threats peacefully.'' It is true that the administration went to the United Nations, belatedly, under pressure from Congress and the rest of the world, to seek support for the use of force against Saddam Hussein. But it went to the United Nations with an attitude of ''you're either with us or against us,'' and when they did not get everything they wanted as quickly as they wanted it, they prematurely abandoned the diplomatic process and launched a unilateral military attack for the purported purpose of upholding U.N. resolutions without the support of the U.N. Security Council. The administration's diplomatic and political efforts were grudging, half hearted, and ineffective.

In addition, I am concerned, and disappointed, that this resolution makes no mention whatsoever of our diplomats and aid workers who are working tirelessly in Iraq under extremely dangerous and difficult conditions. Their bravery and sacrifice should also be recognized.

Mr. President, we want Iraq to become a democratic, prosperous nation. But let's be honest. We know why the Republican leadership hastily drafted this resolution last night. It is increasingly obvious to the American people that the war in Iraq, where United States soldiers are being killed and wounded every day 4 months after the President declared the ''mission accomplished,'' is going to drag on for years and cost hundreds of billions of dollars. The $87 billion supplemental appropriations bill we are considering is fraught with problems, and even Republicans are realizing that it is unpopular with a majority of their constituents. Compounding that, the White House is facing an internal probe of the leak of the identity of a covert CIA employee. So what do they do, they trot out another ''feel good'' resolution praising the President, in an effort to divert attention from the real issues. We have seen this too many times before.

Again, I will vote for this resolution because I am concerned about our troops and want them to know that each and every one of us supports them as they risk their lives to bring peace and security to Iraq. But I would hope that in the future we do better than these simplistic, politically motivated resolutions.

Mr. KENNEDY. Mr. President, I share the reservations of many of my colleagues about the McConnell amendment. Each and every Senator supports our troops in Iraq, but many of us do not support the decision by the Bush administration to go to war.

This amendment states the pride and admiration we all feel for our troops, their families, and all of those who aided in the effort. But it also contains several provisions many of us disagree with.

The President has stated, there is no evidence that Saddam Hussein was involved in the attacks on the World Trade Center, yet this amendment leaves the impression that he was. This amendment also states that our military action brought an end to Iraq's illegal programs to acquire weapons of mass destruction, but no evidence whatever has been found that Saddam had even begun to reactivate these programs of the past.

In addition, the amendment commends the President and Secretary Rumsfeld for planning and carrying out Operation Iraqi Freedom. No one doubted we would win the war. but we had no plan to win the peace, and Secretary Rumsfeld and Deputy Secretary Wolfowitz misled the President and the country about the need to go to war.

As the evidence now makes clear, Iraq was not an imminent threat to our national security. Iraq did not have longstanding ties to terrorist groups. Iraq was not developing nuclear weapons. No weapons of mass destruction have been found in Iraq.

It is wrong to put American lives on the line for a dubious cause. Many of us continue to believe that this was the wrong war at the wrong time. There were alternatives short of a premature rush to a unilateral war that could have accomplished our goals in Iraq with fare fewer casualties and far less damage to our goals in the war against terrorism.

This resolution commemorates Operation Iraqi Freedom as if the war were over and our men and women are coming home. We know this is not the case, despite the President's declaration of ''mission accomplished'' aboard the aircraft carrier 5 long months ago.

Our service men and women still face constant danger in Iraq. American lives are lost almost daily in Iraq. They were told they would be welcomed as liberators. Instead, they are increasingly resented as occupiers and are under siege every day. They face surprise attacks and deadly ambushes from unknown enemies. It is increasingly difficult to tell friend from foe. The average number of attacks against American soldiers recently increased from 13 to 22 each day.

Three hundred and sixteen Americans have been killed in Iraq since the war began. In the 5 months since President Bush declared ''mission accomplished,'' 178 American soldiers have died. Ten soldiers from Massachusetts have made the ultimate sacrifice in Iraq. Each day another eight soldiers or Marines are wounded in Iraq.

These are not just statistics. Each fallen soldier has someone who mourns their loss. That loss—whether it's a husband or wife, a son or daughter, a brother or sister, or a father or mother—weighs heavily on us as well, and we must do our best to see that their sacrifice is not in vain.

The administration still has no credible plan to end this war. Our troops deserve a plan that will bring in adequate foreign forces to share the burden, restore stability and build democracy in Iraq, and bring us closer to the day when our troops will come home with honor.

Our soldiers' lives are at stake. Patriotism is not the issue. Support for our troops is not the issue. The safety of the 140,000 American servicemen and women serving in Iraq today is the issue, and, it is our solemn responsibility to question—and question vigorously—the administration's current request for funds. So far, the administration has failed—and failed utterly—to provide a plausible plan for the future of Iraq and to ensure the safety of our troops.

Mr. BYRD. Mr. President, West Virginians know sacrifice. Families from the Mountain State have lost loved ones in both Iraq and Afghanistan. Members of the West Virginia National Guard and the members of the Reserves have been deployed around the world, their lives on the line each day in the most dangerous of circumstances. Our troops deserve to be commended, as do all Americans who have supported them: their husbands and wives; their sons and daughters; and all the members of their communities.

I have grave concerns for the situations that our troops now find themselves in. In Iraq, constant attacks have caused the toll in American lives to more than double after May 1. In Afghanistan, which is in danger of becoming the forgotten war, Taliban and al-Qaida terrorists are hiding in the mountains, regaining their strength, and plotting against us.

I will vote for the resolution that is before the Senate, but only because we must not offend those who have sacrificed in the wars in which the United States is now engaged. It should be a moral obligation to support those who have lost loved ones in battle, and those who wear our Nation's uniform.

But I do not agree with many of the where-as clauses to the resolution that are before the Senate. It is wrong to commingle the images of Osama bin Laden and Saddam Hussein. I do not agree that our attack on Iraq is part of the ''Global War on Terrorism.'' It is misleading to imply that the United States had run out of diplomatic options before attacking Iraq. It is dangerous to think that we have eliminated Afghanistan's terrorist infrastructure. The first three pages of this resolution lay out a distorted history of how we came to be involved in the wars in Afghanistan and Iraq. We need to stop the spin and distortions. They do a disservice to the public.

Mr. FEINGOLD. Mr. President, I voted in favor of the McConnell amendment today, because I wholeheartedly agree with the sentiments in its resolve clauses expressing the Senate's tremendous admiration and appreciation for our men and women in uniform who have served in Operation Enduring Freedom and Operation Iraqi Freedom. Their contributions and their service deserve our unified and enduring support.

However, the findings contained in the amendment seem to link Saddam Hussein's regime to the terrorist attacks on the United States that occurred on September 11, 2001. No evidence supports such a link, and those who continue to confuse these issues do the American people a great disservice, as they encourage an unfocused and unwise approach to our first national security priority, the fight against terrorism.

Ms. MIKULSKI. Mr. President, I am proud to have voted for Senator MCCONNELL's resolution commending America's Armed Forces. It is right for us to thank our troops for their service. It is right to thank military families for their sacrifice. It is right to thank great organizations like the USO for their support to our men and women in uniform.

However, I am puzzled by some of the findings in the McConnell amendment.

We were all told last year that Iraq had weapons of mass destruction and was ready to use them. Well, the jury is still out on that. But press reports suggest that Dr. Kay's team has not yet found any actual weapons. So I am not sure it is accurate to say the war ended Iraq's WMD programs.

The Bush administration now acknowledges that there is no evidence of ties between Saddam Hussein's regime and al-Qaida and the September 11 attacks. Yet the amendment seems to combine Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom as ''two campaigns in the Global War on Terrorism.'' I am not sure what ''terrorist infrastructure'' was destroyed in Iraq. Some reports indicate the terrorist presence in Iraq has actually increased since the collapse of Saddam Hussein's brutal regime.

I just don't want anyone to think my vote means I agree with every word of this amendment. I voted for the McConnell amendment because I absolutely stand behind our troops and their families.

Mrs. LINCOLN. Mr. President, I will vote in favor of Senator MCCONNELL's sense of the Senate amendment because it expressed strong support for our Nation's armed services and their success in accomplishing the important mission to overthrow the regime of Saddam Hussein. I am especially proud of the men and women in uniform from Arkansas who represent the best and brightest our country has to offer. It is vital that we continue to support our troops in every way we can, as they continue to come under attack in Iraq.

As Congress continues debate on this legislation and related bills in the future, I believe we in Congress have a responsibility to exercise careful oversight of the administration's plan to rebuild Iraq and to ask tough questions about specific plans, objectives, and results to ensure our mission is accomplished. To that end, we must realistically assess the United States efforts in the war on terror. While the dedication and efficiency of the men and women who comprise our military is unparalleled, recent difficulties in Iraq demonstrate that there is much work left to be done.

Mr. HOLLINGS. Mr. President, there is no question that I, along with every Member of this body, support the troops. But with respect to the amendment proposed by the Senator from Kentucky, the majority ought to be ashamed for wasting the Senate's time with this political booby trap.

The amendment states that Saddam was a threat to our national security. He was not. We had him contained in the north and the south with overflights, and had the weapons inspectors

back in doing their work in Iraq. The amendment states that the United States pursued sustained diplomatic, political, and economic efforts to remove the so-called threat peacefully. That is wrong. We said to the United Nations, ''Get out of the way. You're irrelevant.'' We said to the international community, ''You're either with us or against us.'' Before we removed Saddam, we removed Hans Blix. The amendment says we eliminated terrorist infrastructure in Afghanistan and Iraq. Just read the morning paper and you will know that is not true. They have plenty of terrorist infrastructure, and they are killing our soldiers every day.

As I have said many times before, the majority is only interested in the needs of the campaign, not the needs of the country. We have serious work to do, and they are playing political games. If we really supported our troops, we would pay for this war. Instead, we are telling our troops that they not only have to fight the war, they have to come home and pay for it, too.

Mr. REID. I say to my friend from Kentucky, if the Senator yields back his time, we will yield back our time and go to a vote on this matter.

Mr. MCCONNELL. I yield the remainder of my time.

Mr. REID. We yield the time on our side.

The ACTING PRESIDENT pro tempore. All time has been yielded back.

Mr. REID. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the amendment (No. 1795), as modified. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM) is necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 372 Leg.]

YEAS—98

Akaka	Collins	Hagel
Alexander	Conrad	Harkin
Allard	Cornyn	Hatch
Allen	Corzine	Hutchison
Baucus	Craig	Inhofe
Bayh	Crapo	Inouye
Bennett	Daschle	Jeffords
Biden	Dayton	Johnson
Bingaman	DeWine	Kennedy
Bond	Dodd	Kerry
Boxer	Dole	Kohl
Breaux	Domenici	Kyl
Brownback	Dorgan	Landrieu
Bunning	Durbin	Lautenberg
Burns	Edwards	Leahy
Byrd	Ensign	Levin
Campbell	Enzi	Lieberman
Cantwell	Feingold	Lincoln
Carper	Feinstein	Lott
Chafee	Fitzgerald	Lugar
Chambliss	Frist	McCain
Clinton	Graham (SC)	McConnell
Cochran	Grassley	Mikulski
Coleman	Gregg	Miller
Murkowski	Rockefeller	Stabenow
Murray	Santorum	Stevens
Nelson (FL)	Sarbanes	Sununu
Nelson (NE)	Schumer	Talent
Nickles	Sessions	Thomas
Pryor	Shelby	Voinovich
Reed	Smith	Warner
Reid	Snowe	Wyden
Roberts	Specter	

NAYS—1

Hollings

NOT VOTING—1

Graham (FL)

The amendment (No. 1795), as modified, was agreed to.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1796, AS MODIFIED

Mr. BIDEN. Mr. President, I send a modification of my amendment, No. 1796, to the desk.

The ACTING PRESIDENT pro tempore. The amendment is so modified.

The amendment, as modified, is as follows:

At the end of title III, add the following:

SEC. ____. (a) PROVISION OF FUNDS FOR SECURITY AND STABILIZATION OF IRAQ THROUGH PARTIAL SUSPENSION OF REDUCTIONS IN HIGHEST INCOME TAX RATE FOR INDIVIDUAL TAXPAYERS.—The table contained in paragraph (2) of section 1(i) of the Internal Revenue Code of 1986 (relating to (relating to reductions in rates after June 30, 2001) is amended to read as follows:

"In the case of taxable years beginning during calendar year:	The corresponding percentages shall be substituted for the following percentages:			
	28%	31%	36%	39.6%
2001	27.5%	30.5%	35.5%	39.1%
2002	27.0%	30.0%	35.0%	38.6%
2003 and 2004	25.0%	28.0%	33.0%	35.0%
2005 and thereafter	25.0%	28.0%	33.0%	38.2%''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

(c) APPLICATION OF EGTRRA SUNSET TO THIS SECTION.—The amendment made by this section shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

Mr. REID. Will the Senator yield?

Mr. BIDEN. I am happy to yield.

Mr. REID. We have spoken to the chief sponsors of this amendment, Senators BIDEN and KERRY. There is a tentative agreement on our side as to how much time will be used. The floor staffs are working now to see if we can enter into an agreement in the next little bit. In the meantime, rather than waste valuable floor time, Senator BIDEN is going to begin his debate.

The ACTING PRESIDENT pro tempore. The Senator from Delaware.

Mr. BIDEN. Mr. President, I am prepared to enter into a time agreement. In the meantime, rather than waste time, let me begin to discuss my amendment.

We had a debate yesterday, an opening debate about whether we should be moving forward with this legislation for $87 billion to fund the war. Again, for those who may be listening, I want to state where I, as they say in the vernacular, come from on this score.

I have been one among many, from Senator REED, former West Point graduate, an Army officer, a U.S. Senator, to JOHN MCCAIN, to CHUCK HAGEL, on both sides of the aisle, among those who have said that our biggest problem is we have not, quite frankly, devoted sufficient resources in a timely way to winning the peace in Iraq. So I began from the premise that there is no doubt we have to spend billions of more dollars. There is no doubt we have to keep in Iraq tens of thousands of American troops for some time. As a matter of fact, I said that as long ago as July of 2002.

I approach this thing from the perspective of one who thinks we must do more. I have several basic problems with the approach we are taking. I know the Presiding Officer and I had a very brief conversation about this. He made reference yesterday to me, that I was somewhat exercised in my presentation yesterday. I was. I am, because I think there is such a gigantic opportunity here to enhance the security interests of the United States.

So, again, the reason I bother to say this is, I think there are two serious problems with the approach the President is taking now relative to this $87 billion. One is, I think that after examination—and I will have several more amendments before this debate is over—I think there is some padding in this reconstruction money.

I am one who believes you cannot bring security to Iraq without bringing basic services to Iraq. I think there is a direct and immediate correlation. Those who say you can separate support for the military and reconstruction money either have not been to Iraq or don't think we should be in Iraq or, with all due respect, don't understand the dynamics.

The degree to which clean water doesn't flow, the degree to which young women are being raped in the streets, the degree to which police officers are afraid to go to their stations and do their job, the degree to which the electric lights do not go on, the degree to which the oil pipelines are blown up, there is a direct correlation between that and the danger posed to our troops, the danger posed to our being able to preserve the peace or bring about or win the peace. So I don't make that dichotomy between reconstruction moneys and moneys relating to ''supporting our troops.''

Reconstruction money will support our troops. It supports our troops. My disagreement with the President is that—I am not talking about past disagreements and mistakes made or not

made, in my view, just from this moment on—I think if you look at the reconstruction funds, some of it is—maybe not intentionally—inflated.

For example, there is a provision in there for x number of pickup trucks. We were not talking about Humvees or military vehicles. They need pickup trucks. The government needs them for basic, mundane purposes. Well, in the authorization here, we are going to pay $32,000 for a pickup truck. I can take them to a nice Chrysler plant in my State and get them for $18,000.

We are also talking about building prison cells. I spent some time, along with my friend, Senator LUGAR, and my friend, Senator HAGEL, out at the police training academy in Baghdad, and we talked to—I might add, we have a first-class team there. These are serious guys. These guys know their way around. They have been in Bosnia, Kosovo, and Afghanistan, and they understand this. There is money in here that comes to $50,000 per prison cell. We need to build prisons. There are no functioning prisons in Iraq. We have to build them.

By the way, the guy running our prison operation there, when asked how long it would take if he had all the resources he needed, he said it would take a couple years to get a prison system up and running.

But that is not the point. We are going to pay $55,000 per bed in an Iraqi prison. We pay half that here in the United States of America. We are in a country, I might add, where the building specs and requirements are less than they are here. So I think we have to be responsible and take a look at the details of this.

So my first concern is about whether or not the money is being efficaciously allocated. That is a responsibility of oversight that we have. That is our job. We can do it in a timely way and we will get this finished within a week or so and get it done. That is the first concern I have, in a practical sense, on what we are going to do on the floor.

The second concern is my monumental concern. My friend from Utah—and we say that lightly, but he really is my friend—a conservative Republican—and for those of you who think none of us get along around here, we have very different views, but we are close friends. I can say to him that my biggest problem is how we pay for this. That is what I want to talk about right now because that is the second significant element of my concern on the immediate question before us: Do we appropriate or authorize to be appropriated $87 billion or do we appropriate $87 billion for this effort? I want to speak to that. That is what my amendment is about. That is what is before the Senate now.

At the outset, the first fellow with whom I spoke about this, the guy whose brainchild it was, along with me, is my friend from Massachusetts, JOHN KERRY. As a matter of fact, immediately after my floating this idea on one of the national shows—''Meet The Press,'' or whatever it was—I immediately got a call from Senator KERRY saying he had been thinking along the same lines and could we work together to do this. This is a joint effort, and we are joined by Senator FEINSTEIN, who feels strongly about it, and a number of others.

I wish to acknowledge at the front end here how we got to this point. I wish to explain the modification I sent to the desk and go into the details of why I think this is an important and necessary and responsible amendment. Again, remember, this is not coming from a guy who didn't support the war, who won't support the funding; it is coming from a guy who thinks we are going to have to come up with this $87 billion, but we are going to have to come up with billions more. I wish the President would be as straightforward. This is a downpayment; this isn't the end of the road.

Now, initially, I had an amendment because I didn't have the detailed numbers from the Joint Tax Committee, the Finance Committee, and from outside experts, such as Brookings and Citizens For Fair Taxation and the like, because it takes a while to run these numbers. So, initially, we had put in an amendment that said we would authorize—which is constitutional—or direct the head of the IRS to find this $87 billion from a specific category of taxpayers. We now have hard numbers. The hard numbers are very straightforward.

In order to pay now for the $87 billion we are about to appropriate, we are proposing that the tax rate for the wealthiest Americans, which has dropped this year from above 39 percent down to 35 percent—and I am not arguing about that—and in order to find $87 billion to pay for this, we would have to go back under our formula to that roughly 1 percent of the taxpayers—actually, the top bracket is less than 1 percent of the taxpayers—and say to them your tax rate is going to go back up in the years 2005, 2006, 2007, 2008, 2009, and 2010 to 38.2 percent. So that is what I sent up to the desk. It was a detail that wasn't in my original amendment because we didn't have it from Joint Tax. We didn't have it laid out. So that is a brief explanation of the modification.

Now, let's go back and review the bidding here if we can. First, we can pay for this supplemental several ways. One, we can pay for it, as the President has suggested, by increasing the deficit. If this is added to the projected deficit for 2004, the deficit for 2004 will rise to $567 billion for that one year—next year. If we do not add it to the deficit, the projected deficit at this moment would be down, obviously, around $480 billion—still a gigantic amount but $87 billion less. The reason I am so opposed to doing that is on equitable grounds and grounds of economic recovery. On equitable grounds—and I know this sounds a little political the way I am going to say this, but it is factually accurate—on equitable grounds, we, the grownups in this Chamber—and the average age here is probably roughly 50, I would say—we are going to be asking these young pages walking down the aisle to pay this bill. Literally, we are going to ask them to pay. We are not going to pay. If we can't do it my way, they pay. The President—I quoted him yesterday—in his last State of the Union Address said we are not going to pass on these debts and problems—at the end, I will actually give an exact quote—basically he said we are not going to pass these responsibilities to fight terror and to pay for it on to other generations. That is exactly what we are doing here.

For those of you who think that may not be a very compelling argument and those of you who voted for the tax cut because you wanted to spur economic recovery—a legitimate argument; I disagree with the way it is formulated and voted against it but a legitimate argument—look at what is happening now: As the deficit has been projected to be 480, or thereabouts—and the Presiding Officer and my friend from Utah and my two colleagues from California and Massachusetts know more about this than I do—what has happened? Long-term rates have already begun to rise. What does the market say? Why are long-term interest rates rising? Because of the projected deficits. That is a fact. They are already rising.

I respectfully suggest that taking $87 billion out of a 10-year tax cut of $1.8 trillion has no impact—none—on economic recovery, particularly since it is taken out over a 6-year period in small increments beginning in 2005. But if you are worried about the impact on the economy and the ability to sustain a recovery, you better be looking at the debt.

I would argue that from a principle of equity, as well as sound economic principles related to the recovery, adding this $87 billion to the already gargantuan projected deficit—and it will be higher, by the way, because that does not even count prescription drugs, that does not count the other initiatives the President says we are going to do and Democrats say they want to do, it does not even count those programs yet, so we know it is going to be a heck of a lot higher—but to add $87 billion on top of that can do nothing but jeopardize a long-term recovery.

The second way we can pay for this, which is very popular—and I am sort of the skunk at the family picnic on this on my side of the aisle—is to let the Iraqis pay for it. Some are saying the Iraqis have the second largest oil reserves in the world. Some of my Republican friends are proposing this as well.

For example, we have a flooded home. We have a very competent county executive dealing with this, and he says if we can pay for Iraq, the Federal Government can pay for this. That is really compelling. I tell you what, I am

kind of glad I am not running this year because I am going to oppose it. To the average person and the above average person, this just seems fair.

We hear people saying on the floor: If they had gold reserves of X amount, we would indemnify ourselves; they have gold in the ground, black gold. That is a very compelling case, except, as my mother would say—God love her, and she is probably listening, so, mom, forgive me if I get it wrong—she always used to say when I was young: JOEY, don't bite your nose off to spite your face. If we do that, we will be, figuratively speaking, biting our nose off to spite our face.

Why? There are other countries around the world—in the Arab world, the European world, Russia, other countries—that are owed almost $200 billion by Iraq, some say as high as $300 billion. Some of that is direct loan payments; some is indemnification for the damage done by Saddam when he invaded Kuwait, and so on.

What are we doing? We can either choose the World War I model or the World War II model for a defeated nation. After World War I, we said: Germany, this is all your fault. We want you to have a democracy, but, by the way, in the meantime, pay off all these reparations, making it virtually impossible—how many of us in grade school and college saw that one cartoon that was in every single history book: A German lady in a babushka carrying a wheelbarrow of deutsche marks to the butcher shop.

I bet every one of you can remember that. It was in every textbook in America. Why? It produced a little guy named Hitler to prey upon all of the anger, all of the prejudice, all the furor of the German people.

Who thinks we can possibly establish a democracy in a country which, I might add, has no history of any democratic institutions and was never a country until 1919—who thinks we can establish a democracy there saying, by the way, start off, folks, but before you do anything, before you spend that $35 billion to redo your oil fields, before you spend the money to do this or that, pay off the $200 billion, $300 billion in debt?

The President has been dead right. The President has been saying and the Secretary of State has been saying we have to convince these other nations to forgive that debt and write it off, as we did. Write it off.

On top of that, what did the President say at the United Nations? Not well enough, in my view, with all due respect, but what did he say? He said: United Nations, this is the world's problem. This is your problem. Send money and send troops. Every one of us here are hoping that Powell is very successful with a thing called the donors conference that is coming up this month. We are going to be sitting down with other nations of the world and saying: By the way, can you guys ante in? We have roughly in the whole region close to 200,000 troops, and we have already spent $78 billion, and we are going to spend another $87 billion. Can you kick in some money to rebuild this country? Oh, and by the way, we want you to forgive the debt you are owed. We want you to kick in money. We are not going to indemnify any of your money, but, by the way, the $20 billion we put in for reconstruction, we have a claim against Iraqi oil.

We are all intelligent people in this Chamber. We may be able to indemnify this money, but we will have no Iraq to collect it from. There will be nobody to collect it from because if this debt is not forgiven and if more people do not get in the game, there is not going to be peace in Iraq. It is not going to happen, and that is what I meant when I said, as unpopular as it is, my dear old mom—mom, if you are listening, you are right—we are about to bite our nose off to spite our face. That is the second way we can do it, and I think it is a disaster to do it that way.

There is a third way we can pay for this $87 billion. We can say a very uncharacteristic thing around here: We are going to pay for it, and we are going to pay for it now. We are not going to use our credit card; we are going to do it now.

As Don Rumsfeld said, yes, this is a lot of money, but, yes, we have the ability to pay for it, and he is dead right. Old Don, I want to take a little bit of your money to pay for it. You are a 1 percenter, and God bless you, let's pay for it.

OK, how do we pay for it? We can cut more programs.

As some have suggested, we can make college loans more expensive. That saves the Government money. We can do as some have suggested and cut across the board the income tax break we gave everybody. But guess what. Poor folks and middle-class folks are already paying for Iraq. It is their kids who are in Iraq. It is their kids in the National Guard. It is their kids in the Regular Army. It is their kids who are already there.

Guess who is getting hurt most by this unemployed recovery. Middle-class and poor folks. I think the middle-class folks need a tax break, and so I think it would be unequitable and unfair to go back now and say, by the way, you middle-class folks, you pay; you poor folks, you pay. We have already decided the poor folks cannot get an earned income tax credit for their kids, a child tax credit, which is a travesty. But now we are going to raise their taxes slightly or reduce the tax cut?

So it seems to me there is a group of people who are as patriotic as the poorest among us, the wealthy people. The thing I do not like about politics is we all have a tendency to slip into—and I can honestly say I have never done this in 33 years of holding office—class warfare. The idea that because someone is a multimillionaire they are not as patriotic as somebody who is making 25,000 bucks a year is a lie. The wealthiest among us are as patriotic as any other group of people in America.

I come from Delaware, a relatively wealthy State. I tried in two fora in my State, and this is literally true, among some of the wealthiest people in my State—in my State we can get them all together pretty quickly. I am not being facetious about that. I mean that sincerely. I asked the question at one gathering—both were social gatherings. The first was a group of about 35 or 40 people, and I do not know this for a fact, but I think all of them were clearly in the top 1 percent tax bracket. The way the conversation started was they said to me: You know, JOE, what is going on in Iraq? What about this? What about that? It was a cocktail party at the home of a partner in a major law firm. It was on a Sunday evening.

I said: Let me ask you all a question. My friend from California knows when two people ask a question and you start to answer it, it ends up with four people there and then 10 people there, and all of a sudden you have a mini-press conference and there are 20 people. That is what happened at this cocktail party on someone's patio.

I said: Let me ask you this question: would anybody here object if the President, when he addressed the Nation about the $87 billion, had said—and I want to ask the wealthiest among you, the top 1 percent of the taxpayers in America—give up 1 year of the 10 years of your tax cut in order to help prosecute this war against terror and sustain the peace in Iraq, would any one of you object to that?

Obviously, that is a little peer pressure I put on them, but not a single person said they would object. Beyond that, it started a discussion. I just sat there and listened. They said, of course, that is the right thing to do. Of course, we should do this. Of course, of course, of course.

Then I tried it again at one of the most upscale country clubs in my State. I was playing in a charitable golf tournament, and there was the same thing.

I think the President and many of my colleagues underestimate the American character. I truly believe they underestimate Americans. I do not know of any wealthy American who, given the realistic options we have to pay for this, would say, hey, look, if I am going to give up 1 year of the $690 billion the 1 percent is going to get, I want that guy making 25 percent of what I make, I want that guy making 10 percent of what I make to give up one year, too.

Do any of my colleagues believe that is what they would say? I do not believe it. And this is not politics. This is not my playing a game. I do not believe it. This is something that not only is the right thing to do, the people whom you are asking to do it believe it is the right thing to do.

I stated on the floor before and I said at home, I would ask any wealthy Delawarean in my State, which we will get

to the numbers, who makes $400,000 in gross income, to call me at my office and tell me they are not willing to give up $2,100 a year for 6 years of their tax cut, because that is what it comes to. I am inviting them to call me. I promise I will report to my colleagues all those who call me.

The point is, these are patriotic Americans. They know we have our hands full. They know the deal. So that is the third way we can do this.

How does it practically work, and then I am going to yield to my friend from Massachusetts.

Mr. BENNETT. Will the Senator yield?

Mr. BIDEN. I will be delighted to.

Mr. BENNETT. I am listening with great interest. I agree with much of what the Senator said, but before the Senator from Massachusetts gives a major speech I would like the opportunity to engage in a colloquy.

Mr. BIDEN. Sure, but first let me make one last point so we have the facts out.

Mr. BENNETT. I would ask the Senator to make his point and then I would appreciate it if we could do that.

Mr. BIDEN. I would be happy to.

Let me be straight about exactly what this amendment would do. People whose tax bracket up until this year was 39.6 percent, having had it drop down to 35 percent—so there is no false advertising here, the Biden-Kerry-Feinstein-Chafee, et cetera, amendment would raise, beginning in 2005, their tax bracket back up to 38.2 percent, still a percentage point and a half less than it was a year ago but 2 point something percent higher than it is today. That is what it would do.

By the way, I will tell my colleagues who these folks are. People who pay at the top rate have an average income—well, it is unfair to average. As Samuel Clemens, or rather Mark Twain, said, all generalizations are false, including this one. So I want to be completely straight about this. The average income in that top 1 percent is $1 million a year. At a minimum, people who would be affected by this have to have an income, before standard deductions and exemptions, of over $400,000 in gross income. Others will fall into this category if their taxable income after deductions is over $312,000. But that is after; that is net. That is taxable income. OK.

So we have the picture where people—the way I am told by the Joint Tax Committee, by Brookings and others, we may find an exception to this, but there is nobody making $400,000 a year gross who does not have standard deductions and exemptions. By the way, this does not impact on their capital gains, which is taxed at a different rate. This does not impact on the dividend exemptions or change the rate at all. That is still theirs. We do not touch that at all. This is just a straight tax of those who now fall within the 35 percent bracket.

So I am told by all the experts—and this is not my expertise. To the extent I have one, I think it is more on the Constitution and foreign policy, and I am not suggesting I have one, but it is surely not here. I have tried to get the best information from as many sources. So we are talking about the incomes of people in the top bracket who are—by the way, if one is in the top bracket now they are in the less than 1 percent bracket, they are about .7 of 1 percent of the income earners in America. One percent is slightly bigger than those who fall within the 35-percent tax bracket right now. But if you overlap, as Dr. Green tells it, if you overlap the two circles, they are almost exactly the same. There is some variation, but I can only go by the numbers provided by the IRS, and the models provided by them, and by our Joint Tax Committee.

So the bottom line is this: The people in the top 1 percent—slightly more, by the way, than the people in the 35-percent tax bracket now—those people, over the period of this entire tax cut, will receive $688.9 billion in tax reduction from what they were paying before the tax cut. What this does is it takes $87 billion of that amount, leaving them with a present and future tax cut of $600 billion, as opposed to $688.9 billion.

This is to put it in perspective. Fully 80 percent of their fellow Americans, in the first four quintiles—you know how they divide this up. They divide it up into the first, second, third, fourth, and the fifth is the 1 percent. In other words, all other Americans, the 99 percent of the other Americans who pay taxes get a cumulative tax cut, in the first—they will get cumulative tax cuts of $599 billion. All right? So you have the top 1 percent who will still get $600 billion, which will be $1 billion more than every other American combined will get in a tax cut.

Let me be precise. I may have misspoken. That is not true. The first four—than 80 percent of the American people will get.

Now, again, this is not an attack on the tax cut. I didn't like the tax cut, and I won't talk about that. But what Senator KERRY and I are trying to do takes away less than 5 percent of the $1.8 trillion in tax cuts that this tax cut bill provides. Again, it is not an attack on those at the highest income. It still leaves them $600 billion in tax cuts.

There is a lot more for me to say, but I will yield now to my friend from Utah for that colloquy.

Mr. BENNETT. I thank the Senator from Delaware not only for his courtesy and friendship, which is reciprocated and, as he has said on the Senate floor, is genuine and real, but I thank him for the clear manner in which he has described this whole situation. I agree absolutely with the overall conclusion that he has come to with respect to loans versus grants. I am running this year, and I am going to have to defend the grant situation, but I am perfectly willing to do so for all the reasons which the Senator from Delaware has outlined.

But there are a few comments I would like to make in the spirit of our friendship and the seriousness with which the Senator from Delaware has approached this issue—at random. The Senator from Delaware is often at random so he can understand.

The references to the Marshall plan and the difference between World War I and World War II are accurate, but I would like to just add one factoid.

Mr. BIDEN. If the Senator will yield, I want to make it clear I did not reference the Marshall plan. I referenced the philosophy. I think we have overworked the Marshall plan analogy.

Mr. BENNETT. I agree with the Senator we have overworked it and I want to back away from it with this fact. The country that received the most money in the Marshall plan was Great Britain. It was not rebuilding destroyed countries, destroyed by virtue of our actions in the war. It was rebuilding Europe that was exhausted by the struggle that really began in the First World War and never ended. I think that is the appropriate analogy here.

I do not view Iraq as a defeated nation. I view Iraq as a victorious nation that has won a struggle of almost four decades in length with our help.

Mr. BIDEN. If the Senator will yield, I agree with that premise. I am not making the case they are a defeated nation.

Mr. BENNETT. The Senator used the phrase ''defeated nation.'' I think it is, in fact, a victorious nation but an exhausted one by virtue of the 40-year struggle. The grant we are talking about here is essential to come back from that 40-year experience.

The second random point: I listened to the Senator's comments about the deficit. All I know, both before I came here and in the relatively brief period of time I have been here, is that no matter what figure we use with respect to the deficit in the future, it is wrong. I don't know whether it is too high, and I don't know whether it is too low, but I do know one thing for sure, it is wrong.

Mr. BIDEN. Will the Senator yield on that point? The Senator will agree, though, that whatever it is will be $87 billion higher if we don't pay for it.

Mr. BENNETT. No. No. I will not because the deficit is a function of the vitality of the economy. If the economy is stronger than the computers at CBO are currently saying it is, the deficit could disappear and we could have the whole $87 billion.

I am not saying that we will because I don't know.

Mr. BIDEN. If the Senator will yield on that point, if the Senator thinks there is any possibility of the entire deficit disappearing through economic growth in the next several years, then I think he and I should have a talk now because the Senate physician is down the hall here and we ought to go have

a little visit with him. I know he doesn't seriously mean that.

Mr. BENNETT. I think the possibility is extremely, extremely small.

Mr. BIDEN. I believe in miracles, too. I am a Catholic. I believe in miracles.

Mr. BENNETT. I do, however, know that over 50 percent of the shortfall in the projected surplus that we were talking about at the time we started, in 2001, is due not to the tax cut and not to increased spending but to the downturn in the economy. If the economy should come back to be as strong as it was before—and there are signs that it is recovering nicely now—that 50 percent could be recovered.

So, no, I agree that we will not remove the deficit, but I think it is an inaccurate statement to say it will be exactly the $87 billion.

We do that around here and it frustrates me as a former businessman. It frustrates me as a legislator. We are constantly taking the latest numbers from CBO and assuming that they are cast in stone. Then 3 months later, when we get the next set of numbers that completely contradict the earlier ones, we say: Oh, these are the true numbers, and we go on and on. I am not arguing with the Senator's general direction, but I wanted to be a little careful in the specificity with which he outlines this.

Let me get to the heart of the issue that I have with the proposal the Senator is making. I hope I can do this without being too arcane, and I hope I can do it quickly because I recognize I am on the Senator's time and I again thank him for his courtesy.

Mr. BIDEN. May I ask, there is no time agreement right now; is that correct?

The PRESIDING OFFICER (Ms. MURKOWSKI). That is correct.

Mr. BIDEN. So the Senator is entitled to have it on his time.

Mr. BENNETT. I thank the Senator. I think his experience at his cocktail party is one that would be repeated by every one of us if we were to gather people of that kind of income in any one of our States. So why don't we all join with the Senator from Delaware? Why am I not saying I agree with him?

If I may illustrate the reasons with a personal example, not all of the tax returns that are filed and that are in the statistical sample the Senator described represent income to individuals. I do not know the current number. I would have looked it up if I had known I was going to get in this exchange. But other numbers have said 75 percent, 80 percent, or some very high figure of percentage of those tax returns that show $400,000 in gross income are, in fact, not income to the individual. Let me give you my personal example to illustrate this.

Before I came to the Senate, I was CEO of a company that was an S corporation. S corporations as opposed to C corporations are exactly the same thing except for the way they are taxed. The ''S'' refers to that section of the Tax Code that is appropriate and ''C'' refers to that section of the Tax Code that is appropriate. In an S corporation, the earnings of the company flow through to the shareholders and are reported on the shareholders' personal tax returns. Therefore, they show up as income to the individual.

I will again use myself as the example. I was the CEO of this company. I was earning $140,000 a year as the CEO of the company. The company started to do really very well. It was growing very rapidly. Sales were more than doubling every year. We were bringing on new people. We were building new buildings. We needed every dime of capital we could put our hands on. Fortunately for us, we were doing this during what the New York Times called ''The Decade of Greed;'' that is, when the top marginal tax rate was 28 percent.

By putting the income of the company on my personal tax return and those of the other shareholders, the company was paying an effective rate of 28 percent which meant we got to keep 72 cents out of every dollar we earned to finance the growth of that company. We created that company with internally generated funds. We didn't do it by going to the stock market. We didn't do it by going to the banks. Of course, we had a line of credit at the bank. But it was not part of our capital. That meant one of the last years before I left the company and decided to run for the Senate, my compensation from the company was $140,000.

Let us go through these numbers.

My compensation from the company was $140,000. My share of the company's profits which was reported on my 1040 was $1 million. As far as the IRS was concerned, I was a very rich man who was earning $1.14 million a year. All I got was $140,000. The rest of it, while reported on my tax return, was kept in the company to pay for the growth of the company.

Mr. KERRY. Mr. President, will the Senator yield for a question?

Mr. BENNETT. I am happy to yield to the Senator.

Mr. KERRY. Isn't it accurate that because it was a subchapter S corporation all of the deductions also flowed through to you? Isn't it accurate? All the deductions flowed through you?

Mr. BENNETT. Of course. The net amount I reported after the deductions was $1 million. So as far as the IRS was concerned, my income was $1.14 million. Under the Tax Code, the deductions to which the Senator from Delaware referred that go to people in these categories were all wiped out by the $1 million. All of my credits, all of my deductions—everything was wiped out.

If we were to take the numbers the Senator from Delaware was talking about, and say, OK, you have someone with a $400,000 gross income, and that means his after-tax income is $312,000 because of the standard deduction, if he has a chunk of 401–K income on this from either an S corporation or an LLC corporation, or a partnership, all of those standard deductions go away very quickly as the number goes up.

The point of this is not to argue one way or the other about how the tax structure is; it is to say the Senator is inadvertently targeting a large number of small businesses where profits and growth money are being reported on individual returns rather than through corporate returns. The S corporations were made substantially worse after the Reagan years because of the summit at Andrews Air Force Base, and then what was done with the Clinton tax increases.

There are not as many people using the S corporations as there used to be because the advantage is not as great. But there is a still a very substantial amount of small business income that will be hit by the Senator's amendment. We are not just talking about Donald Trump and Jennifer Lopez. We are not talking about Michael Jordan. We are talking about people who are building businesses for whom $400,000 a year for the income of the business is a demonstration of a struggle. It is not a demonstration of the kind of opulence you find at the Delaware country club. It is survival. We didn't get to the point with the business I have described where we felt comfortable in cash flow until our earnings were well into the $10 million, $12 million, or $15 million area because of the demand for capital.

Mr. BIDEN. Mr. President, will the Senator yield?

Mr. BENNETT. I would be happy to.

Mr. BIDEN. We are trying to get this agreement. As a practical matter, this will come out of my time. I think the Senator has made his point.

Let me make a macroeconomic point and let some of my other colleagues respond as well. With regard to the small businesses, small business owners can still happen to be among the top 1 percent income earners. Only 2 percent of the small business owners fall into that bracket, a number which includes a lot of people who have passive participation with investment income in small business. These are not hands-on, mom-and-pop businesses. If you look at the sole proprietorships, those of hands-on owners, less than 2 percent are paying the 35 percent bracket. Therefore, 98 percent of the small business owners will not be affected by this proposal, as I understand from staff.

I will get back to this in our discussion. But I want to yield to my friend from Massachusetts because we are about to enter into a time agreement. I didn't realize we were running the time before the agreement is made. At any rate, I will reserve the remainder of the time while we are trying to work this out.

To respond to my friend, I understand his point. The bottom line is no matter how you cut it, this is affecting an incredibly small number of people for an incredibly important undertaking and the alternatives are worse

by a long shot, in my view, that any negative impact in any sector in any way would come from this amendment.

I yield the floor.

Mr. REID. Madam President, we are moments away from offering a unanimous consent request. I don't know who is going to get the floor next, but whoever gets the floor, I ask if Senators will allow an interruption for the unanimous consent request. It should be coming in a matter of a couple of minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, thank you very much. I will proceed until such time as the unanimous consent request is put into effect.

I listened carefully to the comments of the Senator from Delaware, and obviously the Senator from Utah. I think the comments of the Senator from Utah do not really change the equation at all because the real question here is, Why is America being asked to pay this $87 billion? What is the context within which the average citizen of America, the average taxpayer is now being told, Whoops, we have a whole different situation here. We have to pay $87 billion in addition to the $79 billion Americans have already invested in the war to date.

Most Americans think this is sort of the bill for the war. It is not. We are well over $160 billion or $170 billion already once you add the $87 billion, and most people believe it is going to go beyond that.

The question is, What is the fair distribution of this burden in the overall context of our economy to the average taxpayer of America? Is it right for President Bush and for the Republicans to be asking America to give an enormous tax cut to the wealthiest of Americans and spend the $87 billion, which also adds to the deficit for this year?

No one will come to the Senate and say the $500 billion deficit we are facing next year is going to be wiped out by growth in the economy when we are not even adding jobs in the growth to the economy today.

I yield to the Senator.

Mr. BENNETT. Madam President, I ask unanimous consent that a vote in relation to the pending Biden amendment occur at 3:15 p.m. today with no amendment in order to the amendment prior to the vote, provided the debate before the vote be 30 minutes under the control of the Republican side and the remaining time under the Democratic leader or his designee.

Mr. REID. I ask that the Senator allow the consent to be modified, as follows: Senator BIDEN be recognized for 30 minutes, within the time allocated to us; Senator KENNEDY for 15 minutes; Senator KERRY for 20 minutes; Senator KOHL for 5 minutes; Senator CLINTON for 10 minutes; Senator CONRAD for 15 minutes; Senator Jack Reed for 5 minutes; Senator DURBIN for 5 minutes; Senator FEINSTEIN for 10 minutes; Senator JOHNSON for 5 minutes, Senator CARPER for 5 minutes; and if there is any time remaining, it would be under the control of the Senator from Delaware.

Mrs. FEINSTEIN. Reserving the right to object, I ask that this be amended, since I have been waiting, so that I follow Senator KERRY for my time.

Mr. REID. I think that is appropriate. And Senator BUNNING will follow Senator FEINSTEIN.

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

The Senator from Massachusetts.

Mr. KERRY. The question we ought to be asking is, What is the right thing to do that is in keeping with the values of America? We have the worst economy we have had, the worst jobs economy since Herbert Hoover was President of the United States; 3.1 million Americans have lost their jobs, 2.7 million manufacturing jobs have been lost. All across America, people are watching outsourcing taking place as jobs are going to China, India, and other countries. They are not being replaced. We just picked up the newspapers a couple of days ago and saw that 2 million Americans have lost their health insurance retirement, it has been blown away for countless numbers of Americans. Health care has been lost for 2 million Americans. Governors across the country are raising taxes and cutting services. Infrastructure investments are being deferred.

What the Republicans and the President are asking is that we take another $87 billion and still keep a tax cut for the wealthiest people in our country who are doing the best, who are already the most comfortable, who are perfectly prepared to do their part to sacrifice, to contribute, not to grow the deficit—indeed, to relieve some of the financial pressure of this country, literally, to make things more fair in America.

What this is about is called fundamental fairness. Fairness. It is not about class warfare. This is not about redistribution. Is it fair in America to suggest that you can add to the deficit—which it will this year—to suggest all of the figures of this administration, which have been wrong, can be wiped away on the backs of the average American so that the wealthiest people in the country can keep their tax cut? That is the question. It is a pretty simple fundamental question.

If others want to come to the Senate and defend the notion, it is absolutely OK to be misled, to have major players in the administration tell us, it is only going to cost $50 billion; it will come out of the Iraqi oil; don't worry about it. And every one of those promises have been wiped away and left in tatters across this country.

Americans are angry about this. What is the Senate going to do? Stand here and defend the proposition that America in its current fiscal condition can support a tax cut for the wealthiest Americans at the expense of common sense and fairness? That is what this vote is about. That is what this choice is about.

It also is about the fundamental realities of how we got here. Last spring, our fighting men and women swept across the battlefields of Iraq. There is not anyone in the Senate who is not proud of what they accomplished in military terms. Thanks to their courage and their skills, Saddam Hussein and his henchmen are scattered and that brutal regime is no more.

But in the aftermath of that military victory, just as many Members predicted, in the absence of building a coalition, in the absence of doing the diplomacy, in the absence of showing patience and maturity, in the absence of living up to our highest values and standards about how we take a nation to war, we are now in danger of losing the peace.

The clearest symbol of that danger is the target on the backs of young American men and women in Iraq. Today, soldiers in Baghdad fear getting shot simply going out and getting a drink of water. A squad at a checkpoint has to worry whether a station wagon coming at them is a mobile bomb. And troops moving in convoy take RPGs and improvised explosive devices, and we pick up the papers each day and hear the news about three, two, one more young American life lost because we failed to plan to win the peace adequately, we failed to put in place the greatest protection possible for these troops, which is what they are owed.

Now we know Iraq's infrastructure needs to be rebuilt and we face the challenge of forging a new government and giving it legitimacy under circumstances that were entirely predictable and entirely ignored by this administration. We were told by this administration, in their confidence—and, may I add, in their arrogance—that the Iraqis would see us as liberators.

They see us as occupiers—again, something many predicted absent the effort to try to globalize our effort. They see us as a foreign power ruling over their country, preventing self-determination, not providing it. We were told to expect elections and quick transition to self-governance. But now we know those elections may be many months away at best.

None of this was planned or predicted by the President or his war counsel. Eager to rush to war, the administration played down or, worse, ignored the likelihood of resistance. It lowballed the number of forces that would be needed to seize the alleged WMD sites, for which the war was fought, to protect the infrastructure, and underestimated the magnitude of the reconstruction task and the ease with which oil would flow for rebuilding. It refused to tell the American people upfront the long-term costs of winning the peace.

I remember the distinguished former President pro tempore and leader of the Democrats, the Senator from West

Virginia, asking that question penetratingly, repeatedly. Yet those figures given have proven to be false or completely underballed. It refused to tell the American people those long-term costs, and it refused to do the work, to ask the international community to join us in this effort.

It was bad enough to go it alone in the war, but it is inexcusable and incomprehensible that we choose to go it alone in the peace. One of the reasons we are facing $87 billion is that the administration has stiff-armed the United Nations and has not been willing to bring other nations to this cause through the deftness of their diplomacy, the skill of their diplomacy.

Last year, President Bush had three decisive opportunities to reduce this $87 billion bill. That first opportunity came when we authorized force. That authorization sent a strong signal about the intentions of the Congress to be united in holding Saddam Hussein accountable. I thought, and still believe, that was the right thing to do. It was appropriate for the United States to help stand up at the United Nations and hold those resolutions accountable. It set the stage for the U.N. resolution that finally led Saddam Hussein to let the weapons inspectors back into Iraq. That was correct.

When I voted to give that authority, I said the arms inspections are ''absolutely critical in building international support for our case. That's how you make clear to the world we are contemplating war not for war's sake, but because it may be the ultimate weapons inspections enforcement mechanism.''

The Bush administration, impatient to go into battle, stopped the clock on the inspections, against the wishes of key members of the Security Council, and despite the call of many in Congress who had voted to authorize the use of force as the last resort the President said it would be.

Despite his September promise to the United Nations to ''work with the UN Security Council to meet our common challenge,'' President Bush rushed ahead on the basis of what we now know to be dubious, inaccurate, and perhaps even manipulated intelligence.

So the first chance for a true international response that would have reduced this bill, that would have brought other countries to contribute was lost.

Then there was a second opportunity. After the Iraqi people pulled down the statue of Saddam Hussein in the square in Baghdad, there was a moment when British and American forces had proven our military might and the world was prepared to come in and try to assume the responsibility for helping to rebuild Iraq.

Once again, Kofi Annan and the United Nations offered their help. Once again, this administration gave them the stiff arm. They said: No, thank you; we do not need your help. And we proceeded forward without building the kind of coalition that would reduce the risk to our troops and without reducing the cost to the American people.

Then the third occasion was just the other day, when the President went to the U.N. General Assembly. Other nations again stood ready to help to provide troops and, hopefully, funds. All President Bush had to do was show a little humility and ask appropriately. Instead of asking, he lectured. Instead of focusing on reconstruction, his speech was a coldly received exercise in the rhetoric of redemption.

Kofi Annan offered to help. Again, we did not take them up on that offer in a way that was realistic. The President exhibited an attitude that was both self-satisfied and tone deaf simultaneously, once again raising the risk for American soldiers by leaving them alone, and once again raising the cost to the American people by leaving America alone.

I believe the President could have owned up to some of the difficulties. The President could have signaled or stated a willingness to abandon unilateral control over reconstruction and governance. Instead, he made America less safe—less safe—in a speech and in conduct that pushed other nations away rather than brought them to our cause and what should be rightfully the world's cause.

So what of this cost of the Iraqi operation?

In the fall of 2002, OMB Chief Mitch Daniels told us the costs of Iraq would be between $50 and $60 billion. It is now already more than $100 billion more than that.

In January of this year, Secretary Rumsfeld said the same, and he added that ''How much of that would be the U.S. burden, and how much would be other countries', is an open question.''

Well, today it is not an open question; it is a closed question. We know the answer: The majority is being paid by the American taxpayers.

In March of this year, Deputy Secretary Wolfowitz testified in the Senate that Iraq is a ''country that can really finance its own reconstruction, and relatively soon.''

Did the Secretary mislead us or was the Secretary ignorant?

Again, in March, Secretary Powell testified in the Senate that ''Iraq will not require the sorts of foreign assistance Afghanistan will continue to require.''

When Larry Lindsey predicted the war may cost $100 billion to $200 billion, he was deemed so far off base by the White House that he was fired.

Now, a year later, Congress is set to appropriate over $160 billion, and the costs are estimated to rise to $350 billion to $400 billion over 5 years. Even Larry Lindsey's estimates are now low.

With so much so wrong, Americans are looking to the White House for direction and leadership. They want, and they deserve, straight answers to straight questions.

How long will we be there? How much will it really cost? How many American troops will it take? And how long will it be before we do what common sense dictates and get the world invested in this effort by not treating Iraq as though it is an American prize, a loot of war but, rather, treating it as a nation that belongs in the community of nations, dealt with properly by the United Nations, as we did in Bosnia and Kosovo and Namibia and East Timor and in other parts of the world?

So far, the White House, with all of its evasion and explanation, has been a house of mirrors where nothing is what it seems and almost everything is other than what the President promised. But Americans are also looking to us in the Congress for leadership.

The President has talked a lot about sacrifice in recent weeks. In an address from the White House, he said of Iraq, ''This will take time and require sacrifice.'' In his weekly radio talk, he warned that ''This campaign requires sacrifice.'' Even in his State of the Union Address, the President issued a call for sacrifice saying: ''We will not deny, we will not ignore, we will not pass along our problems to other Congresses, other presidents, and other generations.'' But that is exactly what we are doing if we leave this $87 billion in its current form.

Also, there can be no doubt that the President has demanded that most of this sacrifice will come from the men and women in uniform. More than 300 troops have now already given their lives in Iraq. The Army is stretched too thin for its duties in Iraq. And troops who were promised that they would be home long ago remain in Iraq.

The President has called on the National Guard and Reserve at historic rates and put more than 200,000 guardsmen and reservists on active duty. The Pentagon has changed the rules so that a Guard unit's activation date does not start until the troops arrive in Iraq. That is a bookkeeping sleight of hand that keeps thousands of forces deployed even longer than they expected or were promised. And, incredibly, the President's call for sacrifice even included billing wounded troops for the cost of hospital meals. Fortunately, the Congress rectified that problem in this supplemental. But it is not yet law.

Despite all we are asking of the men and women in uniform, the bill we now debate appropriates $87 billion simply by increasing the Federal deficit. It asks no sacrifice of anybody in the United States today who can afford it. This is an off-budget, deficit-spending free ride.

The amendment Senator BIDEN and I and others are offering changes that. It will pay the cost of this bill. It will pay the cost of the entire $87 billion by simply repealing—not all, which I think we ought to do—a portion of the tax cut for the wealthiest Americans.

The Biden-Kerry amendment will ask those who can afford to pay this burden to do so, and make their contribution, make their sacrifice to the effort to

win the peace. It protects the middle class. It meets our obligations in Iraq. And it will help ensure that we have the resources necessary to accomplish our goals here at home, goals such as making health care more affordable, paying for homeland security, and keeping the President's promise to leave no child behind.

We should not abandon our mission in Iraq, and we understand the downsides of doing so. But we ought to demand that whatever we spend in Iraq be paid for with shared sacrifice, not deficit dollars.

We are already shortchanging critical domestic programs to pay for unwise tax cuts for the wealthiest Americans. In addition, the Bush fiscal record and its trillions in debt demand that we follow the commonsense approach of our amendment.

Since President Bush took office, the cumulative 10-year budget surplus has declined by almost $10 trillion. We have gone from the largest budget surplus in American history to the largest deficit in American history this year. We have added nearly $1 trillion to the debt inside of a single Presidential term. On top of that, we have passed a huge tax cut during wartime for the first time in American history. And that is the height of irresponsible, reckless budgeting.

The Bush administration blames the budget crisis on the Nation's response to September 11 and on funding for domestic programs, but that is a stunning misstatement of fact.

The simple facts are that the fiscal policies supported by this administration—tax cuts already passed, tax cuts that have been proposed, significant increases in defense spending and money for Iraq, and additional interest on the debt—have caused more than half of this turnaround. As the debt piles up, the President claims that he bears no responsibility when he, in fact, and his policies are the primary cause.

Senator BIDEN and I are making a commonsense proposal. Rather than borrowing an additional $87 billion, we want to scale back a small portion of the tax cuts for the wealthiest Americans, for those making over $300,000 a year. The average income of those in that top tax bracket is $1 million a year. These Americans are not exactly hurting. Their real average after-tax income rose a remarkable 200 percent in the 1980s and 1990s, and their overall share of pretax income has nearly doubled over 20 years. That cannot be said of any other income group in the United States.

In the year 2000, the 2.8 million people who made up the top 1 percent of the population received more total after-tax income than did 110 million Americans who make up the bottom 40 percent. Think about that: The top 1 percent of Americans earned more income than the bottom 40 percent, and that is after taxes.

Mr. REID. Madam President, under the time allocated, we have some extra time. So on behalf of Senator BIDEN, I yield 2 minutes to the Senator from Massachusetts.

Mr. KERRY. It is simply not unfair to ask those earning the most, those who are the most fortunate, those who are the most talented, the hard-working Americans who are earning more than $300,000, not as a matter of any kind of targeting except for the fact they are the best off and have the greatest ability, to make this sacrifice without a negative impact on their lifestyle, on their choices, on their quality of life. This is a time for sacrifice. I believe it is appropriate for us to ask that in order to promote a free Iraq, in order to reduce the burden being placed on future generations of Americans, in order to reduce the burden placed on the middle class today, in order to have the least negative impact on our economy, the least negative impact on long-term interest rates, the least crowding out of borrowing by adding to the debt and crowding out private borrowing in the marketplace by public borrowing, the least negative impact on perceptions, the best way for America to deal with this problem of misinformation, this problem of promises broken is to turn to those the President seeks most to give the biggest breaks to most frequently and ask them to share the burden.

I hope my colleagues will do that, recognizing the sacrifice being made on a daily basis by 130,000 of our troops who live and die by what we do in the Senate and the House, in the Congress in Washington.

I thank the Chair.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Delaware.

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

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

Mr. BIDEN. I meant to state earlier—and I know my colleague from California is about to speak—that the Senator from California was way ahead of me and way ahead of my friend from Massachusetts in one very important respect. She and Senator CHAFEE, long before I made this proposal, suggested that, quite frankly, the entire top 1 percent of the tax break be rolled back, not just $87 billion, to pay for this and for other things to reduce the deficit. It was my intention to speak to that. Then I entered into what was an exchange with my friend from Utah, and I did not. I want to make clear what a central role she and Senator CHAFEE have played in making the fundamental point that all Americans should participate in making sure we win the peace and not saddle the next generation. That is unconscionable.

I yield the floor and thank my colleague.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Delaware. I appreciate those words. Both Senator CHAFEE and I felt very strongly that this rate rollback that affects the top 1 percent is really the right thing to do at this time.

I particularly compliment the Senator from Delaware on the way he worked out this bill, because essentially this is a rollback of the accelerated rate cut that the top 1 percent received in May 2003. It rolls back the acceleration just enough to pay the $87 billion cost of this supplemental. So it becomes a very reasonable way to pay for a part of this war which, to date, including this supplemental, will cost the American people more than $150 billion.

This is a big day in the Senate. As many of us have pointed out this week at the Appropriations Committee hearing on the supplemental, there are questions in the $21 billion reconstruction portion of the supplemental request. Senator BYRD has twice tried to divide the package—once in the Appropriations Committee, once here on the floor. We have not been successful in being able to do that.

At the same time, we also recognize the seriousness of the need that the Iraqi people and their transportation and water infrastructure face after decades of neglect. We certainly recognize the needs that our men and women have in Iraq.

The fact is, we don't have the money to pay for improvements in our own infrastructure. Owing to a lack of money, just a few hours ago I decided against offering an amendment to this supplemental that would have invested substantial moneys in our domestic infrastructure, a plan that would have enhanced the safety, security, and efficiency of our highway, transit, aviation, rail, port, environmental, and public buildings infrastructure.

The reality is that there is no money to fund necessary improvements here at home. The reality is, those of us on this side of the aisle have become deficit hawks, whereas a few years ago it was the other side of the aisle. So today we have greatly enhanced spending for preparedness, for homeland security, and for the military.

How is it we can be expected to approve this supplemental without asking the most obvious question: How are we going to pay for it?

I have joined with Senators BIDEN, KERRY, CORZINE, and others in supporting this legislation because it will provide the necessary financial footing to appropriately execute our obligations in Iraq and Afghanistan as contained in this supplemental. In 1998, following nearly 30 years of deficits and a seventeenfold increase in the Federal debt, from $365.8 billion to $6.4 trillion, bipartisan cooperation brought the budget back into balance again. In 1998, we had the first surplus in a long time. Some of the funds which would have gone to pay interest on the debt were instead spent actually paying down the debt, and we were all delighted.

Now deficits and interest costs are growing once again. Net interest payments on Federal debt will increase sharply, from approximately $170 billion in 2003 to more than $300 billion by 2012. And we face a host of new challenges: the war on terror, the war in Iraq, the threat of North Korea. This has necessarily led to a shift in Government spending toward improving our defense and homeland security capabilities. Yet many of the challenges predating September 11 are still with us: improving education, updating infrastructure, preparing for the retirement of the baby boom generation, which will all severely strain the Social Security and Medicare trust funds.

The CBO predicts that the Federal deficit for fiscal year 2004 will top $500 billion.

We might dispute the actual amount, but let there be no doubt, it is going to happen. We are going to have the largest deficit in our history this year. A portion of every dollar we spend, from this day forward until the end of September 2004, will be borrowed money—money our children and grandchildren will have to repay.

It is no secret that if citizens wish to receive services or undertake activities as a Nation, they have the right to levy a tax upon themselves to achieve these ends. We have somehow lost this sense of obligation and we have concluded that providing for our national defense, or for the education of our children, requires no more than charging the costs to a Government credit card. This must stop.

In fact, as this supplemental request is currently structured, our children and our grandchildren will pay $3.60 for every dollar we borrow. This supplemental is not a request for $87 billion. It actually totals $313 billion if you include the interest—$313 billion. It is penny wise and pound foolish to do this the way we are doing it, by not paying for it.

The President of the United States, in January of this year at his State of the Union, said the following words, and we from both sides of the aisle rose in acclaim to these words:

> This country has many challenges. We will not deny, we will not ignore, we will not pass along our problems to other Congresses, to other Presidents, and to other generations. We will confront them with focus and clarity and courage.

Well, this is one challenge we are passing on to other Congresses and to other generations. We need not do it. This is a well thought out proposal to temporarily rollback a small portion of the accelerated tax cut for the top 1 percent—the wealthiest of all Americans.

As has been well stated, everyone who falls within this 1 percent makes more than $310,000 a year in taxable income, which typically means that they are making more than $420,000 a year in gross income.

We have more income taxpayers in California than any other State. Thirteen million out of 34 million people are income taxpayers. In California, this amendment will affect less than 250,000 families paying these taxes. These families are all in the top 1 percent they are the wealthiest Californians. Not one of them, at any time, has ever come up to me and said: Senator, we want a tax cut. But I have had several come up to me and say: I didn't realize how much money I would receive from the 2001 tax cut. And they have added that it was not really necessary to do it.

We now have an opportunity, by scaling back a small portion of the accelerated cut associated with the May 2003 tax package, to pay for this $87 billion supplemental. It makes good sense. Think of what it saves for the future in terms of interest costs.

So what we are proposing generates $87 billion. It is a first step toward putting our fiscal house in order. It pays for the President's supplemental spending request. It doesn't revoke the 2001 reduction in the top income tax rate, nor would it affect any other element of the 2001 tax package. It would merely temporarily raise the marginal income tax rate of the richest in our society. These people could take pride in knowing that this supplemental would not create debt that would be passed on to their grandchildren, to your grandchildren, or to my grandchildren.

I thank the Chair and yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Kentucky is recognized.

Mr. BUNNING. Mr. President, I rise to raise a few points on the war on terror and offer my support for the President's supplemental request.

First, I am compelled to address the latest round of attacks against the President's request to fund our Armed Forces and rebuilding efforts in both Iraq and Afghanistan.

We are at war. We may not have tens of thousands of soldiers storming the beaches of Normandy. There are no forces with tanks positioned against a potential Soviet advance into Europe.

But let there be no misunderstanding. The war against terror is every bit as important as our fight against fascism in World War II. Or our struggle against the spread of communism during the cold war.

I have full confidence that Kentuckians and the American people realize this. But sometimes I wonder if some of my colleagues do, because appeasement in this war is not an option.

Over the past decade, we have seen the bombing of the World Trade Center in 1993, 19 American soldiers dead in the bombing of the Kohbar Towers, and two U.S. Embassies in Africa blown up in 1996, and the bombing of the USS *Cole* off the coast of Yemen in 2000.

And then, instead of facing the threat of Islamic radicalism, we virtually looked the other way, and sent American forces as peacekeepers elsewhere into places like Haiti, Bosnia, and Kosovo.

We still have thousands of American peacekeepers in Bosnia and Kosovo. And these roles should be played by European forces who refuse to get serious about cleaning up their own backyard.

During the 1990s, the Western world was riding high as the cold war ended. Millions of people around the world found their first taste of freedom. Anti-American rhetoric was a mere fraction of what it is today. The global economy was humming along quite nicely.

However, some in the world digressed as we progressed. The Taliban came to power in Afghanistan with its brutal regime over the Afghan people. Afghan girls were kept out of school.

The regime executed political and religious dissidents. And al-Qaida established training camps freely under the Taliban government.

Saddam Hussein never accounted for his weapons of mass destruction programs. He kicked out the UN weapons inspectors. He defied UN resolutions. He made payments to families of suicide bombers. Mass graves were filled with bodies. He was a destabilizing threat.

And we let our guard down.

We all know what happened next—9/11. And that day changed everything. President Bush and Members of Congress from both parties vowed never again to let our guard down. We vowed to protect the American people at all costs. And the war on terror began.

Difficult times require difficult decisions, but supporting this bill shouldn't be a difficult decision.

Let's show our resolve with our commitment to finish this war on terror. Passing this supplemental will help get us closer.

We cannot pull back out of Iraq now, and should a vote come up in the Senate to pull our support out of Iraq, it would fail overwhelmingly.

Contrary to what opponents say, the war in Iraq is neither a ''fraud,'' a ''quagmire,'' nor a ''miserable failure.''

This would suggest that our troops sent to liberate Iraq and fight terrorism have died in vain. Nothing could be further from the truth.

From watching the news, one would think the Iraqis want us out of their country. But an overwhelming majority of Iraqis support our involvement there. Our freedom is contagious and we helped liberate them.

Much progress has been made in relatively little time. American troops stayed in Germany for 4 years and Japan for 7. We are still in Bosnia and Kosovo. We can't expect democracy overnight.

Saddam invested in palaces and terror and not his economic infrastructure. Many Iraqis had to wait until Saddam was gone to find their loved ones in one of his mass graves.

It is now time to ensure that the days of mass graves in Iraq ends.

Our military forces deserve quick Congressional action on this bill.

I have been following the 101st Airborne in Iraq. They are based at Fort

Campbell, KY. Just this week, the commanding general of the 101st, General Petraeus, told me that over in Iraq ''money is ammunition. It's the key to all we are doing.''

The 101st is doing some great work in northern Iraq. Besides killing Saddam's two sons and accepting the surrender of Saddam's Defense Minister, the 101st has worked on over 3,200 projects in the rebuilding of Iraq. These range from repairing schools to repairing oil refineries. They are doing truly remarkable work along with all our forces.

Some in Congress believe we should make the rebuilding funds a loan and not a grant. I oppose this approach.

While Iraq certainly has the resources to become a wealthy country, its revenue from oil should be used to invest in its own future, not to pay off old debts incurred under Saddam or be burdened with the debts of a loan as it tries to transition to a free economy.

And besides, there is no established Iraq government to transfer a loan to.

I find great irony in the arguments of some who oppose the war. Many argued this war was all about the President's desire for oil.

Now many of these same people say we should use Iraqi oil to repay our Government. And President Bush is leading the charge on allowing Iraqis to keep their oil revenues for themselves.

Planning for an Iraqi oil fund is now in the works. It will give Iraqis a stake in the future of their country for the first time. Funds would go to public goods, such as national defense, education, and infrastructure.

This is the type of approach Iraq needs. We need to give the Iraqi people a hand up and not keep their heads down with debt.

If we don't act swiftly on this bill and terrorism prevails in this war, then we risk having to fight this war on America's turf. And that is why it is so vital to defeat the enemy on its turf as opposed to allowing them to regroup and hit us at home as they did on 9/11.

I don't like getting casualty notifications on soldiers, especially soldiers in my State, and I don't like it for anybody's state. No Senator likes seeing them. It is difficult.

We all feel for the families and friends of the brave soldiers who have died in Iraq and Afghanistan. I know what it is like for those with loved ones still there. My wife and I felt the same way when our son Bill served in Operation Desert Storm and later in Afghanistan.

But we must remember that our cause is just and that we are on the right side of history.

We must remember that the war on terror may continue for some time. I am going to repeat that because I want the American people to understand that the war on terror may continue for some time. I acknowledge that this is a difficult point for many Americans to grasp. Indeed, it is difficult for many of us.

This is why it is time for us to move swiftly on this bill to protect our troops and help rebuild both countries. This bill is an investment in not just Iraq and Afghanistan, but it is an investment in our security, freedom, and future.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I wish to take a few moments to speak in favor of the Biden amendment that is before the Senate, which offsets the extraordinary expenses—$87 billion—we are being asked to consider in this supplemental appropriations act.

Before I get into that discussion, however, it is probably useful for all of us to, once again, realize what $87 billion really is. It is very difficult to get our hands around such a sizable number. It is only when we look at it in comparison to other important federal programs, to other key economic indicators, that we can really develop a better understanding of how much money this really is.

Mr. President, $87 billion is more than the combined budget deficits of all the 50 States in 2004. Even in the greatest fiscal crisis since the Great Depression, the deficits of all 50 states were less than this sum.

Eighty-seven billion is 87 times what the Federal Government usually spends annually on afterschool programs. That is right, what we usually spend, because this year the Administration proposes cutting that by nearly $400 billion.

We have fought to try and get it back to just $1 billion for the afterschool programs that are so essential to assisting children develop the academic tools, personal confidence, and social skills necessary for personal success and accomplishment in this country. Yet still this Administration wants to slash this funding.

Again, this $87 billion is 87 times what we spend nationwide on afterschool programs.

It is 2 years' worth of unemployment benefits for the millions of people who have lost their jobs on this Administration's watch. Every couple of months, we have to fight tooth and nail to extend these temporary benefits for Americans who cannot find work. And its always a fight.

These are not unmotivated citizens looking for a check they are hardworking Americans who can't find a job in this slack economy. If we help get them through this extraordinarily difficult time, they'll be back contributing to the unemployment insurance system in a very short time period.

This $87 billion is enough to pay each of the 3.3 million people who have lost their jobs in the past 3 years more than $26,000.

It is seven times what the President proposed to spend on education for low-income schools. Make no mistake about it: This $87 billion is seven times the amount that this institution, the House of Representatives, and the President are allocating for the low-income schools in this country. It is seven times the amount we are spending for the education of low-income children in this country.

It is nine times what this Federal Government spends each year on special education for those several million children, close to about 4 million, who used to be kept in closets or kept away from the public school system. We don't do that anymore, we don't relegate Americans to lives of depravation, neglect, and isolation. For more than 25 years, we have made steady progress, with section 504 of the Education Act and then eventually the special education programs, the IDEA, some 25 years ago. We have made remarkable progress.

What we are now looking now is that so many of these children graduate from high school, go on to college, and enter the workforce. They have a sense of value of their own self worth, a sense of dignity, and they now contribute to the productivity of this nation. And what a difference it makes to their parents, and their communities, and their country. Yet in one stroke of the pen, we are about to send nine as much money to Iraq as we invest in special education each year.

This $87 billion is also eight times what the Government spends each year on the Pell grants to provide middle- and low-income students the opportunity to go to college. The average income of families needing this assistance is $15,200. And there are more than 4,800,000 young people nationwide relying on this badly needed grant help.

We began the Pell Grant program at a time when we as a nation to our young people that if they have ability and they can gain entrance into the colleges where they are applying, we will help devise a package of grants, loans, and work study programs in conjunction with their own summer employment and contributions from their family, so that they can achieve their highest aspirations.

That was an incredibly important choice for the economic and social well-being of this country. It is important in terms of ensuring that we are going to have well-qualified people in the military. It is important in terms of our institutions and democracy.

Yet this $87 billion is eight times what we are allocating for middle-income and low-income families to send their children to school. Do my colleagues understand that? It is eight times that amount, and we had to battle this year, a fight which we lost, to bring the Pell grants up to respond to the increase in tuitions that are taking place across this country. We wanted $2.2 billion, but we lost that $2.2 billion in the Senate. This Senate didn't have the money to help more families send their kids to college this year, and now we know why.

This $87 billion is eight times the total Pell grants. That is what we are

talking about. It is larger than the total economy of 166 nations. So this is a major allocation of resources that is going to bind our hands for years to come.

What does the Biden amendment do? The Biden amendment says we are going to pay for this. We are not just going to allocate these resources and add it to the debt of this country, which means our children and our grandchildren are going to have to pay this some time in the future.

We passed a very generous tax reduction program for the top 1 percent of the taxpayers in this country. Now listen to this: Between 2003 and 2010, the top 1 percent of the taxpayers, which have an average income in excess of $1 million, are going to get $690 billion in tax relief. Do we understand that?

With the tax reductions that this Congress has passed over the period of the last 2 years, the top 1 percent is going to get $690 billion. Those are individuals who are making $1 million or more. That is going to be their savings over the next 7 years, $690 billion. All the Biden amendment says is rather than $690, let's make it $600 billion, in order to make a down payment on paying for the war.

Shared sacrifice, now that is a pretty good American idea. Abraham Lincoln believed in it when he call for an increase in the tax for the wealthiest individuals at the time of the Civil War. We did exactly the same thing at the time of the Spanish-American War. Shared sacrifices across the board, by those who had the highest income. We did it in World War I. We did it in World War II. Why are we not doing it with this?

That is all this amendment is really about, shared sacrifice. To the wealthiest 1 percent of individuals, we are saying when we have American servicemen who are risking their lives every day families being disrupted in terms of the National Guard and the Reserves—you can give up some portion of your $690 billion tax cut. I met with many from Massachusetts' servicemen who have come back from Iraq and Afghanistan to find their jobs in jeopardy gone because of the state of the economy. Families are separated for a much longer time than they ever expected.

In our State, there are 11 families who have lost a loved one and scores of families with grievously wounded relatives and friends. Why can we not say that we are going to have some shared sacrifice? Instead of the $690 billion, we will make it just under $600 billion. That is what this amendment is about.

Finally, it seems to me a powerful enough argument, but listen, when we enacted this tax cut, the administration officials, like Secretary Rumsfeld, were saying, ''I do not believe the United States has the responsibility for reconstruction.'' That was at the time we were passing the tax cut.

We enacted this tax cut when the USAID Administrator Natsios was telling the American people the total U.S. portion of construction costs would be $1.7 billion and there are no plans for further on funding after this.

This is $87 billion on top of the $78 billion that we have already put up to fund this effort in Iraq. What happened to $1.7 billion? We enacted this tax cut when Deputy Secretary of Defense Paul Wolfowitz was informing the Congress, that we are ''dealing with a country that can really finance its own reconstruction and relatively soon.'' Do not worry about it the cost was what we heard.

As a result of the administration's failure to plan for the true costs of the Iraq operation and its failure to obtain substantial international support, we are now faced with a staggering reconstruction of $20 billion for Iraq which may be the only first installment. This is only the first installment.

Before the Armed Services Committee, Ambassador Bremer said he expects to be back again. When is it going to end? Ambassador Bremer is now suggesting the total reconstruction costs may ultimately reach $60 billion. Those are the World Bank estimates. Because of the administration's go-it-alone on Iraq, the costs of that mistake have climbed to over $120 billion.

Clearly, the circumstances have changed. The administration has grossly underestimated the costs now coming due.

President Bush, Secretary Rumsfeld, and Deputy Secretary Wolfowitz wanted to go to war in the worst way, and they did.

Now the bill is coming due. The Biden amendment is the right way for Congress and the country to pay the bill, and I urge my colleagues to approve this amendment.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I rise to address the Biden amendment and make comments regarding it. I rise in opposition to that amendment and I wanted to indicate why.

First, I want to indicate how we got to the point we are today. There were a number of people who came forward to say this is a huge bill—and it is. This is too much. I think we should examine that issue. I hope nobody says we should not be paying, because we have started down this road sometime back and it was the Congress that started down this road, not the administration. It was the Congress that started down this road. I think we now need to see this on through or we could leave the situation that we in the Congress started in a worse position than it was when we got into this in the first place.

This is what I want to point out. Congress passed the Iraq Liberation Act in 1998. This was the vote in the House of Representatives: 360 to 38. The Senate, by unanimous consent, passed this bill, the Iraq Liberation Act.

What did it call for? It called for regime change in Iraq. This was signed into law by President Clinton. We allocated, authorized, and appropriated $100 million to spend on this effort of regime change in Iraq. That was to get Saddam Hussein out of Iraq.

He was supporting terrorists, he had used weapons of mass destruction, he wreaked terrorism upon his own people, and he was costing us billions of dollars a year in containment because we had soldiers and airmen stationed in Saudi Arabia, and we were doing regular bombings into Iraq. We were conducting no-fly zones in the north and in the south. We built airbases in Saudi Arabia to be able to move this on forward.

This was an untenable situation. It was bad for the Iraqi people, bad for us, and bad for the region. All the countries in the region had some difficulty or problem, either being attacked, as Kuwait was, launched into, as Saudi Arabia was, threatened, as Jordan had been, at war as Iran. These are the countries, other than Turkey and Syria, that surround Iraq. Most of the countries in the region were saying something needed to be done, but they weren't willing to step forward unless the United States was serious. This was part of our statement that we were serious.

President Bush took this forward after 9/11 when the whole world changed for the United States. We decided after 9/11 that we would no longer wait for the terrorists to gather up steam and build up forces against us and then launch. We were going to go to the terrorists and disrupt them first, rather than wait until they came to our soil so tragically. Thus ensued the war on terrorism in Afghanistan and Iraq.

In Iraq, we had a country that had in the past used chemical weapons against its own people and against the Iranians. That is the fact and that is what we knew and this is where it started, and it started with the Congress.

Now to the issue today of the supplemental and how do we pay for it. I think it would be a terrible mistake for us at this time to raise taxes on the American people, just at the time when we are starting to get the economy recovered and moving again.

Finally, this last quarter we had our best quarter in 2 years, with 3-percent GDP growth. The Gross Domestic Product grew by 3 percent this last quarter. We are finally getting some growth and that growth has to occur and has to build up for us to create jobs. There is a lag between that growth and creating jobs. If we go right now and say to the American people that we are going to raise taxes on you at this point in time, you are going to threaten the very early stages of growth and the creation of jobs which is starting to take place. That is the wrong message to send.

The thing we need to do is keep the growth occurring in this country. You do that by low interest rates and by

lowering taxes. Those are the two tools that are being displayed and used now, and they are working to start the economic recovery. If you grow taxes at this point in time, you send the wrong message.

We do have a growing Federal deficit. What should we be doing to address that? I think we should address that issue of the Federal deficit. It is important. It is an issue. It is something that needs to be addressed.

I want to put forward an idea that we have 28 cosponsors on now. I want to put it forward in the context of how we balanced the budget in the past. We were able to balance the budget for several years in a row. It is the Congress that appropriates the money and allocates the spending. It is the Congress that gets the budget either in surplus or deficit, and it was the Congress that balanced the budget previously.

How did we do it? There were two things. There was a strong growth in the overall economy producing receipts coming into the Federal Government and there was a slowing of the growth in Federal spending. We restrained the growth of Federal spending so the growth in the economy and the receipts it produced were more than the growth in the spending of the Federal Government, and we were able to get our way to a position where we had a balanced budget for several years in a row, indeed pushing forward strong surpluses.

That is the way we will balance the budget again. Getting the economy growing and restraining the growth in Federal spending.

How do we restrain the growth in Federal spending? The Commission on Accounting and Review of Federal Agencies—CARFA, for short. The model for it is the BRAC procedure. With the BRAC procedure, we looked at the totality of the military bases we had. We said we had too many military bases; we should cut back those military bases, consolidate them, and use whatever we can save if we can save among the bases we keep. It is called the BRAC process.

How does that work? We had a commission. The commission met, they discussed it, and said we should eliminate these 50 bases. Then a bill was introduced in the Congress with no amendments, and you gave each House one vote up or down, whether they agree or disagree. By that means we were able to eliminate and consolidate bases.

I say let's do the same thing with domestic discretionary programs. By that I am saying not for the military; we already have a procedure there. Not for entitlement programs. Let's move forward that way, and that is a way we can address this issue. That is how we will actually get back to a balanced budget, not by raising taxes.

As to Iraqi spending, I want to discuss that. I think we should review and reduce some of the spending in this area that has been proposed. I have gone through in some detail, not the full proposal yet but most of it. I think there are areas we should not be paying for. Memorials to human rights abuses—clearly those are things that would be good to do. But should we, the American people, the American taxpayer, be paying for that? Is that central to redeveloping Iraq? I don't think it is, particularly at this time.

Should we be paying $50,000 per garbage truck? I don't think so, not in a part of the world that maybe it would be good to have, but there is probably garbage being collected in old pickup trucks. That is the way we used to do it in my hometown many years ago. There is nothing wrong with that, maybe, at the current stage of development. Maybe later you would use something better. But I think we should take some of these areas and say, let's pull those down and pull those out and let's reallocate some into more policing, which is critically important in Iraq, for us to get our troops garrisoned and less subject to exposure. Put it in the Iraq development bank, where we can see the Iraqi people growing their own money and we will be saving some of the money for our deficit purposes here, working to reduce that. I will be working with a group of people to put such a proposal together and put it in front of my colleagues.

I think that is an important part the job of this body, to review what the President has put forward and see where we agree and let's pass that and other areas where we would change it.

I do not think it is an option for us not to pass the supplemental. We need the supplemental for the troops. We need the supplemental to develop Iraq. It is not an option for us to fail in Iraq. We must succeed. Indeed, Iraq and its success is central to us bringing forward a reduction in the swamp area where terrorism has bred and where it has stewed and where it has grown, in an area we have seen terrorism coming forth and attacking us. This is an area we have to go out and change. We change it by bringing forth our ideas and our models of democracy, of an open society, and of a free economy. This Iraq is going to be an area where we will have to concentrate and focus, deliver that, and hopefully that will affect much of the rest of the region. There is some indication that is already happening.

So you drain the swamp away, and drain it away with our set of ideas.

Failure in Iraq is not an option. We must succeed in Iraq by moving forward with our model on the war on terrorism, which is we take the war there rather than letting them gather steam and come at us and kill our people here.

I think there are legitimate ways to address this issue. I think we ought to look at the issues of loans versus total grants. This is a large-scale, oil-based country that wants those production wells going again. I think there is going to be oil produced and a substantial amount of income.

I think we ought to look at the overall proposal. There are places where we should adjust. But overall, we are going to need to pass this supplemental. For us to raise taxes at a time when we are just getting the economy going would be the wrong way for us to go as a government, as a society, and for this country.

We have to allow this growth to continue taking place. The key here would be instead of reducing our overall spending to look for places we can save within this overall spending bill.

We are going to have a spirited debate. As we go out for a week and do townhall meetings across the country—and I will be doing that in my State—I look forward to gathering a lot of input from individuals. I think that will be helpful for us as we move forward.

But I don't want us to send an improper signal. Failure in Iraq is not an option. We cannot fail. We need to do this supplemental, but I think we can make some changes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. I thank the Chair.

I rise today to voice my support for the amendment offered by the Senator from Delaware. His amendment allows us to fully offset the $87 billion cost of the supplemental before us by increasing slightly the top tax rate in the years 2005 to 2010. This top tax rate—which is paid only by the wealthiest 1 percent of taxpayers—was cut dramatically in the two tax cut bills passed since President Bush took office.

There is broad consensus for the $67 billion in this request for military and defense spending. And even those of us who voted yesterday to cut $15 billion in reconstruction funding did so to make the point that we have lingering questions about the nature of this funding and who will pay for it. However, our support for funding our obligations in Iraq doesn't mean that we support adding to the exploding deficits our Nation is now facing. The Biden amendment does not question whether we should fund the war—it addresses how we finance our necessary obligations.

The President has proposed paying for the entire $87 billion with debt. In a time when our deficit is projected to top half a trillion dollars a year, this choice is unsupportable.

Our ballooning government debt sucks capital from a private sector struggling to recover lost manufacturing jobs. The debt places upward pressure on interest rates, wreaking havoc on the family budgets of those carrying home loans or consumer debt. The billions we pay in debt service each year is billions that does not go to our schools, our roads, or our growing homeland security needs. And a crippling debt is a terrible legacy for future generations—generations that had no say in our current policies in Iraq.

Financing this war with debt is a costly and unwise choice. The Biden

amendment offers another way to pay for what we have an obligation to do.

On September 7, the President said in a speech to the Nation that the war and reconstruction of Iraq would require ''time and sacrifice.'' For months, we have asked the young men and women of the Armed Forces to make the ultimate sacrifice: to fight—and perhaps die—for this country. Senator BIDEN's amendment asks another group—the wealthiest 1 percent of all Americans to also sacrifice—to accept a small increase in a tax rate that was greatly decreased by the Bush tax cuts.

The Senator's amendment offsets the cost of the President's request by asking the top 1 percent of taxpayers, those in the 35 percent bracket, to forego approximately $90 billion of the $690 billion in tax cuts they were granted in the two tax bills we have passed since President Bush took office. A taxpayer in the top 1 percent has an average income of $1 million a year. Asking for some financial sacrifice from these taxpayers seems the least onerous of the options for financing this war.

Whatever we decide to do with this spending request, we must pay for it now. Offsetting the cost of this supplemental is the right thing to do. It asks those who have benefited the most from our thriving economy to help keep that economy healthy by reducing our growing debt burden. It relieves future generations of the staggering bill for a policy they had no part in setting. And it sends a signal to our Armed Forces that, when the President calls for sacrifice, he is not only calling on them.

I urge my colleagues to support the Biden amendment, and I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, I commend my friend and colleague from Wisconsin for a very straightforward and profoundly important summary of the reasons why we should in a bipartisan manner support the Biden amendment. The Senator from Wisconsin is an expert on the economy, on creating jobs, and on building businesses as well as public policy. He has the understanding that we have to look beyond the horizon if we are to be leaders to build a better America and a safer world for our children. I thank the Senator from Wisconsin.

I, too, urge all of my colleagues on both sides of the aisle to support the Biden amendment. This is an issue of great importance we are debating. It is not only essential that we support our troops—which we all do and feel strongly about—in a fiscally responsible manner so these young men and women who are fighting and dying in Iraq will be able to return to a country with a growing economy which is creating jobs and a responsible government.

At the end of the day, as the Senator from Wisconsin just said, we are funding this war from our children's inheritance. It is wrong. I don't care what else you could say about it. That is fundamentally wrong. We have a chance to act responsibly. Unfortunately, the words ''fiscal responsibility'' and ''fiscal discipline'' apparently are not found in the current administration's dictionary. There is nothing responsible or fair about the decisions we are being asked to make.

This administration hasn't really asked for sacrifice from anybody. But there are people who are sacrificing. First and foremost, our men and women in uniform, our active duty, our Reserve, our Guard, people who have now been deployed in Iraq or Afghanistan in our war against terror, people who have left their families and have been uprooted from their jobs, they are all sacrificing. And I am grateful and proud of the work and services they provide.

But this President's budget also asks other Americans to sacrifice. It asks children and afterschool programs to sacrifice. It asks people who need job training and additional skills to be employable in this jobless economy to sacrifice. It asks people who need help with their heating and cooling bills to sacrifice. It asks those who need child care services to sacrifice. It asks so many Americans to sacrifice. Yet it does nothing to remove the burden from those people or our children.

Amazingly enough, those of us who can afford to sacrifice for our national and international goals are not asked to sacrifice at all. In fact, it is just the opposite. We are given more and more and more tax cuts.

What is the administration's policy except to further burden hard-working, middle-class Americans and future generations and not do anything to try to in a fiscally responsible way address our needs?

Think about it. Just a few years ago we were in the midst of the longest string of budget surpluses since the 1920s. We were paying down our debt, we had historically low numbers of unemployed people, and we lifted millions of people out of poverty. President Bush said just 2 years ago the country would be virtually debt free by 2008. He said there would only be $36 billion of remaining debt.

As we have seen in so many instances, the rhetoric does not match the reality. Today it is projected that our publicly held debt—and some may not want to hear, but the fact is by 2008 it will reach $6.2 trillion. We have done a tremendous reversal. Who will pay for it? The young people in this gallery who watch the proceedings in the Senate. They are the ones who will get the due bill for our profligacy, our refusal to act responsibly. The administration is denying the absolute reality that we are not paying as we go for a commitment on which we have to follow through.

Here we are with a request for $87 billion. I was pleased to hear my colleague from Kansas on the other side of the aisle say they join in looking at some of the specifics because some of the specifics are outrageous. We now know from people coming back from Iraq that a lot of what the administration says they want to spend money on we can buy more cheaply than the no-bid contracts the administration favors with their friends. I was delighted to hear the Senator from Kansas say let's look at the specifics. But that still does not get us where we need to go in paying for this.

There will be a big debate about how to pay for this. We can start by passing the Biden amendment, by being responsible. I also add, this is good for the economy. All this talk about the increase in the GDP on a monthly basis—look at the numbers carefully. A lot of it is driven by deficit spending and spending in Iraq.

Nobody is arguing that is not a good thing that we are having to do what we said we would do and following on, but be honest and look at the numbers below the surface. As the Senator from Wisconsin said correctly, we are going to stall this economy dead in its tracks if it ever gets off the dime, if it ever begins to create jobs, because we cannot sustain private capital when we have so many demands growing from the Government. Furthermore, we are becoming even more dependent on foreign currencies, on foreign investors. I don't think that is good for our long-time security either.

Instead of just pushing our country deeper in debt, let's think about our children, think about those young men and women serving this very moment in Iraq, and make sure we pay by asking those in the upper 1 percent of the income level in this country to do our fair share to make a sacrifice. It is a pittance when you think about it. What are we sacrificing? Instead of $690 billion in tax cuts, we give $600 billion in tax cuts. Do the right thing. It is good for our commitment in Iraq, good for our economy, and the very fairest thing we can do for our children.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, I ask unanimous consent to be added as a cosponsor to the Biden amendment.

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

Mr. CARPER. Mr. President, I follow up on the comments of the Senator from New York with respect to sacrifice. Our State is a small State. We only have about 800,000 people. We have reservists who serve in all the branches of our military. We have the Delaware National Guard unit. When I was Governor, I was privileged to be their commander in chief. I know many of them personally, as well as their families.

When guard and reservists are called to be deployed to active duty, usually our Governor is there to send them off and tries to be there to receive them when they come home. Similarly, when it is a unit of another branch of the

service—Army, Navy, Air Force, Marines—we like to be there to welcome them home, too.

I will mention two units, one Marine Reserve unit, the second a unit of the Delaware National Guard, folks who fly and maintain the C–130 cargo aircraft, part of the air bridge between this country and other parts around the world.

About 2 weeks ago, I was invited to be part of a welcome home ceremony for a number of Marine reservists. They had been called to active duty. They served in Iraq. They were able to come home to their families. They came home largely to their spouses—mostly to wives—they came home to their children, came home to brothers and sisters, moms and dads in many cases, they came home to their neighbors, and they came home to their jobs. I don't think it is overstating it to say they are thrilled to be home—proud of their service, thrilled to be home.

I had another unit in the Delaware National Air Guard 166. The people who fly and maintain the C–130 cargo aircraft were activated earlier this year and spent 4 months on active duty and then were released to come home to a great homecoming ceremony, a lot of joy. Then they were reactivated roughly a month ago and headed back on the other side of the world. I am not sure when they are coming home.

They missed the return of their children to school, will probably not be around to take the kids out to trick or treat this year. When their families sit around and eat at the Thanksgiving table and carve up the turkey, they probably won't be there. When presents are opened around Christmastime, God only knows where they will be. Those families know what it means to sacrifice, not just the ones who are overseas—whether they are Delaware National Guard, any National Guard, any Reserve unit, or anyone on active duty.

It is one thing to ask the sacrifice of those who serve. As one who once served, that is your job description. You are expected to be prepared to go and serve when needed. It is always toughest on those who stay behind because they give up their loved one, they give up someone who is helping to hold the family together in many cases; in some cases they give up a breadwinner who has gone off to earn a far lower salary. They know what sacrifice is.

What the Biden amendment says is, for those who are blessed with great financial well-being, whose income exceeds $300,000 per year adjusted gross income, maybe we can do something, too. We may not have a child, a son or a daughter; we may not have a brother or sister. And I know Senator JOHNSON has a son who I believe still serves over there, but for the most part we do not. For the most part, people with those incomes do not. But we have the ability to do something to help out in this case. I don't think it is asking too much for those who happen to make that kind of income to be willing to defer maybe $2,000 a year to help make sure that our children and our grandchildren do not inherit an even greater mountain of debt.

Let me close with one comment. Sometimes you talk to people about the amount of debt and the numbers are almost numbing. Let me leave you with this number: Today, on this day of October 2, we will make an interest payment on our national debt—imagine a credit card—an interest payment on our national debt. The interest payment is $882 million.

We can bemoan that fact and say that is terrible, why don't we do something about it, or we can, with our vote today, do something about it and make sure we do not add further to that debt.

A fellow who used to be the British Chancellor of the Exchequer had a theory of holes. That theory was as follows: When you find yourself in a hole, stop digging.

We are in a hole, and it is time to stop digging.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I rise in support of the Biden amendment. There is no question we will support our troops. My colleague from Delaware mentioned my own son Brooks, who has recently returned from fighting in Iraq, in Baghdad; outside of Kandahar, Afghanistan prior to that; and Kosovo and Bosnia prior to that. So I have a full appreciation, as do my colleagues on both sides of the aisle in this Chamber, that our fighting men and women deserve all the resources they need, and we will do all it takes to make sure they have those resources.

But there is the larger question of the $87 billion, particularly I think the $20.3 billion component for so-called rebuilding in Iraq, although when we say ''rebuilding,'' keep in mind that the President is not talking about rebuilding things that were damaged in the war; the President is talking about creating schools, whole new cities, whole new water and telecommunications systems that have never existed in all of Iraq's history.

But the fundamental question we have here at this moment is, How will this be paid for?

There have been essentially—until the Biden amendment—two strategies. One is that Iraq borrow the money and build it themselves. They sit atop the world's largest supply of oil, literally a mountain of gold. Granted, they do not have the technology to pump that oil quickly at this point in their history, but it is there and could be collateralized.

Second is the President's recommendation, where, rather than Iraq borrowing to pay for the $87 billion, we borrow it to pay for the $87 billion, because we do not have $87 billion either. We do not have $87 billion in cash lying around. In fact, we have gone from record budget surpluses only 2 years ago to, under the guidance of this President, an annual deficit now approaching $500 billion a year. It is a breathtaking record deficit that we face. So we do not have any surplus money to be used anywhere, including in Iraq.

The President says: Well, we do not want Iraqis to have to borrow because that might raise their debt service cost, despite the fact they have the world's largest pool of oil. Instead, let's borrow it out of our Social Security trust fund. That is the President's strategy. I think it is a terrible strategy. We have been doing too much of that as it is. To borrow still more, and drive our deficit still deeper, to put Social Security in still greater jeopardy in the outyears is, to me, not an acceptable strategy.

Senator BIDEN has suggested there is a third way. If the President simply will not accept the fact that Iraq ought to borrow this money themselves, then at least let's not borrow it out of the Social Security trust fund from the United States; let's allow those who have benefited the greatest by the growth of the United States economy—those 1 percent of Americans who earn over $300,000 a year—to have a temporary freeze in the tax reductions over the course of 5 years that would pay the $87 billion.

It troubles me that this President and some of our colleagues—who are constantly lecturing us about how there is not enough money for our own schools, for our own highways, for our own health care, for our own veterans, for our own job creation—are the very first ones to come to this body and tell us how badly we need to spend that same amount of money in Iraq, and borrow it out of the Social Security trust fund while we are at it. It is not acceptable to me.

I have to wonder about those kinds of priorities when we have such great unmet needs here and when, Heaven knows, we are also facing stupendous budget deficits. So it does seem to me that Senator BIDEN is correct in saying, let's not go down the borrowing route ourselves, let's pay for this, if it needs to be paid for. And, frankly, there are many components of that $20 billion piece which I am dubious about, but if we are going to pay for any of this, let's pay for it by making sure that ordinary Americans are not hit once again.

As was noted earlier, our troops and their families are making immense sacrifices, for many the ultimate sacrifice. But there are other people who are making sacrifices as well—in terms of crowded classrooms, in terms of schools that are not being repaired, in terms of technology that we cannot afford in our schools, in terms of those who have no access to health care, in terms of rural hospitals that are closing, in terms of veterans who have no access to the VA, and in terms of those who have lost their jobs and see no jobs in the near future. All of those people are sacrificing as well.

If there is going to be sacrifice, let it be by the 1 percent rather than borrowing this money.

I thank the Chair.

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

The Senator from Delaware.

Mr. BIDEN. Mr. President, parliamentary inquiry: How much time is available to the Senator from Delaware?

The PRESIDING OFFICER. Thirty minutes.

Mr. BIDEN. Mr. President, I yield 1 minute, if I may—I know it is out of order. Our friend from Maryland has asked for 1 minute. I would be delighted to yield that to him, and then I would ask, after that, to yield 1 minute to my friend from Florida. And then I think, in the order, Senator REED is in the queue for 5 minutes, and then the Senator from Illinois, and then the Senator from North Dakota. I ask unanimous consent that be the order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BIDEN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I want to pick up on a point that the Senator from South Dakota just made, and that is the question of sacrifice. The people in this country who are making sacrifices in this war in Iraq are the working people and the men and women in our armed services.

The men and women who are losing their lives and suffering casualties come overwhelmingly from working families in America. Overwhelmingly they are the ones who are unable to meet their families' needs, and their own needs, because our national priorities have disastrously changed and the impact has fallen on particularly crucial programs: education, health care, job training—you can go right down the list.

The deficits we are running, the huge national debt that is being run up will come down on the shoulders of working families in this country.

If you want to talk about sacrifice, pass the Biden amendment.

It is time for the privileged in this country to make sacrifices, too. It is not their men and women who are in Iraq. It is not their programs that are being hit. They are not shouldering the debt.

They, too, should be making a sacrifice on behalf of this national effort.

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

The Senator from Florida.

Mr. NELSON of Florida. Mr. President, this Nation's fiscal policy is careening off the road into bankruptcy. And that means, if we are having to go out and borrow money—by the way, borrowing it from places such as Saudi Arabia and the Chinese—in order to pay our bills, that means we are not able to spend money going into education and health care and Social Security.

You have to get some relief somewhere. This is a good place. Stop the tax cuts that are supposed to be going into effect for the wealthiest, and let that $87 billion pay for these expenses that are incurred in Iraq.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, the Biden amendment is very straightforward. It says we will pay for the $87 billion by repealing the tax advantages for those who have the upper 1 percent in income in the United States.

In my view, this is not an issue of taxes or payments; this is a simple issue of responsibility. It is irresponsible for us to borrow money from Social Security, borrow money from Medicare, borrow money from education spending, borrow money from the Veterans' Administration to give to the Iraqi people. We can, in fact, pay for it. We can pay for it by supporting the Biden amendment.

My colleague from Maryland spoke about the sacrifice of these soldiers, sailors, airmen, airwomen, and marines who are over in Iraq. Just ask yourself: What happens 5 years from now when those young Americans go to the Veterans' Administration and they are told they cannot be accommodated because we do not have enough money, that we borrowed so much money that our economy is in disarray, and that our programs that support American people have been devastated?

We have a situation in which our deficits are growing out of proportion, the national debt is rising. In January of 2001, the CBO estimated that the national debt in 2008 would be $36 billion. In fact, the President at that time was talking about paying off all of our debt, and now, in August of 2003, CBO projects a debt of $6.2 trillion in 2008. Deficits are expanding dramatically. Again and again they go up and up and up. Now we are talking about a $535 billion deficit.

This has an effect. It is not free money. The effect is in many dimensions. One dimension is that ultimately it will drive up interest rates. That is not my view. That is the view of Alan Greenspan, in his words:

> There is no question that as deficits go up, contrary to what some have said, it does affect long-term interest rates. It does have a negative impact on the economy, unless attended.

This is one way we can attend to the deficit. Or the words of the CBO Director:

> To the extent that going forward we run large sustained deficits in the face of full employment, it will in fact crowd out capital accumulation and otherwise slow economic growth.

We are today, by spending and not raising the revenues to support that spending, contributing to this out-of-control deficit spiral that will affect our economy.

There is another consequence that goes to responsibility. How can we be a world leader, how can we sustain our efforts in Iraq, in Afghanistan, across the globe, if our economy becomes unraveled, as it is becoming?

Of course, there is an immediate issue. We are losing employment left and right, particularly manufacturing employment. How do we sustain manufacturing in the United States? What happens when their interest rates go up, when they have to pay more money to borrow? That is another invitation to take their work and send it overseas. What happens when their health care costs go up? And they will, unless we do more to support the Medicare system, the Medicaid system, and general health insurance throughout the United States, another pressure.

This is all irresponsible. We have huge problems. We have much to do to deal with those problems. But we can begin today and simply say, rather than giving the Iraqi people $87 billion from Social Security, from health care, from education, we can ask the top 1 percent of Americans, who have done extraordinarily well, to forgo a tax break so that we can pay for this.

It is responsible. This vote today is not about taxes. It is not about our approach to Iraq. It is not about supporting the troops. It is about whether we will be responsible today and in the future. I urge that we go forth and be responsible.

My colleague from Maryland also pointed out the sacrifice. We all know our forces are doing a magnificent job. They are truly sacrificing, and we are going to support them. But their sacrifice must be met not only with our sacrifice but with some wisdom, the ability to look ahead, the ability to see what is coming. What is coming is an economic deterioration of this country unless we can get our hands on this deficit.

This is the first step. It is a modest step, but it is a first step. What better rationale, to ask the people of America to contribute their hard-earned dollars and support our troops, support our foreign policy, support an effort to root out dangers to this country? In fact, in times of war, the American people have always responded, and other Congresses and other administrations have responded when we have asked them for increased sacrifices and increased taxes.

None of the Biden proposal will affect the middle class, the working class. It is responsible. To vote against this amendment would be irresponsible. I urge its passage.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, if you study the sweep of history in the United States and the history of the Presidency, you understand that at times of crisis the President has an opportunity to rally the American people, to summon them to a higher calling and a greater commitment than

they might otherwise reach. Time and again, each President faced with a national challenge has tried his best to do just that.

In this situation, after 9/11, President Bush came to us and summoned the American people to be unified. It was demonstrated in the Senate with a bipartisan resolution supporting our effort in the war on terrorism, an overwhelming vote supporting the President. He summoned us to humility. Many of us joined with the President at the National Cathedral in a day of prayer to recall just what had happened to so many innocent people and to once again remind ourselves of our dependence on our values and our principles and on God Himself.

He also summoned us to courage and the courage that America has to display every day in confronting the war on terrorism.

President Bush also has summoned us to sacrifice. But he has not summoned all of us to sacrifice. He has summoned the men and women in uniform to sacrifice because they literally put their lives on the line every single day in this war on terrorism, in the invasion of Iraq and in peacekeeping afterwards. He has asked these men and women to understand the oath they took to our country and to step forward proudly and defend our flag and our values. That call to sacrifice has been answered affirmatively over and over again while hundreds have been killed in Iraq and literally hundreds and perhaps thousands have been seriously injured.

When it comes to sacrifice otherwise, the President asks little or nothing of the rest of America. I believe if President Bush had come to America and said, I need a spirit of sacrifice from everyone—rich and poor alike, not just those in uniform but every single person—there would have been an overwhelmingly positive response. But no, instead of asking for sacrifice, the President said to the wealthiest in America, to those who are well off and have little discomfort in their lives: We ask nothing. In fact, we will give you something. We will give you a tax cut. We will give you money—not a sacrifice asked of the wealthy and well off but, frankly, to give them more comfort and luxury in their life. That is hardly what the President should have done in rallying America to face this crisis.

Here we stand today, facing the amendment of the Senator from Delaware, Mr. BIDEN, which asks us to look in honest terms at the $87 billion the President has asked for, for Iraq: $68 billion for the troops, another $20 billion for the reconstruction.

We know President Bush and his administration have had no plan when it comes to revitalizing the American economy. This President has lost more American jobs on his watch than any President in 70 years. He has lost more jobs than any President since Herbert Hoover in the Great Depression. Frankly, that is a stain on his performance as President and reflects the fact that all of the tax cuts he has proposed have not revitalized this economy, have not moved us forward and, in fact, have cost us jobs.

It is clear, as well, this administration had no plan when it came to rebuilding Iraq. A few months ago, some of the leaders in this administration were coming forward and telling us we would not even need to be here today to ask for $87 billion. Secretary Rumsfeld said: I don't expect that we are going to need to ask the taxpayers for money; look at all the oil revenue in Iraq. The same thing was said by Vice President CHENEY and Paul Wolfowitz. All of the men behind the strategy to attack Iraq told us over and over again it was painless, it wouldn't cost us.

We are here today knowing it will cost us. The President told us in his speech to the American people just a few weeks ago: $87 billion is the cost. This administration had no plan to deal with it and no plan to pay for it.

How will we face this? We will face this as we faced the Vietnam war, a war which was financed by deficits. Instead of cutting spending or raising taxes to pay for the cost of Iraq, we are going to see the national debt increased. We are going to see the funds available for our schools, for health care, for Social Security cut because we have decided we are not going to ask anyone to sacrifice to pay this $87 billion.

I believe we have a responsibility to stand up and do the right thing, to ask the wealthiest in America to pay their fair share, to say to them: We are not going to give you a tax break that has been promised so the money will be there to pay for this war. It is the responsible thing to do. Instead of pushing this burden on the men and women in uniform fighting today and on our children tomorrow with an increased national debt, we are going to stand for the premise that we should pay for the defense of America; we should pay for the cost of reconstruction in Iraq.

I support the Biden amendment and urge my colleagues to do the same.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. CORZINE. Mr. President, I, too, rise to stand in support of the Biden amendment. The concept of shared sacrifice is fundamental to the American life—something all of our predecessors on this floor and the people of America through history have understood. In times of war, we have understood we all have to participate.

It should be no different this time. It is clearly a time when we have not asked for our society to stand up and accept the responsibility—financial responsibility—of standing with those men and women who are sacrificing their lives for us. Instead of actually husbanding our resources so we can carry on that struggle and stand with our men and women in uniform, we are actually undermining that by putting our financial condition into real jeopardy, both now and for a long time into the future.

In guns-and-butter policy, one that is totally discredited throughout any kind of analysis, whether in the private sector or academia—and it should be here on the floor—we are now facing $535 billion budget deficits in the coming fiscal year, with budget deficits of that dimension long into the future, borrowing against the retirement security of our seniors and our Social Security trust fund, using the payroll taxes people are reportedly putting into Social Security to protect their retirement to fund tax cuts, at the same time we are actually at war to protect the American people.

It is time for us to husband our resources and make sure we don't sacrifice everything on the homefront, whether it is economic security, retirement security, homeland security; all of these issues are short of funding. We hear about it and we cut it back. We make sure we are very precise there, and then we are not willing, for those who are benefiting most in society, who have actually enjoyed the American prosperity the most, to sacrifice marginal amounts to be able to fund an initiative that is proper to protect our troops and take the responsibility for a broken economy, a broken society that, in many ways, is a responsibility we have had because we entered into this.

I think it is absolutely essential, and I think many of the people who benefit from the reduced tax rates we are talking about not going ahead and executing will benefit more because we will have a sounder economy, and we will create greater wealth in the economy, and they will welcome the idea that they are actually able to share in some of these burdens as we go forward. As a matter of fact, I know that at a personal level, from conversations I have had across this country, there is a desire to be asked to help.

It is really a major mistake, a major shortfall, on our sense of responsibility to the Nation if we don't call for making sure we provide funding for this initiative—this $87 billion the President has asked for. I stand strongly in favor of the Biden amendment. I encourage colleagues to as well. This Nation believes in shared sacrifice. We should show it by supporting this amendment.

I yield the floor.

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

Mr. CONRAD. Mr. President, I want to start by putting in perspective where we are in the fiscal condition of the country as we consider this request from the President for $87 billion for Iraq.

I think it is important for us first to recognize we already face next year a record budget deficit of $535 billion. But that really understates the seriousness of the problem because, on top of that, under the President's proposal, we will also be taking $160 billion of

Social Security trust fund money to pay for other things. That gives a total operating deficit for next year approaching $700 billion.

Some have said, well, it is really relatively small as a share of our gross domestic product. That is not correct. Fairly measured, the operating deficit next year is the biggest we have had since World War II. If we look at the Social Security trust fund, if we back that out and we treat it the same way in 1983, what we see is the deficit as a percentage of GDP is the biggest it has been since World War II. This is a huge deficit, however measured.

The President has told us these deficits will be small and short term. Wrong again. They are not small; they are huge by any terms, dollar terms or GDP terms. Beyond that, they are long lasting. In fact, according to the President's own analysis, they go on and on and on, and they get worse as the baby boom generation begins to retire. Just over the next decade, we see an ocean of red ink. According to Congressional Budget Office numbers, if we just add in proposals to extend the tax cuts, to add a prescription drug benefit, and to provide AMT reform, there will be deficits of $600 billion, $700 billion, as far as the eye can see.

We have a problem of spending and of revenue. The revenue as a percentage of gross domestic product next year will be the lowest since 1950. That is a revenue crisis, as well as a spending problem. If we look at the spending side of the equation, we can see the increases in discretionary spending over the baseline have occurred overwhelmingly in just three areas: defense, homeland security, and rebuilding New York and providing airline relief. In 2003, ninety-two percent of the increased spending is in those areas. I might add those are areas that all of us, on a bipartisan basis, supported.

The President of the United States told us 2 years ago he would virtually pay off the debt. He said by 2008 there would be virtually no publicly held debt left. Now what we see is, instead of the debt being virtually eliminated, we see it skyrocketing. The gross debt of the United States, we estimate, will be $6.8 trillion by the end of this year. In 10 years, we estimate it will be approaching $15 trillion—all at the worst possible time. It is the worst possible time because the baby boom generation is going to begin retiring in 2008.

On this chart, the green bar is the Social Security trust fund, the blue bar is the Medicare trust fund, and the red bar is the cost of the tax cuts—those that have already passed and those that are proposed by the President. What this shows is, at the very time the Social Security and Medicare trust funds go cash negative—at that very time, the costs of the President's tax cuts explode, driving us deeper and deeper into deficit and debt.

You don't have to take my word for it, or the Congressional Budget Office's word for it. You can take the President's word for it. Here is the calculation from his budget of what would happen if we followed his proposals, his tax cuts, his spending. What it shows is we never get out of deficit and that the deficits explode. This is as a percentage of gross domestic product—which he prefers to refer to now to try to understate the magnitude of the problem.

Look at what his own analysis shows. It shows these are the good times, even though there are record deficits—the biggest we have ever had in dollar terms, and as a percentage of GDP since World War II. But it is going to get much worse.

The Congressional Budget Office warned us, as the New York Times reported it on September 14:

> This course prompted the Congressional Budget Office to issue an unusual warning in its forecast last month: If Congressional Republicans and the administration get their wish and extend all the tax cuts now scheduled to expire, and if they pass a limited prescription drug benefit for Medicare and keep spending at its current level, the deficit by 2013 will have built up to $6.2 trillion. Once the baby boomers begin retiring at the end of this decade, the office said, that course will lead either to drastically higher taxes, severe spending cuts or ''unsustainable levels of debt.''

Just this week, the Committee for Economic Development, major business leaders in the country, the Concord Coalition, and the Center on Budget and Policy Priorities warned of the dangers of the current fiscal course. They said:

> To get a sense of the magnitude of the deficits the nation is likely to face without a change in policies, consider that even with the full economic recovery that CBO forecasts and a decade of economic growth, balancing the budget by the end of the coming decade (i.e., in 2013) would entail such radical steps as: raising individual and corporate income taxes by 27 percent; or eliminating Medicare entirely; or cutting Social Security benefits by 60 percent; or shutting down three-fourths of the Defense Department; or cutting all expenditures, other than Social Security, Medicare, defense, homeland security, and interest payments on the debt—including expenditures for education, transportation, housing, the environment, law enforcement, national parks, research on diseases, and the rest—by 40 percent. Beyond the next decade, the tradeoffs become even more difficult.

When we look now to what the President is proposing in this $87 billion, and we look back at what we were told—remember when Larry Lindsey, the President's chief economic adviser, said it would cost $100 billion to $200 billion for our involvement in Iraq, and he was chastised by this administration? The head of the Office of Management and Budget said he was way off. He wasn't way off. He was right on. We are already at $140 billion for this Iraqi undertaking.

The administration has been wrong, wrong, wrong. They have been wrong repeatedly. They are wrong about the deficits. They said there wouldn't be any. Then they said they were going to be small. Then they said they were small as a percentage of gross domestic product. They were wrong on each count.

Then they told us: Iraq won't cost much. Here is what Ari Fleischer, the President's chief spokesman, said on February 18 of this year:

> And Iraq, unlike Afghanistan, is a rather wealthy country. Iraq has tremendous resources that belong to the Iraqi people. And so there are a variety of means that Iraq has to be able to shoulder much of the burden for their own reconstruction.

What happened? The administration told us Iraq was going to be able to pay, they were going to be able to cover much of the cost of their own reconstruction. Now that proves to be wrong as well.

This administration repeatedly told us the cost of Iraqi reconstruction could be largely borne by Iraq. Here is what the Deputy Secretary of Defense said before the House Appropriations Subcommittee on Defense in March of this year:

> The oil revenues of Iraq could bring between $50 and $100 billion over the course of the next 2 or 3 years . . . We're dealing with a country that can really finance its own reconstruction, and relatively soon.

Wrong again. And just months later they are asking for $20 billion, and that is just a downpayment. Make no mistake, they are going to be here asking for more, and they are going to be here asking for more soon because they have already acknowledged they need another $40 billion or $50 billion for Iraqi reconstruction. They say they are going to get it from somewhere else. Where else? When we ask them, they say they have a big donors conference coming up. Do you know how much has been pledged? $1.5 billion. Where is the other $40 billion or $50 billion going to come from? They are going to be right back here asking for more.

They misled this Congress. They misled the American people. They did it repeatedly on issue after issue.

Here is what their USAID Administrator, Mr. Natsios, said on April 23 of this year:

> That's correct. $1.7 billion is the limit of reconstruction for Iraq. . . . In terms of the American taxpayer contribution, that is it for the U.S. The rest of the rebuilding of Iraq will be done by other countries and Iraqi oil revenues.

Wrong again. Wrong, wrong, wrong, and not just by a little bit; these folks have been wrong by a lot. Whether it was talking about the deficit or talking about the war with Iraq or the reconstruction of Iraq, this is a record of being wrong; wrong on major point after major point, over and over.

They say to us now:

> What we're focused on in the $20 billion is the urgent and essential things.

The $20 billion is the urgent and essential things. Really? Let's look. In this plan, there is $6,000 per radio/telephone. It costs for a satellite phone in this country $495. It costs for a walkie-talkie $55. Why when we go to Iraq all of a sudden phones cost $6,000? A satellite phone, where one can call anywhere in the world, costs less than $500,

and this administration is coming before this body and saying they need $6,000 per phone.

They want $33,000 per pickup truck. We have a lot of pickup trucks in our State. We have more pickup trucks being sold than any other kind of automobiles. The average cost of an award winning American truck is $15,400, and they want us to spend $33,000 per truck in Iraq.

They want us to pay $50,000 per prison bed. In this country, it costs $14,000 to build a prison bed. I don't know who did these calculations, but they seem an awful lot more eager to spend money in Iraq than they are to spend money in this country. It goes on and on.

They want $10,000 a month for business school in Iraq. In our country, it costs $4,000 a month for the best business schools, and we are going to be telling the American taxpayers they should spend $10,000 per month for business school? Who put these numbers together? Who came up with this plan?

The one that maybe is most incredible of all is the witness protection program. They want $200,000 per family member. For a family of five, that is $1 million, and $100 million to protect 100 families. In our country, the witness protection program costs $10,000 per witness. In Iraq, this is going to cost $1 million for a family of five. We don't have a witness protection program like that in this country. We have nothing like it. This is 20 times as much in Iraq.

They want $333 for 30 half-days of computer training. It costs $200 in this country.

This doesn't stand much scrutiny. This whole plan doesn't stand much scrutiny, and it is time for us to ask the tough questions. Clearly, this administration has not asked the tough questions.

I just found out they have $3 billion for water projects in Iraq, when they proposed in our country cutting water projects by 40 percent. They cut the water projects in America 40 percent and put in $3 billion for water projects in Iraq. I don't think the American people had any idea they were signing up to pay for a ZIP Code in Iraq or to have a witness protection program that costs $1 million a family or that they were going to be building $3 billion worth of water projects in Iraq. That wasn't the deal they signed onto. That is the deal this administration wants us to take, and all of this in the midst of the biggest deficits in our history, when we are having to borrow every dime. It does not make any sense. The very least we should do is pay for these costs and not put it on the charge card one more time. That is why the Biden amendment should be supported. He is asking the wealthiest among us to pay it.

This is not a matter of what some people claim of going after the rich. Look, my wife and I are in this category. We pay additional taxes under this amendment. I am voting it because it is the right thing to do. We should not be increasing the deficit of the United States.

We should not be putting it on the charge card when we already have record deficits. We ought to pony up and pay for the decisions we have made. Paying for this would just be a beginning. We would still have record deficits, by far the biggest in our history. We ought to support this amendment as a sign that we are getting serious about facing up to our fiscal challenges in this country. We also ought to adopt a series of amendments to cut the waste out of this proposal by the administration.

If this measure is not adopted, we ought to support other amendments to pay for these initiatives and other amendments to scrub this whole proposal for the fat and the waste that is so clearly included. It is intolerable to say to the American taxpayer, pay these costs, all of it with borrowed money, all of it to be paid by future generations of Americans. That is not the way we have conducted ourselves in the past, and it ought not to be the way we conduct ourselves now and in the future.

I urge my colleagues to support the Biden amendment.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. It is my understanding that we have 6 minutes 20 seconds remaining on our side.

The PRESIDING OFFICER. Six minutes twenty seconds, correct.

Mr. GRASSLEY. I yield myself such time as I might consume of that amount.

There are three big problems with Senator BIDEN's amendment. One is substantive and two are procedural. Before I go into the problems with Senator BIDEN's amendment, I will say that I agree with everybody's concern, including his, about the size of the package and the concern that we should have about the Federal deficit. Hopefully, as the economy grows—and the last figures indicate it is growing now at 3.4 percent—Federal revenues will return then to their average levels of 18 to 19 percent of the gross domestic product, which is an average of over the last 60 years, and we will close the gap.

I also point to the fact that there are really two sides to the Federal ledger. One is the revenue side; that is, what comes in from the taxes paid by our factory workers, office workers, and farmers from across the America. The other side of the ledger is the spending side of the ledger, the appropriations bills by the Congress of the United States.

My friends on the other side of the aisle, as Senator BIDEN's amendment shows, are zeroing in exclusively on the tax side. They look only to the taxpayers to put our fiscal house in order. I agree with the goal of reducing the deficit. I disagree that it is appropriate to look at only one side as if what is wrong with America and what is the cause of the deficit is that American taxpayers are undertaxed and that in no way Congress overspends. Indeed, the Finance Committee approved a bill yesterday that included $55 billion in revenue offsets. So Republicans have been willing to exercise fiscal discipline, especially when it comes to closing corporate loopholes and curtailing tax shelters.

I ask the full Senate, who was the last Democrat to propose any savings on the spending side of the ledger? I do not recall a single spending cut being proposed by those on the other side of the aisle. Maybe back in the mid-1990s, but we would have to go back many years.

All I see, and Senator SANTORUM makes this clear with his spendometer chart, is spending increases. So if those on the other side want to claim to be fiscal disciplinarians, let us see entries on the spending side of the ledger in order for there to be credibility. We cannot just go to the American people and ask for more tax money.

Let me also say that I am concerned about the degree to which taxpayers are financing reconstruction in Iraq on a blank check basis. I first raised this concern almost a year ago. We ought to be very careful about the structure of this aid package. Maybe it should be a loan or have some equity interest for the taxpayers.

Now I would like to turn to Senator BIDEN's amendment. Let us go to the substantive problems first. Senator BIDEN is seeking to offset the President's $87 billion request with a tax increase. For 2001, the top rate was reduced to 38.6. For 2003, the top rate was reduced to 35 percent. Senator BIDEN's amendment would raise the top rate to 38.2 percent. The premise of Senator BIDEN's position seems to be that taxpayers in the top bracket are solely Park Avenue millionaires, clipping coupons and enjoying life. Well, the facts show quite differently.

According to the Treasury Department, about 80 percent of the benefits of the top rate go to small businessowners, people who create 80 percent of the new jobs in America. For the first time in many years, because of our tax bills, we have that top rate down to 35 percent, which is the very same as Fortune 500 companies. Senator BIDEN's amendment would restore a 10-percent penalty against small business, 38.2 percent, as opposed to 35 percent now for small business, the same as corporations.

I do not quarrel with the notion that taxpayers in the top bracket make incomes starting in the range of around $350,000 to $400,000. A lot of these successful small businessowners make those figures. But keep in mind that figure represents the total net income of those small businesses. Successful small businesses are those that purchase the equipment and hire those

new workers that I referred to as 80 percent of the new jobs.

I ask my friends on the other side of the aisle who are eager to raise taxes—they are reluctant to cut spending and eager to increase spending—to focus on the negative effects of their policy on small business. Small business creates many jobs. Why at this time, with high unemployment, would we want to raise taxes on the folks who create 80 percent of the new jobs?

Just yesterday, the Finance Committee, on a 19–2 vote, reported a bill designed to cut the top marginal rate for small business manufacturers to 32 percent. Senator BIDEN's amendment would go the other way and hammer our small business manufacturers.

Now, let's discuss the two procedural problems.

The first procedural problem is also constitutional. Under the Constitution, revenue measures must originate in the House. Senator BIDEN's amendment is a tax increase. It is a clear case of a revenue measure. The Ways and Means Committee has indicated the House will exercise its Constitutional prerogative and ''blue slip'' this bill if it contains Senator BIDEN's amendment. A blue slip kills this bill. We go back to square one. A vote for the Biden amendment is a vote to stop aid to our troops. It is a vote to stop aid to the Iraqi people at a critical time.

Let me repeat that point. A vote for the Biden amendment is a vote against aid to our troops. A vote for the Biden amendment is a vote against assistance to the Iraqi people.

From my own perspective, as chairman of the Finance Committee, I have to warn members of our committee that the Biden amendment raises a fundamental tax issue on an unrelated bill. The Biden amendment treads on Finance Committee's jurisdiction. Every Finance Committee member should oppose Senator BIDEN's amendment on that basis alone. But, most importantly, this amendment is a reckless attack on our economic recovery and I strongly urge its defeat.

I ask Senators to defeat the Biden amendment and not increase taxes on small business.

Mr. ROCKEFELLER. Mr. President, this amendment is not about whether or not we ought to appropriate the funds that President Bush has requested for our efforts in Iraq and Afghanistan. Rather, this amendment addresses the question of whether this Congress is willing to pay the bill or whether we will pass it on to future generations. I am unwilling to tell the children in West Virginia that I believe they should pay this bill when they grow up when there is a reasonable alternative.

If we do not offset the $87 billion cost of this emergency supplemental request, then it will be added to our Nation's deficit. Already, without this spending, the Federal deficit for fiscal year 2004 is projected to be $480 billion. That number is staggering. Prior to this administration, the largest deficit this government ever had in a single year was $290 billion. So already, we know that our deficit will be higher than ever before, by a lot. Without this amendment, we would add another $87 billion to this deficit. Our deficit would hit $567 billion—almost twice the size of the previous record deficit.

These are not just numbers. Such enormous deficits have consequences. Our children will have to pay these bills. Instead of investing in education or roads or military preparedness for their own generation, they will still be paying the bills for our generation. Already we have saddled future generations with almost $7 trillion in debt. We absolutely must not add to that debt when this amendment offers an alternative.

We also know that such large deficits will have an impact for our own generation. As Federal debt increases, it will put pressure on long term interest rates, which will hurt every middle class family trying to pay their mortgage. And I am certain that in the coming weeks my colleagues will say that we have to cut spending on education, health care, infrastructure, unemployment compensation, and other critical domestic priorities in order to reduce the deficit. Make no mistake: adding to the deficit today, will increase pressure to squeeze out spending that benefits low and middle income Americans at a time when they are already struggling.

Increasing the burden on low and middle income Americans would be spectacularly unfair. As I travel around West Virginia, I talk to many families who have children serving in the armed forces in Iraq or Afghanistan. Thousands of West Virginians have been called up to serve in the National Guard or Reserves. They are not millionaires. They are patriotic West Virginians with modest incomes, and they are already sacrificing things more valuable than money to make our military efforts a success.

So let me discuss for a moment what sacrifice this amendment asks for. This amendment says that those with incomes greater than $311,950 should pay a top income tax rate of 38.2 percent in the years 2005 through 2010. Even with this change, the top income tax rate will be lower than it was when President Bush took office. In fact, of the $690 billion in tax cuts that this President has signed into law that are targeted at the wealthiest 1 percent of Americans, $600 billion in tax cuts would still be in place. Under this amendment, a person making $1 million per year would still get a tax cut of more than $20,000 compared to what he or she would have paid in 2000, prior to this President's tax cuts taking effect. It is not asking for an undue sacrifice to ask a millionaire to settle for a $20,000 tax cut. I wish there were more people in West Virginia that would see this $20,000 tax cut, but of course, only the wealthiest fraction of taxpayers, less than 1 percent, would be affected by this amendment.

I will be supporting this amendment because I cannot explain to children in West Virginia that giving a millionaire a tax cut greater than $20,000 was more important to me than their future. I hope that my colleagues will think carefully about this stark choice, and join me in supporting Senator BIDEN's amendment.

The PRESIDING OFFICER. The time controlled by the majority has expired.

The Senator from Delaware.

Mr. BIDEN. Mr. President, I think I have some time. If the majority wants more time, that is fine by me. I yield myself such time as I may consume. I want to take a minute or so to respond to my friend, the chairman of the Finance Committee, while he is in the Chamber.

Mr. REID. Will the Senator yield briefly?

Mr. BIDEN. Sure, without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the author of this amendment has approximately 25 minutes remaining. We have been informed that there is going to be an effort by the majority to have a vote at 3:45 rather than 3:15, which is fine with us. I have also been told that the chairman of the Budget Committee wants to speak for up to 5 minutes. So if there is no objection to that, could we have 5 minutes additional on each side?

Mr. NICKLES. If I might modify the request of the Senator, I ask unanimous consent that the vote occur at 3:45 with 15 minutes allotted to each side.

Now, I was not aware that originally Senator BIDEN, in his eloquent negotiations, already had a 2-hour advantage over this side. There might be a few additional remarks this Senator wants to make which will take a little more than 5 minutes.

Mr. REID. I ask if we could further modify the request of the Senator from Oklahoma by having Senator BIDEN have the last 10 minutes prior to the vote.

Mr. NICKLES. Ten? I will further modify that. I will certainly accede to that. If he has only spoken for 2 hours, we look forward to an additional 10 minutes for the Senator from Delaware.

The PRESIDING OFFICER. Is there objection to the modified request?

Without objection, it is so ordered.

The Senator from Delaware.

Mr. BIDEN. Mr. President, I yield myself as much time as I may consume. Senator GRASSLEY is leaving. I wanted to grab him.

I do enjoy the sarcasm of my friend from Oklahoma, who speaks on this floor about 40 times as much as I do, if he goes and checks the RECORD. Always elucidating, if I might add, always elucidating.

I say to my friend, the chairman of the Finance Committee, I understand

the points he is making. But he is aware, in terms of small businesses, that a small business owner would still have to be in the top 1-percent income bracket, the 35-percent bracket, to be affected? And, of all the small businesses in America, only 2 percent fall in that bracket? Only 2 percent of the 100 percent of the small businesses in America fall in the bracket.

To further make a point, I understand his point that this is the engine of our economy, small businesses. There is no question about that. There is no question, though, as well—let's say a small business owner is making $400,000 in gross income. The effect of the additional tax he would pay from the tax reduction he has gotten down to now would be $2,140 a year. Is my friend suggesting we are going to constrain and strangle business in America when 2 percent of the small businesses, roughly 5,000, who make $400,000 gross income and above, are going to have to pay $2,100 a year more, that that is going to constrain the growth of small business? Is that what he is saying? Is that going to prevent them from being able to invest or to be able to grow?

Mr. GRASSLEY. I am saying it is unfair to tax small business that is not incorporated at a higher rate than the tax on Fortune 500s, No. 1.

Number 2, this may only be 2 percent of the employers, but they are the people who create the jobs.

Mr. BIDEN. I couldn't agree more.

Mr. GRASSLEY. I have worked at packing plants; I worked at the Waterloo Register Company. I never had one poor person provide the job for me. I always had somebody who makes a lot more money than I do provide the jobs for me. We don't want to choke that off in America.

Mr. BIDEN. I thank my colleague for his response. He is always courteous. I just respectfully suggest that taking 2 percent of the small businesses in America, having them have to pay slightly more than they would have paid with this tax cut that is in place now—which, again, if they are making $400,000 in gross income, that means about $2,100 more they will pay—is a heck of a lot more preferable than asking middle-class taxpayers and asking small businessmen who make $50,000 a year, and mechanics who make $35,000 a year, and schoolteachers who make $40,000 a year, to have to pay more.

I find it fascinating that for those who do not like my proposal to deal with the top 1 percent, I have not heard any alternative offered. Are they suggesting we should repeal part of the tax cut or delay part of the tax cut for everybody? No, they make no alternative offer. The alternative offer they make is we are going to add it to the deficit, so the pages can pay. I am going to start calling this the page-pay bill. The pages will pay.

I see my friend from Oklahoma, whom I always enjoy hearing, and he was seeking the floor earlier, so I reserve the remainder of my time and await the eloquent words of my friend from Oklahoma as to why this is not a good idea. I am sure he has very many ideas as to why this is not a good idea.

I yield the floor. I reserve the remainder of my time.

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

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

Mr. NICKLES. I have just caught a portion of this debate, but I want to make a couple of comments. My very good friend from Delaware said, Why is this amendment a bad idea? This amendment is a bad idea because it is unconstitutional.

We all take an oath at the beginning of the year to uphold the Constitution. I know all of our colleagues are aware of article I, section 7 of the Constitution that says all bills raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills.

The House originates tax bills. The amendment of our colleague from Delaware tries to turn an appropriations bill into a tax bill, a tax bill that did not go through the Ways and Means Committee. It certainly didn't go through the Finance Committee. I am on the Finance Committee. So it is unconstitutional.

If this amendment passes, the House will blue-slip it. For people who do not know what a blue slip is, they kill the bill. They will not even consider it. They will not even look at it. It is a great tradition in the House because we have tried it on occasion. Every time it happens, every time somebody tries to slip in a little revenue provision in the bill, no matter how insignificant in comparison to the overall bill, the House loves to blue-slip it and remind the Senate that the Constitution gives them and them only the right to originate revenue bills.

Our forefathers put it in the Constitution. We are sworn to uphold the Constitution. This is a killer amendment. It does not belong in this bill.

If our colleague wants to raise income taxes by 10 percent on the upper income brackets, he can do so. He can introduce a bill. He may or may not get a hearing before the Finance Committee. I hope not, but he might. He may or may not get a markup in the Finance Committee. I hope not, but he might. He might take a bill that is going through the Finance Committee and offer it as an amendment and be successful. I hope not, but he might. Those are all legal, constitutional avenues of raising taxes.

This is not. You don't raise taxes on a spending bill that is going through the Senate unless the House has a revenue provision. If the House has a revenue provision, then it certainly can be done. So that is one reason. Let's not kill this bill.

I have heard a lot of people say they support the bill. They want to pass the money, they want to assist the troops, they even want to assist the Iraqi people—it is hard to say the Iraqi government; they don't have a government yet, but we are trying to establish a government and I compliment Ambassador Bremer and the President. This is an enormous effort the United States is undertaking. It is challenging; it is expensive. It is expensive in dollars and it is also expensive in blood. We have lost American lives. We have thousands of Americans who are spending their time right now in Iraq, in Baghdad, away from their families, making a significant sacrifice. Now we are trying to say are we going to help them or are we not.

This amendment which purports to say we want to pay for it, but we are only going to have the upper 1 percent pay for it, I don't think is good tax policy. I don't think you can say we just want to sock it to the upper income people.

I heard earlier statements by speakers saying if we do not do this, the deficit is just getting really bad. I happen to be concerned about the deficit, too. But I might note we just passed a couple of appropriations bills and I tallied up the number of amendments to increase spending on those appropriations bills and I didn't hear very much on the other side about concern for deficit. One of the last appropriations bills we passed was the Labor-HHS appropriations bill, and there were amendments, primarily supported by colleagues on the other side of the aisle, that we defeated using budget points of order, that would have increased spending over a 1-year period, next year, $26.4 billion, and over a 10-year period $386.8 billion. That was just on the Labor-HHS bill alone. No one was saying the deficit concerns us.

Then on another bill, just to give another example on the Homeland Security bill, Senator COCHRAN's bill, Senator COCHRAN made points of order against amendments to increase spending by $17.4 billion in 2004 alone, and a total of $254.1 billion over a 10-year period of time.

I did not hear people say then, we are concerned about the deficit. In other words, they are quite willing to spend more money and bust the budget over the President's request and over what was agreed upon by both the House and the Senate. There was no concern about deficits when we were trying to increase spending in those areas.

Now we have a spending bill before us. This bill is outside the budget. It is requested as an emergency by the President of the United States. It passed the Appropriations Committee as an emergency. I am not saying it is perfect. I will tell you that I doubt it is

perfect. I expect it might be improved. It probably will be improved as we consider it on the floor. But to say we are now going to basically violate the Constitution and have a tax amendment that would really, in effect, kill the bill, I don't want to do that. Nor do I want to increase income tax rates on the upper 1 or 2 percent of American taxpayers. That is a 10-percent increase.

I heard people say that is just delaying it. It is a 10-percent increase. It would take the maximum rate from 35 percent to 38.2 percent. I might mention 35 percent. When Bill Clinton was President, the maximum rate was 31. When he was elected, it was 31 percent. After he passed some tax increases, it went up to 39.6. All these great tax cuts that we have done moved the tax rate down to 35 percent.

President Clinton and Congress at that time reduced the rate of his increase on the upper income by about half. If my math is correct, 35 percent is more than a third. That doesn't include what States charge. If you add State taxes on top of it, you realize some people are paying more than 40-some-odd percent of their income to government. In other words, government is coming closer to taking half of what they make. I disagree with that because I think that suffocates people's initiative and their willingness to build, grow, and expand.

As mentioned by the chairman of the Finance Committee, 80 percent of the benefits on the top income tax rates are really held by small business and sole proprietorships, S corporations, and farms. We would be hitting the very people who are creating the jobs. If we want to have economic growth in this country, the last thing we need to do is say, if you are only a small business, we will sock it to you with a 10-percent increase. I think that makes no sense whatsoever.

I urge my colleagues to vote no on this amendment primarily on constitutional grounds. If this amendment is agreed to, this amendment will be blue-slipped. It would kill the bill, and there would be no assistance coming out of the Senate.

I urge my colleagues not to make that mistake—not to pass a tax policy without consideration certainly of those on the Ways and Means Committee and on the Finance Committee as is the normal order, the way we are supposed to legislate on appropriations matters.

I yield the floor.

I suggest the absence of a quorum, and I ask unanimous consent that the time be charged equally to both sides.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. 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. HARKIN. Mr. President, I understand the vote is to take place at 3:45.

The PRESIDING OFFICER. That is correct.

Mr. HARKIN. I ask between now and the time the vote is called, if we are in a quorum call, the time be charged equally to both sides.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. 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. BIDEN. Parliamentary inquiry, Mr. President: How much time remains under the control of the Senator from Delaware?

The PRESIDING OFFICER. Seventeen minutes.

Mr. BIDEN. I thank the Chair. Second inquiry: And how much time does the majority have?

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

Mr. BIDEN. And last inquiry: And the vote is set for?

The PRESIDING OFFICER. It is set for 3:45.

Mr. BIDEN. I thank the Chair very much.

Mr. President, I yield myself such time as I may consume, and I expect to consume the remainder of my time now.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I expected to—and I did hear—a vigorous defense of the tax cuts today. And I expected to hear that anyone who supports my proposal to pay for this $87 billion supplemental is someone who is hostile to wealth and success. I did not hear much of that. I heard a little bit of that. And I expected to hear that I am really putting regular folks into the category with Park Avenue wealthy people. I expected to hear that.

Well, think of it this way: If someone today came to the floor and proposed a $600 billion tax cut for the top 1 percent of the American taxpayers—assume the tax cut had not passed. Just picture this: Someone walked on the floor today, as we are about to vote on an $87 billion supplemental, and said: I propose a $600 billion tax cut between now and the year 2010 for the top 1 percent of the American taxpayers—and did it, again, at this moment, when we will have a $500-plus billion deficit for next year, and expanding national security demands, not decreasing national security demands, well beyond Iraq, and expanding homeland security needs, not diminishing homeland security needs, and while the House of Representatives and the Senate are in conference about to report back, I assume, a multibillion-dollar relief bill as we need for prescription drugs.

If someone came forward today and said, I have an idea; let's diminish the tax burden of the top 1 percent of the U.S. taxpayers—that is, people making an average of $1 million a year—let's reduce their taxes by $600 billion, what do you think would happen? Would anyone seriously on this floor say, that is a good idea now, that is a great idea, let's go ahead and do that?

How about if they came to the floor and said, Let's not make it $600 billion, let's cut their taxes $689.1 billion, roughly. Would anybody here vote for that today? Would anybody honestly vote for that today?

Today we hear that $600 billion in tax cuts for the wealthy is not enough. Why do I say that? My proposal only says, instead of giving the wealthiest Americans, that is people making a gross income of about $400,000 a year, a net income after all the deductions and everything of about $312,000 a year, you don't even get into this game unless you fall in that category, and people who are making $1 million a year on average, all I am saying is, give them $600 billion, not $690 billion, and don't even touch them until 2005. Have them pay this out in additional taxes, instead of getting 690 get 6 over a 6-year period, beginning in 2005 basically. That is all I am saying.

Today we are told by those who oppose this that, no, we can't afford to do anything except give them a $688.9 billion limit or the sky will fall, small business will shutter their windows, and the recovery of capitalism, as we know it, will grind to a halt.

Give me a break. I have yet to hear a single economist—this has been floating around now out there, this idea of mine, for the past couple weeks—say this is going to have any impact on the recovery. In fact, the opposite is going to happen. If we add another $87 billion to the deficit, interest rates will go higher. That is going to short circuit a recovery, not paying out over a 6-year period an additional $87 billion that is not going into their pockets.

Again, I keep coming back to this point. Even wealthy Americans don't oppose this. A Wall Street Journal poll asked the question, If Congress approves President Bush's request for $87 billion in Iraq and Afghanistan, how would you prefer that Congress pay for it? Scrap the Medicare drug benefits bill?

Seven percent of Americans, obviously those with Medicare benefits and drug coverage, said, yes, that is a good idea; pay for it by not passing the prescription drug proposal. Twelve percent said to borrow the money. Add to the deficit; go out and borrow it. Make the pages pay. Borrow for it. Twelve percent said that. Twenty-five percent said some other way or they were not sure. A full 56 percent said, cancel, not 13 percent of the tax cut for the wealthiest—I think that is the number—but cancel all of the tax cut for

the wealthiest Americans. They want to take it all away.

I am not doing that. I am saying, keep $600 billion. Just don't take $688.9 billion.

Look, I have been here a long while. It is fascinating to me. I keep getting the same lesson taught to me. The American people are always way ahead of us. The $87 billion in additional revenue we are seeking with this amendment is less than eight-tenths of 1 percent of our $11 trillion economy.

I challenge any of my colleagues to tell me they honestly believe this is going to slow up this jobless recovery. It won't even have any affect until the recovery is a year and a half underway. Fewer than 1 percent of the wealthiest Americans will even be affected by this change. Keep in mind, this is like my saying to my grandchildren—I have three granddaughters—we are going to go to the ice cream store and, look, pop only has 12 bucks with him. I can only afford three double-dip ice cream cones. I can't afford three triple-dip ice cream cones. So you are only going to get two dips instead of three. It is not like saying: Look, kids, I was going to feed you tonight but you are not going to get to eat. We were going to have hamburgers and french fries and a salad, but all I am going to give you is a salad. Or you can't eat at all. We are not taking away anything. We are just not giving as much.

Again, small business, fewer than 2 percent of small businesses, that is, sole proprietors, the real mom-and-pop small businesses, will even be affected by this. Ninety-eight percent will not be affected.

This is a small, tiny nick in a huge tax cut. It asks for a contribution from those who have the clearest ability to contribute—not because we want to punish them. This isn't about being punitive. It is because they have the clearest capability.

Again, take my granddaughters out. Assume my son was not doing better than I am—he is but assume he isn't—and the kids want an ice cream cone. Why shouldn't pop pay? I have the money to pay for it. It is not going to affect me at all. But if all he had in his whole pocket was 10 bucks for the week, why should he pay when I have 300 bucks in my pocket? This just isn't fair.

Again, I repeat, I don't know any wealthy Americans making $1 million a year who say, look, I don't want to do this. It is going to hurt me. I am not going to be able to make it. This is going to put a crimp in my style.

Again, let me give you a number. If you have an income of $400,000 a year—remember, the average income of the people in this bracket is almost a million dollars, 980-some-thousand dollars a year. Let's just put that in perspective. If, in fact, you are making $400,000 a year and your tax rate is going to go, from 2005 to 2010, back up from 35 to 38.2, what is the effect on your pocket? You pay the difference between 312, which gets you into the category, and 400, at a higher rate. That is $68,000, roughly. You have to get to 380-something. How much more taxes does it mean that you pay? Roughly, $2,100 more a year.

Are you telling me the people making $400,000 a year are not willing to kick in $2,100 a year for 5 years beginning in the year 2005—or for 6 years beginning in 2005 to win the peace in Iraq? Boy, do we underestimate these folks. These are loyal, patriotic Americans. They would be ready to do a lot more if we needed them to do it. But $2,100, if you make a million dollars? I asked my staff to do a back-of-the-envelope calculation. Let's say the poor guy who has no deductions—''poor'' guy—the rookie who signs a contract for $1.150 million. Guess what. After standard deductions because of the loopholes and the other things the wealthiest among us in this country have, he has a real taxable income of a million dollars. How much more is he going to have to pay? Roughly $22,000. That is going to kill him, right? Does that mean you don't have a gold-plated toilet seat? What does it mean?

Again, I am not hearing any of these wealthy folks complain. I am hearing everybody complain in their name, but I don't hear any of them complain. Let me tell you, I have been doing this a long time. Few times have I ever stood on the floor, with CNN watching, saying if there is anybody who is making over $400,000 a year who is not willing to pay $2,100 more to win the war, call me. No one is calling me. I don't get this.

I don't think these folks who will be affected by this tax change will begrudge one nickel of this $87 billion. So I say to my colleagues, if we don't do this now, pay for this installment in the war now, taking a small part of the tax cut, when we have a national security emergency supplemental request from the President, when the deficit is skyrocketing to over half a trillion dollars a year, are there no circumstances ever when it will be right to reconsider less than 5 percent of the biggest tax cut in history?

My time is almost up. It seems to me we are at a place where responsibility dictates that we be rational and not ideological, we pay now instead of just putting this on the tab for the pages on the Senate floor, that we don't ask our children to pay for our security, and we pay for our security and our children's security.

This, to me, is the most inexplicable opposition to anything I have ever been involved with on the floor of the Senate.

I believe my time has expired. I urge my colleagues to vote for the Biden-Kerry amendment. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, for the reasons previously stated on this side, I move to table Senator BIDEN's amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM) is necessarily absent.

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

The result was announced—yeas 57, nays 42, as follows:

[Rollcall Vote No. 373 Leg.]

YEAS—57

Alexander	DeWine	McConnell
Allard	Dole	Miller
Allen	Domenici	Murkowski
Baucus	Ensign	Nelson (NE)
Bayh	Enzi	Nickles
Bennett	Fitzgerald	Pryor
Bond	Frist	Roberts
Breaux	Graham (SC)	Santorum
Brownback	Grassley	Sessions
Bunning	Gregg	Shelby
Burns	Hagel	Smith
Campbell	Hatch	Snowe
Chambliss	Hutchison	Specter
Cochran	Inhofe	Stevens
Coleman	Kyl	Sununu
Collins	Lincoln	Talent
Cornyn	Lott	Thomas
Craig	Lugar	Voinovich
Crapo	McCain	Warner

NAYS—42

Akaka	Dorgan	Lautenberg
Biden	Durbin	Leahy
Bingaman	Edwards	Levin
Boxer	Feingold	Lieberman
Byrd	Feinstein	Mikulski
Cantwell	Harkin	Murray
Carper	Hollings	Nelson (FL)
Chafee	Inouye	Reed
Clinton	Jeffords	Reid
Conrad	Johnson	Rockefeller
Corzine	Kennedy	Sarbanes
Daschle	Kerry	Schumer
Dayton	Kohl	Stabenow
Dodd	Landrieu	Wyden

NOT VOTING—1

Graham (FL)

The motion was agreed to.

AMENDMENT NO. 1802

Mr. COLEMAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER (Mr. SMITH). The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. COLEMAN], for himself, Mr. BYRD, Mr. DAYTON, Mr. STEVENS, Mr. LEAHY, Mr. DORGAN, Mr. KENNEDY, Mr. JOHNSON, Mr. CORZINE, Ms. COLLINS, Mr. GRAHAM of South Carolina, Mr. CONRAD, Mr. SUNUNU, and Mr. ALLEN proposes an amendment numbered 1802.

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

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

The amendment is as follows:

(Purpose: To fund travel within the United States for members of the Armed Forces on rest and recuperation leave from a deployment overseas in support of Operation Iraqi Freedom or Operation Enduring Freedom)

On page 22, between lines 12 and 13, insert the following:

SEC. 316. (a) In addition to other purposes for which funds in the Iraq Freedom Fund are available, such funds shall also be available for reimbursing a member of the Armed Forces for the cost of air fare incurred by the member for any travel by the member within the United States that is commenced during fiscal year 2003 or fiscal year 2004 and is completed during either such fiscal year while the member is on rest and recuperation leave from deployment overseas in support of Operation Iraqi Freedom and Operation Enduring Freedom, but only for one round trip by air between two locations within the United States.

(b) It is the sense of Congress that the commercial airline industry should, to the maximum extent practicable, charge members of the Armed Forces on rest and recuperation leave as described in subsection (a) and their families specially discounted, lowest available fares for air travel in connection with such leave and that any restrictions and limitations imposed by the airlines in connection with the air fares charged for such travel should be minimal.

Mr. REID. Mr. President, will the Senator withhold for a minute?

Mr. President, I ask unanimous consent that Senator LEAHY be recognized following the disposition of the Coleman amendment.

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

Mr. REID. Mr. President, I ask unanimous consent that Senator BYRD be added as a cosponsor to Senator COLEMAN's amendment.

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

The Senator from Minnesota.

Mr. COLEMAN. Mr. President, the Pentagon has rolled out a program to bring home troops who have served in Iraq for over a year. It is a good program. Under the Rest and Recuperation Leave Program, these service men and women will get a much deserved 2 weeks of R&R with their families. Unfortunately, the program only provides for transportation to places such as Baltimore, Atlanta, Dallas, or Los Angeles. From these cities, our service men and women are expected to pay their own way home at same-day rates.

Chad Krandall and Dave Schmaltz, cousins and Minnesota National Guard members from Gwinner, MN were told the price of a same-day ticket from Baltimore to Minneapolis-St. Paul would be $1,200 each. Steven Bazaard, another Guard member from Minnesota, was faced with a similarly high bill if he was to make it all the way home to see his wife Sherry Billups in Blackduck, MN. Isaac Girling, a member of the 142nd Battalion in Iraq, will have to pay the same exorbitant fee when he comes home next week to Stillwater, MN to see his newborn son for the first time.

I don't have anything against Baltimore, Atlanta, Dallas, or Los Angeles. But to be perfectly frank, these cities can't really hold a candle to Blackduck or Gwinner, and they are a long way away and expensive to travel to.

This R&R program is a good start, but it doesn't go far enough to support our troops. These are families which have already made do for a year without their loved ones, and the toll has been both emotional and financial. To ask them to pay same-day airfare to see their loved ones is simply unfair.

If we acknowledge that troops who have been in Iraq for a year deserve a 2-week vacation like anyone else, we ought to make sure they get all the way home. That is what we are talking about here—making sure our service men and women who have performed so admirably, have sacrificed so much in defense of their country and in defense of freedom, get all the way home.

I have introduced, along with the distinguished chairman, Senator STEVENS, and my friend and fellow Senator from Minnesota, Senator DAYTON, an amendment to fix this unintended consequence of the R&R program. We have broad bipartisan support, including Senators BYRD, DAYTON, ALEXANDER, CHAMBLISS, COLLINS, CONRAD, CORZINE, CRAIG, DEWINE, DOMENICI, DORGAN, ENSIGN, ENZI, GRAHAM of South Carolina, GREGG, JOHNSON, KENNEDY, MURKOWSKI, SANTORUM, SUNUNU, STEVENS, and ALLEN.

The chairman and his staff on the Appropriations Committee have been very gracious in working with me to craft a good amendment to make sure our troops and their families do not have to pay these high rates.

This amendment will not have any budgetary consequence. It will simply make sure existing funds are used for this essential program to boost troop morale and to reunite families separated by this engagement. This amendment is the right thing to do.

I notice my friend and colleague, the senior Senator from Minnesota, Senator DAYTON is here. I yield the floor at this time to Senator DAYTON.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I thank my distinguished colleague, Senator COLEMAN, who joined with great minds which think in the same direction. We introduced this legislation on the same day. I am proud to be joining with Senator COLEMAN in the Coleman-Dayton amendment to provide for transportation to homes and places of origin for our troops, many of whom, in the case of Minnesota, have just had their tours of duty in the Iraqi theater extended by 6 months. In the case of the 142nd Battalion, it covers northwestern Minnesota and North Dakota. As a result of this extension and this deployment and administrative matters, many of them will not see their families for up to 18 months. To drop them off at the Baltimore airport and tell them they are going to be on their own at that point and at their own expense to try to get back and see their families for their one opportunity in nearly 18 months I think would be shameful. I think the American people are more generous than this. I think under these circumstances it is the least we can do.

I thank the Senator from Minnesota for his leadership on this matter, and I am glad to sponsor it with him.

I yield the floor.

Mr. COLEMAN. Mr. President, I say to my friend and colleague, Senator DAYTON, that the two folks from Minnesota understand it is really good to get home—and also the folks from Alaska and Idaho. This amendment does that.

I urge adoption of the amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I want to commend both Senators from Minnesota for sponsoring this amendment. If they have no objection, I ask unanimous consent to be added as a cosponsor.

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

Mr. CONRAD. Mr. President, I express my support for this amendment—which is very similar to an amendment I had filed earlier—to pay for the travel home of U.S. troops currently serving in the Iraqi theater of operations. I am pleased to join in cosponsoring the amendment.

The Department of Defense recently announced that it would grant soldiers on 12-month deployments as a part of Operation Iraqi Freedom 15 days of rest and recuperation leave. About 270 soldiers a day are now arriving in the United States to begin their leave period. At the present time, these troops are required to pay their own way home from their port of debarkation—right now, Baltimore-Washington International Airport. It says something about the priorities of the Department of Defense that while they are asking Congress for another $87 billion for war and reconstruction in Iraq and Afghanistan, they are also making soldiers on leave pay for their transportation home and back.

Many of these soldiers are members of the Reserves and National Guard. Many of those citizen soldiers have recently learned that, because the administration has been unable to mobilize sufficient international support to ease the burden on American troops, they will be required to spend a full 12 months in Iraq. This is in addition to the 2 to 3 months they spent away from home training for their mission. Despite the shifting dates for their return home, our American service men and women have served with courage and distinction in terrible conditions.

Soldiers from the 142d Combat Engineering Battalion, a North Dakota National Guard unit, have already begun coming home on leave. The first soldiers chosen for leave were very concerned that they might have to pay well over $1,000 to buy a ticket home from Baltimore. I was very pleased that Northwest Airlines, the main provider of air travel to North Dakota, was able to respond to my request to offer reasonable priced tickets to these brave soldiers.

But this should be only a temporary measure. I urge the Senate to now clear the way for full government funding of the travel expenses for our

troops on leave, including those that will take leave before we are able to complete our legislation, by adopting this amendment. In working on this amendment, I wanted to be sure we avoided creating an unfair disparity between soldiers. We will not likely conclude action on this supplemental until the tail end of October, and by that time several thousand soldiers will have already paid for their own travel home. It seemed unfair to me that these soldiers should be forced to pay their own way while those who traveled later would go at government expense.

Our troops in Iraq have been serving under difficult conditions, and they deserve our full support. I greatly appreciate Chairman STEVENS' willingness to include this important issue in the supplemental appropriations bill. I am happy that we were able to work together to provide for the travel expenses of our brave soldiers serving in Iraq.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1802) was agreed to.

Mr. LEAHY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. Under the previous order, the Senator from Vermont is recognized to offer an amendment.

Mr. LEAHY. I thank my friend, the distinguished Presiding Officer.

AMENDMENT NO. 1803

Mr. LEAHY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] for himself, Mr. DASCHLE, and Mr. BIDEN, proposes an amendment numbered 1803.

(Purpose: To place the Coalition Provisional Authority in Iraq under the direct authority and foreign policy guidance of the Secretary of State)

On page 25, line 21, before the colon, insert the following:

: *Provided further*, That beginning not later than 60 days after enactment of this Act, the Administrator of the Coalition Provisional Authority shall report to and be under the direct authority and foreign policy guidance of the Secretary of State.

Mr. LEAHY. Mr. President, this is a very simple amendment. That is why I didn't follow the usual procedure where amendments are simply deemed read. This was a short enough one that I wanted it read.

It does what many of us feel we should have done 5 months ago when we appropriated the first $2.5 billion in foreign aid for Iraq. At the time we gave that very substantial amount of foreign aid to Iraq, many of us urged the Secretary of State—not the Secretary of Defense—should have authority over the reconstruction program.

No matter who is Secretary of State, no matter who is Secretary of Defense, when you are going to give enormous amounts of foreign aid for reconstruction, the aid should be under the Department of State. After all, foreign aid is the responsibility of the State Department. Also, it is the responsibility of USAID. That is what they know how to do. That is what their people are trained to do.

It is not what the Pentagon does, nor, for that matter, is it what the Pentagon should be doing. The Pentagon is trained in military combat. In fact, our forces, the men and women in the Army, Navy, Air Force, and Marine Corps, are the best trained, the best equipped, best motivated of any military in the world. Obviously, they showed they can easily defeat other military forces as they did in Iraq.

While they are trained for war, the State Department is trained to work to rebuild. In this case, as superb as the military role was, their leadership disregarded the preparatory work the State Department and USAID had done in planning for after the war. The problems they now face reflect that.

I am concerned we are putting our men and women in the military in an impossible situation. They are being asked not only to provide security, but to also oversee the reconstruction.

I have a lot of respect for Ambassador Bremer. I have known him and worked with him on terrorism and other matters over the years. He did a good job last week when he testified before the Appropriations Committee. Like a lawyer arguing the brief for his client, he argued well. But Ambassador Bremer's office, which is located in the Pentagon, until very recently was not capable of responding to our questions. The questions we were asking were not how many divisions might move here or how many tanks, airplanes, helicopters, men and women under arms can move, but, rather, how can we do a better job of getting water, and electricity, and other aid to the Iraqi people?

We saw the reconstruction plan, apparently a Pentagon plan, an 8-page document. When it came out a couple months ago, none of us on this side of aisle received it.

Now that we have seen it, I understand why they didn't want everyone to have it. It is embarrassingly illustrative of the administration's postwar strategy. There was no postwar strategy. All the strategy led up to winning in Iraq. Everyone knew how that would come out. Of course we would defeat the broken Iraqi army. Everyone knew we were going to win. This was not World War II. But, amazingly enough, there was no strategy for what happened after we won.

I am not among those who believe everything we have done in Iraq has been a failure. There has been progress. For one thing, I am glad Saddam Hussein is not here. He was a murderous tyrant. Members of the administration now talk about the murderous conduct of Saddam Hussein when he used chemical weapons against the Kurds—something many Members were outraged about at the time—and they seem to forget the administration they served at that time turned a blind eye to that and continued to give aid to Saddam Hussein.

Having said that, now I think everyone, whether those in the Congress or the administration who supported Saddam Hussein over the years, we all agree—all Republicans, all Democrats agree—he was a tyrant and it is good he is gone. That is progress.

We have begun to train a new army and police force and so on. That is progress. But we were told this spring that the amount of money for the aid program would be very small. Now we are asked to increase our aid program ten fold, with virtually no controls on how the money will be spent.

So, we got into the war, we had no plan for what we would do afterwards, we have real problems now, and now they want a blank check to take care of it. We will pay $33,000 each for pickup trucks that sell for $14,000 here, and we will pay $6,000 for telephones you can buy in the neighboring country of Jordan for $500 or $600. We will pay $50,000 a bed for a prison although that is far more than we would in the United States. We will repair their power infrastructure although we do not have money to do the same in the United States. We will build a whole lot of new schoolhouses although we do not have the money to fix our dilapidated schools. We will build state-of-the-art hospitals even though we do not have the money for new health clinics in parts of the United States. And we are told: Just give us the money and trust us; we know what to do.

In my State, we do not sign blank checks. I am sure we will give money for foreign aid even though we do not have the money to do the same things in the United States.

Simply spending more money does not get us back on track. We need a real plan, and we need the right agency in charge. That is why this amendment is so short. It is one sentence. It simply puts the Coalition Provisional Authority—and I assume that will be Ambassador Bremer although I am not doing this on an ad hominem basis—simply put the coalition provisional authority, Ambassador Bremer, who has been working around the clock to carry out our interests there, under the foreign policy guidance and direction of the Secretary of State. It would provide 60 days after enactment to give the State Department time to put in place the people it needs.

Does that mean the Department of Defense no longer has any role in reconstruction? Of course not. They obviously will be consulted on a continuous basis. Everyone knows nothing can be

built unless there is security to prevent attacks on contractors and aid workers and to prevent sabotage to the projects themselves. We are fortunate to have a superb military there to provide that kind of security. But that is what the Defense Department should be doing, providing the security but not trying to oversee foreign aid projects. That is not what they are trained to do.

It is unfair to our men and women in the military to ask them to do that. It was a mistake in the first place when we asked them to do it. We should not repeat that. Let us not ask the Department of Defense to suddenly become the State Department, AID, and the general dispenser of foreign aid. They are so well trained to do the things they do. Let those who are trained to handle foreign aid and the projects of reconstruction be there.

It is also worth noting, when you look at the civil affairs units in the Defense Department, almost all of them are composed of National Guard and Reserve units. Ironically, to the extent you are going to use the military for the nation building we are doing in Iraq—we are doing nation building in Afghanistan, and Lord knows where else—these are the men and women in uniform who are best equipped for the nation building we are doing in Iraq.

So we either have to keep these National Guard and Reserve forces in Iraq indefinitely—and I think the majority of the Members of both parties here do not want to see that happen—or we have to get the State Department and USAID more involved in doing nation building. I favor the latter approach. That is what my amendment would do.

I do not think we should continue to rely on these National Guard and Reserve units to do the long-term development work that should be done by others. Let that be done by the Department of State and AID, and let the Department of Defense provide the security for those who are doing the reconstruction in Iraq.

Some might ask if the Secretary of State wants that authority, given what a thankless job it is becoming in Iraq. I do not know. If he gets the authority, I will offer him not congratulations but condolences.

I see my dear friend.

Mr. WARNER. Mr. President, might I answer my colleague's very insightful question as to what the Secretary of State has in mind.

I have just been in consultation with his office, upon learning of my distinguished colleague's amendment. Very shortly there will be a written communication coming to the leadership of the Senate expressing, without any equivocation, that he feels strongly that the Department of State, at this time, should not be given the responsibility. But there will come a time, I say to my distinguished colleague—an appropriate time, and perhaps without further interruption to your opening remarks—I could engage the Senator in a colloquy to discuss perhaps an alternative measure at some future time.

Basically, it would be after the Iraqi Government is in place and the United States would, at that time, indicate an individual to become the U.S. Ambassador, at which time there could be an orderly transition from the Department of Defense to the Department of State.

My concern, I say to my friend, is that it has taken Ambassador Bremer some 3 months now to gain the momentum he has. We have a critical issue before this body at the very moment of whether or not the additional funds will hopefully immediately be forthcoming. That decision will be finally made next week. I strongly support it, to continue that momentum. A shift at this time would result in loss of momentum.

I conclude my few remarks at this moment by saying, throughout the testimony and private discussions with Ambassador Bremer, which I am sure my colleague from Vermont has had, he has constantly said that the danger to the coalition forces—that danger being indelibly impressed on us every day with the announcement of a loss or an injury to members of the uniformed services, and indeed others—David Kay is, at this moment, before committees of the Congress. In conversations with me, he has expressed the danger to his operation daily by their transit down these motorways and otherwise.

The direct correlation of reducing the danger to our troops, to the Iraqi special survey group headed by David Kay, and to others performing NGO operations—this whole panoply of people—there is a direct correlation between the speed and the momentum that the Bremer operation has brought up to replace the infrastructure and the lessening of the personal risks to individuals.

Mr. LEAHY. Mr. President, the senior Senator from Virginia is not only one of the best friends I have in this place, and has been for the years that we have served together, but I also know he is one of the hardest working Members of the Senate.

As I mentioned earlier in my opening statement, I am not suggesting for a minute that Ambassador Bremer, for whom I have high regard, be replaced. I am simply saying that it is not a question of whether the Secretary of State should take this now or later; the fact is, this is his job. He should have been doing it from the beginning. We are not changing horses in midstream.

Incidentally, speaking of Mr. Kay and others, I also stated, prior to the Senator from Virginia coming to the floor, that, of course, the military would have to stay and provide the security so these people can continue to work. I am just saying, insofar as we are doing nation building, let it be done by the State Department, as we always have, and not think that somehow we can go solely as a military authority and then have this country suddenly, one day, become a democratic nation, and only then will we bring in the State Department to give aid.

I have looked at the plan. The plan said it was to give the Iraqi people the opportunity to realize President Bush's vision. We may want to ask them if that is exactly the vision they want. But be that as it may, this is not changing horses in midstream. We are getting on the right horse, in fact, the horse that has taken us across the stream for the last 50 years.

Every major postwar reconstruction effort since the Marshall plan has been under the auspices of the Secretary of State, not the Secretary of Defense: Afghanistan, Kosovo, East Timor, Bosnia, Cambodia. Even during the middle of the Vietnam war, economic aid was handled by AID.

I am thinking of an article on July 24, referring to an assessment by outside experts, commissioned by the Pentagon, who warned that the window of opportunity for postwar success is closing. The Philadelphia Inquirer reported that: After initial deals for reconstruction stalled, it was time for plan B but there was no plan B.

I would hope the plan B that was written on July 23 is not it. I have a plan B. It is called the Secretary of State. Put the Department of State in charge of the reconstruction. Not the military part, of course. The military is going to be there for some substantial period of time—we know this—but allow them to do the things they are good at. They are not trained, nor should they be, to become a governing power, to become nation builders.

Mr. WARNER. Mr. President, if I could probe my colleague, as I read this, it states very clearly:

> *Provided further,* That beginning not later than 60 days after enactment of this Act, the Administrator of the Coalition Provisional Authority shall report to and be under the direct authority and foreign policy guidance of the Secretary of State.

As I indicated, the Secretary is very much opposed to this amendment. We will very shortly have that evidence before the Senate. But it is clear from the reading of this that the $21 billion which is before this body right now as a part of the 87—and it remains a part; that issue has been addressed—would now be transferred to the Department of State for, frankly, writing all the checks, working on the allocation of priorities, the coordination with the military structure under the Secretary of Defense and General Abizaid, the CENTCOM commander. The whole thing is lifted and put under the State Department in 60 days after this, should it be enacted. Am I not correct?

Mr. LEAHY. No, the Senator is not correct. The implication is that somehow my amendment would put everything under the State Department. We are being asked to provide over $80 billion. Roughly three-quarters of that goes to the Department of Defense. Nobody is asking anybody but the Department of Defense to handle it. We are

saying the $20 million of foreign aid—one of the largest foreign aid packages I have ever seen—the $20 billion of foreign aid that is brand new would be overseen by the State Department. We want to make sure that the Iraqis do not feel this is a long-term military operation.

People should know, my amendment doesn't stop the President from allocating and reallocating reconstruction funds to any agency, including Defense, but State would have oversight of that. It doesn't shut down the Coalition Provisional Authority. It doesn't require big changes there.

Mr. WARNER. Would the Senator be more explicit?

Mr. LEAHY. As I have said before, I am glad Ambassador Bremer is there. It doesn't micromanage the reconstruction effort. It doesn't create a disruption of any of the programs that are there. But it does say when we want to ask how these aid programs and reconstruction programs are going, we ask the questions of our State Department, the Department that has had this responsibility and expertise, and the Department that has always done this from the days of the Marshall plan on.

My friends keep saying, this is just like the Marshall plan. Well, there are some big differences. One, the Marshall plan didn't ask us to pick up the whole tab as this does. That was a dollar-for-dollar match. Some of it was in loans. It wasn't done immediately after the war. It took many hearings, hundreds of witnesses. And then working with the President, there was a congressional oversight committee that actually had input from both parties, both Republicans and Democrats, unlike the situation here with the 8 page plan that we were given two months late.

Mr. WARNER. Mr. President, if the Senator would enable me to bring to the attention of the Senate a communication at this point in time from the Department of State, it might be helpful. As I read the amendment, it is clear to me that Bremer would now report to the Secretary of State.

Mr. LEAHY. That is true.

Mr. WARNER. There is no provision that he continues a direct chain to the Secretary of Defense. That structure, from Bremer right on down through his organization, would now be reporting to the Secretary of State. Am I correct in that?

Mr. LEAHY. Yes, but it does not shut down or require changes in the central command. It doesn't require any military to report to the Secretary of State.

Mr. WARNER. The Senator has made that eminently clear. I think right now we are looking at the coalition operation under Bremer now being transferred in its entirety and reporting to the Secretary of State. That organization, under Bremer at the present time, composes, indeed, contributions of a number of personnel from the Departments of State and Defense. It is sort of a coalition within itself of our Federal departments and agencies. Our coalition partners, primarily Great Britain, are integral participants.

How would they feel if suddenly they awakened and determined that no longer does their deputy to Bremer from Great Britain report to the Secretary of State? This is a very significant and major change that our distinguished colleague is proposing.

In response, the Department of State, through its Assistant Secretary of Legislative Affairs, addressed our colleagues in the Senate by saying the following:

> Thank you for the opportunity to comment on Senator Leahy's proposed amendment to the FY 2004 Supplemental that would transfer control of the Coalition Provisional Authority (CPA) from the Department of Defense to the Department of State. While we appreciate Senator LEAHY's confidence in the State Department, we are opposed to the amendment.

That is very clear and unequivocal.

> The decision to establish control of Iraq's reconstruction through the Department of Defense was made because military operations were and are ongoing in Iraq. The immediate objective was to establish a secure and safe environment in Iraq. Restoring basic services and creating conditions for economic growth could not take place until this environment was established.

For unity of effort and command, it was judged—and this judgment was from the President on down—

> the Department of Defense would be the most appropriate department in which to place CPA. The State Department fully expects to resume control of traditional development efforts in Iraq once the security situation is fully stabilized and an elected government is in place.
>
> Thank you again for the opportunity to comment on Senator Leahy's amendment. We will be pleased to provide any additional information you might require.

I ask unanimous consent that this letter be printed in the RECORD.

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

U. S. DEPARTMENT OF STATE,
Washington, DC.

DEAR CHAIRMAN MCCONNELL: Thank you for the opportunity to comment on Senator Leahy's proposed amendment to the FY 2004 Supplemental that would transfer control of the Coalition Provisional Authority (CPA) from the Department of Defense to the Department of State. While we appreciate Senator Leahy's confidence in the State Department, we are opposed to the amendment.

The decision to establish control of Iraq's reconstruction through the Department of Defense was made because military operations were and are ongoing in Iraq. The immediate objective was to establish a secure and safe environment in Iraq. Restoring basic services and creating conditions for economic growth could not take place until this environment was established.

For unity of effort and command, it was judged the Department of Defense would be the most appropriate department in which to place the CPA. The State Department fully expects to resume control of traditional development efforts in Iraq once the security situation is fully stabilized and an elected government is in place.

Thank you again for the opportunity to comment on Senator Leahy's amendment. We will be pleased to provide any additional information you might require.

Sincerely,

PAUL V. KELLY,
Assistant Secretary,
Legislative Affairs.

Mr. LEAHY. Mr. President, I also see what the National Security Adviser said, and I quote:

> The President must remember that the military is a special instrument. It is lethal, and it is meant to be. It is not a civilian police force. It is not a political referee. And it is most certainly not designed to build a civilian society.

Dr. Rice said that.

The Washington Post reports that the diplomats on Ambassador Bremer's staff in Baghdad report directly to him, not to Washington, which is true. The Secretary of State, Colin Powell, has told the press he has to rely on newspapers and the diplomatic reports of other nations to keep abreast of developments in Iraq. Maybe they don't like the job, but that is what the State Department is designed to do. I have had times when somebody said I had to sit in this hearing for 4 hours because I was either chairman or ranking member of the committee, and I said, I don't want to, I would rather go to Vermont, or I would rather go hunting on my farm, or do other things. But you know what? It is my job, it is a job I was elected to do, and I have done it.

I am sorry if the State Department feels they don't need to do their job. Maybe they have too many people. Maybe we are spending money we don't need to there. I mean, this is what they do in Afghanistan. This is the role they have played in every post-war situation since the Marshall plan.

I ask, what is so different about Iraq? Suddenly, we are breaking 50 years of precedent and they don't want to do what they are supposed to do. I am worried, why don't they want to do their job? Are they concerned that they could not do it better than it is being done now? I would hope they could, or else we are spending an awful lot of money at the State Department that we don't need to spend.

Mr. WARNER. Mr. President, in response to my colleague, the Marshall plan is, in clear terms, a precedent for what the policy decisions of our country are, as embraced in the request for this $21 billion and in the future. But there is a clear distinction. The Marshall plan came in years after the fighting had stopped. As you and I are now in this colloquy on the floor of the Senate, that fighting is going on right now—hundreds of thousands of coalition forces—over a hundred thousand—and many civilians are subjected to the constant threat by this polyglot of former Baathists, former associates of Saddam Hussein, terrorists are moving in.

This is a tough situation and there is daily communication between Ambassador Bremer and the military. They have worked side by side. In fact, you visited there, as I have. Their offices are just across the hall from one another.

(Mr. CORNYN assumed the Chair.)

Mr. LEAHY. If I may respond on that, as I have stated over and over again—and I will state it again for my good friend, who I refer to as ''my Senator'' when I am away from Vermont because I live part of the time in his beautiful Commonwealth. We are not asking the military to not do the job they do, and do well; we are not asking that they stop providing security or to not continue to hunt for Saddam Hussein or those connected with him. What I am saying is that they ought to be freed up to do that job. But they should not be doing the nation building the administration wants, which is our President's vision for Iraq. Let's give that job back to the people who are trained to do it.

I know the distinguished chairman of the Armed Services Committee does not want to see our military there forever as an occupying force. He and I totally agree on that. He and I totally agree that our military is the finest in the world, and they have done extraordinarily well there. I think we have them stretched pretty thin in a lot of areas.

I am saying, let the military do the military work; let the State Department do the foreign aid work; and if the State Department is unwilling to do the kinds of things they are trained for, which they tell us year after year they need hundreds of millions of dollars more to do, then maybe we don't need them.

Mr. WARNER. Mr. President, if I might address the comment about letting the State Department do its traditional responsibilities, I am referring to testimony before the House of Representatives on September 30, when the Deputy Secretary of State, Secretary Armitage, appeared. He made the following observations. He said that Ambassador Bremer and Secretary Powell speak to each other on the phone occasionally but they e-mail each other if not every day, pretty close to that.

He was asked what the role is in postwar Iraq. He said: We have 42 officers there now—42 State Department officers. I don't want to make light of it. Both Ambassador Bremer and his second, Clay McManaway, are both State officers. The guy who is running the show with the railroad is Pat Kennedy, one of the administration officers. So the State Department is heavily involved at the current time. The other officers from the Department of State are spread out not only in I&L but we have Mike Felia down in the southeastern region working with the Shia. We have others with the Kurds.

Ambassador Bremer has asked us to come forward with another approximately 60 officers and that we will be able to fill many more of these provinces with State Department officers, the high majority of which will be there with three or four language-speaking capabilities.

I say to my colleague, there is the closest of relationships with the Secretaries of State and Defense and directly between the Secretary of State and Ambassador Bremer. As he points out very clearly here, Deputy Secretary of State Armitage and the principal deputy to Ambassador Bremer are now officers on loan from the Secretary of State to the CPA. I urge my colleagues who are following this debate to think for themselves about the consequences of the loss of reconstruction that this would entail. You cannot make the shift in that point of time, and, to me, it would bring a greater threat personally and endangerment to the life and limb of not only the coalition forces in uniform but thousands of civilians who are working in various capacities to bring about the goals of peace and turning over this nation to the Iraqi people.

Mr. LEAHY. Mr. President, I am getting the impression that my distinguished friend, the senior Senator from Virginia, is not in agreement with my amendment and would like to keep the status quo, at least for now.

I respond that the current structure has not worked well. Between the two of us, we have a half century of listening to people testify. The Pentagon has said over and over again—certainly in a lot of the hearings I have had and I am sure that the Senator from Virginia has had—that they are not a foreign aid agency. The Pentagon is not a foreign aid agency.

I think the experience of the past 5 months in Iraq confirms that. They came in there without a plan, a postwar plan. I believe they miscalculated terribly and they put our soldiers in a vulnerable position.

I yield to nobody in this body in my admiration of the men and women who are in Iraq, the members of our military, but the administration put them in an untenable position. They have to maintain order, fight terrorists, build schools and sewer systems, and do all that simultaneously. Let the military and the Secretary of Defense focus on fighting the war and leave foreign aid to the agencies with the expertise.

Just this week, one of our national news magazines said:

> On the ground, the Coalition Provisional Authority, charged with actually running Iraq until the Iraqis can take over, is the source of increasing ridicule . . . So there they are, sitting in their palace: 800 people, 17 of whom speak Arabic, one is an expert on Iraq. Living in this cocoon. Writing papers. ''It's absurd,'' says one dissident Pentagon official. He exaggerates, but not by much. Most of the senior civilian staff are not technical experts. . . .

Time magazine says Joe Fillmore, a contract translator with the 4th Infantry Division in Tikrit, agrees that resentment is deep. ''Things may look better on the surface,'' he says, ''but there is growing frustration with the occupation. The town is dividing into two parts: those who hate us, and those who don't mind us, but want us to go.''

Whether one was for or against war, we are now there. But when we are asked to buy enormously expensive items, to spend more money to build a hospital in Iraq than we would spend on a hospital in Vermont, when we are asked to spend more money on telecommunications in Iraq than we are willing to spend in many states in the United States, when we are asked to spend more money on the electrical infrastructure in Iraq than we are willing to spend here, when we are asked to spend more money to put people back to work in Iraq than we are willing to spend in the United States, when we are asked to spend more money for police and security and prisons in Iraq than we are willing to spend where it is needed in the United States, when we are asked to spend more money for vehicles in Iraq than we spend for vehicles in the United States, I think it is fair we ask is this right? Is this necessary? Maybe it is time to put the right people in charge.

Mr. WARNER. Mr. President, if I might again bring to my colleague's attention the momentum that is presently in the CPA and its achievements. CPA is providing funds through military commanders—I want to point that out—military commanders in the field, coalition military commanders to fund projects at the village and municipal level. Approximately $24 million has been spent on over 6,200 projects to date.

Health projects: Saddam Hussein budgeted $13 million for health care in 2002, approximately 50 cents per person. For the second half of 2003, CPA allocated $211 million—I repeat, $211 million—a 3,200 percent increase in health care.

On April 9, only 30 percent of Iraqi hospitals were functioning. CPA is bringing the health care system back to life. Now all 240 hospitals in Iraq are up and running. The CPA has wiped away the old corrupt system for distributing medical supplies and pharmaceuticals. In the past 90 days, 9,000 tons of medical supplies have been delivered, an increase of 700 percent. Because of the CPA, Iraqi children have received 22 million doses of vaccine to cover over 4 million children and nearly a million pregnant women.

Education: Saddam starved the country's schools of cash for more than 20 years. Children were taught pro-regime slogans in classrooms little better than livestock sheds. Enrollment in some areas had dropped to 50 percent of eligible children.

CPA is refurbishing more than 1,000 schools. The schools will have new plumbing instead of raw sewage in the playgrounds, fresh paint, blackboards, pencils, and teaching equipment.

Justice system: Nationwide, 90 percent of the courts are up and running. Criminal courts in Baghdad reopened in May. A central criminal court made up of specially vetted judges and prosecutors has been established to try cases in public. The first trial was held August 25.

I could go on and on. I ask unanimous consent to print these success stories in the RECORD.

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

[From the Coalition Provisional Authority]

IRAQ SUCCESS STORIES

Reconstruction Projects

CPA is providing funds through military commanders in the field to fund projects at the village and municipal level. Approximately $24 million has been spent on over 6,200 projects to date.

Health Projects

Saddam Hussein budgeted $13 million for healthcare in 2002, approximately 50 cents per person. For the second half of 2003, CPA allocated $211 million, a 3200% increase.

On April 9th only 30% of Iraqi hospitals were functioning. CPA is bringing the healthcare system back to life. Now, all 240 hospitals in Iraq are up and running.

The CPA has wiped away the old corrupt system for distributing medical supplies and pharmaceuticals. In the past 90 days 9000 tons of medical supplies have been delivered; an increase of 700%.

Because of the CPA, Iraqi children have received 22.3 million doses of vaccine to cover over 4 million children and nearly a million pregnant women.

Education

Saddam starved the country's schools of cash for more than 20 years. Children were taught pro-regime slogans in classrooms little better than livestock sheds. Enrollment in some areas had dropped to 50% of eligible children.

The CPA is refurbishing more than 1000 schools. The schools will have new plumbing instead of raw sewage in the playgrounds, fresh paint, blackboards, pencils, and teaching equipment.

Justice System

Nationwide, 90% of courts are up and running. Criminal courts in Baghdad re-opened in May.

A Central Criminal Court made up of specially vetted judges and prosecutors, has been established to try cases in public. The first trial was held on August 25th.

Odious legal provisions inconsistent with fundamental human rights have been suspended. Criminal defendants now have the right to defense counsel at all stages of proceedings, the right against self-incrimination, the right to be informed of these rights, and the exclusion of evidence obtained by torture.

Eight Supreme Court Justices wrongfully removed by Saddam Hussein have been reinstated.

Judge Dara Noor al-Din, who was imprisoned for holding one of Saddam's decrees unconstitutional, is now a member of the Governing Council, in addition to his judicial duties. He was never a Ba'athist.

Judge Medhat Mahmood, was never a Ba'athist, has been named Chief Justice of the Supreme Court.

Mr. WARNER. There is enormous momentum.

Mr. LEAHY. Mr. President, when I hear this glowing description, I wonder why the administration is asking for another $20 billion. I wish most of the States in the United States were doing as well as what the Senator from Virginia has described.

If they are doing that well, maybe we should give the $20 billion to States in the United States that are not doing nearly as well and could probably use the money.

I am glad to hear the hospitals are all operating again. Obviously, from a humanitarian point of view that is important progress. I hope the Iraqis realize they can go to any hospital they want now and they will receive the help they need. If that is true, why do we need to spend another $150 million for another hospital? Rural hospitals throughout the 50 States of the United States cannot say that. I know a lot of places in the 50 States in the United States about which we cannot give the kind of glowing report the Senator from Virginia has given about Iraq.

Keep in mind, I am not asking for somebody to walk in there tomorrow and take over. But I would hope that within the next two months, with the 800 people in the palace over there, we might find more than 17 who can speak Arabic. That, I think, would be the kind of expertise the State Department could bring.

I hope we will have more than one expert on Iraq, and I hope we will tell the Iraqi people that we are as interested in them building their country following their vision and not, in almost a condescending way, saying we want them to have the opportunity to build a country that fits the vision our President has for them. After all, we are talking about a civilization that goes back long before this country was even discovered.

Mr. WARNER. Mr. President, I recognize that important bit of history. As I say to my friend of a quarter of century, we have had the privilege of serving here—and I see the distinguished acting minority leader on the floor—it would be the intention of the Senator from Virginia to move to table, but I first would like to hear an expression perhaps from others who might like to address the amendment.

Mr. REID. If the Senator from Virginia will yield.

Mr. LEAHY. I have the floor.

Mr. REID. If the Senator from Vermont will yield, I don't know how much more time the Senator from Vermont has. We have a couple other Senators who wish to speak. Certainly Senator LEAHY has no desire to ride this out. We have a number of amendments lined up and ready to go as soon as this is finished. The Senator from Vermont is the best person to answer that question.

Mr. LEAHY. Mr. President, I respond to the distinguished Senator from Nevada, we have had a good colloquy with the distinguished senior Senator from Virginia, which is not unexpected because the distinguished Senator from Virginia is one of the most knowledgeable Members of the Senate, as well as being a dear and close friend. I think we have probably proved, for those who are watching, the edification of having both sides here.

The Senator from Virginia, though I control the floor—I have yielded to him whenever he wanted.

Mr. WARNER. Mr. President, every courtesy has been extended, and I might add that I am in consultation with the distinguished chairman of the Appropriations Committee on this matter, who likewise is presently on the Senate floor.

Mr. LEAHY. I have had time to say what I am going to say. I am also apparently having incipient laryngitis, which is probably as crippling an illness as any Member of the Senate could have.

Mr. WARNER. Mr. President, I do not detect it. I think the Senator is standing there with full vigor. I believe we have pretty well covered the major issues.

Mr. LEAHY. Full vigor everywhere except for my tonsils, I would say to my friend from Virginia.

The Senator from Virginia has the right to move to table, but this is an important issue, and I would hope that he would show his usual courtesy and withhold until people have had a chance to speak.

I yield the floor.

Mr. STEVENS. Before the Senator leaves, Mr. President, could we explore a time agreement on the amendment?

Mr. LEAHY. I ask the Senator from Alaska, could I yield to the Senator from Nevada for that purpose? Whatever is agreeable, I am perfectly willing to do.

Mr. STEVENS. Mr. President, we have a Senator's agreement that we are going from side to side. We have another amendment ready to go. We would be happy to proceed. The Senator from Colorado wants to speak for 10 minutes on the bill itself, but I should think we could get a time agreement.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. Mr. President, after having consultation with the interested Senators, I make the following unanimous consent request: I ask unanimous consent that the Senator from Colorado, Mr. ALLARD, have 15 minutes; the Senator from North Dakota, Mr. DORGAN, have 2 minutes; Senator LEAHY have 5 minutes; the distinguished minority leader have 10 minutes; Senator BIDEN have 10 minutes; and there be 25 minutes under my control to be allocated to interested Senators on this side, if any, and that there be a vote in relation to the Leahy amendment, with no amendments being in order prior to the vote.

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

The Senator from Colorado.

Mr. ALLARD. Mr. President, I understand our side is going to move to table the Leahy amendment, and I do support tabling the Leahy amendment. From what I have been able to observe,

I think things are going well in Iraq. Certainly, I have no qualms with the way the State Department and the Defense Department are working together. I do not think we ought to upset the apple cart when things are moving in the right direction.

I want to take a few moments to talk about the President's supplemental request in total. I ask my colleagues for quick action on the underlying bill. The reasons for quick action are simple. If we want to see a reduction in the number of soldiers in Iraq, we need to fully fund this request. If we want to improve the security in Iraq, we must approve this request. If we want a Democratic Iraq, governed by Iraqis, we must approve this request.

No one in this body on either side of the aisle would deny we need additional operational and procurement funds for our military. We all know that. Yet there is a great controversy over the reconstruction funds which in the long-term could be just as important to the safety of the troops as the additional operation and procurement funds.

Our troops will benefit from the additional operational funds that are requested in the $87 billion. My view is that if we want to see our forces out of Iraq quickly, we need to have those operational funds because they are essential to moving ahead with Iraq becoming self-sufficient, with Iraq being able to defend itself and being able to assume the responsibilities the U.S. military right now is assuming.

My point is that not only are the Iraqis beneficiaries, but our soldiers over in Iraq are beneficiaries, and they are beneficiaries for the reason it is going to be an opportunity for them to move out quicker and get home quicker. That is what we all want to see. Our ability to protect the men and women of the U.S. military is at stake.

Since the beginning of hostilities last February, there have been 19 soldiers from Colorado's Fort Carson and five other Coloradans who have died in Iraq. These men and women have paid the ultimate sacrifice in pursuit of the freedoms we often take for granted. I would be dishonoring the sacrifice these brave Americans have made and failing to protect those who continue to serve in Iraq if I did not support both the military funding portion of the supplemental and the reconstruction funding.

While the $20 billion in reconstruction funds will not end the guerilla attacks on our troops, it will make a difference. Iraq is a dangerous country, and as long as American troops are on the ground there, they will be at risk, as any American who may be in that country. However, the fact remains that the more we repair the old wounds of the Hussein regime, the safer our troops will be in Iraq. Specifically, the money we spend on upgrading the water of Iraq and sanitation services, the oil infrastructure rehabilitation, and the healthcare and education of the Iraqi people will have a direct impact on the safety of our troops.

Improving the social conditions of the Iraqi people will reduce hostility and ease the sense of desperation many Iraqis have felt since the fall of Saddam Hussein. Moreover, this funding will give Iraqis hope and demonstrate our commitment to not only rid Iraq of terrorists, but also improve the lives of ordinary Iraqis.

Freedom cannot be bought on the cheap. And, as Paul Bremer testified last week, the Coalition Provisional Authority's seven-step program towards Iraqi self-governance hinges on the basic needs of the Iraqis being fulfilled. Without it, democracy will fail. This cannot be allowed to happen.

Think back about what has been mentioned before about reconstruction after World War II and how we all realized after World War I that we had troops who were waiting to go home, everybody was excited to go home, but nobody stayed around to help stabilize the countries we defeated during World War I. Consequently, events evolved and we were into World War II. I think we learned our lesson, and that is that there needs to be a reconstruction period. So we had the Marshall plan put into effect. I think we need to not forget that lesson today if we want to see Iraq be a permanent democracy in the Middle East.

Perhaps of most importance to our troops in Iraq is the efforts to reconstitute the Iraqi Army and expand the civil police force. The money in the supplemental would help establish 27 battalions for the Iraqi Army and a police force of about 80,000 in the next 12 to 18 months.

Let me stress how important these efforts are. To have Iraqi patrols policing their own people will allow a safer environment for our soldiers and show the Iraqi people that we are not occupiers, and that Iraq is their country and their responsibility. In fact, the commander of Central Command, General Abizaid, testified before the Senate Armed Services Committee that the most important part of the supplemental is these security funds. I quote General Abizaid:

> . . . we can speed up the training of the Iraqi Army—instead of taking 2 years, take 1, and we can't do that without more money.

The general goes on to state:

> . . . every month that goes by where we don't start those security projects is a month longer before those guys go out and potentially can relieve our troops of some of their duties.

If the combatant commander with responsibility for Iraq believes reconstruction efforts and the security of American soldiers is linked, we should certainly heed his advice.

I think the additional point has been made in many hours of testimony before the Armed Services Committee that our intelligence will improve dramatically the more we are able to incorporate the Iraqi police force and their assistance in maintaining domestic stability in Iraq.

The issue has been also broached about making the reconstruction funds a loan to the already impoverished nation. I object to this idea for two important reasons. First, there are those in the United States, and many more abroad, who protested the idea of going to war with Iraq. A large majority of these critics believed this was a war for oil. They believed our insatiable need for fuel was driving us toward an occupation of Iraq so we could control its oil fields. I am not going to outline why this assumption was flawed in the first place, because you only have to look at the U.N. mandates the Hussein regime ignored and the mass graves of his murdered people. This is an absurd notion but not one we can afford to ignore.

However, if we ask for a loan, where will Iraq come up with the money? Nineteen billion is what has been estimated in their oil fields when they get up in production, and when they have a $20 billion loan, that doesn't even service the interest on that loan. How will it look for the United States when we ask the Iraqis to pump their crude to pay us back for the money we loaned them? Perception is important for us in the Middle East and we cannot afford to have an ''oil motive'' attached to our efforts to bring democracy to the region.

Another concern would be the example set for the other countries of the world that might contribute to the reconstruction effort. Iraq already owes $200 billion to Russia and France and Germany and others. Are we to ask them to forgive their debt and then demand payment for our generosity?

Our negotiators need leverage when they ask for reconstruction funds from the rest of the world. Our leverage would be nullified if the proposed grant to Iraq changes to a loan. Again, perception of asking for help for a burgeoning democracy in the Middle East would be muddied if we have an IOU in our back pocket.

A few weeks ago the Chairman of the Joint Chiefs, General Myers, testified before the Armed Services Committee and remarked that our battle in Afghanistan and Iraq is a battle of wills. He stated:

> We are going to win as long as we have the continuing will of the American people, and for that matter, freedom loving people everywhere.

This supplemental request is a measure of our will, a measure of our commitment to the Iraqi people. Terrorist organizations such as al-Qaida and state sponsors of terrorism like the former Hussein regime have doubted America's commitment in the past. Are we prepared to risk additional attacks against our troops if we fail to assist in the reconstruction of Iraq? Are we prepared to say to the people of Iraq they are on their own? Are we prepared to stay the course?

We must act quickly, we must act decisively, and we must pass this funding as requested by the President. The

United States must continue to show leadership in the world as we have since our inception. We must not allow our support of democracy and freedom to be compromised.

Last year, more than three-quarters of this body voted to support going to war with Iraq with the understanding we would not stop until we were victorious. We are not finished yet. More needs to be done. I ask my colleagues for quick approval of the supplemental funds for the sake of the security of the Iraqi people and the safety of our troops on the ground.

I yield the floor.

AMENDMENT NO. 1802

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. This afternoon the Senate is taking action to solve a problem for our soldiers serving in Iraq. Senator COLEMAN, myself, Senator STEVENS, and others have offered an amendment that deals with the cost of travel soldiers experience when they are going on a 15-day leave from the country of Iraq.

The life of a soldier is a heavy burden—in harm's way, away from home for long periods of time. It is also a heavy burden for their families. The decision by the Pentagon to provide a 15-day leave for those soldiers who are serving in Iraq to be able to come home to visit their families is a wonderful decision. It is the right thing to do.

But there has been a bureaucratic snag in this with respect to some rules that have said the soldiers on this leave will be dropped off at some central points in the U.S.—Baltimore, BWI Airport, Los Angeles—and then they must buy their own airplane ticket back to their home base. That is not right nor is it fair.

The amendment today says to those soldiers your travel will be covered, leaving Iraq to this country, all the way back to your home base. That is the right thing to do.

This amendment will be welcome news to the soldiers and welcome news to their families. This amendment is one small way for this country to continue to say thank you to those who serve our country.

Once again, I don't think it was ever intended that a soldier, asked to serve in the country of Iraq and then given a 15-day leave, should have to pay for part of the travel to get back home. Many of these soldiers can't afford it. They are living on soldier pay. They and their families very much look forward to these 15 days that will reunite them once again, and they ought not have to be burdened by having to buy an airplane ticket from Baltimore or Los Angeles. After all, that wasn't their point of departure. They left home to serve this country in Iraq and this country ought to say to them, for this furlough, for this opportunity to go back to your family, we will pay for the ticket back to your home.

That is the obligation of this country. This Congress on a bipartisan basis this afternoon said to those soldiers, Thank you. We are pleased to fix this problem—a solution that I believe is going to be very welcome news to the U.S. soldiers and their families.

I yield the floor. I suggest the absence of a quorum, and I ask unanimous consent that the time running on the quorum call be counted equally against both sides.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DASCHLE. Mr. President, I rise in strong support of the Leahy amendment.

The amendment is very straightforward. It puts the State Department in charge of reconstruction of Iraq. It says that we ought to relieve our military of the burden of running this nationbuilding program, and we ought to put it in the hands of the U.S. Government agency that has successfully run such programs for decades.

The President recognized the wisdom of such a decision last fall when he directed the State Department to conduct its year-long study called ''The Future of Iraq.'' The study apparently cost $5 million. It convened countless meetings with independent experts on Iraq and on post-conflict reconstruction. And, unfortunately, the study's findings were completely ignored.

According to a remarkable story in this week's Newsweek, when it came time to send the reconstruction team into Iraq, Secretary Rumsfeld ordered the State Department expert who had spent the previous year preparing the United States Government for post-Saddam Iraq to stay home. Apparently, his absence meant something. Another member of the reconstruction team who did go to Iraq came home about a month later and wrote a remarkable article for the Washington Post. He offered a series of stories about his time in Iraq to demonstrate ''how flawed policy and incompetent administration have marred the follow-up to the brilliant military campaign to destroy Saddam Hussein's regime.''

Unfortunately, the civilian leadership continues to rely on overly rosey scenarios and unrealistic plans while the risk to our troops grows.

Last week, we were presented a plan by Ambassador Bremer that was supposed to set everything right in the reconstruction effort. His plan lays out five security goals—which are to be completed by October. Let me walk through just three of them.

The Bremer plan will ''locate, secure, and eliminate WMD capability.'' Yet, today the lead man on the search for weapons of mass destruction was to brief Congress on his efforts to date. According to press reports, he will report that he has not found any unconventional weapons.

The Bremer plan will also ''eliminate munitions caches, unexploded ordinance and excess military equipment.'' Yet the New York Times reported last weekend that 650,000 tons of ammunition remains at thousands of sites used by the former Iraqi security forces, and that much of it has not been secured and will take years to destroy.

The Bremer plan will also ''defeat internal armed threats'' by October. Just today in Iraq, our commanding general on the ground in Iraq, said that our troops are facing increasingly sophisticated attacks and it would take years before Iraq could maintain internal security without backup.

The Leahy amendment simply says that we have had enough of unrealistic plans and inexperienced planners. It says we are not comfortable that our troops—overstretched and at risk—are being forced to lead the nationbuilding effort in Iraq. It says what every independent assessment of our Iraq effort has urged us to do: put the experienced reconstruction experts at the State Department—not our military—in charge of nationbuilding.

I urge my colleagues to support the Leahy amendment, and I yield the floor.

Mr. STEVENS. Mr. President, I am informed it will now be possible to yield back all the time on the Leahy amendment. The distinguished Senator from Vermont is here in the Chamber.

I yield any remaining time on our side on the Leahy amendment.

Mr. LEAHY. I yield our time.

Mr. STEVENS. Mr. President, I move to table the Leahy amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DASCHLE. Mr. President, I would like to note the absence of a quorum so that we can just finalize some comments before we make an announcement about the remainder of the evening.

Mr. STEVENS. Mr. President, it would be my purpose to try to see if we could have a specific time on this vote.

Mr. DASCHLE. Six o'clock.

Mr. STEVENS. Six o'clock?

Mr. President, I ask unanimous consent that this vote that has just been ordered occur at 6 p.m.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. Mr. President, in just a minute we will start the vote on the

Leahy amendment, but I want the Senate to be on notice following this amendment there will be a vote on a Federal judge. That will be announced during the period right after this vote.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent following the scheduled vote, the Senate immediately proceed to executive session and to consecutive votes on the following nominations on today's Executive Calendar: Calendar Nos. 382, 383, 385, and 386.

I further ask unanimous consent that there be 2 minutes equally divided between the two leaders or their designees prior to each vote; further, that following the votes, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

Mr. DASCHLE. Reserving the right to object, I take just a moment to thank the distinguished ranking member of the Judiciary Committee. I know how strongly he feels—and I understand the reasons he feels this way because I share them—that these are very important matters that should not be relegated necessarily to voice votes. But he has, once again, demonstrated a real appreciation of Senators' schedules and his understanding of the need for other Senators to offer amendments on this very critical bill we are dealing with. And in order to accommodate Senators who have amendments to offer, once again, he has agreed with my request that we do a rollcall on the first vote and then voice votes on the other ones.

So I just want to publicly acknowledge his cooperation and his assistance on this matter and thank him since he is currently in the Chamber. But I appreciate that.

I have no objection.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, with the indulgence of the two leaders, I appreciate very much what the Democratic leader has said. He and I, and the distinguished majority leader, and Senator HATCH, and others, want to move judges whenever we have consensus. And I think we have shown we have.

In the 17 months we were in charge of the Senate, when we were the majority, we confirmed 100 of President Bush's nominees to the Federal judiciary. In the 16 months the Republicans have been in control, this will make another 64 we have confirmed. So it is around 164 between the 2 parties. It is a record that has not been matched for years and years and years.

But I am happy to accommodate the two leaders. I know the problems the two leaders have. I would not wish them on anybody else. The two leaders have been trying to schedule things, so I am happy to try to accommodate them and all Members.

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

The majority leader.

Mr. FRIST. Mr. President, just for clarification, we will have the vote on the Leahy amendment now, followed by a rollcall vote on one of the judicial nominees, followed by a voice vote on the next three judicial nominees.

In the meantime, we will be discussing the schedule for later this evening. Amendments will be in order tonight. They will be laid down. We will talk about the voting schedule here shortly.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, before we go to the vote, I know our colleagues will be coming to the floor to vote on these two matters.

The distinguished majority leader and I have been talking about the schedule tomorrow. And without in any way preempting him and the decisions he will make about the schedule, there is a possibility that we will not be in session tomorrow but that we will have a window for Senators to offer amendments.

The only reason I say that now is if Senators would contemplate the offering of an amendment tomorrow, I would like them, at least on the Democratic side, to consult with Senator REID and myself during these votes so that we have an understanding of how many of those amendments might be offered. We would only have about a 2-hour window. But if Senators are interested, during these votes I hope they will come to either Senator REID or myself to discuss the queuing of those amendments and whether or not we will have an opportunity to consider them all.

So I hope we will use the time available to us for discussion of that. And we will have more to say about that sequencing once those votes have been completed.

VOTE ON AMENDMENT NO. 1803

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 1803. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

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

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 374 Leg.]

YEAS—56

Alexander	Cochran	Enzi
Allard	Coleman	Fitzgerald
Allen	Collins	Frist
Bennett	Cornyn	Graham (SC)
Bond	Craig	Grassley
Brownback	Crapo	Gregg
Bunning	Dayton	Hagel
Burns	DeWine	Hatch
Campbell	Dole	Hollings
Chafee	Domenici	Hutchison
Chambliss	Ensign	Inhofe
Kyl	Nelson (NE)	Specter
Landrieu	Nickles	Stevens
Lott	Roberts	Sununu
Lugar	Santorum	Talent
McCain	Sessions	Thomas
McConnell	Shelby	Voinovich
Miller	Smith	Warner
Murkowski	Snowe	

NAYS—42

Akaka	Dodd	Leahy
Baucus	Dorgan	Levin
Bayh	Durbin	Lincoln
Biden	Edwards	Mikulski
Bingaman	Feingold	Murray
Boxer	Feinstein	Nelson (FL)
Breaux	Harkin	Pryor
Byrd	Inouye	Reed
Cantwell	Jeffords	Reid
Carper	Johnson	Rockefeller
Clinton	Kennedy	Sarbanes
Conrad	Kerry	Schumer
Corzine	Kohl	Stabenow
Daschle	Lautenberg	Wyden

NOT VOTING—2

Graham (FL)	Lieberman

The motion was agreed to.

Mr. WARNER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

NOMINATION OF WILLIAM Q. HAYES, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to executive session to consider Executive Calendar No. 382, which the clerk will report.

The legislative clerk read the nomination of William Q. Hayes, of California, to be United States District Judge for the Southern District of California.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, William Q. Hayes is certainly qualified to be a Federal district court judge for the Southern District of California. I recommend to all our colleagues they support him. I believe everybody will be pleased with the service he will give.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I yield my time to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I thank Senator LEAHY and Senator HATCH. This is an excellent nominee for the Southern District Court of California, William Hayes.

I want to emphasize the excellent process that we have in place to select District Court nominees in California.

In a truly bipartisan fashion, the White House Counsel, Senator FEINSTEIN and I worked together to create four judicial advisory committees for

the State of California, one in each Federal judicial district in the State.

Each committee has a membership of six individuals: three appointed by the White House and three appointed jointly by Senator FEINSTEIN and me. Each member's vote counts equally, and a majority is necessary for recommendation of a candidate.

Mr. Hayes was reviewed by the Southern District Committee and strongly recommended for this position. I continue to support this bipartisan selection process and the high quality nominees it has produced.

Mr. Hayes had extensive civil experience as a private attorney before becoming a Federal prosecutor, rising to the position of head of the criminal division in the U.S. attorney's office in San Diego.

The southern district will benefit greatly from the exemplary services of Mr. Hayes, and I fully support confirmation of this nominee.

I wish to emphasize, once again, to my colleagues that we have a wonderful process in place in California to come up with these nominees for the district court. Senator FEINSTEIN and I have three members on the committee. The Bush administration has three members on the committee. It takes a majority vote. This means we are working together, and we have proven that we can come up with mainstream nominees for the district court. I urge an ''aye'' vote.

Mr. HATCH. Mr. President, I am pleased today to speak in support of William Q. Hayes, who has been nominated to the United States District Court for the Southern District of California.

Mr. Hayes received both his J.D. and M.B.A. from Syracuse University in 1983. Following his graduation, he spent a year in private practice until 1987, at which time he went to work for the United States Attorney's Office for the Southern District of California. He was eventually elevated to chief of the criminal division of that office in recognition of his exceptional legal abilities. Despite the demands of his career in public service, he has nevertheless found the time to teach at both the undergraduate and law school levels.

Mr. Hayes is an exceptional nominee who will be a fine addition to the Federal bench, and I urge my colleagues to join me in supporting his nomination.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. There is one amendment that might still require a vote tonight. We think it will be worked out. So many people want to start this vote, I suggest we start it. If that amendment is worked out, there will be more votes tonight, but we should know before the rollcall is over. So I suggest we start the rollcall now.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of William Q. Hayes, of California, to be United States District Judge for the Southern District of California?

Mr. BOND. 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. REID. I announce that the Senator from Florida (Mr. GRAHAM) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

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

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 375 Ex.]

YEAS—98

Akaka	Dodd	Lott
Alexander	Dole	Lugar
Allard	Domenici	McCain
Allen	Dorgan	McConnell
Baucus	Durbin	Mikulski
Bayh	Edwards	Miller
Bennett	Ensign	Murkowski
Biden	Enzi	Murray
Bingaman	Feingold	Nelson (FL)
Bond	Feinstein	Nelson (NE)
Boxer	Fitzgerald	Nickles
Breaux	Frist	Pryor
Brownback	Graham (SC)	Reed
Bunning	Grassley	Reid
Burns	Gregg	Roberts
Byrd	Hagel	Rockefeller
Campbell	Harkin	Santorum
Cantwell	Hatch	Sarbanes
Carper	Hollings	Schumer
Chafee	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Clinton	Inouye	Smith
Cochran	Jeffords	Snowe
Coleman	Johnson	Specter
Collins	Kennedy	Stabenow
Conrad	Kerry	Stevens
Cornyn	Kohl	Sununu
Corzine	Kyl	Talent
Craig	Landrieu	Thomas
Crapo	Lautenberg	Voinovich
Daschle	Leahy	Warner
Dayton	Levin	Wyden
DeWine	Lincoln	

NOT VOTING—2

Graham (FL)	Lieberman

The nomination was confirmed.

Mr. STEVENS. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NOMINATION OF JOHN A. HOUSTON, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA

The PRESIDING OFFICER. Under the previous order, the clerk will report the next nomination.

The legislative clerk read the nomination of John A. Houston, of California, to be United States District Judge for the Southern District of California.

The PRESIDING OFFICER. Under the previous order, there are 2 minutes of debate equally divided prior to the vote on the nomination.

Who yields time?

Mr. STEVENS. I yield all time on our side.

The PRESIDING OFFICER. Is anyone seeking time?

All time has expired.

The question is, Will the Senate advise and consent to the nomination of John A. Houston, of California, to be United States District Judge for the Southern District of California?

The nomination was confirmed.

Mr. STEVENS. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I am pleased today to speak in support of John Houston, who has been confirmed to the United States District Court for the Southern District of California.

Judge Houston, a graduate of the University of Miami School of Law, has used his outstanding legal skills in public service. He first served in the United States Army Judge Advocate General Corps and then in various positions at the U.S. Attorney's Office for the Southern District of California before his appointment in 1998 as a Federal magistrate judge, the position in which he currently serves.

Judge Houston has won many accolades for his legal skills, including awards from the National Association of Black Customs Enforcement Officers and from the Organized Crime Drug Enforcement Task Force for Outstanding Contributions. He was also presented with the Director's Award for Superior Performance in Asset Forfeiture by then-Attorney General Janet Reno.

In addition to his judicial responsibilities, Judge Houston finds time to participate in community programs that assist children in meeting educational and economic challenges. He has, for example, opened his courtroom to public school students to give them hands-on lessons in the judicial process. And he has served as a mentor to young African-American men who have excelled in high school to prepare them for college and beyond.

I applaud President Bush for his nomination of Judge Houston and am confident that he will serve on the bench with compassion, integrity and fairness.

Mr. HATCH. Mr. President, I am pleased today to speak in support of Robert Clive Jones, who has been confirmed to the United States District Court for the District of Nevada.

Before I go any further, I must tell you that Judge Jones is a fellow Cougar—a graduate of my alma mater, Brigham Young University. He then attended UCLA School of Law, where he graduated in the top 10 percent of his

class—a member of the Order of the Coif—and where he had been an associate editor of the UCLA Law Review.

Following his graduation from law school, Judge Jones clerked for the Ninth Circuit Judge J. Clifford Wallace. He then entered into private practice with the Las Vegas law firm of Albright and McGimsy, as an associate, specializing in tax law, real property, bankruptcy, and commercial law. He then worked at the law firm of Jones & Holt, where he was a partner.

In 1983, Judge Jones was appointed to the U.S. Bankruptcy Court for the District of Nevada, where he currently serves. He simultaneously served as a member of a three-judge panel for the U.S. Bankruptcy Appellate Panel of the Ninth Circuit from 1986 until 1999.

In addition to his judicial responsibilities, Judge Jones participates in the promotion of State bar pro bono bankruptcy services, which include educating the public on bankruptcy law. He also finds time to volunteer his services to such charitable organizations as the American Cancer Society and Opportunity Village, a group that assists the mentally disabled.

I applaud President Bush for his nomination of Judge Jones and am confident he will continue to be an asset on the Federal bench.

Mrs. BOXER. Mr. President, I am pleased to offer my support for the nominee for the Southern District Court of California, John Houston.

I wish to emphasize the excellent process that we have in place to select district court nominees in California.

In a truly bipartisan fashion, the White House Counsel, Senator FEINSTEIN and I worked together to create four judicial advisory committees for the State of California, one in each federal judicial district in the state.

Each committee has a membership of six individuals: three appointed by the White House, and three appointed jointly by Senator FEINSTEIN and me. Each member's vote counts equally, and a majority is necessary for recommendation of a candidate.

This nominee was reviewed by the Southern District Committee and strongly recommended for this position. I continue to support this bipartisan selection process and the high quality nominees it has produced.

Judge Houston had extensive experience as a federal prosecutor before his appointment as a magistrate judge in San Diego.

I was delighted to meet Judge Houston and his family during his Judiciary Committee hearing in September and wish them all the very best.

The Southern District will benefit greatly from the exemplary services of Judge Houston, and I fully support confirmation of this nominee.

NOMINATION OF ROBERT CLIVE JONES, OF NEVADA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEVADA

The PRESIDING OFFICER. Under the previous order, the clerk will report the next nomination.

The legislative clerk read the legislation of Robert Clive Jones, of Nevada, to be United States District Judge for the District of Nevada.

The PRESIDING OFFICER. Under the previous order, there are now 2 minutes of debate equally divided prior to the vote on the nomination.

Who yields time?

Mr. STEVENS. Mr. President, I yield our time.

Mr. REID. I yield our time.

The PRESIDING OFFICER. All time has expired.

The question is, Will the Senate advise and consent to the nomination of Robert Clive Jones, of Nevada, to be United States District Judge for the District of Nevada?

The nomination was confirmed.

Mr. STEVENS. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NOMINATION OF PHILLIP S. FIGA, OF COLORADO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLORADO

The PRESIDING OFFICER. Under the previous order, the clerk will report the next nomination.

The legislative clerk read the nomination of Phillip S. Figa, of Colorado, to be United States District Judge for the District of Colorado.

The PRESIDING OFFICER. Under the previous order, there are now 2 minutes of debate equally divided prior to the vote on the nomination.

Who yields time?

Mr. ALLARD. Mr. President, I rise today on the occasion of the confirmation of Phil Figa to the United States District Court for the District of Colorado. I urge my colleagues to vote favorably on Figa's confirmation, a man who represents the very best our legal system has to offer. The Judiciary is a fundamental institution of our democracy; it is given neither force nor will, but merely judgment. Our Constitution dictates that the President shall nominate, and by and with the advice and consent of the Senate, shall appoint judges of the Federal Court. Today we can fulfill this obligation by confirming Mr. Figa. With further commitment to the country's founding principles, we can move toward fulfilling this commitment in regard to all outstanding vacancies. I want to thank Chairman HATCH and Senator LEAHY for the great speed with which Mr. Figa's nomination has moved through the Senate. Nominated by the President in June, this vote is a shining example of a process that can work when a spirit of bipartisanship triumphs. Chairman HATCH, your leadership is truly appreciated.

In light of recent terrorist attacks, it is readily apparent that we face a new age of global unrest, a world in which terror has replaced formal declarations of war as the major threat against freedom and democracy. A necessary component of providing justice to those who would do harm to our nation is to maintain an efficient court system—a court equipped with the personnel and resources that enable it to fulfill its role as a pillar of our constitutional system of governance. Swift punishment serves as a warning to tyranny and a deterrent to evil. By filling this vacancy, America continues to show its resolve in justice and law.

Mr. Figa's nomination arose after Judge Richard Matsch, who presided over the Oklahoma City bombing trial, went to senior status. Judge Matsch's departure leaves big shoes to fill. However, after months of background investigations and congressional inquiry, it is obvious that Phil Figa is the right person for the job.

For the past several years. I have had the opportunity to get to know Phil's wonderful family. His wife Candy, and their two children, Ben and Lizzie, were able to watch their father's job interview before the Senate Judiciary Committee last month. I admire the strong family values so apparent in every member of the Figa family—it was their continued support and encouragement that provided the strength and energy he needed in order to stand steadfast in pursuit of this most worthy endeavor. Together, the family enjoys the Colorado outdoors, spending free time hiking and biking in the mountains. According to Criminal defense lawyer Gary Lozow, Figa is a ''thoughtful and bright person who will make a good Federal judge and is mindful of the awesomeness of taking on that responsibility.''

The two major newspapers in my home State of Colorado agree. The Rocky Mountain News noted, Phil has achieved a rare balance in his life of family, law practice and community activities. The Denver Post, in an endorsement earlier this year, noted that Figa is a good, solid choice for the bench. The Post was encouraged by the fact that Figa's background is in civil litigation, which makes up a high percentage of the cases handled by Federal judges.

I am not the only one who believes that his keen intellect and temperament is ideal for the bench. In a letter dated June 10, 2003, Senator CAMPBELL and I wrote to the committee, ''Mr. Figa is highly qualified and will ably serve the people of the United States . . . (he) is well known throughout the Colorado legal community for his credibility, integrity, hard work and firm grasp of the law.'' His supporters hail from across party lines and include a variety of elected officials from

all levels of local, State, and Federal Governments. Of the many gracious comments I have heard about Phil, none characterize him better than a statement made by the managing partner at his firm. ''He's a very gracious fellow . . . a very likable person. He's a gentlemanly character.''

In Federalist Number 78, Alexander Hamilton wrote that Judges are the guardians of the constitution, ''The courts must declare the sense of the law; and if they should be disposed to exercise will instead of judgment, the consequence would equally be the substitution of their pleasure to that of the legislative body.''

Phil Figa is the guardian we need on the bench of the District Court for the District of Colorado. He will serve our Nation with the utmost of respect to our country and our constitution, and for this, I urge my colleagues to vote favorably on his confirmation.

Phillip Figa is somebody who has been reviewed by his peers in Colorado. He has been reviewed by the American Bar Association. He will be a very good individual for the bench and he has bipartisan support.

I yield the remainder of our time.

Mr. LEAHY. Mr. President, I yield the remainder of my time.

Mr. HATCH. Mr. President, I am pleased today to speak in support of Phillip Figa, who has been confirmed to the United States District Court for the District of Colorado.

Mr. Figa graduated from Cornell Law School in 1976. He then entered private practice with Sherman & Howard, where he primarily worked on commercial litigation, general business matters and municipal bond work.

In 1980, Mr. Figa became a partner at Burns & Figa, P.C. The firm maintained a boutique litigation practice emphasizing complex commercial litigation, especially antitrust, contract, real estate and other business-related disputes. Mr. Figa's practice also included representing lawyers and law firms in a variety of malpractice, ethics, attorney fee and disciplinary contexts. Since 1991, Mr. Figa has broadened his practice areas to include environmental litigation, trademark, oil and gas, health care and employment litigation. Mr. Figa has also served as an expert witness in the areas of legal ethics, standard of care of lawyers, conflicts of interest, malpractice and attorneys fees.

Mr. Figa enjoys the strong support of his home state senators, and I am pleased to join them in support of his nomination.

The PRESIDING OFFICER. All time has expired.

The question is, will the Senate advise and consent to the nomination of Phillip S. Figa, of Colorado, to be United States District Judge for the District of Colorado?

The nomination was confirmed.

Mr. STEVENS. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are laid on the table, and the President shall be immediately notified of the Senate's action.

Mr. LEAHY. Mr. President, tonight we voted unanimously to confirm four district court nominees: William Hayes and John Houston to be U.S. District Judges for the Southern District of California, Robert Clive Jones to be a U.S. District Judge for the District of Nevada, and Phillip Figa to be a U.S. District Judge for the District of Colorado.

I commend the Republican leadership for finally bringing the nominations of William Hayes and John Houston of California to the floor. These two nominees will be filling vacancies on the busiest district court in the nation. The two seats which these men will fill have been created to address the growing crisis to the border court in San Diego—the federal court with the highest caseload per judge in the nation. It is too bad that the Republican leadership chose to move nominees from Oklahoma and Texas ahead of these California nominees who are desperately needed by the people of the Southern District of California due to the high caseload of that court.

I would also note that the way in which these nominees have come forth should be used as a model for the White House to emulate in other States and circuits. Senator DIANE FEINSTEIN and Senator BARBARA BOXER worked hard to establish a bipartisan commission in California which has recommended these individuals for the Southern District of California. I am happy to be able to join the two California Senators in confirming these two new judges.

At the conclusion of the confirmation votes tonight, a total of 64 judicial nominees of President Bush will be confirmed this year. Adding that to the 100 confirmations during 17 months of the Democratic majority in the Senate, 164 of President Bush's judicial nominees have been confirmed thus far. This number of confirmations, 164, is significantly higher than Republicans allowed by the third year of President Clinton's second term, the most recent presidential term, when they allowed 135 judicial nominees of that president to be appointed from 1997 through the end of 1999.

It also should be noted that when I became chair of the Judiciary Committee on July 10, 2001, the Democrats inherited 110 vacant seats in the Federal judiciary. In the 17 months of Democratic control, we significantly reduced the vacancy rate by confirming 100 of President Bush's judicial nominees. Today, there are only 41 vacancies on the Federal courts. This is the lowest level reached in 13 years. Had we not created 15 new seats this year, that number would be even lower—down to 26.

In just the past week, Senate Democrats have worked with the Republicans to confirm 10 district court judges and 1 circuit court judge. There are a lot of accusations of delay being thrown around but the truth is in these plain numbers. With more full-time Federal judges on the bench today than any other time in U.S. history, the confirmation process is moving forward and judges are being confirmed expeditiously with support from Democrats on the Judiciary Committee and in the full Senate.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

Mr. DASCHLE. Mr. President, we have been discussing the schedule. Everyone now has agreed Senator DODD will offer an amendment. It is our understanding he will require about 20 minutes to make his presentation. The manager of the bill wants 5 minutes to respond. It is our expectation a vote will occur on the Dodd amendment in about 25 minutes. My preference is to ask unanimous consent to lock it in so this does not get extended to 15 or 20 minutes more.

I propound that request, that a vote occur on or in relation to the Dodd amendment at 7:40.

Mr. WYDEN. My understanding is we will have the Dodd amendment, a vote on that, and right after that vote we have a vote on the Collins-Wyden amendment, which we hope will go on voice.

Mr. STEVENS. Yes.

Mr. DASCHLE. I renew my request.

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

CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 71, the adjournment resolution.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 71) providing for a conditional adjournment or recess of the Senate.

There being no objection, the Senate proceeded to the consideration of the concurrent resolution.

Mr. FRIST. I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

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

The concurrent resolution (S. Con. Res. 71) was agreed to, as follows:

S. CON. RES. 71

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Friday, October 3, 2003, on a motion

offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until Tuesday, October 14, 2003, at a time to be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate after consultation with the Minority Leader of the Senate, shall notify the Members of the Senate to reassemble whenever, in his opinion, the public interest shall warrant it.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR IRAQ AND AFGHANISTAN SECURITY AND RECONSTRUCTION ACT, 2004—Continued

AMENDMENTS NOS. 1818 AND 1819, EN BLOC

Mr. BYRD. I ask unanimous consent that two amendments which I have discussed with Mr. STEVENS be introduced, that they be considered as having been read, and that they be temporarily set aside for the calling up of other amendments.

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

Mr. BYRD. I ask unanimous consent that amendment No. 1818 be introduced by me for myself, Mr. KENNEDY, and Mr. LEAHY and that amendment No. 1819 be shown as having been proposed by me on behalf of myself and Mr. DURBIN.

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

The amendments are as follows:

AMENDMENT NO. 1818

On page 38, between lines 20 and 21, insert the following:

SEC. 2313. (a)(1) Of the funds appropriated under chapter 2 of this title under the heading ''IRAQ RELIEF AND RECONSTRUCTION FUND''—

(A) not more than $5,000,000,000 may be obligated or expended before April 1, 2004; and

(B) the excess of the total amount so appropriated over $5,000,000,000 may not be obligated or expended after April 1, 2004, unless—

(i) the President submits to Congress in writing the certifications described in subsection (b); and

(ii) Congress enacts an appropriations law (other than this Act) that authorizes the obligation and expenditure of such funds.

(2) Paragraph (1) does not apply to the $5,136,000,000 provided under the heading ''IRAQ RELIEF AND RECONSTRUCTION FUND'' for security, including public safety requirements, national security, and justice (which includes funds for Iraqi border enforcement, enhanced security communications, and the establishment of Iraqi national security forces and the Iraq Defense Corps).

(b) The certifications referred to in subsection (a)(1)(A) are as follows:

(1) A certification that the United Nations Security Council has adopted a resolution (after the adoption of United Nations Security Council Resolution 1483 of May 22, 2003, and after the adoption of United Nations Security Council Resolution 1500 of August 14, 2003) that authorizes a multinational force under United States leadership for post-Saddam Hussein Iraq, provides for a central role for the United Nations in the political and economic development and reconstruction of Iraq, and will result in substantially increased contributions of military forces and amounts of money by other countries to assist in the restoration of security in Iraq and the reconstruction of Iraq.

(2) A certification that the United States reconstruction activities in Iraq are being successfully implemented in accordance with a detailed plan (which includes fixed timetables and costs), and with a significant commitment of financial assistance from other countries, for—

(A) the establishment of economic and political stability in Iraq, including prompt restoration of basic services, such as water and electricity services;

(B) the adoption of a democratic constitution in Iraq;

(C) the holding of local and national elections in Iraq;

(D) the establishment of a democratically elected government in Iraq that has broad public support; and

(E) the establishment of Iraqi security and armed forces that are fully trained and appropriately equipped and are able to defend Iraq and carry out other security duties without the involvement of the United States Armed Forces.

(c) Not later than March 1, 2004, the President shall submit to Congress a report on United States and foreign country involvement in Iraq that includes the following information:

(1) The number of military personnel from other countries that, as of such date, are supporting Operation Iraqi Freedom, together with an estimate of the number of such personnel to be in place in Iraq for that purpose on May 1, 2004.

(2) The total amounts of financial donations pledged and paid by other countries for the reconstruction of Iraq.

(3) A description of the economic, political, and military situation in Iraq, including the number, type, and location of attacks on Coalition, United Nations and Iraqi military, public safety, and civilian personnel in the 60 days preceding the date of the report.

(4) A description of the measures taken to protect United States military personnel serving in Iraq.

(5) A detailed plan, containing fixed timetables and costs, for establishing civil, economic, and political security in Iraq, including restoration of basic services, such as water and electricity services.

(6) An estimate of the total number of United States and foreign military personnel that are necessary in the short term and the long term to bring to Iraq stability and security for its reconstruction, including the prevention of sabotage that impedes the reconstruction efforts.

(7) An estimate of the duration of the United States military presence in Iraq and the levels of United States military personnel strength that will be necessary for that presence for each of the future 6-month periods, together with a rotation plan for combat divisions, combat support units. and combat service support units.

(8) An estimate of the total cost to the United States of the military presence in Iraq that includes—

(A) the estimated incremental costs of the United States active duty forces deployed in Iraq and neighboring countries;

(B) the estimated costs of United States reserve component forces mobilized for service in Iraq and in neighboring countries;

(C) the estimated costs of replacing United States military equipment being used in Iraq; and

(D) the estimated costs of support to be provided by the United States to foreign troops in Iraq.

(9) An estimate of the total financial cost of the reconstruction of Iraq, together with—

(A) an estimate of the percentage of such cost that would be paid by the United States and a detailed accounting specified for major categories of cost; and

(B) the amounts of contributions pledged and paid by other countries, specified in major categories.

(10) A strategy for securing significant additional international financial support for the reconstruction of Iraq, including a discussion of the progress made in implementing the strategy.

(11) A schedule, including fixed timetables and costs, for the establishment of Iraqi security and armed forces that are fully trained and appropriately equipped and are able to defend Iraq and carry out other security duties without the involvement of the United States Armed Forces.

(12) An estimated schedule for the withdrawal of United States and foreign armed forces from Iraq.

(13) An estimated schedule for—

(A) the adoption of a democratic constitution in Iraq;

(B) the holding of democratic local and national elections in Iraq;

(C) the establishment of a democratically elected government in Iraq that has broad public support; and

(D) the timely withdrawal of United States and foreign armed forces from Iraq.

(d) Every 90 days after the submission of the report under subsection (c), the President shall submit to Congress an update of that report. The requirement for updates under the preceding sentence shall terminate upon the withdrawal of the United States Armed Forces (other than diplomatic security detachment personnel) from Iraq.

(e) The report under subsection (c) and the updates under subsection (d) shall be submitted in unclassified form.

AMENDMENT NO. 1819

At the appropriate place in Title III, insert the following:

SECTION .

(a) None of the funds under the heading Iraq Relief and Reconstruction Fund may be used for: a Facilities Protection Service Professional Standards and Training Program; any amount in excess of $50,000,000 for completion of irrigation and drainage systems; construction of water supply dams; any amount in excess of $25,000,000 for the construction of regulators for the Hawizeh Marsh; any amount in excess of $50,000,000 for a witness protection program; Postal Information Technology Architecture and Systems, including establishment of ZIP codes; civil aviation infrastructure cosmetics, such as parking lots, escalators and glass; museum and memorials; wireless fidelity networks for the Iraqi Telephone Postal Company; any amount in excess of $50,000,000 for construction of housing units; any amount in excess of $100,000,000 for an American-Iraqi Enterprise Fund; any amount in excess of $75,000,000 for expanding a network of employment centers, for on-the-job training, for computer literacy training, English as a Second Language or for Vocational Training Institutes or catch-up business training; any amount in excess of $782,500,000 for the purchase of petroleum product imports.

(b) Notwithstanding any other provision of this Act, amounts made available under the heading Iraq Relief and Reconstruction Fund shall be reduced by $600,000,000.

(c) In addition to the amounts otherwise made available in this Act, $600,000,000 shall be made available for Operation and Maintenance, Army: *Provided*, That these funds are available only for the purpose of securing and destroying conventional munitions in Iraq, such as bombs, bomb materials, small arms, rocket propelled grenades, and shoulder-launched missiles.

Mr. STEVENS. I ask unanimous consent that those amendments be set aside for consideration of the Dodd amendment.

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

The Senator from Connecticut.

AMENDMENT NO. 1817

Mr. DODD. Mr. President, I send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 1817.

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

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

The amendment is as follows:

(Purpose: To provide an additional $322,000,000 for safety equipment for United States forces in Iraq and to reduce the amount provided for reconstruction in Iraq by $322,000,000)

On page 2, line 20, strike ''$24,946,464,000:'' and insert ''$25,268,464,000, of which $322,000,000 shall be available to provide safety equipment through the Rapid Fielding Initiative and the Iraqi Battlefield Clearance program:''.

On page 25, line 10, strike ''$5,136,000,000'' and insert ''$4,884,000,000''.

On page 25, line 16, strike ''$353,000,000'' and insert ''$283,000,000''.

Mr. DODD. I apologize to my colleagues. I know it is a late hour. This is an important amendment, and I hope my colleagues can support it.

I rise to propose this amendment to the emergency supplemental spending bill to ensure that Congress and the administration keep sight of what I believe must remain our number one priority for the conduct of the operations in Iraq and Afghanistan, the protection of our American troops.

According to the U.S. Army, the President's supplemental bill falls short of over $200 million for critical gear for our soldiers slated to rotate in Iraq and Afghanistan in the months ahead. This amendment was designed specifically to see to it that those U.S. troops coming into Iraq, into a theater of war, would receive important equipment they need to perform their missions effectively. This equipment includes important high-tech body armor, bullet-proof helmets, special water packs to keep soldiers hydrated, and other survival gear.

I don't need to make the case about what is happening in Iraq on a daily basis, nor do I need to stress the importance of this kind of equipment. My colleagues are well aware of this situation.

As it stands now, the supplemental bill before the Senate only covers expenses for soldiers' personal equipment up to the first 3 months of 2004 and does not take into account very soon a considerable number of men and women who will be entering the theater to relieve soldiers who are there now.

In an $87 billion emergency spending package for 2004, one would think we could find enough money to meet the pressing equipment needs of our young men and women in uniform. That is why I was surprised to find an official list from the U.S. Army Comptroller's Office dated September 26 detailing several important items that remain unfunded in this supplemental. Above all else, it is a requirement that thousands of our soldiers, particularly those in the Reserves and the National Guard, be equipped with the most effective personal equipment available. Our troops need this gear to improve their performance in combat and to enhance their safety under intense conditions.

As my colleagues know, every day our men and women in uniform have been ordered into harm's way, sent into extreme heat—exceeding 120 degrees in some cases—with strenuous missions in different settings throughout Iraq and Afghanistan.

My chart shows what a foot soldier wears on his shoulders in Iraq: 60 pounds of body armor, tactical equipment, in hot desert heat, carrying high-tech night vision equipment, special framed backpacks, and other survival gear. In 120 degrees, carrying all this equipment becomes quite burdensome, so they have special hydration systems necessary for troops to safely survive the desert heat. These water pack systems, called camelbaks, are attached to the soldier's backpack to allow easy access to water when they are in motion.

Unfortunately, with the shortage of funds, the Army could not afford to equip all soldiers with this equipment, so many soldiers are using bulky canteens that quickly heat up in the desert sun. Most of the canteens do not have adequate capacity to carry the water they need in Iraq's intense heat.

This information comes from the U.S. Army. I am not making this up from news reports. This is what our military is telling us and where a shortfall exists in this supplemental.

In other cases, the soldiers are paying hundreds of dollars out of their own pockets to buy the equipment themselves, everything ranging from the camelbaks to gun scopes, because in spite of the Army's stated priorities, the administration did not procure enough personnel equipment for these men and women. I think we can do better than that.

The 2003 Defense Appropriations Act included language demanding answers to why the very men and women we send into combat are being forced to spend upwards of $300 per person. Our own Congress made this point: They are spending up to $300 per person on equipment to outfit themselves for combat in Iraq. The Army has yet to report on this issue and has established a rapid fielding initiative designed to outfit our soldiers with the most modern equipment available so they do not have to spend their own money on the latest body armor hydration systems.

Out of $324.5 million needed to fund this program in Iraq and Afghanistan, only $122.5 million was to be available in this supplemental budget bill. That means if our soldiers, many of whom are less than 21 years of age, making under $20,000 a year, want the right gear for their mission, they are going to have to dig into their own pockets to buy their own hydration equipment, radios, weapon sights, combat helmets, and individual body armor.

Let me cite an article that appeared in yesterday's Washington Post called ''The Children Of War,'' section C, page 16. There was an interview with the children whose parents are fighting in the Persian Gulf. One young person points out that her father has been buying other supplies already—a portable hammock, special water pouches, et cetera.

That is from a child talking about her parent having to buy his own equipment. I don't know of anyone who believes that ought to persist.

Now, in response to the Army's request, the committee added $300 million to the present supplemental request which could be used for either this additional equipment or the clearance of weapons and mines still lingering on Iraqi battlefields. It says it right here, in the CONGRESSIONAL RECORD, dated October 1, 2003, when the Supplemental Appropriations bill's accompanying report was printed. On page S12222, there is a chart detailing expenditures in the Army Operations and Maintenance account. $300 million is to be allocated for ''SAPI body armor/Rapid Fielding Initiative or battlefield cleanup.''

But the Army says it needs an additional $420 million just to handle the Iraqi battlefield clearance. As the pending legislation stands now, there is still not enough money in the bill to do both, and both items—more safety equipment and Iraqi battlefield clearance—are top Army priorities.

I think we need to address both of these issues. For those reasons, I have asked my colleagues to support this amendment to allocate an additional $322 million for the critical equipment of our troops and adequate resources for battlefield clearance to fully meet the Army's current requirements.

The funding in my amendment is fully offset by reductions in some of these reconstruction accounts called emergencies. I want to draw my colleagues' attention to them.

Looking at this next chart. I have reprinted items submitted to us by the Administration in their request, entitled ''Coalition Provisional Authority Request to Rehabilitate and Reconstruct Iraq,'' dated September 2003. It lists in this supposed emergency budget proposal, among other things, $15

million to procure 3,000 computers. That means we are providing computers at $5,000 a piece. This does not seem reasonable, when you could find a perfectly reasonable computer for $750. I have a lot of respect for what the Iraqis are going through, but I do not know, for the life of me, why you are going to spend around $3,000 to $5,000 per computer, and $40 million to train them under this so-called emergency budget.

You can go down even further on this list, and there are additional points to make. I will not go through all these items because of the time constraints. But my bill takes the money from two or three areas to come up with this $250 million to make up the difference between the $300 million in the bill and this additional amount to cover both battlefield clearance and the equipment they need.

Out of the money the administration has proposed to fund the construction of two 4,000-bed maximum security prisons, at a cost of $400 million—$50,000 per bed in an Iraqi prison—these moneys would be in addition to the $99 million also included in that account for the refurbishing and construction of 26 prisons and detention centers that existed under the regime of Saddam Hussein.

Even without spending one penny of the $400 million—by the way, we recommend taking $200 million of this, not all the $400 million. Even without spending one penny of the $400 million for the maximum security prisons, the prison capacity in Iraq will be nearly doubled from the 11,200 to 19,700, thanks to our efforts.

The question I would ask—anyone ought to ask—is, Do we really believe, in a democratic Iraq, there will be a need to imprison three times more Iraqi citizens than were kept behind bars under Saddam Hussein?

We would be transferring $200 million out of this account, cutting it in half—not eliminating all of it. We would also like to take $50 million out of the $100 million fund for the Iraqi witness protection program. That is right, there is $100 million listed in the Administration's budget justification materials for the emergency supplemental for witness protection. By the way, that is $100 million for 100 families.

Now, the average Iraqi makes $2,200 a year. I don't know what anyone is thinking here. And I do not understand how we can provide $1 million per family, when we are at the same time not meeting the requirements that our men and women in uniform are lacking.

The offsets for my amendment therefore include $50 million from the witness protection program as well as $70 million from the proposals for computers, computer training and even English classes proposed in this so-called emergency budget.

There are a lot of emergencies that need to be met, but you are going to be hard pressed to convince the American public that doubling the capacity of prisons is an emergency, or providing witness protection at $1 million per family, or buying computers at $3,000 each—when we are being told we cannot provide the necessary resources for our men and women in uniform.

In sum, I want to make the point that the Administration's supplemental budget request has simply not been scrubbed sufficiently. I do not believe any of my colleagues, if they were sitting down going over this in detail, would make a case that in $20 billion of construction money for Iraq, that a $100 million witness protection program, $400 million to double or triple the prison cells at $50,000 a bed in their prisons, and that $3,000 for computers—and $40 million, by the way, is to provide computer training—I would like to see someone get a $40 million appropriation to provide computer training for anyone else in this country, let alone to do it over in Iraq.

So these are the areas that we would take money from to provide for the $322 million to provide for the men and women in uniform who need these resources.

I mentioned earlier the kind of equipment. I will come back and just identify this for my colleagues. Again, this is not my assessment. This is the U.S. Army saying what they need. They need adequate provisions for clean water, additional high-tech backpacks, advanced combat helmets and body armor, additional radios, machine gun sights and tripods, M–16 ammunition, high-tech GPS compass equipment, additional desert boots, sun and wind dust goggles and gloves, grappling hooks, door ramming kits, sniper rifles, binoculars, and special night vision goggles.

That is their list. Yet they are being told: Either spend money to clear Iraqi battlefields of mines and other dangerous materials or receive effective safety gear. This seems unacceptable. The Army needs money for both of these line items.

And I think we ought to do both. I am saying do both. Do not add to the deficit, just take the $20 billion that we have for the reconstruction and go after some of these items that I do not think anyone—regardless of where you come out politically.

Let us take care of our men and women in uniform going over to Iraq. I do not think any of us want to read a story where one of our young troops has to go out and buy their own equipment to protect themselves. This is the 21st century. And in this day and age, the sole superpower in the world should not have to tell its military personnel to fend for themselves.

So for those reasons, I urge the adoption of the amendment. I apologize to my colleagues for taking time tonight, but I thought they ought to understand what was at stake and why I thought this amendment was particularly important.

For those reasons, I urge the adoption of the amendment, and I withhold the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, I am indeed sorry that the Senator did not discuss it with us further before he offered this amendment. There is $26 billion in the 2004 bill the President signed the night before last for the Army. They could reprogram any money they need from the $26 billion.

We asked them in and we identified the needs in the Army. We took $952 million from other services and moved it to the Army. And we covered specific items that they identified in terms of their priorities.

What Senator DODD's amendment does, though, is it adds money to accounts we have already plused up, and it takes it from money to bring the troops home. He has attacked the exact wrong part of the bill.

I wish I had more than 5 minutes, but I do not want to inconvenience my colleagues and keep them here too long tonight. People are missing planes because of this vote. And it is a vote that is duplicitous. It really is designed to reduce the $20.3 billion in the other part of the account.

We did get money for these people. We got money for every item that is on that list, and in the regular bill they have $26 billion. In addition to that, we added $952 million.

Now, I have been overseas. I said the other day, I remember going overseas, and on the way I bought boots. I did not like my boots. I bought shirts. I did not like my shirts. I bought gloves I would rather wear. Kids are kids, and they are going to buy what they want. This idea that they have to buy armor, armor is available on the basis of how rapidly it is produced. And we have put up money in here, more than enough to buy everything to be produced in this time that he mentioned between now and—what?—about 5 months away.

That is special money on top of the $26 billion that they could use if they want. It is in the O&M account. These are O&M items they are talking about.

Now, I do not believe we should do this at this late hour, try to take money out of one account and justify it by virtue of this litany of items that we reviewed. We did review it.

They brought us this list. The Senator has gone over this list of items that the Army would like to have in addition to what the Department of Defense gave them. We went over it and we agreed. We said: $952 million of this you should have had in the go-around in the Department of Defense. And we took it from the Air Force and from the Navy and from the Marines and put it here.

What we do miss is we do have $300 million for body armor in the rapid fielding initiative, and explosive and ordnance cleanup, $174 million for damaged equipment. We have $136 million for radios.

Now, the Senator mentions this $1 million for families. That is money that may be claimed—may be claimed. We paid $30 million for the people who came in and identified the two sons of Saddam Hussein. It may not be spent at all. It will only be spent if these people come in and disclose people we want to pick up that are worth the cost. What is the cost? Moving them out of the country forever. That is taking people and buying them a new life somewhere else because they have exposed themselves to death because they disclosed the location of some of these people.

I am appalled the Army would ask for this addition. We made an agreement with them. We took money from the other three services. And someone in the Army is going to answer to me. If it is really true someone in the Army went to the Senator from Connecticut and demanded more money than we gave them, after we gave them $26 billion in the regular bill, gave them another $952 million, almost a billion we took from other services, to come in and make this demand at this time, it is absolutely nonsense.

Anyone who comes back, I hope they understand they have been brought back to answer a political amendment. I am going to move to table it when the time comes. The Senator from Connecticut is my friend, but I have to tell you, to bring back people who have already gone home, some of them who missed planes in order to vote on this amendment at this time, is an absolute absurdity.

How much time do I have remaining?

The PRESIDING OFFICER. Thirty seconds.

Mr. STEVENS. I will reserve it.

Mr. DODD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Connecticut has 7 minutes.

Mr. DODD. Mr. President, the Army did not come to me. This is an official briefing provided by the United States Army Comptroller to both the Armed Services and Appropriations Committees. I am just reading what they said. They didn't make an attempt to get in touch with me. Their briefing materials speak for them. They say that there is a requirement for $420 million to fund the ordnance disposal on the battlefields still out there, and, in addition, there is a shortfall in Army equipment. That is it plain and simple.

What the committee has said is: You can only do one or the other, but you will not have enough money to do both.

I am suggesting you ought to be able to do both. To provide the $300 million, that is great, that helps. But the $300 million doesn't cover the $420 million for the battlefield clearance and for the shortfalls that occurred in this equipment. This is not about allowing service members to go out and buy shirts and gloves simply that they like. This is about equipping our soldiers with the most effective gear available to protect them from hostile fire as well as from the intense desert climate. I am not arbitrarily making up figures. The suggestion here is we come up with an additional $322 million to cover both circumstances—that is, the battlefield clearance as well as the equipment—and pay for it, by the way, not by readjusting moneys within the defense needs but in the reconstruction side of this supplemental request, that you can do away or at least delay, if you want, the idea of buying computers at $3,000 a copy, a witness protection program at $50 million for 50 families, and whether or not you can cut down prison construction from $400 million to $200 million. With my amendment, there is still plenty of funding to implement the reconstruction plans of the Coalition Provisional Authority.

I don't know why this is so controversial. Why don't we just accept this amendment? If I did it by not going into these reconstruction accounts, they might take it. But because I am talking about a witness protection program and ridiculously high-priced computers and going after excessive prison construction, which I think is hardly an emergency, all of a sudden this is a bad amendment and I am a dreadful guy for making folks come back and miss a plane.

I don't want a soldier out there getting hurt because they don't have the right equipment. I didn't make this up. The Army didn't come to me specifically. They made this case on September 26, the source was a briefing provided to Congress' defense committees by the Assistant Secretary of the Army for Financial Management and Comptroller, entitled, ''FY04 Supplemental Request for the Global War on Terrorism: The Army At War.'' That is where it comes from. I appreciate what the committee did with $300 million. But the committee report says you have to make a choice: Clearing up the battlefield or provide funding for soldiers' equipment. And I don't think the Army ought to be put in that position. I don't think you ought to ask them to have to make that choice. That is the reason for the amendment.

Again, I am sorry people have to come back and vote. That is not my intention. But I, in good conscience, believe this is a responsible amendment. I would have thought it might be accepted instead of making a lot more out of this than has to be the case. We all agree they ought to get the equipment. Why not just agree to the amendment? If you want to table the amendment, put people on record saying they would rather spend money on a witness protection program at $1 million a family in Iraq when the average family makes $2,200 a year, you explain that to the American taxpayer, why an Iraqi family would get $1 million in witness protection. That is ridiculous.

Spending $3,000 for a computer and $400 million to create new prison operations over there is not an emergency need. You make the choice whether or not you think that is more important than seeing these young people get what they need. I stand by the amendment. It is the right thing to do.

I yield back the remainder of my time, and I ask for the yeas and nays.

Mr. STEVENS. The yeas and nays are not ordered until I speak.

The PRESIDING OFFICER. The yeas and nays are in order at this time.

Mr. DODD. I ask for the yeas and nays.

Mr. STEVENS. I have not yielded back my time.

The PRESIDING OFFICER. It is not a motion to table. The yeas and nays can be requested at any time.

Mr. DODD. I ask for the yeas and nays.

The PRESIDING OFFICER. At the moment there is not a sufficient second.

The Senator from Alaska.

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

Mr. STEVENS. Mr. President, that is good for me. If you want to have a quorum, go right ahead. Go right ahead.

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. DODD. I renew my request. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. STEVENS. Mr. President, I want to point out the Army has all of this money in this supplemental without any directions in the bill. The line items the Senator mentions are specified in our report. They have entire discretion to use any money in this bill for the moneys he has asked for. But he wants to take it from the other money. This is a duplicitous amendment to take money from the second part of the bill and put it in the first.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

Mr. STEVENS. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. A motion to table has been made.

Mr. STEVENS. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on the motion to table amendment No. 1817.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from New Mexico (Mr. DOMENICI), the Senator from Mississippi (Mr. LOTT), the Senator from Pennsylvania (Mr. SANTORUM), and the Senator from Alabama (Mr. SHELBY) are necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. CARPER), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr.

GRAHAM), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Arkansas (Mr. PRYOR), are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''nay.''

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 37, as follows:

[Rollcall Vote No. 376 Leg.]

YEAS—49

Alexander	Dole	Miller
Allard	Ensign	Murkowski
Allen	Enzi	Nelson (NE)
Bennett	Fitzgerald	Nickles
Bond	Frist	Roberts
Brownback	Graham (SC)	Sessions
Bunning	Grassley	Smith
Burns	Gregg	Snowe
Chafee	Hagel	Specter
Chambliss	Hatch	Stevens
Cochran	Hutchison	Sununu
Coleman	Inhofe	Talent
Collins	Jeffords	Thomas
Cornyn	Kyl	Voinovich
Craig	Lugar	Warner
Crapo	McCain	
DeWine	McConnell	

NAYS—37

Akaka	Dayton	Lincoln
Baucus	Dodd	Mikulski
Bayh	Dorgan	Murray
Biden	Durbin	Nelson (FL)
Bingaman	Feingold	Reed
Boxer	Feinstein	Reid
Breaux	Harkin	Rockefeller
Byrd	Kennedy	Sarbanes
Cantwell	Kohl	Schumer
Clinton	Landrieu	Stabenow
Conrad	Lautenberg	Wyden
Corzine	Leahy	
Daschle	Levin	

NOT VOTING—14

Campbell	Hollings	Lott
Carper	Inouye	Pryor
Domenici	Johnson	Santorum
Edwards	Kerry	Shelby
Graham (FL)	Lieberman	

The motion was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I am authorized by the majority leader to state that there will no more votes tonight. We have a series of amendments that we have agreed to accept by Senators COLLINS, REED, GRAHAM of South Carolina, VOINOVICH, and MURRAY. Some of these amendments are going to be proposed.

I have an amendment I will introduce. Those are the amendments only that will be considered now. There will be no votes on those.

I yield the floor.

Mr. REID. Mr. President, I ask unanimous consent that following the offering of the amendment by the two distinguished Senators from Maine and Oregon, Senator DASCHLE and Senator GRAHAM be recognized to offer their amendment.

Mr. STEVENS. We agreed to JACK REED next.

Mr. REED. I will go last.

Mr. STEVENS. We have no objection.

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

AMENDMENT NO. 1820

The ACTING PRESIDENT pro tempore. The Senator from Maine.

Ms. COLLINS. I send an amendment to the desk and ask for its immediate consideration on behalf of myself, Senator WYDEN, and others.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for herself, Mr. WYDEN, Mr. ENZI, Mr. LIEBERMAN, Mr. LAUTENBERG, Mrs. FEINSTEIN, Mr. AKAKA, Mrs. CLINTON, Mr. BYRD, Mr. MCCAIN, and Mr. LEVIN, proposes an amendment numbered 1820.

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

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

The amendment is as follows:

(Purpose: To limit the obligation and expenditure of funds for using procedures other than full and open competition for entering into certain contracts or other agreements for the benefit of Iraq)

On page 39, between lines 2 and 3, insert the following:

SEC. 3002. (a) None of the funds appropriated by this Act may be obligated or expended by the head of an executive agency for payments under any contract or other agreement described in subsection (b) that is not entered into with full and open competition unless, not later than 30 days after the date on which the contract or other agreement is entered into, such official—

(1) submits a report on the contract or other agreement to the Committees on Armed Services, on Governmental Affairs, and on Appropriations of the Senate, and the Committees on Armed Services, on Government Reform, and on Appropriations of the House of Representatives; and

(2) publishes such report in the Federal Register and the Commerce Business Daily.

(b) This section applies to any contract or other agreement in excess of $1,000,000 that is entered into with any public or private sector entity for any of the following purposes:

(1) To build or rebuild physical infrastructure of Iraq.

(2) To establish or reestablish a political or societal institution of Iraq.

(3) To provide products or services to the people of Iraq.

(4) To perform personnel support services in Iraq, including related construction and procurement of products, in support of members of the Armed Forces and United States civilian personnel.

(c) The report on a contract or other agreement of an executive agency under subsection (a) shall include the following information:

(1) The amount of the contract or other agreement.

(2) A brief discussion of the scope of the contract or other agreement.

(3) A discussion of how the executive agency identified, and solicited offers from, potential contractors to perform the contract, together with a list of the potential contractors that were issued solicitations for the offers.

(4) The justification and approval documents on which was based the determination to use procedures other than procedures that provide for full and open competition.

(d) The limitation on use of funds in subsection (a) shall not apply in the case of any contract or other agreement entered into by the head of an executive agency for which such official—

(1) either—

(A) withholds from publication and disclosure as described in such subsection any document or other collection of information that is classified for restricted access in accordance with an Executive order in the interest of national defense or foreign policy; or

(B) redacts any part so classified that is in a document or other collection of information not so classified before publication and disclosure of the document or other information as described in such subsection; and

(2) transmits an unredacted version of the document or other collection of information, respectively, to the chairman and ranking member of each of the Committees on Governmental Affairs and on Appropriations of the Senate, the Committees on Government Reform and on Appropriations of the House of Representatives, and the committees that the head of such executive agency determines has legislative jurisdiction for the operations of such executive agency to which the document or other collection of information relates.

(e)(1)(A) In the case of any contract or other agreement for which the Secretary of Defense determines that it is necessary to do so in the national security interests of the United States, the Secretary may waive the limitation in subsection (a), but only on a case-by-case basis.

(B) For each contract or other agreement for which the Secretary of Defense grants a waiver under this paragraph, the Secretary shall submit a notification of the contract or other agreement and the grant of the waiver, together with a discussion of the justification for the waiver, to the committees of Congress named in subsection (a)(1).

(2)(A) In the case of any contract or other agreement for which the Director of Central Intelligence determines that it is necessary to do so in the national security interests of the United States related to intelligence, the Director may waive the limitation in subsection (a), but only on a case-by-case basis.

(B) For each contract or other agreement for which the Director of Central Intelligence grants a waiver under this paragraph, the Director shall submit a notification of the contract or other agreement and of the grant of the waiver, together with a discussion of the justification for the waiver, to the Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Governmental Affairs of the Senate and to the Permanent Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Governmental Reform of the House of Representatives.

(f) Nothing in this section shall be construed as affecting obligations to disclose United States Government information under any other provision of law.

(g) In this section—

(1) the term ''full and open competition'' has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403);

(2) the term ''executive agency'' has the meaning given such term in section 105 of title 5, United States Code, and includes the Coalition Provisional Authority for Iraq; and

(3) the term ''Coalition Provisional Authority for Iraq'' means the entity charged by the President with directing reconstruction efforts in Iraq.

Ms. COLLINS. The amendment my colleague from Oregon and I are offering tonight requires the use of full and open competition for the award of contracts under this bill to support our military or related to the reconstruction of Iraq.

Competitive bidding ensures the taxpayer gets the very best value for his investment. It also enhances public confidence that contracts are awarded in a manner that is fair and transparent, a process that allows all qualified bidders to submit bids for the contract.

This principle of full and open competition is enshrined in the Competition and Contracting Act, which is current law.

Under that law, contracts must generally be bid under full or open competition unless one of seven exemptions is invoked.

Unfortunately, however, some of the contracts that have been awarded to date, both to support our military in Iraq and to begin reconstruction efforts, have not been awarded using full and open competition. The contracting process has been curtailed.

We want to make sure the general rule is competitive bidding, and, if there are cases where there are legitimate reasons for curtailing competition—say, for reasons of national security—then we believe there should be a process in place that requires a justification for curtailing competition and disclosure of that fact.

Generally, under our amendment, if competition is not used in the award of a contract, the agency involved would have to justify the reason for invoking an exception to competition and report that in the Commerce Business Daily, the Federal Register, and to the appropriate committees of Congress. We recognize there may be a few cases where it is so secret, it is so classified, that disclosure in the Commerce Business Daily and the Federal Register would not be appropriate. In those cases, we provide for an alternative form of notifying Congress.

Our amendment will bring accountability and sunshine to the competition and contracting process. I urge my colleagues to support our amendment.

It has been a great pleasure to work with my colleague, Senator WYDEN. We have made a number of efforts in this regard. I believe this amendment should enjoy widespread support.

I reserve the remainder of my time and I yield to the Senator from Oregon.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. WYDEN. Mr. President, I have enjoy working with my colleague from Maine over the last 5 or 6 months.

This amendment is especially important because it would mean for the first time the Congress is going to restrict the funds under this effort for reconstruction to only those contracts let in an open and competitive bid, except in very narrow circumstances.

In my view, much of the work to rebuild Iraq has been outsourced to private companies and it is now time, with this legislation, to end the outsourcing of accountability. What our constituents have said is: How much is this whole effort going to cost? How long is it going to take? And how is this money going to be spent?

As I have said, my view is that right now the contracting process looks a little like Dodge City before the marshall showed up. It seems very influential companies and others seem to write the rules that the United States is essentially in the dark. Then the news media comes out and highlights various concerns, most of which the Senate does not know much about, and there is a flurry of activity and people discuss whether or not the contract is going to be rebid.

What Senator COLLINS and I would like to do is establish some bipartisan order and go back, as the Senator from Maine has said, to the principles that the Competition and Contracting Act have been all about. Yes, $87 billion is a jaw-dropping sum of money. The Coalition Provisional Authority, the World Bank, and the U.N. have estimated—it was in the Wall Street Journal today—that it will take $56 billion over just the next 5 years for rebuilding in Iraq.

It seems to me it does not pass the smell test to allow this process where the Congress is in the dark, the American people are in the dark, and every Member of the Senate goes home and faces constituents who say, We want this process to work a little bit like our family finances do. Right now, a family makes purchases, they get a bank statement. For example, they spend X amount of dollars at Sears, they spend more at the grocery store, they pay for essentials, and get a bank statement showing what they spent. That is a process that is straightforward, that can be monitored. We look at the bank statement for Iraq; it is essentially devoid of specifics.

Senator COLLINS and I have tried to approach this on a bipartisan basis. People may think it is a quaint idea, but we believe in competition. We believe that transparency and disclosure works and it gets taxpayers the most for their money.

This amendment for the first time actually puts in place a funding restriction. In the past, Senator COLLINS and I have said we are willing to look at various approaches that involve reports after the fact. Now we are waiting for all of these investigations and inquiries to move at glacial speed.

What Senator COLLINS has said is—and I agree with her point completely—what we need now is some legislation with teeth in it. This funding restriction for the first time provides that.

We are very pleased to be able to come to the Senate, given the fact there have been a number of instances already where contracts were let without competitive bid or with only limited bidding. We have had a number of colleagues involved, colleagues from both parties.

I particularly commend Senator CLINTON, who has been my partner on the Democratic side. I also note that Senator ENZI has been very supportive of this effort. He joins this cause as well. Our thanks to Senator CLINTON, Senator ENZI, and many other Senators who have been involved in this effort.

Tonight, it seems to me, the Senate is saying: We will do it differently. We will draw a line in the sand. The Senate is no longer going to be in the dark with respect to this issue. I am very pleased we will be able to go home for this recess and say that at a time when the American people are looking for some concrete specifics with respect to the pricetag on this legislation and where the money exactly is going to go, we can say that because of this bipartisan amendment, for the first time the Senate is going to restrict these funds so as to promote open and competitive bidding and the kind of transparency that best makes free markets work.

I reserve the remainder of any time I have remaining. I also thank the chairman of the Senate Appropriations Committee who has had strong views on this issue and has worked closely with Senator COLLINS and me over almost 6 months. We appreciate the fact that now we have legislation with some real teeth in it to make sure the taxpayers get value for their money in the contracting process.

Mr. STEVENS. Mr. President, if I may speak for a moment.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. We will be happy to accept this amendment. It has been modified, as has been indicated. I want to state to the Senate, however, although the Senators are correct, this adds to existing law.

Existing law at the current time requires competitive bidding on contracts. The contracts that are outstanding now that have been entered into by the United States and its entities in Iraq have been let on the basis of competitive bids. There have been lots of questions raised about that, but some of the contracts were outstanding before the contractors were sent to Iraq, and they were general services contracts, and those were extended to Iraq. But we are now putting, as the two Senators mentioned, additional emphasis on that, and I am pleased to accept the amendment on behalf of the Senate.

The ACTING PRESIDENT pro tempore. Is there further debate?

Ms. COLLINS. Mr. President, I yield back my time if the Senator from Oregon will also yield back his time.

Mr. WYDEN. Mr. President, I do.

The ACTING PRESIDENT pro tempore. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1820) was agreed to.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. Mr. President, now Senator DASCHLE and Senator GRAHAM will present their amendment.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

AMENDMENT NO. 1816

(Purpose: To ensure that members of the Ready Reserve of the Armed Forces are treated equitably in the provision of health care benefits under TRICARE and otherwise under the Defense Health Program)

Mr. GRAHAM of South Carolina. Mr. President, I call up amendment No. 1816.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. GRAHAM], for Mr. DASCHLE, for himself and Mr. GRAHAM of South Carolina, Mr. LEAHY, Mr. STEVENS, Mr. BOND, Mr. BURNS, Mr. WARNER, Mrs. CLINTON, Mr. DEWINE, and Mr. CHAMBLISS proposes an amendment numbered 1816.

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

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, the Senator from South Carolina and I have been negotiating and working with the distinguished manager of the bill regarding an amendment we have been attempting to pass now over the course of this entire session of Congress.

Our view has been from the very beginning that members of the National Guard and Reserves need the opportunity to have access to TRICARE health insurance. And now, on three occasions, the Senate has been on record—with increasing numbers—in support of this concept, this idea that TRICARE ought to be offered to members of the Guard and Reserves.

We have been gratified with the strong bipartisan support that has been indicated with each one of the votes. Our concern, however, is it does not do us much good to continue to pass these measures on the Senate floor only to see the amendments dropped by the time they get to conference.

We want to pass something into law. We want something to be provided to as many of these members of the Guard and Reserves as we possibly can this year. So in trying to figure out what might work best, and in working with the distinguished Senator from Alaska, we have concluded perhaps the best way to do this is to ensure we go to those people who need it the most, that is, those members of the Guard and Reserves who have no health insurance today, and that when members of the Guard and Reserves are called up to active duty, they also are compensated for the TRICARE insurance that would be provided to them while they are on active duty.

Now, we will say from the very beginning this is not what we would like. We would like to do more, but we know that doing something is better than doing nothing if, in the end, that is what happens.

So I first thank the distinguished Senator from South Carolina for his tenacity and persistence. He has done an outstanding job in working on this issue and has provided great leadership. He has been a very helpful partner. I also say there are Senators on my side of the aisle, Senator LEAHY in particular, and Senator CLINTON, who have been especially helpful in this effort. So I appreciate very much the Senator from Alaska working with us. I am satisfied this is a reasonable compromise.

With that, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. GRAHAM of South Carolina. Mr. President, I will try to be brief.

We have a great team defending America right now. That team is made up of active-duty members who have made a decision to serve 4 years or maybe have a career in the military. But that team is supplemented by the Guard and Reserves. There are 224,000 Guard and Reserve members called up to active duty and, working together, they are doing a great job defending our freedom. It is time to look anew at the role the Guard and Reserves play.

I say to Senator DASCHLE, I want to publicly thank him for making this possible because he has been great to work with, and Senator DEWINE. I think we have been a pretty good team here on the floor. We disagree on a lot, and there will be a lot of fussing and fighting before this bill is over with, but that is the American way. It is OK to express our differences. It is great to be able to tell people you disagree. There are a lot of countries where there are not many ways to express your disagreements. But one of the things we have done tonight, and I think in the spirit of the country, is to come together to support our men and women who serve.

So why do we need this? One-fourth of the Guard and Reserves are on active duty now, with more to come. We need to acknowledge the obvious. They will be asked to do more, not less, over the coming months and years. Why? The cold war model of having tanks in the Fulda Gap and a large nuclear deterrent force standing up against the former Soviet Union, that war, thank goodness, is in the history books for the most part.

The new war, the war on terrorism, has a totally different dynamic. The Guard and Reserves, which were tangential, to be honest with you, in the cold war are in the forefront of this war on terrorism. Most of your military police are guards and reservists. Seventy-five percent of the aircrews flying C–130s—and I know our Presiding Officer knows this because we took nine trips in the theater of Afghanistan and Iraq. Eight of the crews are Guard crews, one is a Reserve crew. Seventy-five percent of the people flying C–130s are Guard and Reserves. Fifty-five percent of the people flying airlift to get the supplies and resources into the region to protect our troops and help them survive are reservists. Almost 90 percent of the intelligence service for the Army is in the Reserves, 90 percent is civil affairs Reserves. It is growing by leaps and bounds.

What we are trying to do tonight is provide a better benefit package than they have had before because we are going to ask so much of the Guard and Reserves.

Senator STEVENS made this possible. We have passed two bills by 80-plus votes, but there is no money behind it. For all those who follow the Senate, they know who is in charge of the money. Senator STEVENS made this possible because we are putting money behind the bill.

What does that mean? It is no longer talk. Twenty percent—2 out of 10 people—who are Guard and Reserves are without health care. This bill immediately will allow them to have health care year round. They will pay a premium like a retiree would pay, but they will have health care by being a member of the Guard or Reserves.

We need to do more, and we will. The problem of a Guard or Reserve family goes like this: If you are called up to active duty for a year, you go into the military health care system called TRICARE. If you have health care in the private sector, most times—almost all the time—your physician network is replaced. You go from the private health care sector to the military health care sector. And when you get deactivated, you change, and there is no continuity of health care. Thirty percent of the people called to active duty were unable to be deployed because of health care problems.

We are not done yet. There is more to do. It is my goal, my hope, my dream, for the Guard and Reserve forces that if you will join, and you will participate, and you will help defend America as a guard or reservist, we will offer you full-time health care. You pay a premium, but you and your family will be taken care of in the health care area. I think it is the least we could do. I think it is what we should do. And tonight is a huge step forward.

I thank all of the Senators who made it possible. The fussing, the fighting yet to come on this bill is part of America. But let it be said at about 8:50 at night, Republicans and Democrats came together to help Guard and Reserve members. When you are in a war, they do not ask you if you are a Republican or a Democrat. They are asking you to do your job. So I am honored to be part of this effort.

I ask unanimous consent that Senator HAGEL and Senator ALLEN be added as cosponsors.

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

Mr. GRAHAM of South Carolina. I thank the Chair.

With that, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I do not know—I haven't seen the list of cosponsors—but if they are not listed, I ask unanimous consent that Senators LEAHY, REID, and CLINTON be added as cosponsors.

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

The Senator from Alaska.

Mr. STEVENS. Mr. President, we have worked on this amendment. There is a vast problem out there among Guard and Reserve people. We have a total force now in our military. We passed the concept that the Guard and Reserves are replacements for the regular services when they are sent overseas. The Guard and Reserves are sent overseas almost as much as the regular members of our military. They have volunteered to defend us, as the Senators have said. Their families need the same protection that we offer to those who volunteer in the regular services.

We have modified this amendment because we really basically want to see what happens when this change takes place. The cost of this amendment that we have put forward is approximately $400 million this year and by the following year it will be $500 million. We don't know how much it will really cost because we don't know how many will come forward and take this, as compared to what they are doing now as far as their medical is concerned. It is a contributory system for TRICARE, another experiment that we hope we will be able to get some track record on.

As I have become more familiar with the National Guard, it is very strong, and the Reserves, also. We want to assure that people will continue to maintain an interest in joining the Guard and Reserves. Most people don't understand that the transition from Guard and Reserves to regular services has reversed history. In days gone by, people came out of the military and entered the Guard and Reserves. Today many people enter the Guard and Reserves and then decide they are going to try to become career military. This will be an added inducement to get more people to enlist in the Guard and Reserves. It might have a reverse effect and we are not sure of that yet. This will give us a track record.

I am pleased to say that we have conferred with members of the Armed Services Committee on this amendment, and they have agreed we should go forward with it.

I am pleased to accept the amendment on behalf of the Senate.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment?

The Senator from South Carolina.

Mr. GRAHAM of South Carolina. I want to add one thing. There was an article in USA Today yesterday: "Army Reserve Fears Troop Exodus." The Army National Guard is 15,000 below its recruiting goal. "Soldiers are 'stressed' on yearlong deployments." I really honestly believe that this benefit made available will help retention and recruitment because the problems with these deployments are coming down the road. The further we can get ahead of this by beefing up the benefit package, the better America will be.

I ask unanimous consent to print the article to which I referred in the RECORD.

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

ARMY RESERVE FEARS TROOP EXODUS

(By Dave Moniz)

If the United States is unable to recruit significantly more international troops or quell the violence in Iraq in the next few months, it could trigger an exodus of active and reserve forces, the head of the U.S. Army Reserve said Monday.

Lt. Gen. James Helmly, chief of the 205,000-member Army Reserve, said he and other Pentagon leaders will be monitoring retention rates closely next year, when problems could begin to become apparent for full-time and part-time soldiers coming off long tours of duty in Iraq.

"Retention is what I am most worried about. It is my No. 1 concern," Helmly told USA TODAY's editorial board. "This is the first extended-duration war the country has fought with an all-volunteer force."

Helmly described the war on terrorism as an unprecedented test of the 30-year-old all-volunteer military. Historically, he said, the National Guard and Reserve were designed to mobilize for big wars and then bring soldiers home quickly.

Today, he said, they have "entered a brave new world" where large numbers of troops will have to be deployed for long periods.

Counting training time and yearlong tours in Iraq, some Army Reserve soldiers could be mobilized for 15 months or more. Helmly described the situation facing soldiers in Iraq as "stressed" but said he could not characterize it as at a "breaking point."

The stresses facing the nation's reservists were demonstrated again this week when the National Guard announced it had alerted a combat brigade from Washington state that it could be sent to Iraq next year if a third block of international troops cannot be recruited to join the British and Polish-led divisions now in Iraq.

Guard officials said Monday that the 5,000-member 81st Army National Guard brigade from Washington state has been notified that it could be called to active duty.

Helmly said a huge factor in Iraq will be the Pentagon's ability to train an Iraqi army and security force.

The Defense Department recently announced plans to accelerate the development of an Iraqi army, pushing the goal from 12,000 troops to 40,000 troops in the next year.

The Army National Guard and Army Reserve have about one-fourth of their troops—nearly 129,000 soldiers—on active duty.

The active-duty Army and the Army Reserve both met their recruiting goals for the fiscal year that ends today. The Army National Guard, however, is expected to fall about 15% short of its recruiting goal of 62,000 soldiers.

Although the Guard and Reserve say their retention rates have not suffered this year, the figures could be misleading. Under an order known as "stop loss," soldiers on active duty are prohibited from leaving the service until their tours end.

Active-duty and Reserve commanders fear that when U.S. soldiers on yearlong rotations come home next year, many will choose to leave the service.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 1816) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1821

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 1821.

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

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

The amendment is as follows:

(Purpose: To strike the requirement for the Department of Defense to describe an Analysis of Alternatives for replacing the capabilities of the KC–135 aircraft fleet)

Strike section 309.

Mr. STEVENS. Mr. President, this is an amendment to delete a provision in the bill that required a report from the Department of the Interior. At the request of Senator MCCAIN, I am removing that, and I ask unanimous consent to remove that from the bill before it goes to conference. I ask for its consideration.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 1821.

The amendment (No. 1821) was agreed to.

AMENDMENT NO. 1822

Mr. REID. Mr. President, if my friend, the Senator from Rhode Island, will be patient, I send an amendment to the desk on behalf of Senator MURRAY.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mrs. MURRAY, for herself and Mr. DURBIN, proposes an amendment numbered 1822.

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

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

The amendment is as follows:

(Purpose: To provide requirements with respect to United States activities in Afghanistan and Iraq)

On page ____, between lines ____ and ____, insert the following new section:

SEC. ____. REQUIREMENTS RELATING TO UNITED STATES ACTIVITIES IN AFGHANISTAN AND IRAQ.

(a) GOVERNANCE.—Activities carried out by the United States with respect to the civilian governance of Afghanistan and Iraq shall, to the maximum extent practicable—

(1) include the perspectives and advice of—

(A) women's organizations in Afghanistan and Iraq, respectively;

(2) promote the inclusion of a representative number of women in future legislative bodies to ensure that the full range of human rights for women are included and upheld in any constitution or legal institution of Afghanistan and Iraq, respectively; and

(3) encourage the appointment of women to high level positions within ministries in Afghanistan and Iraq, respectively.

(b) POST-CONFLICT RECONSTRUCTION AND DEVELOPMENT.—Activities carried out by the United States with respect to post-conflict stability in Afghanistan and Iraq shall, to the maximum extent practicable—

(1) encourage the United States organizations that receive funds made available by this Act to—

(A) partner with or create counterpart organizations led by Afghans and Iraqis, respectively; and

(B) provide such counterpart organizations with significant financial resources, technical assistance, and capacity building;

(2) increase the access of women to, or ownership by women of, productive assets such as land, water, agricultural inputs, credit, and property in Afghanistan and Iraq, respectively;

(3) provide long-term financial assistance for education for girls and women in Afghanistan and Iraq, respectively; and

(4) integrate education and training programs for former combatants in Afghanistan and Iraq, respectively, with economic development programs to—

(A) encourage the reintegration of such former combatants into society; and

(B) promote post-conflict stability in Afghanistan and Iraq, respectively.

(c) MILITARY AND POLICE.—Activities carried out by the United States with respect to training for military and police forces in Afghanistan and Iraq shall—

(1) include training on the protection, rights, and particular needs of women and emphasize that violations of women's rights are intolerable and should be prosecuted; and

(2) encourage the personnel providing the training described in paragraph (1) to consult with women's organizations in Afghanistan and Iraq, respectively, to ensure that training content and materials are adequate, appropriate, and comprehensive.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 1822.

The amendment (No. 1822) was agreed to.

AMENDMENT NO. 1823

Mr. REID. Mr. President, I send an amendment to the desk on behalf of Senators STABENOW, DURBIN, BOXER, JOHNSON, and SCHUMER.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Ms. STABENOW, Mr. DURBIN, Mrs. BOXER, Mr. JOHNSON, and Mr. SCHUMER, proposes an amendment numbered 1823.

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

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

The amendment is as follows:

(Purpose: To provide emergency relief for veterans healthcare, school construction, healthcare and transportation needs in the United States, and to create 95,000 new jobs)

At the appropriate place, insert the following:

SEC. ____. A MONTH FOR AMERICA.

(a) VETERANS HEALTHCARE.—For an additional amount for veterans healthcare programs and activities carried out by the Secretary of Veterans Affairs, $1,800,000,000 to remain available until expended.

(b) SCHOOL CONSTRUCTION.—

(1) IN GENERAL.—For an additional amount for the Fund for the Improvement of Education under part D of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7241 et seq.), $1,000,000,000 for such fund that shall be used by the Secretary of Education to award formula grants to State educational agencies to enable such State educational agencies—

(A) to expand existing structures to alleviate overcrowding in public schools;

(B) to make renovations or modifications to existing structures necessary to support alignment of curriculum with State standards in mathematics, reading or language arts, or science in public schools served by such agencies;

(C) to make emergency repairs or renovations necessary to ensure the safety of students and staff and to bring public schools into compliance with fire and safety codes;

(D) to make modifications necessary to render public schools in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);

(E) to abate or remove asbestos, lead, mold, and other environmental factors in public schools that are associated with poor cognitive outcomes in children; and

(F) to renovate, repair, and acquire needs related to infrastructure of charter schools.

(2) AMOUNT OF GRANT.—The Secretary of Education shall allocate amounts available for grants under this subsection to States in proportion to the funds received by the States, respectively, for the previous fiscal year under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq).

(c) HEALTHCARE.—For an additional amount for healthcare programs and activities carried out through Federally qualified health centers (as defined in section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa))), $103,000,000 to remain available until expended.

(d) TRANSPORTATION AND JOB CREATION.—

(1) IN GENERAL.—For an additional amount for transportation and job creation activities—

(A) $1,500,000,000 for capital investments for Federal-aid highways to remain available until expended; and

(B) $600,000,000 for mass transit capital and operating grants to remain available until expended.

(2) PRIORITY.—In allocating amounts appropriated under paragraph (1), the Secretary of Transportation shall give priority to Federal-aid highway and mass transit projects that can be commenced within 90 days of the date on which such amounts are allocated.

(b) OFFSET.—Each amount appropriated under title II under the heading ''OTHER BILATERAL ECONOMIC ASSISTANCE—FUNDS APPROPRIATED TO THE PRESIDENT—IRAQ RELIEF AND RECONSTRUCTION FUND'' (other than the amount appropriated for Iraqi border enforcement and enhanced security communications and the amount appropriated for the establishment of an Iraqi national security force and Iraqi Defense Corps) shall be reduced on a pro rata basis by $5,030,000,000.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should consider an additional $5,030,000,000 funding for Iraq relief and reconstruction during the fiscal year 2005 budget and appropriations process.

Mr. REID. Mr. President, I ask unanimous consent that this amendment be set aside for the offering of an amendment by the Senator from Rhode Island.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The amendment will be set aside.

The Senator from Rhode Island.

AMENDMENT NO. 1812, AS MODIFIED

Mr. REED. Mr. President, I call up amendment No. 1812 and send a modification to the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED], for himself, Mr. BAYH, and Mr. KENNEDY, proposes an amendment numbered 1812, as modified.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The amendment will be so modified.

The amendment is as follows:

(Purpose: To increase the amount provided for the Army for procurement of High Mobility Multipurpose Wheeled Vehicles, to require an Army reevaluation of requirements and options for procuring armored security vehicles, and to provide an offset)

On page 22, between lines 12 and 13, insert the following:

SEC. 316. (a) Of the funds provided in this title under the heading ''IRAQ FREEDOM FUND'', up to $191,100,000 be available for the procurement of up-armored High Mobility Multipurpose Wheeled Vehicles in addition to the number of such vehicles for which funds are provided within the amount specified under such heading.

Mr. REED. Mr. President, I ask unanimous consent that Senator KENNEDY be added as a cosponsor.

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

Mr. REED. Mr. President, I rise to offer an amendment to ensure that our troops in Iraq and other dangerous areas throughout the world, many of whom are Reservists and members of the National Guard, have the equipment they need to protect themselves. In particular, I would like to discuss the uparmored Humvees which soldiers need to protect themselves from the threat of RPGs and mines and weapons that are inflicting casualties today as we speak in Iraq.

To effectively carry out the mission, Army officials have said that they need more Humvees, uparmored Humvees. I believe them. The administration in this bill failed to fully meet that request.

My amendment is designed to meet the needs of the Army today as they face these numerous threats around the globe. The amendment is cosponsored by Senators BAYH and KENNEDY. It would add funding to this supplemental request to buy additional uparmored Humvees and would also direct the Army to reevaluate its requirements for the armored security vehicle.

The HMMWV, or high mobility multipurpose wheeled vehicle, better known as the Humvee, is the workhorse of the United States. It is being used around the globe today in conflicts from Afghanistan to Iraq to the Balkans. The uparmored Humvee is a variation of the basic vehicle. It was designed to offer increased protection to troops from small arms fire, rocket-propelled grenades, and blasts from mines.

It was designed primarily for military police and special operations personnel, exactly the type of soldiers being called upon to do very dangerous missions in Iraq today.

The armored security vehicle, or the ASV, is also a vehicle in the Army inventory. It is designed to complement the uparmored Humvee. There are very few of them, but it is a requirement that I believe the Army should study again.

In July, I visited Iraq and had the opportunity to meet with my constituents from the Rhode Island National Guard, the 115th Military Police Company, and 119th Military Police Company, the 118th Military Police Battalion. It was on the tarmac at Baghdad International Airport. I got off the aircraft with my colleagues. I rushed over to the formation of these military police men and women. I began to speak with them. The first request that I got was repeated several times over: We need uparmored Humvees. We are in a dangerous situation. We are patrolling the roads of Iraq. We see other units with these vehicles. We need them.

When I came back to the United States, I was convinced that we needed more uparmored Humvees. In the intervening weeks, the Rhode Island National Guard, 115th Military Police Company, has lost three soldiers. Two were killed when an improvised explosive device, a 155-millimeter shell, exploded underneath their regular Humvee. No one can determine whether or not an uparmored Humvee would have saved the lives of these two soldiers, Staff Sergeant Joseph Camara and Sergeant Charles Caldwell. I know having such a vehicle would add to the confidence and security of the troops.

A few days ago Specialist Michael Andrade of the 115th Military Police was killed, again in a Humvee in an accident involving a convoy operation in which a tanker truck crashed into his vehicle. Last Monday evening I was there in Rhode Island when they brought Specialist Andrade's body home to his family. This Saturday he will be buried in Rhode Island. I know you can't determine whether or not this type of vehicle would have saved this young soldier's life. But I can tell you, if they had a choice, all of our military police, all of our soldiers in Iraq would prefer to be in an uparmored Humvee than a Humvee without the armor, and their families would make that choice, also.

It is clear that we need more. This bill contains more vehicles. I commend the President for that proposal. I believe we need more than even what is included in this bill.

When I returned from Iraq, I wrote to Secretary Rumsfeld. I also called the Army. At that time I was verbally told by the Army that the requirement for additional Humvees was about 500. But then as the summer wore on, several things became apparent. This insurgency was extremely serious and extremely lethal. Also that the requirement for uparmored Humvees was going up. Indeed, I believe—I have said this before—that we could be involved and will likely be involved in Iraq for years, not months, stretching perhaps to 10 years. These are the types of vehicles that are crucial to effective operation in an occupation force as we have in Iraq.

Now, my initial response from the Army was that they need 500 more. By September 8, the Army sent a formal response indicating that the requirement now is 1,723 uparmored Humvees and 1,461 will be sent immediately to the theater. I commend the Army because they have tried their best to move as many available vehicles into the theater of Iraq as possible.

Now, 619 vehicles were coming off the assembly line and being sent directly to Iraq; 430 were being pulled from units in the United States and Europe; another 412 were pulled out of the Balkans. So we are trying to meet the need in Iraq, but we are doing it by taking these vehicles from other potentially dangerous areas, such as the Balkans. Also, vehicles were taken from the units in the United States—we hope they are training on these vehicles in preparation to go overseas.

I believe indeed that this requirement will increase, and in fact what we have seen throughout the course of the last several months is the Army and the Department of Defense seriously reevaluating the need for uparmored Humvees. They have concluded that these uparmored Humvees are indeed necessary.

We have received information that the Army in fact has a requirement in excess of 3,400 vehicles. Again, just a few weeks ago, the requirement was 1,700; now the requirement is 3,400 vehicles. They say the best way to accommodate future funding for increased production would be to use the Iraqi Freedom Fund. I propose to do that. In fact, OSD has concurred with this approach. The Secretary of Defense has concurred. What we are waiting on is a validation of how many of these vehicles can be produced at the assembly point.

So my amendment is straightforward. It requests additional money in the amount of approximately $191 million from the Iraqi Freedom Fund to buy 800 additional vehicles, or so many as may be acquired with that money. In fact, I hope we can, in the next year, buy even more. The analysis by myself and my staff suggests this money would be sufficient to fully operate the production line and get all the vehicles possible that we need.

The Iraqi Freedom Fund in this bill contains $1.9 billion, so there are sufficient resources. I believe we should do this and we should do it promptly. The indication from the Army is that they need the vehicles, and also if we act in this appropriations bill, we can speed those vehicles to Iraq.

As I said earlier, there is another aspect of this, and that is the armored security vehicle. We are asking the Army to look back at this requirement and reevaluate it.

I will conclude by taking the advice of Secretary Rumsfeld that it is not necessary to listen to the media but listen to the soldiers. I have a letter from a young lieutenant in Afghanistan. Here is what he writes:

> I am the leader of one platoon of many here trained Stateside for dismounted missions and handed uparmored Humvees upon arrival at our firebases. My strong NCO's have adapted and worked hard to train on this different platform. I feel it is criminal, however, to have sent so many units here without Stateside training on either the . . . uparmored Humvee or its complementary weapon, the MK–19 auto grenade launcher and M2 .50 caliber machine gun.

He goes on to say:

> Our mechanics, for example, have no experience with the uparmored Humvees and are too few to fix vehicles which have been driven hard for at least 18 months on the awful ''roads'' here. Without vehicles, we have no mobility. Without mobility, we cannot either protect the reconstruction teams or interdict terrorists/criminals intent on rocketing our bases and mining the roads.

That is the viewpoint of one of these magnificent young soldiers in Afghanistan working with the vehicles. He appreciates the value of the vehicles. I think every soldier, every squad that has missions like this, whether in Afghanistan or Iraq, should have these vehicles, and that is the intent of this amendment. Further, I will add that one of the suggestions to me in his letter is:

> Purchase new uparmored Humvees for Afghanistan to replace the ones about to die or send qualified mechanics with the requisite parts to fix them.

That could be written by any soldier in Afghanistan or Iraq, and indeed there are many in Iraq, particularly, that do not even have access to

uparmored Humvees. I will conclude by thanking the chairman and the staff for their assistance on this amendment. I also thank the chairman sincerely not only for this effort but for almost $900 million of additional funding for the Army, for vests, for a host of equipment. I also understand from our discussion that he feels as strongly as I do about this issue and will do his best in conference to ensure these additional Humvees are provided.

I yield the floor.

Mr. STEVENS. Mr. President, the Senator is correct. We funded in this bill what we thought were a number of these upgraded Humvees that could be produced and were the stated demand of the Army at that time. This demand keeps going up as it is realized how much these Humvees need to be modernized. We have changed to deal with the circumstances in Iraq. They are very interesting modifications. We have both been briefed on them. Some of the modifications are still classified.

It is our intention to fund it. Coming out of conference, I will do my utmost to fund the number of Humvees that can be upgraded in a reasonable period ahead of time so we can meet this demand so that every group of the military that needs Humvees for their protection will be modernized and upgraded for self-protection. They do have to have some additional items. There are methods some of the terrorists have used to destroy Humvees that can't be defended against.

So it is our intention to modernize these Humvees. They were not defective. Some of the methods terrorists use are unique. We need additional protection from above, and from the side, and from the rear, and underneath the Humvees. We cannot turn them completely into shockproof tanks, but we are going to do our best. This is a No. 1 priority for the Senate, as far as I am concerned—that and the problem of finding these weapons caches and destroying them, or really making certain that the usable weapons, particularly hand-held weapons, are put under guard and assured that they will not get in the wrong hands.

I thank the Senator for his willingness to accept our modifications, and I assure him we will keep on top of this. We will confer with the Senator because I know of his distinguished Army career. We are pleased to have his assistance on this matter.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (No. 1812), as modified, was agreed to.

Mr. STEVENS. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1808

Mr. STEVENS. Mr. President, I send an amendment to the desk for Mr. VOINOVICH and Mr. LOTT.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. VOINOVICH and Mr. LOTT, proposes an amendment numbered 1808.

The amendment is as follows:

(Purpose: To require a report on efforts to increase financial contributions from the international community for reconstruction in Iraq and the feasibility of repayment of funds contributed for infrastructure projects in Iraq)

On page 38, between lines 20 and 21, insert the following new section:

SEC. 2313. Not later than 120 days after the date of the enactment of this Act, the President shall submit to Congress a report on the efforts of the Government of the United States to increase the resources contributed by foreign countries and international organizations to the reconstruction of Iraq and the feasibility of repayment of funds contributed for infrastructure projects in Iraq. The report shall include—

(1) a description of efforts by the Government of the United States to increase the resources contributed by foreign countries and international organizations to the reconstruction of Iraq;

(2) an accounting of the funds contributed to assist in the reconstruction of Iraq, disaggregated by donor;

(3) an assessment of the effect that—

(A) the bilateral debts incurred during the regime of Saddam Hussein have on Iraq's ability to finance essential programs to rebuild infrastructure and restore critical public services, including health care and education, in Iraq; and

(B) forgiveness of such debts would have on the reconstruction and long-term prosperity in Iraq;

(4) a description of any commitment by a foreign country or international organization to forgive any part of a debt owed by Iraq if such debt was incurred during the regime of Saddam Hussein; and

(5) an assessment of the feasibility of repayment by Iraq—

(A) of bilateral debts incurred during the regime of Saddam Hussein; and

(B) of the funds contributed by the United States to finance infrastructure projects in Iraq.

Mr. STEVENS. Mr. President, this is an amendment we discussed earlier on the floor. I was ready to offer it earlier but was prevented. The amendment would require a report from the President concerning the efforts of the United States to increase resources that are available in Iraq from other countries, and to do other matters, such as a description of the bilateral impact on the Iraq action, the question of forgiveness of debts, and other items that we believe are substantial and on which we should have a report from the administration. These reports request no later than 120 days.

I will state for the information of the Senate, there are several amendments we are looking at that deal with reports. It is my hope that the conference committee will have a report section. I see in some of these amendments not a conflict but an overlapping of requests, and the timing of them is different. I do not believe we should put a requirement on these people to report one week on one item, another week on another item, and another week on another item when they are all related. We should have quarterly reports from the administration on what is going on with both sections of this bill and how the money is being handled.

This is a bill that has considerable discretion because it is a supplemental bill. It is in addition to the enormous bill we passed and the President already signed. Therefore, there is a lot of discretion as to where the money goes. It is a mechanism to avoid what has been done in the past, as I have said repeatedly.

In the past, Presidents have dipped into the money available to the Department of Defense and have used it in other places. We have taken the occasion to provide the money in advance and have allowed discretion of the President to put it in the places where it is needed and tell us 5 days before that happens and report to us later on how the money was actually used. Those reports will come to us. I am sure we will keep very good track of the people's money as we proceed.

Mr. President, so far as I am concerned, that is the last item to be considered tonight.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 1808.

The amendment (No. 1808) was agreed to.

Mr. STEVENS. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, the leader will shortly make a statement concerning the bill. As the manager of the bill, we have an understanding that tomorrow there will be a period during which Senators may bring amendments to the floor and offer them so they will be in the queue, so to speak. There will be no consideration of any amendment tomorrow and no vote on any amendment tomorrow.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, I voted for the McConnell amendment, as modified, because I believe that it is appropriate to recognize and commend the men and women of our Armed Forces for their bravery, professionalism and dedication during the military campaigns in Afghanistan and Iraq; to honor the sacrifice of those who died or were wounded and to convey our deepest sympathy and condolences to their families and friends; and to support the efforts of communities across the Nation who are honoring our troops.

Although I voted for the amendment, I want to make clear that I have some reservations about some parts of it. For example, I do not believe that the planning for the post-Saddam portion of the military campaign in Iraq was done well. Additionally, I want to note my concern that there may be unacceptable profiteering by some contractors in the post-Saddam period in Iraq.

MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak therein.

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

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

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

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

LIBRARY OF CONGRESS NATIONAL BOOK FESTIVAL

Mr. STEVENS. Mr. President, I draw to your attention an important event that is taking place this Saturday, October 4 from 10 am until 5 pm—First Lady Laura Bush and the Library of Congress is holding the third annual National Book Festival on the National Mall.

The Library of Congress and Mrs. Bush have planned an enjoyable day of presentations by nearly 80 award-winning authors, illustrators, poets and storytellers.

Famous fiction, mystery and history writers will read from their works. Children's authors such as R.L. Stine, of the Goosebumps book series and actress and children's writer Julie Andrews will be among those participating. Storybook characters from PBS will stroll the grounds and greet young festivalgoers. There will even be special readings in the teens and children's pavilion by NBA players representing the National Basketball Association's ''Read To Achieve'' campaign.

Additional activities will include book signings, musical performances, storytelling, and panel discussions. I am especially interested to hear that specialists will be on hand from the Library's Veterans History Project to provide information about collecting oral histories of America's war veterans. There truly is something for everyone at this year's book festival.

The National Book Festival is free and open to the public and promises to be a wonderful family event. I hope that everyone will join Mrs. Bush and the Library of Congress on Saturday in celebration of the joy of reading.

For more information, you may visit the Library's Web site <*www.loc.gov*> or call toll-free (888) 714–4696.

MINIMUM PAY PROTECTION

Mr. HARKIN. Mr. President, we have some good news. The House of Representatives just a little while ago passed, by a substantial margin, a motion to instruct their conferees to adhere to the Senate's position saying that the administration cannot go ahead to implement the rules on overtime which would take away overtime pay protection for over 8 million Americans. The vote in the House was 221 to 203.

This is a great victory for American workers today. It sends a very clear message to the administration: Don't mess with overtime pay protection. Don't take away from American workers the overtime pay protection that we have had in the law since 1938. This is a clear and unequivocal message from both the House and the Senate.

I hope the administration has the message. I now call upon the Secretary of Labor to forthwith, today, by sundown tomorrow, go ahead and extend overtime pay protections to hundreds of thousands of Americans on the low-income side of the scale.

Right now, the low-income threshold is $8,060 a year. Part of the proposal the administration sent down would have raised that level to $21,100 a year. This is an issue on which we all agree. This is something the Secretary of Labor can do today, tomorrow, before the week is out. This can be done with a stroke of a pen.

I call upon the Secretary of Labor to immediately issue a new regulation that would raise the low-income threshold from $8,060 to $21,100 a year and thus cover many more Americans with overtime pay protection.

What the House has spoken so loudly today is what we did in the Senate a few weeks ago. We want to extend overtime pay protection to more Americans. We do not want to talk it away.

Let us move forward together, call upon the Secretary of Labor to issue these regulations to raise that threshold. Now the administration can take those proposed rules they came out with this spring and put them in the fireplace. Get rid of them. Then, if we want to move ahead, we can do it in two stages. Raise the threshold right now, and then if we need to modify and change some of the overtime regulations to reflect more accurately the modern day workplace, let's do it together, do it with open public hearings, have our witnesses, and do it in a deliberate manner that reflects the will of the American people, not under the cover of night, putting out proposed regulations without any hearings whatever.

I stand ready as a member of the Labor Committee, and on both the authorizing and appropriations side, to work with the Secretary of Labor and others to set up a route by which we can, if we need to, change and modify some of the regulations to more accurately meet today's workforce. But in no case should we diminish the overtime pay protections in the law today for people, in no way. We need to extend and raise that threshold immediately. That is what I call upon the Secretary of Labor to do.

It would be a great victory today for American workers who are lacking in a lot of good news coming out of Washington these days for working families. This is one bit of good news for American working families today.

I yield the floor.

RULEMAKING EXTENSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the attached statement from the Office of Compliance be printed in the RECORD today pursuant to Section 303(b) of the Congressional Accountability Act of 1995 (2 U.S.C. 1383(b)).

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

OFFICE OF COMPLIANCE

THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995

Notice of Proposed Rulemaking—Extension of Period for Comment

A Notice of Proposed Rulemaking (NPR) for the proposed procedural regulations was published in the Congressional Record dated September 4, 2003. This notice is to inform interested parties that the Board of Directors of the Office of Compliance has extended the period for public comment on the NPR until October 20, 2003. Any questions about this notice should be directed to the Office of Compliance, LA 200, John Adams Building, Washington, DC 20540–1999; phone 202/724–9250; fax 202/426–1913.

TRIBUTE TO DR. OTIS SINGLETARY

Mr. MCCONNELL. Mr. President, I rise today to honor the life of a noted Kentuckian, a community leader, and a dedicated educator and administrator, Dr. Otis Singletary. I also want to take this opportunity to extend my condolences to his wife, Gloria, his three children, Bonnie, Robert, and Kendall, and all who knew and loved this remarkable man.

Dr. Singletary served his country in many capacities. A native of Mississippi, he joined the Navy at the outbreak of World War II and continued to serve in the Armed Forces through the Korean War. After earning his Ph.D., he taught history at the University of Texas. There the Students' Association recognized Dr. Singletary's talent and love for teaching and twice honored him with its Teaching Excellence Award. In 1958, he received the Scarborough Teaching Excellence Award.

An accomplished historian and published author, Dr. Singletary soon began to show his skills in administrative positions as well. After serving as the Associate Dean of Arts and Sciences at Texas, Dr. Singletary relocated to the University of North Carolina at Greensboro where he served as chancellor. In 1964, he took a leave of absence to direct the Federal Job Corps, Office of Economic Opportunity, under President Lyndon B. Johnson. Later, he served as the vice-president of the American Council on Education.

For most people this career would represent a lifetime worth of achievement, but Dr. Singletary was just getting started. He assumed the presidency of the University of Kentucky in 1969, a time of national campus unrest. While other college leaders faltered in the wake of the Kent State tragedy, Dr. Singletary successfully calmed the fears of his students and led the university forward. Under his guidance, the University of Kentucky prospered and became a nationally recognized research institution. To compensate for shrinking State funds, Dr. Singletary encouraged a vigorous fundraising campaign targeting private donors. He raised almost $140 million in his 18-year presidency. A selective admissions policy, endowed professorships, the expansion of library holdings, and an undergraduate honors program were all implemented during his tenure. Upon his retirement in 1987, Dr. Singletary had supervised over $250 million in new construction and renovation at UK, including facilities for the arts, biological sciences, equine research, agriculture, and cancer research.

Dr. Otis Singletary will forever be remembered for his unwavering dedication to the University of Kentucky, its faculty, staff, and its students. I ask each of my colleagues to join me in paying tribute to Otis Singletary, for all that he has given to his students, his community, and his Nation. He will be missed.

TRIBUTE TO JUSTICE ROBERT E. ROSE

Mr. REID. Mr. President, I take a moment to pay tribute to a long-time friend and Nevadan, Justice Robert E. ''Bob'' Rose, who is being honored by the Fellows of the American College of Trial Lawyers.

Justice Rose was elected to the Nevada Supreme Court in 1988. He was reelected in 1994 and again in 2000.

However, before Justice Rose was a member of the Nevada Supreme Court, he was elected Washoe County District Attorney and thereafter Lieutenant Governor of Nevada. In fact, he was my successor in that office.

After serving as Lieutenant Governor, he returned to the private practice of law for several years in Reno, NV.

In 1986, he was appointed District Court Judge for the Eighth Judicial District in Las Vegas by former Governor, who is also a former U.S. Senator, Richard Bryan.

The road to the Nevada Supreme Court started at a young age for Bob Rose. The dream began in 1964 when he clerked there for one year following his graduation from New York University Law School.

While he set his sights high, his path wasn't always an easy one. I remember during his tenure as Lieutenant Governor, he cast a vote in the Nevada State Legislature on a very controversial Equal Rights Amendment. It was 1977, and he cast the tie-breaking vote against it.

It is not always easy to live and work in the public spotlight, but he did what he felt was right. He has always been a man of courage and integrity.

In his time to date on the Nevada Supreme Court, he has served as Chief Justice, and he has earned a reputation as a ''reformer'' by creating the Nevada Judicial Assessment Commission for the study and improvement of the courts. He has also chaired and co-chaired the Committee to Establish Nevada Business Court and the Nevada Jury Improvement Commission, respectively.

Additionally, Justice Rose has been active with the Nevada Democratic Party, the American Cancer Society, and Nevada Easter Seal.

Today I would like to say to my friend, Bob, Justice Rose, congratulations on the honor you are receiving and good luck to you in all your future endeavors. As a lawyer and a Nevadan, I am proud to have you on our State Supreme Court.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Atlanta, GA. In May 2001, Ahmed Dabarran, a gay man who was a Fulton County Assistant District Attorney, was brutally beaten and murdered. Dabarran's perceived sexual orientation by his attacker was a motivating factor in his death. Sadly, even though his killer confessed to the crime, a Cobb County, GA, jury later acquitted him.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

LESSONS OF 9/11 AND THE D.C. AREA SNIPER SHOOTINGS

Mr. KENNEDY. A year ago, the entire capital region was terrorized by unknown killers striking randomly, without warning, without any discernible pattern, and without mercy. Sadly, we know now that those savage murders could have been prevented.

On 9/11/2001, we had learned that the oceans could no longer protect us from the terrorism that has plagued other nations. We learned that our law enforcement agencies and our intelligence agencies were not adequately organized, trained, or prepared to identify the terrorists and prevent them from striking.

We learned, especially from the report of the Senate and House Intelligence Committees, that there were serious problems with information analysis and information sharing between agencies at the Federal, State and local levels, and even between Federal agencies.

As the FBI Director told the committees, no one can say whether the tragedy of 9/11 could have been prevented if all of the problems of our foreign and domestic intelligence and law enforcement agencies had been corrected before 9/11. But 9/11 was certainly a wakeup call to these agencies. They were on notice that, whatever the reasons for their failure to connect the many ''dots'' which their separate activities had uncovered before the terrorist attacks, they needed to change their ways.

The tragic DC area killings of a year ago, in which 13 people were shot and 10 lost their lives, provided a dramatic test of how well we had learned the lessons of 9/11. At the time, we had no way of knowing whether the shootings were the work of demented citizens, homegrown terrorists, or foreign terrorists bent on spreading mortal fear among the people.

In many ways, the law enforcement response was a model of the lessons already learned. Over 1,300 Federal agents of all types joined hundreds of State and local law enforcement personnel in a joint intensive effort to identify and apprehend the killers. The cooperation among law enforcement agencies in the area was close and seemingly effective.

But in some vital respects, the events of last October revealed shockingly that a year after 9/11, we had not yet filled obvious gaps in our day-to-day law enforcement and intelligence activities.

We had not made sure that all of the Nation's police agencies at all levels were communicating with each other with the fastest possible technology, and acting in real time to share the useful information they had gathered.

Unfortunately, too much of the national effort had been invested in arguing over broad and controversial new investigative and enforcement powers that threatened draconian violations of basic rights and liberties, with little benefit to homeland security.

These debates deflected attention from the urgent need to assure that every jurisdiction in the Nation has—and uses—full access to the vast array of already available Federal resources specifically designed to assist them in their local responsibilities. The DC sniper case showed us a year ago that we need even more focus on this very practical and achievable goal, and less focus on the distracting shortcuts urged on the Nation by those who believe we must sacrifice our rights to gain security.

A year ago, we learned again that the national law enforcement system is only as strong as its weakest link. If all jurisdictions everywhere are not full partners in the legitimate, practical, day-to-day operations of the existing national system for information sharing and Federal-State cooperation, each of us anywhere is at risk.

The information now available demonstrates that the enormous tragedies of a year ago might well have been entirely prevented if authorities in a State far from the Washington area had used the existing Federal resources available to them.

The fact is, on the night of September 21, 2002, 11 days before the sniper shootings began in the Washington area, the local police in Montgomery, AL, obtained a clear fingerprint of a suspect in a brutal robbery and murder. As we now know, that fingerprint matched a print on file in the FBI electronic matching system.

That information could have quickly led the authorities to Malvo and Muhammad, the two people later charged with the Washington area killings that began on October 2 that year.

A State crime laboratory with a few thousand dollars worth of proper hardware and free software from the FBI could have transmitted the Alabama fingerprint to the FBI system on Sunday morning, September 22. That system would have automatically compared the print with the 45 million prints in the system. The matching print could have been found and identified by the FBI by noon on that Sunday. In fact, the FBI's average response time on such print matches was 3 hours and 16 minutes last year.

The FBI's State assistance program makes it easy and inexpensive for a State to transmit unidentified prints directly to the automated fingerprint system. The Justice Department even provides grants to help with the costs.

But 15 States, including the State of Alabama, are not yet fully connected to the FBI system. They cannot transmit the fingerprints found at crime scenes directly to the FBI's automated 24-hour-a-day fingerprint searching system.

In the Alabama case, had the full facilities available from the Federal Government been utilized, look-out alerts or arrest warrants for the Alabama murder suspects could have been circulated throughout the Nation some time between September 22 and September 24, followed quickly by the description and license plate number of the car they were using.

In other words, at least 7 full days before the first shooting in the Washington area, Federal, State and local law enforcement agencies could have identified Muhammad and Malvo and could have been searching urgently for them, because they were wanted for the robbery/murder in Alabama. Tragically, we now know that local police officers in two other States made traffic stops of the suspects' car and checked the driver's license and plates with the national databases during those 7 days. But because the readily available national system had not been used, those checks produced no response. Malvo and Muhammad were not apprehended, and the DC area sniper shootings took place.

It is not my purpose to single out Alabama for special blame. This is a national problem. Fifteen States are not fully connected to the FBI's electronic matching system. Many other States may not take full advantage of this and other Federal resources.

The FBI spent $640 million building its fingerprint system, because it persuaded Congress that ''if we build it they will come.'' The system works well beyond the planners' dreams. It usually responds on a ten-fingerprint check of an arrested suspect within 20 minutes. It usually reports on an unknown single fingerprint within about 3 hours.

Thirty-five States are fully using this valuable resource. They use the system routinely and automatically, because as one police official put it, ''You catch bad guys'' this way. In fact, some police departments sent the FBI all the old unidentified prints they had as soon as they connected to the system. Time after time, even very old prints from unsolved cases were matched with prints in the system, and old crimes were finally solved.

On this sad anniversary of the DC sniper shootings, I hesitate to discuss these painful facts, when the victims' families are still grieving. But I, too, have been where they are now, and so I feel I can speak the painful truth, the truth that will teach us how to make the future better than the past.

The truth is that we now know this tragedy could have been prevented—not by tougher laws or more intrusive investigative powers, not by ethnic or racial profiling, but by strengthening and fully using the effective systems we already have in place.

Attorney General Ashcroft wants even more law enforcement powers that will threaten still more basic rights. But I say, let's fix the nuts and bolts of the system we already have. It is a scandal that 15 of our States are still not fully linked to the FBI system. The financial cost is small, and Federal grants are available to defray it and pay the cost of any training that is needed. Hopefully, no such avoidable tragedy will ever happen again, and the victims we mourn and honor today will not have died in vain.

CHANGE IN INTERNET SERVICES USAGE RULES AND REGULATIONS

Mr. LOTT. Mr. President, I wish to announce that in accordance with title V of the Rules of Procedure, the Committee on Rules and Administration intends to update the ''U.S. Senate Internet Services Usage Rules and Regulations.''

Based on the committee's review of the 1996 regulations, the following changes to these policies have been adopted effective October 8, 2003.

The following changes have been made:

A. SCOPE AND RESPONSIBILITY:

Senate Internet Services (World Wide Web and Electronic mail) may only be used for official purposes. The use of Senate Internet Services for personal, promotional, commercial, or partisan political/campaign purposes is prohibited.

Members of the Senate, as well as Committee Chairmen and Officers of the Senate may post to the Internet Servers information files which contain matter relating to their official business, activities, and duties. All other offices must request approval from the Committee on Rules and Administration before posting material on the Internet Information Servers.

Websites covered by this policy must be located in the SENATE.GOV host-domain.

It is the responsibility of each Senator, Committee Chairman (on behalf of the committee), Officer of the Senate, or office head to oversee the use of the Internet Services by his or her office and to ensure that the use of the services is consistent with the requirements established by this policy and applicable laws and regulations.

Official records may not be placed on the Internet Servers unless otherwise approved by the Secretary of the Senate and prepared in accordance with Section 501 of Title 44 of the United States Code. Such records include, but are not limited to: bills, public laws, committee reports, and other legislative materials.

B. POSTING OR LINKING TO THE FOLLOWING MATTER IS PROHIBITED:

Political Matter.

a. Matter which specifically solicits political support for the sender or any other person or political party, or a vote or financial assistance for any candidate for any political office is prohibited.

b. Matter which mentions a Senator or an employee of a Senator as a candidate for political office, or which constitutes electioneering, or which advocates the election or defeat of any individuals, or a political party is prohibited.

Personal Matter.

a. Matter which by its nature is purely personal and is unrelated to the official business activities and duties of the sender is prohibited.

b. Matter which constitutes or includes any article, account, sketch, narration, or other text laudatory and complimentary of any Senator on a purely personal or political basis rather than on the basis of performance of official duties as a Senator is prohibited.

c. Reports of how or when a Senator, the Senator's spouse, or any other member of the Senator's family spends time other than in the performance of, or in connection with, the legislative, representative, and other official functions of such Senator is prohibited.

d. Any transmission expressing holiday greetings from a Senator is prohibited. This prohibition does not preclude an expression of holiday greetings at the commencement or conclusion of an otherwise proper transmission.

Promotional Matter.

a. The solicitation of funds for any purpose is prohibited.

b. The placement of logos or links used for personal, promotional, commercial, or partisan political/campaign purposes is prohibited.

C. RESTRICTIONS ON THE USE OF INTERNET SERVICES:

During the 60 day period immediately preceding the date of any primary or general election (whether regular, special, or runoff)

for any national, state, or local office in which the Senator is a candidate, no Member may place, update or transmit information using Senate Internet Services, unless the candidacy of the Senator in such election is uncontested. Exceptions to this moratorium include the following; posting of press releases, posting of official statements of the member appearing in the Congressional Record, and technical corrections to the website.

Electronic mail may not be transmitted by a Member during the 60 day period before the date of the Member's primary or general election unless it is in response to a direct inquiry. Exceptions to this moratorium include the following; press release distribution to press organizations, and email to perform administrative communication.

During the 60 day period immediately before the date of a biennial general Federal election, no Member may place or update on the Internet Server any matter on behalf of a Senator who is a candidate for election, unless the candidacy of the Senator in such election is uncontested.

An uncontested candidacy is established when the Rules Committee receives written certification from the appropriate state official that the Senator's candidacy may not be contested under state law. Since the candidacy of a Senator who is running for reelection from a state which permits write-in votes on election day without prior registration or other advance qualification by the candidate may be contested, such a Member is subject to the above restrictions.

If a Member is under the restrictions as defined in subtitle C, paragraph (1), above, the following statement must appear on the homepage: ("Pursuant to Senate policy this homepage may not be updated for the 60 day period immediately before the date of a primary or general election"). The words ''Senate Policy'' must be hypertext linked to the Internet services policy on the Senate Home Page.

A Senator's homepage may not refer or be hypertext linked to another Member's site or electronic mail address without authorization from that Member.

Any Links to Information not located on a senate.gov domain must be identified as a link to a non-Senate entity.

D. MISCELLANEOUS:

Domains and Names (URL)—Senate entities shall reside on SENATE.GOV domains. The URL name for an official Web site located in the SENATE.GOV domain must:

Member sites—contain the Senator's last name.

Committee sites—contain the name of the committee.

Office sites—contain the name of the office.

HONORING OUR ARMED FORCES

Mr. DODD. Mr. President, it is with a heavy heart that I rise to speak in memory of U.S. Army Sgt Travis Friedrich, of Naugatuck, CT, who was killed fighting for his country in Iraq on Saturday, September 20. He was 26 years old.

Like so many of our brave men and women who are serving overseas today, Sgt Friedrich was a reservist. He was a graduate student at the University of New Haven, working on his degree in forensic science, and was also working full-time as a laboratory technician in Waterbury.

When he was summoned to active duty in January, he left behind family and friends who loved him, and a promising education and career. But Sgt Friedrich answered his country's call and he did so in exemplary fashion.

Sgt Friedrich grew up in Hammond, NY, and was a shining star in both academics and athletics. He graduated from Brockport State College, majoring in chemistry and criminal justice, and came to Connecticut 3 years ago with dreams of becoming an investigator in law enforcement. Tragically, it was a dream he would not live to fulfill.

Everyone who knew Travis Friedrich said that he represented the best of the American armed forces and, indeed, the best of America. His friends remembered his sense of humor, and his leadership as co-captain of his college crew team. He also had a tremendous work ethic whether he was on the field of battle, in a classroom, or on the job. And he loved his family and friends, just as he loved his country.

When people like Travis Friedrich make the decision to enlist in our armed forces, they do so knowing that one day, they could be called upon to make profound sacrifices—and possibly the ultimate sacrifice—for this nation, and the values and freedoms that we represent.

That's not an easy decision to make, but for an individual with the courage and the integrity of Travis Friedrich, it was a natural one. ''Wherever I go,'' Sergeant Friedrich once said, ''I want to do my share.'' He did his share, and much, much more.

I salute Travis Friedrich for his bravery, his heroism, and his service to his country. I offer my most sincere condolences to his parents, David and Elizabeth, and to all of his friends and family.

Mr. THOMAS. Mr. President, I rise today to express our Nation's deepest thanks and gratitude to a young man and his family from Casper, WY. On September 23rd, 2003, Cpt Robert L. Lucero was killed in the line of duty in Iraq. While searching a building in Tikrit, Captain Lucero was fatally wounded by an explosive device that took his life and injured another soldier.

Captain Lucero was a member of the Wyoming National Guard, and was the very model of the citizen soldier. He was a vibrant young man who loved being outdoors and was an avid hunter and fisherman. He loved his family and his country. Captain Lucero had a profound sense of duty and felt a strict obligation to his country and his job as an American soldier.

It is because of people such as Captain Lucero that we continue to live safe and secure. America's men and women who answer the call of service and wear our Nation's uniform deserve respect and recognition for the enormous burden that they willingly bear. Our people put everything on the line everyday, and because of these folks, our Nation remains free and strong in the face of danger.

Captain Lucero is survived by his wife Sherry and his mother Lois Ann, as well as many family and friends. We way good bye to a son, a husband, a brother, a soldier, and an American. Our Nation pays its deepest respect to Cpt Robert L. Lucero for his courage, his love of country and his sacrifice, so that we may remain free. He was a hero in life and he remains a hero in death. All of Wyoming, and indeed the entire Nation was proud of him.

ESSENTIAL AIR SERVICE PROGRAM

Ms. SNOWE. Mr. President, I rise today in strong support of the statement and efforts of my colleague from New Mexico, Senator BINGAMAN, on behalf of the Essential Air Service, EAS, program.

Throughout my time in Congress, I have been a strong supporter of EAS, which provides subsidized air service to 125 small communities in the country, including four in Maine—Augusta, Rockland, Bar Harbor and Presque Isle—that would otherwise be cut off from the nation's air transportation network. As approved in May by the Senate Commerce Committee, the Federal Aviation Administration reauthorization bill reauthorized and flat-funded the program for 3 years, and includes certain changes to the program, which are drastically scaled back from what the Administration proposed earlier this year for EAS ''reform.'' The Administration had called for EAS towns to provide up to 25 percent matching contributions to keep their air service.

The Commerce Committee bill creates a number of new programs to help EAS communities grow their ridership, including a marketing incentive program that would financially reward EAS towns for achieving ridership goals. With regard to local cost-sharing—the centerpiece of the Administration's EAS proposal—the Commerce bill would create a pilot program to allow for a 10 percent annual community match at no more than 10 airports within 100 miles of a large airport.

While the cost-sharing provisions in the committee bill are much less strict than the Administration proposal, and could only be applied to a EAS community under certain specific conditions, I remain concerned about the concept of requiring EAS towns—some of which are cash-strapped and economically depressed—from kicking in hundreds of thousands of dollars annually to keep their air service. For example, if Augusta or Rockland, ME, were to be chosen for the cost-sharing pilot program, they would have to come up with more than $120,000 annually to retain their air service.

As such, on the floor I supported Senator BINGAMAN's amendment to strike the cost-sharing section from the bill and was pleased when it was approved unanimously by the full Senate. The House adopted an identical amendment

offered by Representative PETERSON. And I felt so strongly about this issue that in late July I circulated a letter to the FAA conferees, signed by 15 other Senators, expressing strong opposition to having mandatory EAS cost-sharing language in the final legislative package. As such, I was extremely disappointed when that same language found itself into the FAA conference report issued on July 25.

Mr. President, the EAS program is not perfect, and Congress certainly needs to do all we can to keep the costs and subsidy levels associated with the program as low as possible. I look forward to working with members of the Commerce Committee and the Senate on the issue, but I continue to believe that requiring cost-sharing in today's economy and today's aviation environment is clearly a wrong-headed approach.

I also wanted to take this opportunity to address the larger issue of the importance of air service to America's small communities. As we work to address the vital aviation issues facing the country, we cannot forget the challenges that small communities in Maine, and throughout the Nation, face in attracting and retaining air service. I have always believed that adequate, reliable air service in our Nation's rural areas is not simply a luxury or a convenience. It is an imperative. And quite frankly, I have serious concerns about the impact deregulation of the airline industry has had on small- and medium-sized cities in rural areas, like Maine. The fact is, since deregulation, many of these communities in Maine, and elsewhere, have experienced a decrease in flights and size of aircraft while seeing an increase in fares. More than 300 have lost air service altogether.

Many air carriers are experiencing an unprecedented financial crisis, and the first routes on the chopping block will be those to small- and medium-sized communities. This will only increase demand for the two existing Federal forms of assistance, EAS and the Small Community Air Service Grant Program.

In short, when considering this legislation, I believe that we need to do all we can to help small communities maintain their access to the national transportation system during these difficult times. Mandatory EAS cost-sharing would have the opposite effect, and I hope that the conferees strip it out should the bill be recommitted to conference.

MOTHER TERESA OF CALCUTTA

Mrs. BOXER. Mr. President, I rise to speak in praise of the late Mother Teresa of Calcutta, who will be canonized as a Roman Catholic saint later this month.

Her life and work were a blessing to everyone, regardless of creed or religion. No one who ever saw her—even on television—will ever forget Mother Teresa: the tiny nun with the wrinkled face, beaming smile, and penetrating eyes filled with love and understanding. And no one who learned of her work among the poorest of the poor will ever forget her gentle challenge to us all to do more for our fellow human beings.

Mother Teresa inspired us not only by her good works but by the spirit of love and respect for every individual that permeated her work. As she herself said in accepting the 1979 Nobel Peace Prize, ''Love begins at home, and it is not how much we do, but how much love we put in the action that we do.'' She accepted the prize ''in the name of the hungry, the naked, the homeless, of the crippled, of the blind, of the lepers, of all those people who feel unwanted, unloved, uncared-for throughout society, people who have become a burden to the society and are shunned by everyone.''

In presenting the prize to Mother Teresa, Chairman John Sanness of the Norwegian Nobel Committee noted: ''The hallmark of her work has been respect for the individual's worth and dignity. . . . In her eyes the person who, in the accepted sense, is the recipient, is also the giver, and the one who gives most. Giving—giving something of oneself—is what confers real joy, and the person who is allowed to give is the one who receives the most precious gift.''

In her final years, Mother Teresa focused her attention and prodigious energy on establishing hospice programs for people with AIDS. ''It is a terrible tragedy to have AIDS,'' she said, ''but it is worse to be unloved.'' Perhaps more than any other person, Mother Teresa changed the way that the world sees AIDS. The broad, bipartisan support for international AIDS programs that has emerged in the United States Congress is largely a result of her work and message of love and compassion.

FAA REAUTHORIZATION

Mr. BINGAMAN. Mr. President, I would like to speak for a few minutes on the pending reauthorization of the Federal Aviation Administration. A conference report on HR 2115 was filed back in July, and since then there has been no further action in either house of Congress.

As I see it, the problem with the bill is that the conferees on the part of the majority chose to conduct a back-room conference without the participation of the minority. This was a flawed process, and the result is a conference report that can't pass either the House or the Senate. The House is now poised to recommit the bill to the conference. Meanwhile, Congress had to pass a short-term extension of FAA's administration just to keep the agency in operation.

I think by now all Senators are aware of the many concerns that have been raised over the FAA conference report. On a number of key measures, the conferees ignored the will of the majority in the House and the Senate and arbitrarily inserted provisions that both houses had voted to oppose. I believe adding such extraneous and objectionable provisions is an egregious violation of the conference process. All Senators should be offended by what the conferees did in this case.

Senator REID spoke Tuesday about the conferees' rejection of House- and Senate-passed provisions regarding privatization of federal air traffic controllers. I was pleased to support Senator LAUTENBERG's bipartisan amendment on this issue, which passed the Senate 56 to 41. I want to reinforce what my colleague Senator REID said yesterday about the air traffic control system. The privatization issue must be dealt with fairly, or the bill will not pass the Senate.

Another particularly egregious violation of the conference process was a provision the conferees added affecting the Essential Air Service program, which helps small, rural communities maintain their vital commercial air service. In my State, five communities participate in EAS: Alamogordo, Carlsbad, Clovis, Hobbs, and Silver City. For these communities, commercial air service provides a critical link to the national and international transportation network that would not otherwise exist.

The FAA reauthorization bill originally reported by the Senate Commerce Committee would have required EAS communities for the first time to pay to maintain their commercial air. In my view, this ill-timed proposal would have jeopardized existing commercial air service in many rural areas. Across America, our small communities are facing depressed economies and declining tax revenues and are simply not in a position to pay for their commercial air service.

To help preserve essential air service, Senator INHOFE and I offered an amendment with 13 cosponsors that struck out the mandatory cost-sharing language. Our bipartisan amendment was adopted on a voice vote. In parallel, Representatives MCHUGH, PETERSON of Pennsylvania, and SHUSTER offered an amendment that struck out similar mandatory cost-sharing language in the House's bill.

As a followup to our amendment, Senator SNOWE and I, along with Senators NELSON of Nebraska, BUNNING, SCHUMER, BROWNBACK, LINCOLN, JEFFORDS, CLINTON, INHOFE, LEAHY, PRYOR, COLLINS, HAGEL, GRASSLEY, and HARKIN, sent a bipartisan letter to the chairman and ranking member of the Commerce Committee reinforcing our strong opposition to mandatory cost-sharing for EAS communities.

Most students of Government would tell you that when a majority of both houses of Congress have voted against a particular measure, the conferees couldn't arbitrarily put it back in. Well, they did. Section 408 of the conference report basically restores the very cost-sharing language both

Houses one month before had voted to reject.

This week, with the FAA conference report soon going to be recommitted to the conference, 16 Senators wrote to the conferees expressing grave concern over the restoration of the mandatory cost-sharing language and urging them to drop this harmful provision before the conference report is brought back to the full House and Senate. Thirty-five members of the House signed a similar bipartisan letter.

I want to pass an FAA reauthorization bill. The FAA plays an important role in assuring the safety of the traveling public. At the same time, New Mexico's 51 airports are in desperate need of the Federal funding provided under the FAA's Airport Improvement Program. I hope all Senators are aware that AIP was not extended under the first continuing resolution, and all new airport construction projects are on hold pending the reauthorization. With the serious unemployment situation the Nation faces, this is no time to shut down the jobs these vital airport construction projects produce.

I've come to the floor today to urge the conferees to work together in a bipartisan manner to produce a conference report that all Senators can support. Inserting controversial measures in conference that are opposed by both houses has left us with an FAA conference report that is essentially dead. In my opinion, imposing mandatory cost sharing for EAS communities, which a majority in both houses rejected, will only delay further the FAA reauthorization bill.

I do believe that by returning the FAA bill to conference we can begin to work in a bipartisan manner to restore integrity to the conference process that all Senators should demand. When this bill goes back to conference, I urge the FAA conferees to do the right thing for rural communities across America by preserving the Essential Air Service Program.

I ask unanimous consent to print the above-referenced letters in the RECORD.

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

U.S. SENATE,
Washington, DC, July 24, 2003.

Hon. JOHN MCCAIN,
Chairman, U.S. Senate Committee on Commerce, Science and Transportation, U.S. Senate, Washington, DC.

Hon. ERNEST HOLLINGS,
Ranking Member, U.S. Senate Committee on Commerce, Science and Transportation, U.S. Senate, Washington, DC.

DEAR GENTLEMEN: We want to thank you for your leadership in developing S. 824, ''The Aviation Reinvestment and Revitalization Vision Act'' (AIR–V). As you lead the Senate conferees and complete work on settling differences in the House companion, H.R. 2115, we want to express our support for the Senate position and our strong opposition to the inclusion of any Essential Air Service (EAS) mandatory cost-sharing language in the final legislative package.

As you know, EAS provides subsidized commercial air service to 125 small communities nationwide that would otherwise be cut off from the air transportation network. The Committee-reported version of S. 824 includes a number of innovative provisions to help EAS communities grow their ridership, including a marketing incentive program that would financially reward EAS towns for achieving ridership goals. At the same time, the Committee's bill proposed a pilot program requiring a 10 percent annual community cost-sharing requirement at EAS airports within 100 miles of any hub airport. In the end, the full Senate did not endorse the concept of an annual local community match, having on June 12 unanimously approved an amendment offered by Senators BINGAMAN and INHOFE to strike the EAS cost-sharing provisions in S. 824. In addition, the House passed its FAA Reauthorization bill after voting not to include cost-sharing for EAS.

While the Commerce Committee's proposed cost-sharing would have only applied to an EAS community under certain specific conditions, we remain concerned about the concept of mandatory cost-sharing. Some of these cash-strapped communities in economically depressed rural areas of our states would be unable to contribute the hundreds of thousands of dollars necessary to keep their air service. As such, we ask that the final version of the FAA Reauthorization legislation reflect the Senate's position on this issue and not include any EAS cost-sharing language.

We look forward to working with you and other members of the Senate Commerce Committee on modernizing and strengthening the EAS program. Thank you for your consideration of our views on this issue and we hope they will be considered during the upcoming conference committee.

Sincerely,

Olympia Snowe, Jeff Bingaman, E. Benjamin Nelson, Jim Bunning, Charles Schumer, Sam Brownback, Blanche L. Lincoln, James M. Jeffords, Hillary Rodham Clinton, Jim Inhofe, Patrick Leahy, Mark Pryor, Susan Collins, Chuck Hagel, Chuck Grassley, Tom Harkin.

U.S. SENATE,
Washington, DC, September 29, 2003.

Hon. JOHN MCCAIN,
Chairman, Committee on Commerce Science and Transportation, Dirksen Office Building, Washington, DC.

Hon. ERNEST F. HOLLINGS,
Ranking Member, Committee on Commerce Science and Transportation, Dirksen Office Building, Washington, DC.

Hon. DON YOUNG,
Chairman, Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

Hon. JAMES OBERSTAR,
Ranking Member, Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

GENTLEMEN: We write out of grave concern for a provision added to the Vision 100—Century of Aviation Reauthorization conference report regarding the adoption of a local cost share for certain Essential Air Service communities. This addition to the conference report not only goes against the will of both the House and the Senate, but may also have a disastrous effect on many of our small rural airports. Therefore, we urge the conference committee to remove this language before bringing the report to the respective floors for a vote.

The local cost share provision was removed from S. 824 by a bipartisan amendment offered by 15 senators, which passed on a voice vote. Likewise, a similar local cost share provision was removed from H.R. 2115 by an amendment offered by Representatives McHugh, Peterson (PA) and Shuster.

It is our understanding that negotiations are currently under way to remove language from the conference report regarding the privatization of air traffic controllers. This provides the conference committee an excellent opportunity to remove the EAS local match provision that was already stricken on both the House and Senate floors and not included in either bill brought to the conference committee.

Additionally, this provision will have untold effects on many small rural communities. It is unacceptable to force communities to pay up to $100,000 in a local cost share, in addition to the many costs they currently incur in running a small local airport.

We respectfully request the removal of Section 408 from the Vision 100—Century of Aviation Reauthorization Act conference report before it is brought to the House and Senate floors for consideration, and we look forward to working with you in the future to ensure rural communities continue to receive essential air service.

Sincerely,

Jeff Bingaman, Olympia Snowe, Hillary Rodham Clinton, Patrick Leahy, Blanche L. Lincoln, Jim Jeffords, Mark Pryor, Tom Harkin, Charles Schumer, Tom Daschle, Arlen Specter, E. Benjamin Nelson, Susan M. Collins, Chuck Grassley, Mark Dayton, Chuck Hagel.

CONGRESS OF THE UNITED STATES,
Washington, DC, September 24, 2003.

Hon. JOHN MCCAIN,
Chairman, Committee on Commerce Science and Transportation, Dirksen Office Building, Washington, DC.

Hon. FRITZ HOLLINGS,
Ranking Member, Committee on Commerce Science and Transportation, Dirksen Office Building, Washington, DC.

Hon. DON YOUNG,
Chairman, Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

Hon. JAMES OBERSTAR,
Ranking Member, Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN YOUNG, CHAIRMAN MCCAIN, RANKING MEMBER OBERSTAR, RANKING MEMBER HOLLINGS: We write out of grave concern for a provision added to the Vision 100-Century of Aviation Reauthorization Conference Report regarding the adoption of a local cost share for certain Essential Air Service communities. This addition to the conference report not only goes against the will of both the House and the Senate, but may also have a disastrous effect on many of our small rural airports. Therefore, we urge the conference committee to remove this language before bringing the report to the respective floors for a vote.

As you known, the local cost share provision was removed in H.R. 2115 by an amendment offered by Representatives McHugh, Peterson (PA) and Shuster, which passed by a voice vote. Likewise, a similar local cost share provision was removed from S. 824 by an amendment offered by Senator Bingaman.

It is our understanding that negotiations are currently under way to remove language from the conference report regarding the privatization of air traffic controllers. This provides the conference committee an excellent opportunity to remove the EAS local match provision that was already stricken on both the House and Senate floors and not included in either bill brought to the conference committee.

Additionally, this provision will have untold affects on many small rural communities. It is unacceptable to force communities to pay up to $100,000 in a local cost share, in addition to the many costs they currently incur in running a small local airport.

We respectfully request the removal of Section 408 from the Vision 100—Century of Aviation reauthorization Act Conference Report before it is brought to the House and Senate floors for consideration and we look forward to working with you in the future to ensure rural communities continue to receive essential air service.

Sincerely,

John E. Peterson, Allen Boyd, John McHugh, Jerry Moran, Bill Shuster, Chris Cannon, John Shimkus, Marion Berry, Barbara Cubin, Charles F. Bass, Ron Paul, John Tanner, Frank D. Lucas, Scott McInnis, Kenny C. Hulshof, Rick Renzi, Rob Bishop, Dennis A. Cardoza, Jim Gibbons, Jim Matheson, Ed Case, Anibal Acevedo-Vilá, Mike Ross, Tom Udall, Lane Evans, Timothy Johnson, Bernie Sanders, John Boozman, Tom Latham, Heather Wilson, Ron Lewis, Jo Ann Emerson, Doug Bereuter, Bart Stupak, Collin C. Peterson.

INDEPENDENT COMMUNITY PHARMACIES

Mr. PRYOR. Mr. President, I rise today to acknowledge our Nation's independent community pharmacists for their diligent work, expansion of services, and consistent high quality service.

Independent community pharmacies are a strong part of our health care delivery system and a significant part of local economies. In fact, independent pharmacies, independent pharmacy franchises, and independent chains represent a $67 billion marketplace. Clearly, independent pharmacies create jobs while providing high quality services to consumers.

Independent community pharmacies play a critical role in local communities, a role which has enhanced the level and quality of pharmacist-patient personal interactions and has led to high satisfaction rates from consumers. Independent pharmacies should be commended for their accessibility, immense knowledge about medications, and broad inventories of medications. These observations were validated by more than 32,000 readers surveyed by Consumer Reports, which found that ''more than 85 percent of customers at independent drugstores were very satisfied or completely satisfied with their experience.''

Pharmacists are health care professionals who consistently strive to improve care and promote the safe use of drugs. In addition to dispensing medications, many independent pharmacies offer other services to meet the needs of their customers. This includes providing health screenings, disease management information, and even home delivery.

I am honored today to recognize the achievements of independent pharmacies for their excellent job in serving the pharmaceutical and other health care needs of consumers in their communities. As Congress moves forward with enacting a Medicare prescription drug benefit, it is essential that we preserve the quality care being provided by community pharmacies.

Mr. President, I ask unanimous consent to print in the RECORD an article from the October 2003 issue of Consumer Reports.

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

TIME TO SWITCH DRUGSTORES?

If you're among the 47 percent of Americans who get medicine from drugstore giants such as CVS, Eckerd, and Rite Aid, here's a prescription: Try shopping somewhere else. The best place to start looking is one of the 25,000 independent pharmacies that are making a comeback throughout the U.S.

Independent stores, which were edging toward extinction a few years ago, won top honors from Consumer Reports readers, besting the big chains by an eye-popping margin. More than 85 percent of customers at independent drugstores were very satisfied or completely satisfied with their experience, compared with 58 percent of chain-drugstore customers.

Many supermarket and mass-merchant pharmacies also did a better job than the best-known conventional chains at providing caring, courteous, knowledgeable, and timely service. And in a nationwide price study we conducted, the chains we evaluated charged the highest prices—even slightly more than the independents.

Those findings come from our latest investigation into the best places to shop for prescription medications. More than 32,000 readers told us about more than 40,000 experiences at 31 national and regional drugstore chains (like CVS, Genovese, Osco, Rite Aid, and Walgreens); supermarket-pharmacy combos (such as Kroger, Publix, and Safeway); mass-merchant pharmacies (like Costco, Target, and Wal-Mart); and independent pharmacies across the nation.

For most consumers, insurance covers at least some of the cost of prescription drugs, so our Ratings emphasize service factors that affect everyone. For consumers who have to pay more than a small percentage of their prescription-drug costs, including more than a third of our readers, our price study indicated where to save money. (See Where to shop, how to save.)

Among the other highlights of our research:

Some of the drugstore chains and supermarkets that readers favored are family owned or businesses in which workers have a stake. Medicine Shoppe, the top ''chain,'' is actually a collection of about 1,000 individually owned and operated stores with a common parent company. Among supermarkets, high-rated Wegmans (in New Jersey, New York, and Pennsylvania) is family owned; and at high-rated Publix (in the South), most workers are stockholders.

Forty percent of readers said that at least once during the past year, their drugstore was out of the medicine they needed.

Our market basket of a month's worth of five widely prescribed medications cost $377 to $555, depending on where we shopped. For a family needing all five drugs, that difference would exceed $2,000 a year.

SORTING OUT THE STORES

Most people start by searching for a store that accepts their insurance plan. Fortunately, that isn't the hassle it used to be, especially since independents are accepting more plans these days. Insurers once considered the disparate stores too much trouble to work with, but they realized that keeping independents out of their networks alienated customers and didn't cut costs as much as they'd hoped. Also, 33 states have adopted ''any willing provider'' laws, which require insurance companies to take into their networks any pharmacy that's willing to accept the insurer's reimbursement rate. As a result, you have a greater choice of where and how to shop.

The basic choices:

Independents: Service is all. Prescription drugs are the independents' lifeblood, accounting for 88 percent of sales. That means independents can be a good source of hard-to-find medications. (The chains, where drugs account for 64 percent of sales, tend to focus on the 200 most-prescribed drugs.)

That focus on prescriptions can mean more personal attention. Readers said that pharmacists at independent stores were accessible, approachable, and easy to talk to, and that they were especially knowledgeable about medications, both prescription and nonprescription.

The independents (and some chains) offer extras such as disease-management education, in-store health screenings for cholesterol, services such as compounding (customizing medications for patients with special needs), and home delivery.

Many independents are affiliated with programs such as Good Neighbor or Value-Rite, whose names you'll see in the stores. These ''banner'' programs, offered by wholesale product suppliers, help independents with marketing and with the sale of private-label products, improving purchasing power and name recognition much the way ServiStar and True Value help small hardware stores compete with Home Depot and Lowe's.

About half of the nation's independents have Web sites, where you can generally order medicine and find some health information but not much more.

Chains: Convenient but crowded. With about 20,000 stores nationwide, mega-drugstores are in nearly everyone's backyard. Many are open around the clock, have a drive-through pharmacy for faster pickup, and let you order online or by punching a few numbers on a telephone. You can even set up your Web account to have renewals automatically processed and readied for pickup or mailing. The biggest chains let you check prices online. Another advantage: The chains accept payment from lots of health plans (managed care pays for 80 percent of all conventional-chain prescriptions).

Now for the drawbacks. The chains' locations in populous areas and their acceptance of a plethora of plans has made them, in effect, too popular, and service is suffering. Except for Medicine Shoppe, chains typically made readers wait longer, were slower to fill orders, and provided less personal attention than other types of drugstores.

Like other drugstores, the chains have experienced shrinking reimbursement from insurers. They've helped maintain profits by selling everything from milk to Halloween costumes. That makes one-stop shopping possible (if your list isn't too specific), but it also can create bottlenecks at the checkout.

Supermarkets: One stop does it. There are fewer than 9,000 supermarkets that include a pharmacy, but the number is rising. One-stop shopping is the attraction. Many supermarkets put the pharmacy near the entrance for easy access and to attract store traffic. For those very reasons, however, you may not have as much privacy to consult with the druggist as you would elsewhere.

Supermarkets have online pharmacy sites, usually as a link from the home page, but they're often less comprehensive than those of big drugstore chains.

Mass merchants: Low price is key. Like supermarkets, these stores sell a wide variety of goods. But their main draw is low prices. One in five readers who bought medication from a mass merchant had no prescription-drug coverage. In our price study, only Web sites sold medications as cheaply. In our survey, ShopKo and Target were among the high-rated mass merchants; Wal-Mart was worse than most others.

All of the mass merchants in our survey have Web sites for ordering prescriptions, but only the Costco site lets you check drug prices.

Online: Low prices, no face time. Virtual pharmacies come in two basic flavors. There are adjuncts to brick-and-mortar stores, where you can order online and receive your prescription by mail or pick it up. Then there are sites such as www.drugstore.com and www.aarppharmacy.com, which have no store and simply mail the medicine to you. With both types of site, you can enter the name and quantity of the drug online; a pharmacist will confirm the prescription with your doctor. (Often, you can fax or mail a paper prescription instead and wait for it to be approved, but that can add days to the process.)

Anytime you're not picking up from a pharmacist, you lose a chance for personal contact, a consideration if you're using a medication for the first time or are juggling medications. To compensate, the stand-alone Web sites—and those operated by the drug chains and some mass merchants—make it easy to e-mail questions to pharmacists 24/7, research medical topics, search online for potentially dangerous drug interactions, receive e-mail refill reminders, keep track of your medications, and note any drug allergies. Drugstore.com will also alert you if the branded drug you're taking becomes available in generic form.

It can take as little as a couple of hours for your medicine to be ready if you order from a chain and are willing to retrieve it, or as long as three to five business days if you ask for it to be mailed standard shipping. That's free or nearly so. You can pay about $15 to have medicine overnighted (refrigerated medicines must be sent that way). Web sites can't ship every controlled substance.

When you use a Web site, you can avoid waiting in line, of course, and you'll tend to pay lower prices, even when shipping costs are included. No computer? No problem. Sites have toll-free numbers.

Four percent of our readers had bought medications online, most often from drug chains, and three-quarters of those said the transaction went smoothly: Their order was processed quickly enough for their needs, and e-mailed questions were answered promptly. (For details on ordering via the Web, see The online option.)

GETTING BETTER SERVICE

Some stores did far better than others in service, speed, and information provided by the druggist. The most frequent complaints: Drugs were out of stock, readers had to wait a long time for service at the pharmacy counter, and prescriptions weren't ready.

Drugstore chains and supermarkets were most likely to be out of a requested drug. When a drug was out of stock, independents were able to obtain it within one day 80 percent of the time, vs. about 55 to 60 percent for the other types of stores. Only 9 percent of the time did independent customers have to wait at least three days for an out-of-stock drug or find it elsewhere, vs. at least 18 percent of the time for other types of stores.

Drugs were out of stock more often this time than when we published our last drugstore survey, in 1999. The steepest jump took place at Albertsons, Giant, and Longs Drugs, whose out-of-stocks increased by more than 15 percentage points. That's probably the case in part because the number of prescriptions being written is growing faster than the shelf space.

Overall, 27 percent of readers complained about long waits. It's no wonder. Pharmacists fill nearly 4 billion prescriptions a year, an average of almost 200 per day for each pharmacist, and spend one-fourth of their time on administrative work such as calling doctors and dealing with insurance companies. Moreover, there's a shortage of druggists—there are approximately 5,500 job openings around the U.S. At CVS, Genovese, Longs Drugs, and Sav-On, about 40 percent of readers complained of long waits for service. Lines were short at Medicine Shoppe (only 6 percent of readers complained) and at the independents (8 percent).

Twenty percent of readers overall said that their prescription wasn't ready when promised. Among the worst offenders: CVS, Genovese, and Rite Aid, where prescriptions weren't ready nearly one-third of the time. Better-prepared stores included Medicine Shoppe, Publix, ShopKo, Winn-Dixie, and the independents.

Other complaints focused on how pharmacists interact with customers. Worst offenders: the drugstore chains, where 10 percent of readers said they did not receive enough personal attention from their pharmacist. Best: You guessed it—the independents—where only 2 percent of readers found fault.

Service may improve in all stores, eventually. In many states, regulators are giving technicians more authority to assist druggists. Technology is also lending a hand in the form of robotic machines that dispense medications. They do everything but cap the bottle (which goes uncapped to the pharmacist for a final inspection).

Although only a small fraction of doctors are now writing e-prescriptions, they are the wave of the future. Doctors use a handheld device to transmit your prescription to the drugstore. The procedure avoids one of druggists' biggest problems and a contributor to the rising incidence of drug errors: deciphering doctors' handwriting.

While waiting for the future, you might improve the odds of getting good service now by patronizing an independent pharmacy. But whatever drugstore you use, you're apt to get better service by following some simple advice:

Avoid waiting. Order drugs online or by phone, then pick them up (or, if you're not in a rush, have them mailed). If you plan to pick up drugs, check from home whether the doctor and druggist have connected and the prescription is ready.

Establish a good relationship. Make sure you can step aside and talk privately with the pharmacist and that you can reach him or her by phone. The pharmacist should volunteer details about the drug and be able to answer questions about nonprescription products, too. With online pharmacies, make sure you receive prompt, thorough answers to questions submitted by e-mail.

Get good advice. Check that the pharmacy keeps and updates your medication records, which should reduce the risk of a drug conflict or adverse reaction. Don't walk away from the counter without knowing the following: what to do if you miss a dose; how many refills are permitted; how to store the drug and when it expires; what side effects to expect, along with which to ignore and which to contact your doctor about; and foods, drugs, supplements, or situations to avoid while taking the medication.

THE NEED FOR MENTAL HEALTH PARITY

Mr. FEINGOLD. Mr. President, I rise today to call attention to an issue that affects every community in this country, and that is mental illness. Next week is Mental Illness Awareness Week, and I think the best way that we in the Senate can recognize this event is to ensure parity for mental health treatment in our Nation's health care system.

Mental illness has a drastic impact not only on the country's health, but also on its economic well-being. According to the 1999 Surgeon General's report on mental illness, the unequal coverage of mental illness treatment results in direct business costs of at least $70 million per year, mostly due to lost productivity and increased use of sick leave. Earlier this year, the President's New Freedom Commission on Mental Health released a report laying forth goals and objectives to transform mental health care in the United States. According to this report, mental illness ranks first among illnesses that cause disability in this country, and the indirect costs of mental illness are estimated to be $79 billion a year. This report goes on to reaffirm the President's call for Federal legislation to provide full parity between coverage for mental health care and for non-mental health care.

Over the past two decades we have made great strides in the area of mental illness. Not only are a number of innovative, beneficial treatments available for sufferers of mental illness, but we have also worked to eradicate many of the social stigmas that have too often accompanied mental illness. However we still have much to do for those who suffer from potentially debilitating and destructive mental illnesses.

Currently, those with mental illness often struggle to obtain necessary medical treatment, even when they have sufficient health insurance. Employers who offer health benefits to their employees can impose limitations on the treatment of mental illness, while not placing similar limitations on the treatment of physical illness. This discrimination prevents many from obtaining the medical treatment they need.

I urge my colleagues in the Senate to answer the President's call, and recognize Mental Illness Awareness Week by ensuring that those suffering from mental illness have access to medical treatments that will help them to preserve the quality of their lives.

HONORING THE U.S. ARMY FORCES COMMAND

Mr. CHAMBLISS. Mr. President, I rise today to honor and recognize the U.S. Army Forces Command, headquartered at Fort McPherson, GA, as it celebrates 30 years of dedicated service to our great Nation.

On July 1, 1973, U.S. Army Forces Command was formed as part of a Department of the Army initiative to reorganize its major headquarters and establish a professional, volunteer force.

U.S. Army Forces Command is the Army's largest major command. It trains, mobilizes, and deploys ready land forces in support of operations worldwide. U.S. Army Forces Command units have been integral in fighting the global war on terrorism abroad as well as in defense of our homeland. These soldiers are deployed for our Nation in the Balkans, Kuwait, Iraq, Afghanistan, the Sinai, Central and South America, and throughout the continental United States.

Having conducted the largest mobilization of Army Reserve and National Guard forces since the Korean war in support of Operations Noble Eagle, Enduring Freedom, and Iraqi Freedom, U.S. Army Forces Command units have demonstrated the strong and seamless partnership that exists between the active and reserve components.

Wherever U.S. Army Forces Command's soldiers and units deploy, they accomplish their mission with exemplary professionalism. U.S. Army Forces Command's soldiers across the globe are advancing the proud record of success achieved by earlier generations of American fighting men and women.

I am extremely proud to have U.S. Army Forces Command headquartered in my State. I take this opportunity to commend them and ask my colleagues to join me in honoring their 30th anniversary and offer best wishes for many more years of proud service to our Nation.

ADDITIONAL STATEMENTS

TRIBUTE TO MS. SELENA FLORENCE'S CLASS AT ADAMSVILLE ELEMENTARY SCHOOL

• Mr. SESSIONS. Mr. President, I would like to take this opportunity to recognize a group of students in my home State of Alabama. In July, students from Adamsville Elementary in Adamsville, AL, traveled to San Francisco to present a portfolio at the seventh annual We the People: Project Citizen National Showcase. Middle school classes from 43 States submitted portfolios on issues ranging from drugs in schools to recycling. In each portfolio, students identified a problem, evaluated alternative solutions, proposed a class policy, and developed an action plan to implement their proposed policy. Portfolios were evaluated by State legislators, legislative staff, and educators from across the country. Scoring criteria for the portfolios included persuasiveness, practicality, coordination, and reflection. Portfolios were evaluated based on four levels of achievement: superior, exceptional, outstanding, and honorable mention.

The title of the Adamsville Elementary Project Citizen portfolio was ''Making a Difference in Blackwell Park.'' The class chose to focus on Blackwell Park, a city park a few blocks from the school. The park is in bad shape and has deteriorated over the years. While there are funds in the city budget for the park, they have often been diverted to other park complexes. The class proposed a policy that would divide all the money in the city budget equally among the city's parks. I am proud to say that the Adamsville students placed in the Exceptional Achievement Level.

I would like to pay special tribute to the teacher of the class, Selena Florence. The students of the Adamsville Elementary Project Citizen class are: J.D. Barnes, Zaiere Brigman, Zach Burford, Brittany Chandler, Dakota DeLuca, Sheldon Dumas, Demetrius Eutsey, Jessica Garrett, Tiffany Hayes, Josh Hughes, Braylen Jones, Chris Jones, Joshua Langford, Lauren Leblanc, Shelby Manning, Amanda McDuff, Justin Motley, Shalani Offord, Nicole Sanders, Austin Shadix, Brandon Shipp, Rayna Warren, and Chatney Williams.

The achievements of these students are proof that the civic education initiative we approved in this chamber is paying dividends. Project Citizen, which is part of the civic education initiative of the No Child Left Behind legislation, is giving students the lifelong skills they need to be effective, engaged, and informed citizens. I commend the Center for Civic Education and the National Conference of State Legislatures for their leadership in sponsoring this excellent service learning-type program. I also would like to commend Wade Black, the state coordinator from the Alabama Center for Law & Civic Education for his work in administering the program in my State.•

CONGRATULATIONS TO DEBORAH FLATEMAN AND VERMONT FOOD BANK

• Mr. JEFFORDS. Mr. President, I want to take a few minutes to congratulate and thank Vermont Foodbank and its Chief Executive Officer, Deborah Flateman, for their inspired tenacity and expertise in the fight against hunger in Vermont. Access to nutritional food is a fundamental right for all people and the Vermont Foodbank's philosophy seeks to eradicate the persistence of hunger by constructing a system that assures every person—not just the poor—equal access to quality food. According to the Vermont Office of Economic Opportunity, food shelf caseloads have increased 69 percent over the past 10 years. Vermont Foodbank's contribution to the cause has more than quadrupled over the past 6 years, from 1.5 million pounds of food distributed in 1997 to more than 7 million in 2003.

As its leader, Deborah Flateman has devoted her energy and expertise to placing the Vermont Foodbank on the fast track towards ending hunger. From successfully raising $2.1 million and building a state of the art facility, to hiring quality personnel, to partnering with the Vermont state government to create and implement an innovative Community Kitchen, Ms. Flateman has raised the standards of best practice. The Vermont Foodbank is a lively organization with a strong ethical base and a stellar reputation.

Deborah Flateman's personal achievements illustrate her vested commitment to ending hunger. In addition to exhibiting leadership on the local and State levels. Ms. Flateman has occupied posts on the national and international levels for America's Second Harvest, including work on an international conference planning committee and the Public Policy Task Force. In the year 2000, Ms. Flateman personally solicited $800,000 for new facilities to accommodate the Foodbank's growing operation. She has also been an integral member of the Eastern Region Affiliates Association of America's Second Harvest, and was elected chairperson in 2002. Recently, Ms. Flateman accepted the Model Program Hunger's Hope Award from America's Second Harvest on behalf of the Vermont Foodbank.

With Deborah Flateman at the helm, the Vermont Foodbank has done a first rate job in addressing hunger in the Green Mountain State. The Vermont Foodbank has made exceptional progress in a short time, and its successes mark victory after victory in the fight against hunger.•

TRIBUTE TO LIEUTENANT GENERAL JOHN M. LEMOYNE, U.S. ARMY, ON HIS RETIREMENT

• Mr. NELSON of Florida. Mr. President, I rise today to recognize a great patriot, soldier and fellow Floridian, LTG John M. LeMoyne. General LeMoyne is retiring after a distinguished 35-year career in the United States Army.

John LeMoyne entered military service in 1968 after graduating from the University of Florida, in Gainsville, FL. He was commissioned through ROTC as a second lieutenant in the Infantry and has served with distinction for over three decades in peace and during two wars. Most notable was his final assignment as the Army's Deputy Chief of Staff for Personnel, G–1. He was personally selected by the Army's senior leadership to serve as its head personnel officer and to take control of an organization which had sustained substantial casualties during the September 11 terrorist attack on the Pentagon. His calm hand, steady leadership and personal touch were instrumental in guiding the organization through a period of mourning and reconstitution, while continuing to support the Army's many personnel needs. Over the past 2 years, during a period of unprecedented global action, with Operations Enduring Freedom and

Iraqi Freedom, General LeMoyne ensured that the Army's personnel challenges were met.

Throughout his career, General LeMoyne has distinguished himself in numerous command and staff positions both overseas and in the United States. In Vietnam, he commanded an infantry company, where he was recognized for his heroism and received a Purple Heart. In Europe, his assignments included command of the 3rd Battalion, 30th Infantry, 3rd Infantry Division; Operations Officer and later Chief of Staff for the U.S. Army Europe and Seventh Army. General LeMoyne's stateside assignments included serving as the Commander, 1st Brigade, 24th Infantry Division and Commanding General, U.S. Army Infantry Center, Fort Benning, GA. While in command of the 1st Brigade during Operation Desert Storm, General LeMoyne's unit led the famous ''Hail Mary'' into the Iraqi Army's rear which contributed to the quick end of hostilities and the defeat of the Iraqi Army in Kuwait.

Mr. President, I ask my colleagues to join me in thanking General LeMoyne for the leadership he has provided, for the care and concern he has demonstrated for our soldiers and their families and for his dedicated and honorable service to our Nation and its Army. As he returns to Gainsville, we wish him, his wife Marion and family Godspeed and all the best in the future.●

RAJESH (RAJ) SOIN 2003 ELLIS ISLAND MEDAL OF HONOR RECIPIENT

● Mr. VOINOVICH. Mr. President, I rise today to congratulate and pay tribute to Mr. Raj Soin of Beavercreek, OH as a 2003 Ellis Island Medal of Honor recipient.

The prestigious Ellis Island Medal of Honor award is presented annually to ''remarkable American who exemplify outstanding qualities in both their personal and professional lives,'' and ''who have distinguished themselves as citizens of the United States, while continuing to preserve the richness of their particular heritage.''

Mr. Soin was born in New Delhi, India in 1947 and graduated from Delhi University in 1969 with a Bachelor's degree in Mechanical Engineering. After graduation, he came to the United States with barely enough money to make his way to Bradley University, where he earned a Master of Science degree in Industrial Engineering in 1971, while working as a research assistant. Mr. Soin continued his postgraduate studies in business and finance, at Bradley University, Illinois State University, and the advanced management programs at Harvard University and The Wharton School of the University of Pennsylvania.

Raj Soin and his wife, Indu, became proud citizens of the United States in 1978.

In 1984, Raj Soin created his company, Modern Technologies Corporation, MTC, on a dream. MTC was founded with the idea of proving engineering and technical services to the Department of Defense, but quickly became an incubator that has spawned numerous businesses in a variety of industries. From its inception, MTC has grown at an exceptional rate and was hailed as one of the fastest growing companies in the United States by Inc. magazine for 4 consecutive years. In June 2002, MTC Technologies was listed on NASDAQ. Today the company has sales in excess of $140 million and employs over 1100 people in 25 cities and 18 States.

With the success of his company, Modern Technologies Corporation, he could have chosen to channel his energies solely toward his business. Instead, he believes in contributing to the community that has given him so much. And the one area in which Mr. Raj Soin has made a particular difference has been in the area which has had such an enormous impact on his own life—education.

When I was Governor of Ohio, one of the goals that I set for my administration was to celebrate the cultural diversity of our State by seeking out individuals from non-traditional ethnic groups and giving them an opportunity to serve.

I was so impressed by Raj's devotion to education, that as Governor, I appointed him to Wright State University's Board of Trustees in 1993. One of the main reasons that I asked Raj to serve on the Board of Trustees was that he constantly mentioned the fact that we needed to do a better job in higher education, that we needed to do a better job in secondary and primary education.

He has served with great distinction and is held in the highest regard by his colleagues. More important is the fact that through his work on behalf of Wright State University, Raj has directly touched the lives of so many. Raj Soin has truly made a difference on behalf of the citizens of Dayton, the State of Ohio and thousands of Wright State University graduates.

Because of his commitment to higher education and in honor of his accomplishments and support of the University, in 2000, the business college at Wright State was renamed the Raj Soin College of Business and I was delighted to be on campus in Dayton, OH, for the dedication ceremony.

Raj's determination, his hard work and his selflessness are traits that all of us should strive to emulate, not only in business, but in life, because there are rewards that are greater than money—particularly, the ability to make a difference in the lives of one's fellow man.

For example, Raj is the founding trustee and first president of the Ohio-India project. Two of the local projects of the Ohio-India Project are the Ghandi House, a transitional house for women in need and the Annual Day of Caring, which started as a local event and is now conducted in several states with expectations of becoming a national program.

Additionally, as Governor, we led a trade mission to India in April of 1996, and I had the chance to see Raj Soin in action when his company, Modern Technologies Corporation and CMC Limited announced their joint agreement to, among other things, greatly expand India's access to the Internet.

Mr. Soin's company, MTC Technologies also supports many community projects through the MTC Foundation. MTC not only provides part of the funding for the Foundation, but permits and encourages employers to spend company time to help with the Foundation's work.

Raj Soin serves as a member of the Board of Directors of Victoria Theatre Association, and on the Board of Directors of the Kettering Medical Center Network. He is a past member of the Board of Trustees of Wright State University, the Advisory Board of KeyBank, and Dayton District. He is a founding trustee and past president of Asian Indian American Business Group. He has also served as a member of the Dayton Area Chamber of Commerce Board of Trustees; member of the Ohio Business Roundtable; Co-Chair of the Center for Information Technology in Dayton; member of the Board of Dayton Council on World Affairs; and member of the Board of the Dayton Air and Trade Show.

Mr. Soin has received many awards, including: The National Conference of Christians and Jews Humanitarians Award, Ernst & Young's Master Entrepreneur, and Beavercreek Chamber of Commerce Business Person of the Year.

Even with all the business success he has enjoyed and all the charitable and philanthropic acts that he has undertaken, perhaps what best exemplifies Raj Soin is the fact that he is a loving husband, devoted father and caring son. I have been to Raj and Indu's home and I have been with them at other occasions and observed the genuine love and admiration they have for each other and their pride in their two sons.

Raj understands, as so many Asian Indians do, that the family is the backbone of our society.

I remember also on our business mission having the pleasure of meeting Raj Soin's father. You could not help but see how proud he was of Raj. And that love and respect was mutual; for Raj is the main benefactor for the Sukh Dev Raj Soin Hospital which is being built in memory of his father in India.

Raj has been a role model in every sense: in terms of his family, in terms of his contributions to his ''extended family'' in the community, and in terms of his success in business.

Raj Soin is indeed a remarkable American of the highest integrity in both his personal and professional life.

He has made many outstanding contributions to the Asian Indian community, to his local community in Dayton, OH and to American society.

Raj Soin is a man who came to our shores in search of a dream, who started from scratch and became a success in his adopted country, and then he went back to his homeland to help millions of people join the information age. There is just one way to describe it—only in America could such an opportunity arise to be successful and to serve.

I am proud to recognize my friend, Raj Soin, and congratulate him on this wonderful honor.●

THE 70TH BIRTHDAY OF VERONICA MARRON AND ELIZABETH MARRON

● Mr. NELSON of Nebraska. Mr. President, today I would like to recognize the upcoming birthday of two native Nebraskans—both fine educators, loving mothers, and devoted wives.

Veronica and Elizabeth Marron were born Oct. 14, 1933, to parents Harry and Pearl Marron, in Waterbury, NE. They were the last children of five, including Joe, Leonard and Gene. Fraternal twins, the girls were called Bonnie and Betty from childhood.

The twins graduated from Newcastle High in 1951, with Betty earning valedictorian and Bonnie salutatorian and Girls' State honors. Although just 17-years-old, both quickly earned teaching certificates and started work in Dixon County's country schools.

That was just the beginning of two lifetimes dedicated to education and twin, true passions for teaching. Both women taught for more than 30 years, with Bonnie ending her career at the O'Neill Public Schools and Betty at Falls City Elementary School.

Bonnie married Jim Lowe of Ponca and had four children, Peggy, Paula, Ann and Patrick. Betty married Phil Slagle of Falls City and also had four children, Scott, Todd, Jeff and Jay.

On October 14, 2003, Bonnie and Betty will celebrate 70 years of living ''the good life'' in Nebraska. I join their family and friends in wishing them a very happy birthday, and many more.●

TRIBUTE TO WILLIAM HOWARD TAFT ELEMENTARY

● Mr. CRAPO. Mr. President, I would like to honor William Howard Taft Elementary School in Boise, ID, on receiving the prestigious No Child Left Behind Blue Ribbon Schools Award. The Blue Ribbon Schools Award is highly sought after and is awarded to schools that demonstrate dramatic gains in student achievement. Taft reflects our Nation's commitment to high academic standards and accountability. Taft teachers, parents, and students have demonstrated they are ''deeply committed to establishing and upholding high standards of learning.'' This is reflected in the success of their students.

Of course, improvement and achievement do not happen in a vacuum. Behind this award lie days, weeks, and months of hard work by dedicated individuals who have been actively involved in the teaching and learning process. Dr. Susan Williamson, Taft's Principal, and her staff have reaffirmed our commitment to high-quality education in Idaho. I am pleased to commend Dr. Williamson, as well as the teachers, parents, administrators, community members and all 353 students who have helped make Taft Elementary such a great place to learn. As a recipient of The Blue Ribbon Schools Award, William Howard Taft Elementary, you do Idaho proud.●

TRIBUTE TO THE SENTINEL

● Mr. CRAPO. Mr. President, today I honor North Idaho College's student newspaper The Sentinel for over 70 years of exceptional journalism. Since the 1930s, North Idaho College has published a student newspaper in Coeur d'Alene. The Sentinel has a remarkable record of honors, including the Robert F. Kennedy Journalism Award, in addition to several regional and national first place awards in various competitions. It is perhaps the newspaper's most recent awards that demonstrate most clearly the tremendous passion and dedication to excellence that exists at the Sentinel.

At this year's Society of Professional Journalists' national convention, The Sentinel received first place in general excellence for nondaily newspapers, and first place in the online newspaper category. In both competitions, North Idaho College, a 2-year school, was chosen over 4-year schools with much larger enrollments.

North Idaho College, former Sentinel Managing Editors Betsy Dalessio and Jerry Manter, advisor Nils Rosdahl, and all members of The Sentinel staff past and present are to be commended for their hard work in creating a newspaper of distinction. They, along with all of the citizens of the State of Idaho, can be proud of North Idaho College's award-winning student newspaper, The Sentinel.●

TRIBUTE TO DAVID BROWN

● Mr. GRAHAM of South Carolina. Mr. President, I would like to take this opportunity to recognize the accomplishments of one of my constituents, David Brown. I rise to commend him for his tenure as president and CEO of the South Carolina Greater Greenville Chamber of Commerce as he leaves after 9 years of service.

Under David's leadership the chamber has received capital investment commitments exceeding $3 billion, resulting in 15,000 new job opportunities in the Greenville area.

During his tenure, the chamber has become instrumental in infrastructure development, education reform, and workforce development, creating the Corporate Partnership for Operational Excellence and the Carolina First Center for Excellence. Other major projects under David's leadership include the Southern Connector, Bi-Lo Center Arena, and several industrial parks.

A graduate of Dartmouth College, David has served as the president of the Monroe County, Michigan Industrial Development Corporation and the president of the Fort Wayne, IN Chamber of Commerce. David and his wife, Maggie, have two sons: Gregory and Elijah.

I invite you to join me in thanking David Brown for his service in the Greater Greenville Chamber of Commerce and his dedication to the State of South Carolina.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has disagreed to the amendment of the Senate to the bill (H.R. 2691) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes, and agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members as the managers of the conference: Mr. TAYLOR of North Carolina, Mr. REGULA, Mr. KOLBE, Mr. NETHERCUTT, Mr. WAMP, Mr. PETERSON of Pennsylvania, Mr. SHERWOOD, Mr. CRENSHAW, Mr. YOUNG of Florida, Mr. DICKS, Mr. MURTHA, Mr. MORAN of Virginia, Mr. HINCHEY, Mr. OLVER, and Mr. OBEY.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1260. An act amend the Federal Food, Drug, and Cosmetic Act to establish a program of fees relating to animal drugs.

H.R. 1276. An act to provide downpayment assistance under the HOME Investment Partnerships Act, and for other purposes.

H.R. 2608. An act to reauthorize the National Earthquake Hazards Reduction Program, and for other purposes.

H.R. 3034. An act to amend the Public Health Service Act to reauthorize the National Bone Marrow Donor Registry, and for other purposes.

H.R. 3038. An act to make certain technical and conforming amendments to correct the Health Care Safety Net Amendments of 2002.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 271. Concurrent Resolution congratulating Fort Detrick on 60 years of service to the Nation.

ENROLLED BILLS SIGNED

At 12:11 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker of the House has signed the following enrolled bills:

S. 570. An act to amend the Higher Education Act of 1965 with respect to the qualifications of foreign schools.

H.R. 1925. An act to reauthorize programs under the Runaway and Homeless Youth Act and the Missing Children's Assistance Act, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. STEVENS).

At 1:33 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House of Representatives to the bill (S. 3) to prohibit the procedure commonly known as partial-birth abortion.

At 3:11 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has disagreed to the amendment of the Senate to the bill (H.R. 2660) making appropriations for the Departments of Labor, Health and Human Services, and 'Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes, and agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members as the managers of the conference: Mr. REGULA, Mr. ISTOOK, Mr. WICKER, Mrs. NORTHUP, Mr. CUNNINGHAM, Ms. GRANGER, Mr. PETERSON of Pennsylvania, Mr. SHERWOOD, Mr. WELDON of Florida, Mr. SIMPSON, Mr. YOUNG of Florida, Mr. OBEY, Mr. HOYER, Mrs. LOWEY, Ms. DELAURO, Mr. JACKSON of Illinois, Mr. KENNEDY of Rhode Island, and Ms. ROYBAL-ALLARD.

At 6:10 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker House has signed the following enrolled bill:

H.R. 2826. An act to designate the facility of the United States Postal Service located at 1000 Avenida Sanchez Osorio in Carolina, Puerto Rico, as the ''Roberto Clemente Walker Post Office Building.''

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1260. An act to amend the Federal Food, Drug, and Cosmetic Act to establish a program of fees relating to animal drugs; to the Committee on Health, Education, Labor, and Pensions.

H.R. 1276. An act to provide down payment assistance under the HOME Investment Partnerships Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 2608. An act to reauthorize the National Earthquake Hazards Reduction Program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 3034. An act to amend the Public Health Service Act to reauthorize the National Bone Marrow Donor Registry, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 3038. An act to make certain technical and conforming amendments to correct the Health Care Safety Net Amendments of 2002; to the Committee on Health, Education, Labor, and Pensions.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 271. Concurrent Resolution congratulating Fort Detrick on 60 years of service to the Nation; to the Committee on the Judiciary.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 2, 2003, she had presented to the President of the United States the following enrolled bill:

S. 570. An act to amend the Higher Education Act of 1965 will respect to the qualifications of foreign schools.

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–4473. A communication from the Acting Division Chief, Office of Protected Resources, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan Regulations'' (RIN0648-AP93) received on September 25, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4556. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Aurora, MO Doc. No. 03-ACE-58'' (RIN2120-AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4557. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class D Airspace; and Modification of Class E Airspace; St. Joseph, MO Doc. No. 03-ACE-70'' (RIN2120-AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4558. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Sullivan, MO Correction Doc. No. 03-ACE-63'' (RIN2120-AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4559. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of V-13 and V-407; Harlingen, TX Doc. No. 03-ASW-1'' (RIN2120-AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4560. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Learjet Model 60 Airplanes Doc. No. 2000-NM-408'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4561. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model CL-600-2B19 (Regional Jet Series 100 and 440) Doc. No. 2003-NM-179'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4562. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Dornier Model 328-100 and 300 Series Airplanes'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4563. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model DC-10-10, 10F- , 30, 30F (KC-10A and KDC-10), 40, and 40F Airplanes and Model MD-10-10F and 30F Airplanes Doc. No. 2002-NM-164'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4564. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 777 Series Airplanes Doc. No. 2003-NM-137'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4565. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eagle Aircraft (Malaysia) Sdn. Bhd. Model 150B Airplanes Doc. No. 2000-CE-23'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4566. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Aerospatiale Model ATR42-500 and ATR72 Series Airplane Doc. No. 2002-NM-169'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4567. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives:

Airbus Model A330 and A340 Series Airplanes Doc. No. 2001-NM-187'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4568. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''IFR Altitudes; Miscellaneous Amendments (5) Amdt. No. 444'' (RIN2120-AA63) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4569. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model EC 155B Helicopters Doc. No. 2003-SW-22'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4570. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Beatrice, NE Correction Doc. No. 03-ACE-59'' (RIN2120-AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4571. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 767-200, 300, 300F, and 400ER Series Airplanes Doc. No. 2001-NM-240'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4572. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Gulfstream Model G-V Series Doc. No. 2003-NM-190'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4573. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Correction Bombardier Model CL-600-2B19 (Regional Jet Series 100 and 400) Doc. No. 2001-NM-322'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4574. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Turbomeca Arrius 2 B1, 2 B1A, 2B1A1, and 2K1 Turboshaft Engines Doc. No. 2003-NE-05'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4575. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Turbomeca Arriel 1 Series Turboshaft Engines Doc. No. 94-NE-08'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4576. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 767 Series Airplanes Doc. No. 2001-NM-342'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4577. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747 Series Airplanes Doc. No. 2001-NM-324'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4578. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model CL-600-2B19 (Regional Jet Series 100 and 400) Airplanes Doc. No. 2001-NM-176'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4579. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 757 Series Airplanes Powered by Pratt and Whitney Engines Doc. No. 2001-NM-370'' (RIN2120-AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4580. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Sioux Center, IA Doc. No. 03-ACE-53'' (RIN2120-AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4581. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace at Richfield Municipal Airport , Richfield, UT Doc. No. 01-ANM-16'' (RIN2120-AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4582. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Waimea-Kohala Airport, HI Doc. No. 03-AWP-10'' (RIN2120-AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4583. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Vinton, IA Doc. No. 03-ACE0-54'' (RIN2120-AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4584. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Elkhart, KS Doc. No. 03-ACE-51'' (RIN2120-AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4585. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Waterloo, IA Doc. No. 03-ACE-55'' (RIN2120-AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4586. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Webster, IA Doc. No. 03–ACE–56'' (RIN2120–AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4587. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; West Union, Ia Doc. No. 03–ACE–57'' (RIN2120–AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4588. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Jet Routes 618 and 623, Revocation of Jet Routes 600 and 601; AK Doc. No. 03–AAL–14'' (RIN2120–AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4589. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of the Houston Class B Airspace Area; TX Doc. No. 01–AWA–4'' (RIN2120–AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4590. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (86) Amdt. No. 3075'' (RIN2120–AA65) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4591. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Wichita MidContinent Airport, KS Doc. No. 03–ACE–52'' (RIN2120–AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4592. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Fairchild Aircraft, Inc., Series SA226 and SA227 Series Airplanes Doc. No. 2000–CE–45'' (RIN2120–AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4593. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A310 Series Airplanes Doc . No. 2002–NM–179'' (RIN2120–AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4594. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model AS 365 N3 and EC 155B Helicopters Doc. No. 2001–SW–61'' (RIN2120–AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4595. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives:

Airbus Model A319–131 and 132, A320–231, 232, and 233; and A321–131 and –231 Series Airplanes Doc. No. 2000–NM–411'' (RIN2120–AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4596. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Rolls-Royce plc RB211–524G2, –524G2–T, –524G3T, –524H, –524H–T, –524H2, and –524H2T Series and Models RB211 Trent 768–60, 772–60, and 772B–60 Turbofan Engines; Corr. Doc. No. 2003–NE–20'' (RIN2120–AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4597. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Removal of Class E Airspace; Clifton, TN Doc. No. 03–ASO–17'' (RIN2120–AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4598. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Wiamea-Kohala, HI Airspace Doc . No. 03–AWP–10'' (RIN2120–AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4599. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Cheboygan, MI Doc. No. 03–AGL–04'' (RIN2120–AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4600. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; West Union, OH Doc. No. 03–AGL–05'' (RIN2120–AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4601. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; South Bend, IN Doc. No. 03–AGL–03'' (RIN2120–AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4602. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Richfield Municipal Airport Corr. Doc. 01–ANM–16'' (RIN2120–AA66) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4603. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A300 B4–600, B4–600R, and F4–600R (Collectively Called A300–600) Series Airplanes, and Airbus Model A310 Series Airplanes Doc. No. 2003–NM–206'' (RIN2120–AA64) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4604. A communication from the FMCSA Regulatory Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Transportation of Household Goods; Interim Final Rule; Delay of (March 1, 2004) Compliance Date'' (RIN2126–AA32) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4605. A communication from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Materials Regulations: Minor Editorial Corrections and Clarifications'' (RIN2137–AD85) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4606. A communication from the FMCSA Regulatory Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hours of Service of Drivers; Final Rule; Technical Amendments'' (RIN2126–AA23) received on September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4607. A communication from the Secretary of Transportation, transmitting, the Department of Transportation's Strategic Plan for fiscal years 2003–2008; to the Committee on Commerce, Science, and Transportation.

EC–4608. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''Format and Numbering of Award Documents'' (RIN2700–AC61) received on September 25, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4609. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closure of Pacific Ocean Perch Fishery in the Eastern Aleutian District of the Bering Sea and Aleutian Islands'' received on September 25, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4610. A communication from the Chairman, Surface Transportation Board, Office of Economics, Environmental Analysis, and Administration, transmitting, pursuant to law, the report of a rule entitled ''Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services — 2003 Update'' (STB Ex Parte No. 542 sub no. 10—Board Decision #33636) received on September 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4611. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Zinc Phosphide; Pesticide Tolerance'' (FRL#7329–9) received on September 30, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4612. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, transmitting, pursuant to law, the report of a rule entitled ''Increased Assessment Rates for Specified Marketing Orders'' (Doc. No. FV03–922–1 FR) received on September 30, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4613. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, transmitting, pursuant to law, the report of a rule entitled ''Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Extension and Modification of the Exemption for Shipments of Tree Run Citrus'' (Doc. No. FV03–905–1 FR) received on September 30, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4614. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, transmitting, pursuant to law, the report of a rule entitled ''Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Limiting the Volume of Small Red Seedless Grapefruit'' (Doc. No. FV03–905–3 FR) received on September 30, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4615. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, transmitting, pursuant to law, the report of a rule entitled ''Irish Potatoes Grown in Colorado; Reinstatement of the Continuing Assessment Rate'' (Doc. No. FV03–948–1 FR) received on September 30, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4616. A communication from the Administrator, Agricultural Marketing Service, Dairy Programs, transmitting, pursuant to law, the report of a rule entitled ''National Dairy Promotion and Research Program—Amendment to the Order'' (Doc. No. DA–03–06 FR) received on September 30, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4617. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, transmitting, pursuant to law, the report of a rule entitled ''Dried Prunes Produced in California; Changes in Reporting Requirements'' (Doc. No. FV03–993–1 FIR) received on September 30, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4618. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, transmitting, pursuant to law, the report of a rule entitled ''Domestic Dates Produced or Packed in Riverside County, California; Decreased Assessment Rate'' (Doc. No. FV03–987–1 FR) received on September 30, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4619. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, transmitting, pursuant to law, the report of a rule entitled ''Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Increased Assessment Rate'' (Doc. No. FV03–905–1 FR) received on September 30, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4620. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, transmitting, pursuant to law, the report of a rule entitled ''Irish Potatoes Grown in Colorado; Increased Assessment Rate'' (Doc. No. FV03–948–1 FR) received on September 30, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4621. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, transmitting, pursuant to law, the report of a rule entitled ''Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida and Imported Grapefruit; Removing All Seeded Grapefruit Regulations, Relaxation of Grade Requirements for Valencia and Other Late Type Oranges, and Removing Quality and Size Regulations on Imported Seeded Grapefruit'' (Doc. No. FV03–922–1 FR) received on September 30, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4622. A communication from the Director, Office of Energy Policy and New Uses, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Office of Energy Policy and New Uses; Biodiesel Fuel Education Program—Administrative Provisions'' (7 CFR Part 2903) received on September 29, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4623. A communication from the Assistant Director, Executive and Political Personnel, Department of the Army, transmitting, pursuant to law, a change in previously submitted reported information for the position of Assistant Secretary of the Army (Civil Works) received on October 1, 2003; to the Committee on Armed Services.

EC–4624. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–4625. A communication from the General Counsel of the Department of Defense, transmitting, a legislative proposal pertaining to commissioned military officers serving in the position of Associate Director of Central Intelligence for Military Support; to the Committee on Armed Services.

EC–4626. A communication from the General Counsel, Office of the General Counsel, National Credit Administration, transmitting, pursuant to law, the report of a rule entitled ''12 CFR Parts 703 and 742 Investment and Deposit Activities and Regulatory Flexibility'' received on October 2, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–4627. A communication from the Deputy Secretary, Division of Investment Management, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendments to Investment Company Advertising Rules'' (RIN3235–AH19) received on September 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–4628. A communication from the Legislative and Regulatory Activities Division, Comptroller of the Currency, Administrator of National Banks, transmitting, pursuant to law, the report of a rule entitled ''Electronic Filing and Disclosure of Beneficial Ownership Reports'' (RIN1557–AC75) received on October 1, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–4629. A communication from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled ''Office of the Comptroller of the Currency'' (RIN1557–AC10) received on October 1, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–4630. A communication from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled ''Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Interim Capital Treatment of Consolidated Asset-Backed Commercial Paper Program Assets (Regulation H and Y)'' (Doc. No. R–1156) received on October 2, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–4631. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Ohio Regulatory Program'' (OH–249–FOR) received on September 29, 2003; to the Committee on Energy and Natural Resources.

EC–4632. A communication from the Secretary of the Interior, transmitting, the Department of the Interior's revised Strategic Plan for fiscal years 2003–2008; to the Committee on Environment and Public Works.

EC–4633. A communication from the Director, Office of Congressional Affairs, Office of Nuclear Material Safety and Safeguards, transmitting, pursuant to law, the report of a rule entitled ''10 CFR Parts 30, 40, and 70L: Financial Assurance Amendments for Materials Licensees'' (RIN3150–AG85) received on October 2, 2003; to the Committee on Environment and Public Works .

EC–4634. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clean Air Act Area Designations; California'' (FRL#7568–3) received on September 30, 2003; to the Committee on Environment and Public Works.

EC–4635. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Interim Final Determination that State has Corrected a Deficiency in the California State Implementation Plan, San Joaquin Valley Unified Air Pollution District'' (FRL#7565–4) received on September 30, 2003; to the Committee on Environment and Public Works.

EC–4636. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Regulation of Fuel and Fuel Additives: Gasoline and Diesel Fuel Test Method Update'' (FRL#7566–3) received on September 30, 2003; to the Committee on Environment and Public Works.

EC–4637. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revision to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District'' (FRL#7563–6) received on September 30, 2003; to the Committee on Environment and Public Works.

EC–4638. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984'' (FRL#7566–2) received on September 30, 2003; to the Committee on Environment and Public Works.

EC–4639. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Use of Alternative Analytical Test Methods in the Reformulated Gasoline, Anti-Dumping, and Tier 2 Gasoline Sulfur Control Programs'' (FRL#7566–6) received on September 30, 2003; to the Committee on Environment and Public Works.

EC–4640. A communication from the Acting Administrator, Environmental Protection Agency, transmitting, pursuant to law, the Agency's FY 2003–2008 Strategic Plan; to the Committee on Environment and Public Works.

EC–4641. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, National Wildlife Refuge System transmitting, pursuant to law, the report of a rule entitled ''2003–2004 Refuge-Specific Hunting and Sport Fishing Regulations'' (RIN1018–AI63) received on October 2, 2003; to the Committee on Environment and Public Works.

EC–4642. A communication from the Deputy Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Pennsylvania Regulatory Program'' (PA–144–FOR) received on October 2, 2003; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations:

Report to accompany S. 1689, An original bill making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes (Rept. No. 108–160).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1478. A bill to reauthorize the National Telecommunications and Information Administration, and for other purposes (Rept. No. 108–161).

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 230. A resolution calling on the People's Republic of China immediately and unconditionally to release Rebiya Kadeer, and for other purposes.

S. Res. 231. A resolution commending the Government and people of Kenya.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1580. A bill to amend the Immigration and Nationality Act to extend the special immigrant religious worker program.

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 66. A concurrent resolution commending the National Endowment for Democracy for its contributions to democratic development around the world on the occasion of the 20th anniversary of the establishment of the National Endowment for Democracy.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LUGAR for the Committee on Foreign Relations.

*Richard Eugene Hoagland, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Tajikistan.

*Pamela P. Willeford, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Switzerland, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Principality of Liechtenstein.

*James Casey Kenny, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ireland.

*Randall L. Tobias, of Indiana, to be Coordinator of United States Government Activities to Combat HIV/AIDS Globally, with the rank of Ambassador.

*W. Robert Pearson, of Tennessee, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Director General of the Foreign Service.

*William Cabaniss, of Alabama, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czech Republic.

*David L. Lyon, of California, a Career Member of the Senior Foreign Service, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to be Ambassador to the Republic of Kiribati.

*Roderick R. Paige, of Texas, to be a Representative of the United States of America to the Thirty-second Session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization.

*H. Douglas Barclay, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of El Salvador.

*Robert B. Charles, of Maryland, to be an Assistant Secretary of State (International Narcotics and Law Enforcement Affairs).

Mr. LUGAR. Mr. President, for the Committee on Foreign Relations I report favorably the following nomination list which was printed in the RECORD on the date indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that this nomination lie at the Secretary's desk for the information of Senators.

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

*Foreign Service nomination of Pamela A. White.

By Ms. COLLINS for the Committee on Governmental Affairs.

*C. Suzanne Mencer, of Colorado, to be the Director of the Office for Domestic Preparedness, Department of Homeland Security.

By Mr. HATCH for the Committee on the Judiciary.

Charles W. Pickering, Sr., of Mississippi, to be United States Circuit Judge for the Fifth Circuit.

Margaret Catharine Rodgers, of Florida, to be United States District Judge for the Northern of Florida.

Roger W. Titus, of Maryland, to be United States District Judge for the District of Maryland.

Karin J. Immergut, of Oregon, to be United States Attorney for the District of Oregon for the term of four years.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

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. FEINGOLD:

S. 1701. A bill to limit authority to delay notice of search warrants; to the Committee on the Judiciary.

By Mr. SMITH (for himself, Mr. GRAHAM of Florida, Mrs. BOXER, Mr. CHAFEE, Mr. CORZINE, and Mr. WYDEN):

S. 1702. A bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage to designated plan beneficiaries of employees, and for other purposes; to the Committee on Finance.

By Mr. SMITH:

S. 1703. A bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax for expenditures for the maintenance of railroad tracks of Class II and Class III railroads; to the Committee on Finance.

By Ms. COLLINS (for herself, Mr. PRYOR, Mr. COLEMAN, and Mr. BINGAMAN):

S. 1704. A bill to amend the Public Health Service Act to establish a State family support grant program to end the practice of parents giving legal custody of their seriously emotionally disturbed children to State agencies for the purpose of obtaining mental health services for those children; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY (for himself, Mr. JEFFORDS, Mr. CHAFEE, Mr. LIEBERMAN, Mr. AKAKA, Mr. BAUCUS, Mr. BAYH, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Ms. CANTWELL, Mr. CARPER, Mrs. CLINTON, Ms. COLLINS, Mr. CORZINE, Mr. DASCHLE, Mr. DAYTON, Mr. DODD , Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM of Florida, Mr. HARKIN, Mr. INOUYE, Mr. KERRY, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. REED, Mr. REID, Mr. SARBANES, Mr. SCHUMER, Mr. SMITH, Mr. SPECTER, Ms. STABENOW, and Mr. WYDEN):

S. 1705. A bill to prohibit employment discrimination on the basis of sexual orientation; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SCHUMER (for himself, Mr. HATCH, Mr. CRAIG, Mr. KENNEDY, Mr. MCCAIN, Mr. CHAFEE, Mrs. LINCOLN, and Mr. DURBIN):

S. 1706. A bill to improve the National Instant Criminal Background Check System, and for other purposes; to the Committee on the Judiciary.

By Ms. STABENOW:

S. 1707. A bill to amend title 39, United States Code, to provide for free mailing privileges for personal correspondence and certain parcels sent from within the United States to members of the Armed Forces serving on active duty abroad who are engaged in military operations involving armed conflict against a hostile foreign force, and for other purposes; to the Committee on Governmental Affairs.

By Mr. KENNEDY (for himself, Mrs. CLINTON, Mr. DURBIN, Mrs. MURRAY, Ms. CANTWELL, Mr. SARBANES, Mr. LEVIN, Mr. ROCKEFELLER, Mr. REED, and Mr. WYDEN):

S. 1708. A bill to provide extended unemployment benefits to displaced workers, and to make other improvements in the unemployment insurance system; to the Committee on Finance.

By Mr. CRAIG (for himself, Mr. DURBIN, Mr. CRAPO, Mr. FEINGOLD, Mr. SUNUNU, Mr. WYDEN, and Mr. BINGAMAN):

S. 1709. A bill to amend the USA PATRIOT ACT to place reasonable limitations on the use of surveillance and the issuance of search warrants, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself and Mr. DODD):

S. Res. 238. A resolution authorizing regulations relating to the use of official; considered and agreed to.

By Mr. FRIST:

S. Con. Res. 71. A concurrent resolution providing for a conditional adjournment or recess of the Senate; considered and agreed to.

ADDITIONAL COSPONSORS

S. 349

At the request of Mrs. FEINSTEIN, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 349, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 478

At the request of Mr. SARBANES, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 478, a bill to grant a Federal charter Korean War Veterans Association, Incorporated, and for other purposes.

S. 859

At the request of Mr. CORZINE, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 859, a bill to amend the Public Health Service Act with respect to facilitating the development of microbicides for preventing transmission of HIV and other diseases.

S. 985

At the request of Mr. DODD, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 985, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes.

S. 986

At the request of Mr. REID, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 986, a bill to designate Colombia under section 244 of the Immigration and Nationality Act in order to make nationals of Colombia eligible for temporary protected status under such section.

S. 1222

At the request of Mr. NELSON of Nebraska, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1222, a bill to amend title XVIII of the Social Security Act to require the Secretary of Health and Human Services, in determining eligibility for payment under the prospective payment system for inpatient rehabilitation facilities, to apply criteria consistent with rehabilitation impairment categories established by the Secretary for purposes of such prospective payment system.

S. 1396

At the request of Ms. SNOWE, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1396, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 1422

At the request of Mr. CORZINE, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1422, a bill to provide assistance to train teachers of children with autism spectrum disorders, and for other purposes.

S. 1557

At the request of Mr. MCCONNELL, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1557, a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Armenia.

S. 1558

At the request of Mr. ALLARD, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1558, a bill to restore religious freedoms.

S. 1595

At the request of Mr. KERRY, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1595, a bill to amend the Internal Revenue Code of 1986 to allow small business employers a credit against income tax with respect to employees who participate in the military reserve components and are called to active duty and with respect to replacement employees and to allow a comparable credit for activated military reservists who are self-employed individuals, and for other purposes.

S. 1622

At the request of Mr. GRAHAM of Florida, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 1622, a bill to amend title 10, United States Code, to exempt certain members of the Armed Forces from the requirement to pay subsistence charges while hospitalized.

S. 1642

At the request of Mr. LEAHY, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 1642, a bill to extend the duration of the immigrant investor regional center pilot program for 5 additional years, and for other purposes.

S. 1645

At the request of Mr. CRAIG, the names of the Senator from Louisiana (Mr. BREAUX), the Senator from Montana (Mr. BURNS), the Senator from Arkansas (Mrs. LINCOLN) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 1645, a bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

S. 1653

At the request of Mr. INOUYE, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1653, a bill to ensure that recreational benefits are given the same priority as hurricane and storm damage reduction benefits and environmental restoration benefits.

S. CON. RES. 66

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. Con. Res. 66, a concurrent resolution commending the National Endowment for Democracy for its contributions to democratic development around the world on the occasion of the 20th anniversary of the establishment of the National Endowment for Democracy.

AMENDMENT NO. 1790

At the request of Mr. SCHUMER, the names of the Senator from New York (Mrs. CLINTON), the Senator from South Dakota (Mr. JOHNSON) and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of amendment No. 1790 proposed to H.R. 2765, a bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 1795

At the request of Ms. COLLINS, her name was added as a cosponsor of amendment No. 1795 proposed to S. 1689, an original bill making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 1796

At the request of Mr. CARPER, his name was added as a cosponsor of amendment No. 1796 proposed to S. 1689, an original bill making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 1796

At the request of Mr. BIDEN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of amendment No. 1796 proposed to S. 1689, supra.

AMENDMENT NO. 1798

At the request of Mrs. HUTCHISON, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of amendment No. 1798 intended to be proposed to S. 1689, an original bill making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 1799

At the request of Mr. COLEMAN, the names of the Senator from Tennessee (Mr. ALEXANDER), the Senator from Georgia (Mr. CHAMBLISS), the Senator from North Dakota (Mr. CONRAD), the Senator from Idaho (Mr. CRAIG), the Senator from Ohio (Mr. DEWINE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Nevada (Mr. ENSIGN), the Senator from New Hampshire (Mr. GREGG), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from New Hampshire (Mr. SUNUNU), the Senator from Illinois (Mr. DURBIN), the Senator from Texas (Mrs. HUTCHISON), the Senator from West Virginia (Mr. BYRD) and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of amendment No. 1799 intended to be proposed to S. 1689, an original bill making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FEINGOLD:

S. 1701. A bill to delay notice of search warrants; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, today I will introduce in the Senate the Reasonable Notice and Search Act. This bill addresses the provision of the USA PATRIOT Act that has caused perhaps the most concern among Members of Congress. Section 213 of the PATRIOT Act, sometimes referred to as the ''delayed notice search provision'' or the ''sneak and peek provision,'' authorizes the Government in limited circumstances to conduct a search without immediately serving a search warrant on the owner or occupant of the premises that have been searched.

Prior to the PATRIOT Act, secret searches for physical evidence were performed in some jurisdictions under the authority of Court of Appeals decisions, but the Supreme Court never definitively ruled whether they were constitutional. Section 213 of the Patriot Act authorized delayed notice warrants in any case in which an ''adverse result'' would occur if the warrant were served before the search was executed. Adverse result was defined as including: 1. Endangering the life or physical safety of an individual; 2. flight from prosecution; 3. destruction of or tampering with evidence; 4. intimidation of potential witnesses; or 5. otherwise seriously jeopardizing an investigation or unduly delaying a trial. These circumstances went beyond what court decisions had authorized before the PATRIOT Act. In addition, while some courts had required the service of the warrant within a specified period of time, the PATRIOT Act simply required that the warrant specify that it would be served within a ''reasonable'' period of time after the search.

It is interesting to note that this provision of the PATRIOT Act was not limited to terrorism cases. Nor was it made subject to the sunset provision that will cause most of the new surveillance provisions of the act to expire at the end of 2005 unless Congress reenacts them. So Section 213 was pretty clearly a provision that the Department of Justice wanted regardless of the terrorism threat after 9/11.

Perhaps that is why this provision has caused such controversy since it was passed. Just over 2 months ago, by a wide bipartisan margin, the House passed an amendment to the Commerce-Justice-State appropriations bill offered by Representative OTTER from

Idaho, a Republican, to stop funding for delayed notice searches authorized under section 213. The size of the vote took the Department by surprise, and it immediately set out to defend the provision aggressively. Clearly, this is a power that DOJ does not want to lose.

I raised concern about the sneak and peek provision when it was included in the Patriot Act and even considered offering an amendment at that time to strip it out. I did not believe there had been adequate study and analysis of the justifications for these searches and the potential safeguards that might be included. I did not argue then, however, and I am not arguing now that there should be no delayed notice searches at all and that the provision should be repealed. I do believe, however, that it should be modified to protect against abuse. My bill will do four things to accomplish this.

First, my bill would narrow the circumstances in which a delayed notice warrant can be granted to the following: potential loss of life, flight from prosecution, or destruction or tampering with evidence. The ''catch-all provision'' in section 213, allowing a secret search when serving the warrant would ''seriously jeopardize an investigation or unduly delay a trial'' is too easily susceptible to abuse.

Second, I believe that any delayed notice warrant should provide for a specific and limited time period within which notice must be given—7 days. This is consistent with some of the pre-PATRIOT Act court decisions and will help to bring this provision in closer accord with the fourth amendment to the Constitution. Under my bill, prosecutors will be permitted to seek 7-day extensions if circumstances continue to warrant that the subject not be made aware of the search. But the default should be a week, unless a court is convinced that more time should be permitted.

Third, Section 213 should be brought into the group of PATRIOT Act provisions that will sunset at the end of 2005. This will allow Congress to reexamine this provision along with the other provisions of the act, which was passed within 6 weeks of the 9/11 attacks, to determine if the balance between civil liberties and law enforcement has been correctly struck.

Finally, the bill requires a public report on the number of times that section 213 is used and the number of times that extensions are sought beyond the 7-day notice period. This information will help the public and Congress evaluate the need for this authority and determine whether it should be retained or modified after the sunset.

These are reasonable and moderate changes to the law. They do not gut the provision. They do not make it worthless. They do recognize the growing and legitimate concern from across the political spectrum that this provision was passed in haste and presents the potential for abuse. They also send a message that fourth amendment rights have meaning and potential violations of those rights should be minimized if at all possible. I urge my colleagues to support this bill and I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1701

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 ''Reasonable Notice and Search Act''.

SEC. 2. LIMITATION ON AUTHORITY TO DELAY NOTICE OF SEARCH WARRANTS.

Section 3103a of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''may have an adverse result (as defined in section 2705)'' and inserting ''will endanger the life or physical safety of an individual, result in flight from prosecution, or result in the destruction of or tampering with the evidence sought under the warrant''; and

(B) in paragraph (3), by striking ''a reasonable period'' and all that follows and inserting ''7 calendar days, which period, upon application of the Attorney General, the Deputy Attorney General, or an Associate Attorney General, may thereafter be extended by the court for additional periods of up to 7 calendar days each if the court finds, for each application, reasonable cause to believe that notice of the execution of the warrant will endanger the life or physical safety of an individual, result in flight from prosecution, or result in the destruction of or tampering with the evidence sought under the warrant.''; and

(2) by adding at the end the following:

''(c) REPORTS.—

''(1) IN GENERAL.—On a semiannual basis, the Attorney General shall transmit to Congress and make public a report concerning all requests for delays of notice, and for extensions of delays of notice, with respect to warrants under subsection (b).

''(2) CONTENTS.—Each report under paragraph (1) shall include, with respect to the preceding 6-month period—

''(A) the total number of requests for delays of notice with respect to warrants under subsection (b);

''(B) the total number of such requests granted or denied; and

''(C) for each request for delayed notice that was granted, the total number of applications for extensions of the delay of notice and the total number of such extensions granted or denied.''.

SEC. 3. SUNSET ON DELAYED NOTICE AUTHORITY.

(a) PATRIOT ACT.—Section 224(a) of the USA PATRIOT Act of 2001 (Public Law 107–56; 115 Stat. 295) is amended by striking ''213,''.

(b) AMENDMENTS.—The amendments made by this Act shall sunset as provided in section 224 of the USA PATRIOT Act of 2001.

By Mr. SMITH (for himself, Mr. GRAHAM of Florida, Mrs. BOXER, Mr. CHAFEE, Mr. CORZINE, and Mr. WYDEN):

S. 1702. A bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage to designated plan beneficiaries of employees, and for other purposes; to the Committee on Finance.

Mr. SMITH. Mr. President, I rise today to speak about the need for consistent tax treatment of employer-provided health insurance for domestic partners. Today, Senator BOB GRAHAM and I are introducing the Domestic Partner Health Benefits Equity Act, a bill that seeks to simplify the tax code and address the growing trend among both public and private employers who have decided to provide domestic partner benefits to their employees.

More than one-third of Fortune 500 companies, as well as numerous State and local governments, are providing health insurance benefits to the domestic partners of their employees. This is a clear trend in the American workplace. However, Federal tax law has not kept pace with corporate changes in this area and employers who offer such benefits and the employees who receive them are taxed inequitably. Our legislation would provide consistent tax treatment for employer-provided health insurance for domestic partners.

Currently, the tax code provides that the employer's contribution of the premium for health insurance for an employee's spouse is excluded from the employee's taxable income. An employer's contribution for the domestic partner's coverage, however, is included in an employee's taxable income as a fringe benefit. In addition, the employer's payroll tax liability is increased. This forces businesses to create a two-track payroll system for benefits provided to spouses and those provided to domestic partners, an administrative burden that this legislation would eliminate.

I believe that by passing this legislation and changing current law, we will increase the number of Americans covered by health insurance by providing employers with a tax incentive. The tax code should not penalize employers for offering these benefits to their employees.

I urge my colleagues to join me and support the Domestic Partner Health Benefits Equity Act. I ask unanimous consent that the text of this legislation be printed in the RECORD.

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

S. 1702

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 ''Domestic Partner Health Benefits Equity Act''.

SEC. 2. EXTENSION OF EXCLUSION FOR AMOUNTS RECEIVED BY AN EMPLOYEE THROUGH ACCIDENT OR HEALTH INSURANCE AS REIMBURSEMENT FOR EXPENSES FOR MEDICAL CARE.

(a) IN GENERAL.—Section 105(b) of the Internal Revenue Code of 1986 (relating to amounts expended for medical care) is amended—

(1) by striking ''Except in the case'' and inserting the following:

''(1) IN GENERAL.—Except in the case'',

(2) by adding at the end of paragraph (1) as redesignated in paragraph (1) the following new sentence: ''For the purposes of this subsection, the term 'dependents' shall include any individual who is an eligible beneficiary as defined in the employer's accident or health insurance arrangement.'', and

(3) by adding at the end the following new paragraph:

''(2) APPLICABLE PERCENTAGE OF EXCLUSION FOR CERTAIN AMOUNTS.—

''(A) IN GENERAL.—In the case of taxable years beginning after December 31, 2004, and before January 1, 2011, the exclusion from income applicable by reason of the third sentence of paragraph (1) shall be equal to the applicable percentage of the amount which would (but for this paragraph) be the amount of such exclusion.

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

''For taxable years beginning in calendar year—	**The applicable percentage is—**
2005, 2006, or 2007	25
2008, 2009, 2010	50.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 3. EXTENSION OF EXCLUSION FOR CONTRIBUTIONS BY EMPLOYER TO ACCIDENT AND HEALTH PLANS.

(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:

''(d) COVERAGE PROVIDED FOR ELIGIBLE BENEFICIARIES OF EMPLOYEES.—

''(1) IN GENERAL.—Subsection (a) shall not fail to apply by reason of the coverage of an eligible beneficiary as defined in the employer's accident or health plan.

''(2) APPLICABLE PERCENTAGE OF EXCLUSION FOR CERTAIN COVERAGE.—

''(A) IN GENERAL.—In the case of taxable years beginning after December 31, 2004, and before January 1, 2011, the exclusion from income applicable by reason of paragraph (1) shall be equal to the applicable percentage of the amount which would (but for this paragraph) be the amount of such exclusion.

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

''For taxable years beginning in calendar year—	**The applicable percentage is—**
2005, 2006, or 2007	25
2008, 2009, 2010	50.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 4. EXTENSION OF DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—

''(A) IN GENERAL.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents. For the purposes of this subparagraph, the term 'dependents' shall include any individual who is an eligible beneficiary as defined in the insurance arrangement which constitutes medical care.

''(B) APPLICABLE PERCENTAGE OF DEDUCTION FOR CERTAIN AMOUNTS.—

''(i) IN GENERAL.—In the case of taxable years beginning after December 31, 2004, and before January 1, 2011, the deduction applicable by reason of the second sentence of subparagraph (A) shall be equal to the applicable percentage of the amount which would (but for this subparagraph) be the amount of such deduction.

''(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage shall be determined in accordance with the following table:

''For taxable years beginning in calendar year—	**The applicable percentage is—**
2005, 2006, or 2007	25
2008, 2009, 2010	50.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 5. EXTENSION OF SICK AND ACCIDENT BENEFITS PROVIDED TO MEMBERS OF A VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATION AND THEIR DEPENDENTS.

(a) IN GENERAL.—Section 501(c)(9) of the Internal Revenue Code of 1986 (relating to list of exempt organizations) is amended by adding at the end the following new sentence: ''For purposes of providing for the payment of sick and accident benefits to members of such an association and their dependents, the term 'dependents' shall include any individual who is an eligible beneficiary as determined under the terms of a medical benefit, health insurance, or other program under which members and their dependents are entitled to sick and accident benefits.''.

(b) APPLICABLE PERCENTAGE OF PAYMENT OF CERTAIN SICK AND ACCIDENT BENEFITS.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) APPLICABLE PERCENTAGE OF PAYMENT OF CERTAIN SICK AND ACCIDENT BENEFITS.—

''(1) IN GENERAL.—In the case of taxable years beginning after December 31, 2004, and before January 1, 2011, the exemption from tax applicable by reason of the second sentence of subsection (c)(9) shall be equal to the applicable percentage of the amount which would (but for this subsection) be the amount of such exemption.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined in accordance with the following table:

''For taxable years beginning in calendar year—	**The applicable percentage is—**
2005, 2006, or 2007	25
2008, 2009, 2010	50.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 6. AMENDMENTS TO VARIOUS DEFINITIONS.

(a) FICA.—

(1) IN GENERAL.—Section 3121 of the Internal Revenue Code of 1986 (relating to definitions) is amended by adding at the end the following new subsection:

''(z) EXCLUSION OF CERTAIN AMOUNTS FROM WAGES.—

''(1) IN GENERAL.—For purposes of applying subsection (a) with respect to expenses described in paragraph (2)(B) of such subsection, the term 'dependents' shall include any individual who is an eligible beneficiary as defined in the plan or system established by the employer.

''(2) APPLICABLE PERCENTAGE OF EXCLUSION FROM WAGES.—

''(A) IN GENERAL.—In the case of taxable years beginning after December 31, 2004, and before January 1, 2011, the exclusion from wages applicable by reason of paragraph (1) shall be equal to the applicable percentage of the amount which would (but for this paragraph) be the amount of such exclusion.

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

''For taxable years beginning in calendar year—	**The applicable percentage is—**
2005, 2006, or 2007	25
2008, 2009, 2010	50.''.

(2) CONFORMING AMENDMENT.—Section 209 of the Social Security Act (42 U.S.C. 409) is amended by adding at the end the following new subsection:

''(l)(1) For purposes of applying subsection (a) with respect to medical or hospitalization expenses described in paragraph (2) thereof, the term 'dependents' shall include any individual who is an eligible beneficiary as defined in the plan or system established by the employer.

''(2)(A) In the case of taxable years beginning after December 31, 2004, and before January 1, 2011, the exclusion from wages applicable by reason of paragraph (1) shall be equal to the applicable percentage of the amount which would (but for this paragraph) be the amount of such exclusion.

''(B) For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

''For taxable years beginning in calendar year—	**The applicable percentage is—**
2005, 2006, or 2007	25
2008, 2009, 2010	50.''.

(b) RAILROAD RETIREMENT.—

(1) IN GENERAL.—Section 3231(e) of the Internal Revenue Code of 1986 (defining compensation) is amended by adding at the end the following new paragraph:

''(11) TREATMENT OF CERTAIN DEPENDENTS.—

''(A) IN GENERAL.—For purposes of applying this subsection with respect to medical or hospitalization expenses described in paragraph (1)(i), the term 'dependents' shall include any individual who is an eligible beneficiary as defined in the plan or system established by the employer.

''(B) APPLICABLE PERCENTAGE OF EXCLUSION FROM COMPENSATION.—

''(i) IN GENERAL.—In the case of taxable years beginning after December 31, 2004, and before January 1, 2011, the exclusion from compensation applicable by reason of subparagraph (A) shall be equal to the applicable percentage of the amount which would (but for this subparagraph) be the amount of such exclusion.

''(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage shall be determined in accordance with the following table:

''For taxable years beginning in calendar year—	**The applicable percentage is—**
2005, 2006, or 2007	25
2008, 2009, 2010	50.''.

(2) CONFORMING AMENDMENT.—Section 1(h) of the Railroad Retirement Act of 1974 (45 U.S.C. 231(h)) is amended by adding at the end the following new paragraph:

''(9)(A) For purposes of applying this subsection, with respect to medical or hospitalization expenses described in paragraph (6)(v), the term 'dependents' shall include any individual who is an eligible beneficiary as defined in the plan or system established by the employer.

''(B)(i) In the case of taxable years beginning after December 31, 2004, and before January 1, 2011, the exclusion from compensation applicable by reason of subparagraph

(A) shall be equal to the applicable percentage of the amount which would (but for this subparagraph) be the amount of such exclusion.

''(ii) For purposes of clause (i), the applicable percentage shall be determined in accordance with the following table:

''For taxable years beginning in calendar year—	**The applicable percentage is—**
2005, 2006, or 2007	25
2008, 2009, 2010	50.''.

(c) FUTA.—Section 3306 of the Internal Revenue Code of 1986 (relating to definitions) is amended by adding at the end the following new subsection:

''(v) EXCLUSION OF CERTAIN AMOUNTS FROM WAGES.—

''(1) IN GENERAL.—For purposes of applying subsection (b) with respect to expenses described in paragraph (2)(B) of such subsection, the term 'dependents' shall include any individual who is an eligible beneficiary as defined in the plan or system established by the employer.

''(2) APPLICABLE PERCENTAGE OF EXCLUSION FROM WAGES.—

''(A) IN GENERAL.—In the case of taxable years beginning after December 31, 2004, and before January 1, 2011, the exclusion from wages applicable by reason of paragraph (1) shall be equal to the applicable percentage of the amount which would (but for this paragraph) be the amount of such exclusion.

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

''For taxable years beginning in calendar year—	**The applicable percentage is—**
2005, 2006, or 2007	25
2008, 2009, 2010	50.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid after December 31, 2004.

Mr. GRAHAM of Florida. Mr. President, I am pleased to join my colleague from Oregon, Senator SMITH, in introducing the Domestic Partner Health Benefits Equity Act, which corrects an inequity in our current tax law. Employees who receive health benefits from their employers are not taxed on the value of this benefit. The tax benefit also applies to health care that covers the employee's spouse and dependents.

In growing numbers, both public and private sector employers are providing domestic partner benefits to employees. For example, more than one-third of the Fortune 500 companies and 146 State and local governments provide such benefits. Unlike health benefits provided to their other employees, however, health care that covers a domestic partner is taxable to both the employee and the employer.

An employer's payroll tax liability is calculated based on its employees' taxable incomes. When contributions for domestic partner benefits are included in employees' incomes, employers pay higher payroll taxes. This provision also places an administrative burden on employers by requiring them to identify those employees utilizing their benefits for a partner rather than a spouse. Employers must then calculate the portion of their contribution that is attributable to the partner, and create and maintain a separate payroll function for these employees' income tax withholding and payroll tax. Thus, the employer is penalized for making a sound business decision that contributes to stability in the workforce.

Senator SMITH and I have drafted legislation to amend the tax law to allow health benefits to domestic partners to be received by employees on the same tax-free basis as ''spouses.'' Specifically, the bill changes the definition of ''dependent'' in the code—for purposes of employer-provided health benefits only—to be any beneficiary allowed by the health plan.

Although the primary beneficiaries of this legislation will be employees with domestic partners, the change will also benefit employees who provide health insurance to family members who may not qualify as a ''dependent'' under current law. For example, the change would make it easier for an employee to include a brother, sister or parent on an employer's health plan even if the employee does not provide more than one-half of the support for that individual, a requirement for a person being a ''dependent''.

I commend Senator SMITH for his leadership in correcting this inequity in our tax laws. I also thank Senators CHAFEE, WYDEN, CORZINE and BOXER for joining us in this effort. I urge my colleagues to cosponsor our bill.

By Mr. SMITH:

S. 1703. A bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax for expenditures for the maintenance of railroad tracks of Class II and Class III railroads; to the Committee on Finance.

Mr. SMITH. Mr. President, I rise today with Senators WYDEN, BROWNBACK, SPECTER, and BURNS to introduce the Local Railroad Rehabilitation and Investment Act. The bill provides a Federal tax credit for short line railroad rehabilitation and addresses a critical need in small town America.

There are some 500 short line railroads serving large areas of the country that are no longer served by the large Class I railroads. These railroads keep our farmers and our small businesses connected to the national main line railroad system and are the only alternative to increasing truck traffic on local roads.

Many of today's short lines were once the light density branch lines of the large Class I railroads. As Class I systems began to lose money, these branch lines received little investment and were gradually abandoned. As an alternative to abandonment, the Federal Government encouraged spinning off these lines to form new local railroads that would preserve service and jobs.

Today, this local service is threatened due to the introduction of the new, heavier 286,000-pound railcar that the Class I's are making the new industry standard. Because of the interconnectivity of our Nation's rail network, short lines are forced to use these heavier cars. This places an added strain on track structure and makes rehabilitation even more important and more urgent. Studies indicate that it will take $7 billion in new investment for our nation's short lines to accommodate these heavier rail cars.

My legislation is not intended to fund this entire rehabilitation. Rather, it is intended to help small railroads make the improvements required to grow traffic so they can earn the additional investment income needed to complete the $7 billion capital upgrade.

Short lines operate 50,000 miles of track in 49 states, employ over 23,000 workers at an average wage of $47,000, and earn $3 billion in annual revenue. Railroading is one of the most capital-intensive industries in the country. That capital effort is also labor intensive and my legislation will result in the immediate creation of jobs needed to undertake these rehabilitation projects.

The major provisions of the Local Railroad Rehabilitation and Investment Act include:

Authorization of a federal tax credit against qualified railroad track maintenance expenditures paid or incurred by a taxpayer during taxable years 2004 to 2008.

The qualified railroad track maintenance expenditures include expenditures, whether or not otherwise chargeable to capital account, for maintaining or upgrading railroad track, including roadbed, bridges and related structures, owned or leased by the taxpayer of a Class II or Class III railroad.

The total tax credit is capped at $10,000 for every mile of railroad track owned or leased by a Class II or Class III railroad, provided that the expenditure is certified by the State as part of an essential rail upgrade. For example, a 20-mile railroad qualifies for a $200,000 credit.

And, to maximize private investment in this critical infrastructure, the bill allows railroads that are unable to fully utilize credits earned to transfer such credits to other railroads, railroad shippers, or railroad suppliers and contractors.

For rural America, the specter of losing rail access is a serious matter. As characterized in the American Association of State Highway Transportation Officials' (AASHTO) recent Freight-Rail Bottom Line Report, short lines ''often provide the first and last service miles in the door-to-door collection and distribution of railcars.'' The Association of American Railroads estimates that short lines originate or terminate one out of every four carloads moved by the domestic railroad industry. Preserving short line rail service is important to the national transportation system; it is absolutely critical to the rural transportation system. This legislation provides a modest and efficient way to help the short line industry help itself.

I urge my colleagues to join me and support this important legislation. I

ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 1703

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 ''Local Railroad Rehabilitation and Investment Act of 2003''.

SEC. 2. CREDIT FOR MAINTENANCE OF RAILROAD TRACK.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following new section:

''SEC. 45G. RAILROAD TRACK MAINTENANCE CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the railroad track maintenance credit determined under this section for the taxable year is the amount of qualified railroad track maintenance expenditures paid or incurred by the taxpayer during the taxable year.

''(b) LIMITATION.—The credit allowed under subsection (a) shall not exceed the product of—

''(1) $10,000, and

''(2) the number of miles of railroad track owned or leased by the taxpayer as of the close of the taxable year.

''(c) QUALIFIED RAILROAD TRACK MAINTENANCE EXPENDITURES.—For purposes of this section, the term 'qualified railroad track maintenance expenditures' means expenditures (whether or not otherwise chargeable to capital account) for maintaining railroad track (including roadbed, bridges, and related track structures) owned or leased by the taxpayer of Class II or Class III railroads (as determined by the Surface Transportation Board).

''(d) CONTROLLED GROUPS.—For purposes of subsection (b), rules similar to the rules of paragraph (1) of section 41(f) shall apply for purposes of this subsection.

''(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to any railroad track, the basis of such track shall be reduced by the amount of the credit so allowed.

''(f) APPLICATION OF SECTION.—This section shall apply to qualified railroad track maintenance expenditures paid or incurred during taxable years beginning after December 31, 2003, and before January 1, 2009.

''(g) CREDIT TRANSFERABILITY.—

''(1) IN GENERAL.—Any credit allowable under this section may be transferred as provided in this subsection, and the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the transferor.

''(2) TRANSFER TO ELIGIBLE TAXPAYER.—Any credit transferred under paragraph (1) shall be transferred to an eligible taxpayer. Any credit so transferred shall be allowed to the transferee, but the transferee may not assign such credit to any other person.

''(3) ELIGIBLE TAXPAYER.—For purposes of this subsection, the term 'eligible taxpayer' means—

''(A) any person who transports property using the rail facilities of the taxpayer or who furnishes railroad-related property or services to the taxpayer, and

''(B) any Class II or Class III railroad.

''(4) MINIMUM PRICE FOR TRANSFER.—No transfer shall be allowed under this subsection unless the transferor receives compensation for the credit transfer equal to at least 50 percent of the amount of credit transferred. The excess of the amount of credit transferred over the compensation received by the transferor for such transfer shall be included in the gross income of the transferee.''.

(b) LIMITATION ON CARRYBACK.—Section 39(d) of the Internal Revenue Code of 1986 (relating to transition rules) is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF RAILROAD TRACK MAINTENANCE CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the railroad track maintenance credit determined under section 45G may be carried to a taxable year beginning before January 1, 2004.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 (relating to general business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) the railroad track maintenance credit determined under section 45G(a).''.

(2) Subsection (a) of section 1016 of such Code is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by adding at the end the following new paragraph:

''(29) in the case of railroad track with respect to which a credit was allowed under section 45G, to the extent provided in section 45G(e).''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 45F the following new item:

''Sec. 45G. Railroad track maintenance credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

By Ms. COLLINS (for herself, Mr. PRYOR, Mr. COLEMAN, and Mr. BINGAMAN):

S. 1704. A bill to amend the Public Health Service Act to establish a State family support grant program to end the practice of parents giving legal custody of their seriously emotionally disturbed children to State agencies for the purpose of obtaining mental health services for those children; to the committee on Health, Education, Labor, and Pensions.

Ms. COLLINS. Mr. President, I am pleased to join my colleagues Senators PRYOR, COLEMAN and BINGAMAN in introducing the ''Keeping Families Together Act.'' Among other provisions, our bill authorizes a new, competitive State grant program to support statewide systems for care for children with serious mental illness so that parents are no longer forced to give up custody of their children solely for the purpose of securing mental health treatment.

Serious mental illness afflicts millions of our Nation's children and adolescents. It is estimated that as many as 20 percent of American children under the age of 17 suffer from a mental, emotional or behavioral illness. Of these, nearly half have a condition that produces a serious disability that impairs the child's ability to function in day-to-day activities. What is even more disturbing is the fact that two-thirds of all young people who need mental health treatment are not getting it.

Behind each of these statistics is a family that is struggling to do the best it can to help a son or daughter with a serious mental illness to be just like every other kid—to develop friendships, to do well in school, and to get along with their siblings and other family members. These children are almost always involved with more than one social service agency, including the mental health, special education, child welfare, and juvenile justice systems. Yet no one agency, at either the State or the Federal level, is clearly responsible or accountable for helping these children.

Recent news reports in more than 30 States have highlighted the difficulties that parents of children with serious mental illness have in getting the coordinated mental health services that their children need. My interest in this issue was triggered by a compelling series of stories by Barbara Walsh in the Portland Press Herald last summer which detailed the obstacles that many Maine families have faced in getting care for their children.

Too many families in Maine and elsewhere have been forced to make wrenching decisions when they have been advised that the only way to get the care that their children so desperately need is to relinquish custody and place them in either the child welfare or juvenile justice system.

Yet neither system is intended to serve children with serious mental illness. Child welfare systems are designed to protect children who have been abused or neglected. Juvenile justice systems are designed to rehabilitate children who have committed criminal or delinquent acts and to prevent such acts from occurring. While neither of these systems is equipped to care for a child with a serious mental illness, in far too may cases, there is nowhere else for the family to turn.

Earlier this year, the General Accounting Office (GAO) completed a report that I requested with Representatives PETE STARK and PATRICK KENNEDY titled ''Child Welfare and Juvenile Justice: Federal Agencies Could Play a Stronger Role in Helping States Reduce the Number of Children Placed solely to Obtain Mental Health Services.''

The GAO surveyed child welfare directors in all States and the District of Columbia, as well as juvenile justice officials in the 33 counties with the largest number of young people in their juvenile justice systems. According to the GAO survey, in 2001, parents placed more than 12,700 children into the child welfare or juvenile justice systems so that these children could receive mental health services.

Moreover, the GAO estimate is likely just the tip of the iceberg, since 32 States—including the five States with the largest populations of children—did not provide the GAO with any data.

There have been other studies indicating that the custody relinquishment problem is pervasive. In 1999, the National Alliance for the Mentally Ill released a survey which found that 23 percent—or one in four of the parents surveyed—had been told by public officials that they needed to relinquish custody of their children to get care, and that one in five of these families had done so.

While some States have passed laws to limit or prohibit custody relinquishment, simply banning the practice is not a solution, since it can leave mentally ill children and their families without services and care. Custody relinquishment is merely a symptom of the much larger problem, which is the lack of available, affordable and appropriate mental health services and support systems for these children and their families.

In July, I chaired a series of hearings in the Committee on Governmental Affairs to examine the difficult challenges faced by families of children with mental illnesses. We heard compelling testimony from families who told the Committee about their personal struggles to get mental health services for their severely ill children. The mothers who testified told us they were advised that the only way to get the intensive care and services that their children needed was to relinquish custody and place them in the child welfare system. This is a wrenching decision that no family should be forced to make. No parent should have to give up custody of his or her child just to get the services that the child needs.

The legislation that we are introducing today was developed in response to concerns raised by both the GAO report and in the Governmental Affairs Committee hearings.

First, the legislation authorizes $55 million for competitive grants to States that would be payable over six years to create an infrastructure to support and sustain statewide systems of care to serve children who are in custody or at risk of entering custody of the State for the purpose of receiving mental health services. These grants are intended to help states serve these children more effectively and efficiently, while keeping them at home with their families.

States would use funds from these Family Support Grants to foster interagency cooperation and cross-system financing among the various State agencies with responsibilities for serving children with mental health needs. The funds would also support the purchase and delivery of a comprehensive array of community-based mental health and family support services for children who are in custody, or at risk of entering into the custody of the State for the purpose of receiving mental health services. This will allow States, which already dedicate significant dollars to serving children in state custody, to use those resources more efficiently by delivering care to children while allowing them to remain with their families.

In response to recommendation made by the GAO report, the Keeping Families Together Act will also establish a Federal interagency task force to examine mental health issues in the child welfare and juvenile justice systems and the role of their agencies in promoting access by children and youth to mental health services.

And finally, the legislation will remove a current statutory barrier that prevents more states from using the Medicaid home and community-based services waiver to serve children with serious mental health conditions. The Medicaid home and community-based services waiver is a promising way for States to reduce the incidence of custody relinquishment and address the underlying lack of mental health services for children. While a number of States have requested these waivers to serve children with developmental disabilities, to date very few have done so for children with serious mental health conditions. That is because, under current law, States can only offer home- and community-based services under these waivers as an alternative to care in hospitals, nursing facilities, or intermediate care facilities for the mentally retarded. Our legislation will correct this omission and provide parity to children with mental illness by including inpatient psychiatric hospitals and residential treatment facilities on the list of institutions for which alternative care through the Medicaid home- and community-based services waivers may be available.

The legislation we are introducing today will help to reduce the barriers to care for children who suffer from mental illness and will assist States in eliminating the practice of parents relinquishing custody of their children to State agencies solely for the purpose of securing mental health services.

Our legislation has been endorsed by a number of mental health and children's groups including the National Alliance for the Mentally Ill, the Federation of Families for Children's Mental Health, the National Child Welfare League, the Bazelon Center, the Children's Defense Fund, and the National Mental Health Association. I urge all of my colleagues to join us as cosponsors.

By Mr. KENNEDY (for himself, Mr. JEFFORDS, Mr. CHAFEE, Mr. LIEBERMAN, Mr. AKAKA, Mr. BAUCUS, Mr. BAYH, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Ms. CANTWELL, Mr. CARPER, Mrs. CLINTON, Ms. COLLINS, Mr. CORZINE, Mr. DASCHLE, Mr. DAYTON, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM of Florida, Mr. HARKIN, Mr. INOUYE, Mr. KERRY, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. REED, Mr. REID, Mr. SARBANES, Mr. SCHUMER, Mr. SMITH, Mr. SPECTER, Ms. STABENOW, and Mr. WYDEN):

S. 1705. A bill to prohibit employment discrimination on the basis of sexual orientation; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it's a privilege to join my colleagues in introducing the Employment Non-Discrimination Act of 2003.

Civil rights is the unfinished business of our nation. Title VII of the Civil Rights Act of 1964 gives all Americans—without regard to race, ethnic background, gender, or religion—the opportunity to obtain and keep a job. The Employment Non-Discrimination Act is an essential additional step in preventing job discrimination.

The act is straightforward and limited. It prohibits discrimination based on sexual orientation in making decisions about hiring, firing, promotion, and compensation. It makes clear that there is no right to preferential treatment, and that quotas are prohibited. It does not apply to employers with less than 15 employees. It does not apply to the armed forces, religious organizations, or such volunteer positions as troop leaders in the Boy Scouts or Girl Scouts.

In fact, this fundamental additional protection for America's workforce is long overdue. Too many hardworking Americans are being judged on their sexual orientation, rather than their ability and qualifications.

Consider the example of Kendall Hamilton in Oklahoma City. After working at Red Lobster for several years and receiving excellent reviews, he applied for promotion at the urging of the general manager, who knew he was gay. His application was rejected after a co-worker revealed his sexual orientation to the upper management team, and the promotion was given instead to another employee who had been on the job for only 9 months—and whom Mr. Hamilton had trained. He was told that his sexual orientation ''was not compatible with Red Lobster's belief in family values,'' and that being gay had destroyed any chance of becoming a manager. As a result, Hamilton left the company.

Consider the example of Steve Morrison, a firefighter in Oregon. His coworkers saw him on the local news protesting an anti-gay initiative, and incorrectly assumed he was gay himself. He began to lose workplace responsibilities and was the victim of harassment, including hate mail. After a long administrative proceeding, the trumped-up charges were removed from his record, and he was transferred to another fire station.

The overwhelming majority of Americans believe that this kind of discrimination is wrong. According to a 2003 Gallup study, 88 percent of Americans believe that gays and lesbians should have equal job opportunities. The Employment Non-Discrimination Act is strongly supported by labor unions and a broad religious coalition. They know that America will not reach its full potential or realize its promise of equal justice and equal opportunity for all until we end all forms of discrimination.

Over 60 percent of Fortune 500 companies have implemented non-discrimination policies that include sexual orientation. Our legislation has been endorsed by leading corporations such as AT&T, BP, Cisco Systems, Eastman Kodak, FleetBoston, General Mills, Hewlett-Packard, IBM, JP Morgan Chase & Co., Microsoft, Nike, Oracle, Shell Oil, and Verizon.

Small businesses support our legislation as well. At a hearing in 2001, Lucy Billingsly, a Republican small business owner in Dallas, said, ''A uniform Federal law banning sexual orientation discrimination will give businesses the right focus. By paying attention to the quality of work being done and not to factors that have nothing to do with job performance, all of America's businesses will perform better.''

Despite broad-based support in the business community and Congress's history of enacting anti-discrimination legislation, some argue that the solution to the problem of job discrimination on the basis of sexual orientation should be left to the States. I disagree. Only 14 States and the District of Columbia have laws similar to the Employment Non-Discrimination Act. Too many American workers are left without redress. A Federal law is clearly needed to ensure that all Americans receive equal treatment in the workplace.

Hard-working citizens in every State deserve the opportunity to feel secure in their jobs when they perform well, and they deserve the opportunity to compete in the workplace when they are qualified for a job. Job discrimination based on sexual orientation is unacceptable, and I urge my colleagues to support this bill.

Mr. LIEBERMAN. Mr. President, I am delighted to join with Senators KENNEDY, CHAFEE, JEFFORDS and many other colleagues as an original cosponsor of this important legislation, the Employment Non-Discrimination Act of 2003. By guaranteeing that American workers cannot lose their jobs simply because of their sexual orientation, this bill would extend the bedrock American values of fairness and equality to a group of our fellow citizens who too often have been denied the benefit of those most basic values.

More than 225 years ago, Thomas Jefferson laid out a vision of America as dedicated to the simple idea that all of us are created equal, endowed by our creator with the unalienable rights to life, liberty and the pursuit of happiness. As Jefferson knew, our society did not in his time live up to that ideal, but since his time, we have been trying to. In succeeding generations, we have worked ever harder to ensure that our society removes unjustified barriers to individual achievement and that we judge each other solely on our merits and not on characteristics that are irrelevant to the task at hand. We are still far from perfect, but we have made much progress, especially over the past few decades, guaranteeing equality and fairness to an increasing number of groups that traditionally have not had the benefits of those values and of those protections. To African-Americans, to women, to disabled Americans, to religious minorities and to others we have extended a legally enforceable guarantee that, with respect to their ability to earn a living at least, they will be treated on their merits and not on characteristics unrelated to their ability to do their jobs.

It is time to extend that guarantee to gay men and lesbians, who too often have been denied the most basic of rights: the right to obtain and maintain a job. A collection of 1 national survey and 20 city and State surveys found that as many as 44 percent of gay, lesbian and bisexual workers faced job discrimination in the workplace at some time in their careers. Other studies have reported even greater discrimination—as much as 68 percent of gay men and lesbians reporting employment discrimination. The fear in which these workers live was clear from a survey of gay men and lesbians in Philadelphia. Over three-quarters told those conducting the survey that they sometimes or always hide their orientation at work out of fear of discrimination.

The toll this discrimination takes extends far beyond its effect on the individuals who live without full employment opportunities. It also takes an unacceptable toll on America's definition of itself as a land of equality and opportunity, as a place where we judge each other on our merits, and as a country that teaches its children that anyone can succeed here as long as they are willing to do their job and work hard.

This bill provides for equality and fairness—that and no more. It says only what we already have said for women, for people of color and for others; that you are entitled to have your ability to earn a living depend only on your ability to do the job and nothing else.

This bill would bring our nation one large step closer to realizing the vision that Thomas Jefferson so eloquently expressed 227 years ago when he wrote that all of us have a right to life, liberty and the pursuit of happiness. I urge my colleagues to join me in supporting this important legislation.

By Ms. STABENOW:

S. 1707. A bill to amend title 39, United States Code, to provide for free mailing privileges for personal correspondence and certain parcels sent from within the United States to members of the Armed Forces serving on active duty abroad who are engaged in military operations involving armed conflict against a hostile foreign force, and for other purposes; to the Committee on Governmental Affairs.

Ms. STABENOW. Mr. President, I rise today to introduce the Providing Our Support to Troops or POST Act of 2003. This bill would provide free mailing privileges for letters and packages sent from within the United States to members of the Armed Forces serving on active duty abroad who are engaged in military operations involving armed conflict against a hostile foreign force. This bill is a companion bill to Representative LUCAS's H.R. 2705, a bill with 31 bipartisan cosponsors in the House of Representatives.

Our troops overseas can send mail and packages to their loved ones at no cost, but their families must pay postage to do the same. As the holidays approach, the families back here in the States are not only not able to give their Christmas or Hanukah presents to their loved ones in person, but they have to pay postage to do so.

Two constituents of mine, both mothers of servicemen in Iraq, brought this inequity to my attention. Renee Walton from Lincoln Park, MI, mother of twins Jeremy and Joshua who are serving in the Marine Corps, writes, ''I believe this is something all the troops' families will benefit from and most especially the soldier who is waiting patiently for a package from home.''

Suzann Sareini, a Dearborn resident, says, ''As a mother of one of the brave individuals in our armed forces fighting for this country, I believe this act exhibits a tremendous amount of patriotic gratitude for the sacrifices being made by members of the military and their families. This small gesture would be invaluable in its contribution to the morale of our soldiers waiting patiently for packages from back home.''

I wholeheartedly agree with these two Michigan moms.

Currently 2,500 Michigan Guard and Reserves are on active duty, many of whom are serving in Iraq or Afghanistan or fighting the war against terrorism around the globe. That means that there are thousands of families who will have an empty seat at the Thanksgiving table and will be missing a loved one during the holidays. But, by providing free postage for these families, we are making it easier for them to stay in touch with their loved ones and provide them with moral support. This is only fair since our service men and women have so unselfishly made great sacrifices to protect us and our country. This is a small gesture, but one that will speak loudly in the hearts of our troops and their families.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1707

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 ''Providing Our Support to Troops Act of 2003''.

SEC. 2. FREE MAILING PRIVILEGES.

(a) IN GENERAL.—Chapter 34 of title 39, United States Code, is amended by adding at the end the following:

''§ 3407. Free postage for personal correspondence and certain parcels mailed to members of Armed Forces of the United States

''(a) IN GENERAL.—The matter described in subsection (b) (other than matter described in subsection (c)) may be mailed free of postage, if—

''(1) such matter is sent from within an area served by a United States post office;

''(2) such matter is addressed to an individual who is a member of the Armed Forces of the United States on active duty, as defined in section 101 of title 10, or a civilian, authorized to use postal services at Armed Forces installations, who holds a position or performs one or more functions in support of military operations, as designated by the military theater commander; and

''(3)(A) such matter is addressed to the individual referred to in paragraph (2) at an Armed Forces post office established in an overseas area with respect to which a designation under section 3401(a)(1)(A) is in effect; or

''(B) in the case of an individual who is hospitalized at a facility under the jurisdiction of the Armed Forces of the United States as a result of a disease or injury described in section 3401(a)(1)(B), such matter is addressed to such individual at an Armed Forces post office determined under subsection (f).

''(b) MAIL MATTER DESCRIBED.—The free mailing privilege provided by subsection (a) is extended to—

''(1) letter mail or sound- or video-recorded communications having the character of personal correspondence; and

''(2) parcels not exceeding 10 pounds in weight and 60 inches in length and girth combined.

''(c) LIMITATION.—The free mailing privilege provided by subsection (a) does not extend to mail matter that contains any advertising.

''(d) RATE OF POSTAGE.—Any matter which is mailed under this section shall be mailed at the equivalent rate of postage which assures that the mail will be sent by the most economical means practicable.

''(e) MARKING.—All matter mailed under this section shall bear, in the upper right-hand corner of the address area, the words 'Free Matter for Members of the Armed Forces of the United States', or words to that effect specified by the Postal Service.

''(f) REGULATIONS.—This section shall be administered under such conditions, and under such regulations, as the Postal Service and the Secretary of Defense jointly may prescribe.''.

(b) FUNDING.—

(1) FREE POSTAGE.—Sections 2401(c) and 3627 of title 39, United States Code, are amended by striking ''3406'' and inserting ''3407''.

(2) AIR TRANSPORTATION.—

(A) IN GENERAL.—Section 2401 of title 39, United States Code, is amended by redesignating subsections (d) through (g) as subsections (e) through (h), respectively, and by inserting after subsection (c) the following:

''(d) There are authorized to be appropriated to the Postal Service each year a sum determined by the Postal Service to be equal to the expenses incurred by the Postal Service in providing air transportation for mail sent to members of the Armed Forces of the United States free of postage under section 3407, not including the expense of air transportation that is provided by the Postal Service at the same postage rate or charge for mail which is not addressed to an Armed Forces post office.''.

(B) AMENDMENT TO PREVENT DUPLICATIVE FUNDING.—Section 3401(e) of title 39, United States Code, is amended by striking ''office.'' and inserting ''office or (3) for which amounts are authorized to be appropriated to the Postal Service under section 2401(d).''.

(C) TECHNICAL AND CONFORMING AMENDMENTS.—

(i) ANNUAL BUDGET.—Section 2009 of title 39, United States Code, is amended in the next to last sentence by striking ''(b) and (c)'' and inserting ''(b), (c), and (d)''.

(ii) COMPREHENSIVE PLAN REFERENCES.—Sections 2803(a) and 2804(a) of such title 39 are amended by striking ''2401(g)'' and inserting ''2401(f)''.

(c) CHAPTER ANALYSIS.—The analysis for chapter 34 of title 39, United States Code, is amended by adding at the end the following:

''3407. Free postage for personal correspondence and certain parcels mailed to Members of the Armed Forces of the United States.''.

By Mr. CRAIG (for himself, Mr. DURBIN, Mr. CRAPO, Mr. FEINGOLD, Mr. SUNUNU, Mr. WYDEN, and Mr. BINGAMAN):

S. 1709. A bill to amend the USA PATRIOT ACT to place reasonable limitations on the use of surveillance and the issuance of search warrants, and for other purposes; to the Committee on the Judiciary.

Mr. CRAIG. Mr. President, I rise today on behalf of myself and Senators DURBIN, CRAPO, FEINGOLD, SUNUNU, and BINGAMAN, to introduce the Security and Freedom Ensured Act of 2003, which we call the SAFE Act.

This bill is aimed at addressing some specific concerns that have been raised about the USA PATRIOT Act. We believe this is a measured, reasonable, and appropriate response that would ensure the liberties of law-abiding individuals are protected in our Nation's fight against terrorism, without in any way impeding that fight.

Let me say at the outset that I voted in favor of the USA PATRIOT Act. I believed then, and still do, that it was the right thing to do in the wake of the terrible and unprecedented attacks on our Nation on September 11, 2001. I would also like to express my gratitude to those brave men and women who put their lives on the line every day to protect the American people from further attacks by would-be terrorists and criminals. The Department of Justice and Department of Homeland Security should be commended for the dramatic progress they are making in detecting, pursuing, and stopping those who pose a threat to our Nation and our people.

Even so, the USA PATRIOT Act is not a perfect law, and it is no criticism of those who are so ably waging the war against terrorism to suggest that it may be in order to amend some aspects of that law.

The SAFE Act is intended to do just that: make some commonsense changes that help to safeguard our freedoms, without sacrificing our security. It focuses on areas of activity that have been particularly controversial: delayed notice warrants, which are also referred to as ''sneak and peek'' warrants; wiretaps that do not require specificity as to either person or place; the impact of the new law on libraries; and nationwide search warrants. Our bill would amend, not eliminate these tools or repeal the USA PATRIOT Act in these areas.

I spend a lot of time on the ground in my home State of Idaho, and regardless of the pride Idahoans have in the success of the war on terrorism, many of them continue to raise concerns about the tools being used in that war. Admittedly, a lot of misinformation has been spread about the USA PATRIOT Act, and I applaud the Administration for working to correct that misinformation. However, not all of the concerns about the law are unfounded or misguided, and I strongly believe they deserve a proper airing in Congress. Furthermore, one has only to look at the cosponsors of the SAFE Act to see that these concerns are not unique to Idahoans—they are shared by a wide regional and political spectrum.

This morning, the Chairman and Ranking Member of the Senate Judiciary Committee announced a series of hearings on how our anti-terrorism laws are working. As a member of that committee, I look forward to the opportunity of exploring these issues in detail and finding solutions for any problems we discover, possibly including the SAFE Act. The changes this bill makes are not numerous or sweeping, but they are significant. I hope my colleagues will agree and will support the legislation we are introducing today.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1709

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 ''Security and Freedom Ensured Act of 2003'' or the ''SAFE Act''.

SEC. 2. LIMITATION ON ROVING WIRETAPS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 105(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(c)) is amended—

(1) in paragraph (1), by striking subparagraphs (A) and (B) and inserting the following:

''(A)(i) the identity of the target of electronic surveillance, if known; or

''(ii) if the identity of the target is not known, a description of the target and the nature and location of the facilities and places at which the electronic surveillance will be directed;

''(B)(i) the nature and location of each of the facilities or places at which the electronic surveillance will be directed, if known; and

''(ii) if any of the facilities or places are unknown, the identity of the target;''; and

(2) in paragraph (2)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(B) by inserting after subparagraph (A), the following:

''(B) in cases where the facility or place at which the surveillance will be directed is not known at the time the order is issued, that the surveillance be conducted only when the presence of the target at a particular facility or place is ascertained by the person conducting the surveillance;''.

SEC. 3. LIMITATION ON AUTHORITY TO DELAY NOTICE OF SEARCH WARRANTS.

(a) IN GENERAL.—Section 3103a of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''may have an adverse result (as defined in section 2705)'' and inserting ''will—

''(A) endanger the life or physical safety of an individual;

''(B) result in flight from prosecution; or

''(C) result in the destruction of, or tampering with, the evidence sought under the warrant''; and

(B) in paragraph (3), by striking ''within a reasonable period'' and all that follows and inserting ''not later than 7 days after the execution of the warrant, which period may be extended by the court for an additional period of not more than 7 days each time the court finds reasonable cause to believe, pursuant to a request by the Attorney General, the Deputy Attorney General, or an Associate Attorney General, that notice of the execution of the warrant will—

''(A) endanger the life or physical safety of an individual;

''(B) result in flight from prosecution; or

''(C) result in the destruction of, or tampering with, the evidence sought under the warrant.''; and

(2) by adding at the end the following:

''(c) REPORTS.—

''(1) IN GENERAL.—Every 6 months, the Attorney General shall submit a report to Congress summarizing, with respect to warrants under subsection (b), the requests made by the Department of Justice for delays of notice and extensions of delays of notice during the previous 6-month period.

''(2) CONTENTS.—Each report submitted under paragraph (1) shall include, for the preceding 6-month period—

''(A) the number of requests for delays of notice with respect to warrants under subsection (b), categorized as granted, denied, or pending; and

''(B) for each request for delayed notice that was granted, the number of requests for extensions of the delay of notice, categorized as granted, denied, or pending.

''(3) PUBLIC AVAILABILITY.—The Attorney General shall make the report submitted under paragraph (1) available to the public.''.

(b) SUNSET PROVISION.—

(1) IN GENERAL.—Subsections (b) and (c) of section 3103a of title 18, United States Code, shall cease to have effect on December 31, 2005.

(2) EXCEPTION.—With respect to any particular foreign intelligence investigation that began before the date on which the provisions referred to in paragraph (1) cease to have effect, or with respect to any particular offense or potential offense that began or occurred before the date on which the provisions referred to in paragraph (1) cease to have effect, such provisions shall continue in effect.

SEC. 4. PRIVACY PROTECTIONS FOR LIBRARY, BOOKSELLER, AND OTHER PERSONAL RECORDS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) APPLICATIONS FOR ORDERS.—Section 501(b)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(b)(2)) is amended—

(1) by striking ''shall specify that the records'' and inserting ''shall specify that—

''(A) the records''; and

(2) by striking the period at the end and inserting the following: ''; and

''(B) there are specific and articulable facts giving reason to believe that the person to whom the records pertain is a foreign power or an agent of a foreign power.''.

(b) ORDERS.—Section 501(c)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(c)(1)) is amended by striking ''finds that'' and all that follows and inserting ''finds that—

''(A) there are specific and articulable facts giving reason to believe that the person to whom the records pertain is a foreign power or an agent of a foreign power; and

''(B) the application meets the other requirements of this section.''.

(c) OVERSIGHT OF REQUESTS FOR PRODUCTION OF RECORDS.—Section 502(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1862) is amended to read as follows:

''(a) On a semiannual basis, the Attorney General shall, with respect to all requests for the production of tangible things under section 501, fully inform—

''(1) the Select Committee on Intelligence of the Senate;

''(2) the Committee on the Judiciary of the Senate;

''(3) the Permanent Select Committee on Intelligence of the House of Representatives; and

''(4) the Committee on the Judiciary of the House of Representatives.''.

SEC. 5. PRIVACY PROTECTIONS FOR COMPUTER USERS AT LIBRARIES UNDER NATIONAL SECURITY AUTHORITY.

Section 2709 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''A wire'' and inserting the following:

''(1) IN GENERAL.—A wire''; and

(B) by adding at the end the following:

''(2) EXCEPTION.—A library shall not be treated as a wire or electronic communication service provider for purposes of this section.''; and

(2) by adding at the end the following:

''(f) DEFINED TERM.—In this section, the term 'library' means a library (as that term is defined in section 213(2) of the Library Services and Technology Act (20 U.S.C. 9122(2)) whose services include access to the Internet, books, journals, magazines, newspapers, or other similar forms of communication in print or digitally to patrons for their use, review, examination, or circulation.''.

SEC. 6. EXTENSION OF PATRIOT SUNSET PROVISION.

Section 224(a) of the USA PATRIOT ACT (18 U.S.C. 2510 note) is amended—

(1) by striking ''213, 216, 219,''; and

(2) by inserting ''and section 505'' after ''by those sections)''.

Mr. DURBIN. Mr. President, the USA PATRIOT Act, the counterterrorism bill that the Bush administration pushed through Congress after the September 11 terrorist attacks, has been the focus of much controversy in recent months. I voted for the PATRIOT Act, as did the vast majority of my colleagues in the Congress. I believed then, and I still believe, that the PATRIOT Act made many reasonable and necessary changes in the law.

For example, the PATRIOT Act tripled the number of Federal agents at the Northern border, an area that had been greatly understaffed. It allocated $100 million to upgrade technology for monitoring the Northern border. It expedited the hiring of FBI translators, who were desperately needed to translate intelligence after 9/11.

Most importantly, the PATRIOT Act updated information technology and enhanced information sharing between Federal agencies, especially the FBI and the CIA. As we learned after 9/11, the failure of these agencies to communicate with each other may have prevented law enforcement from uncovering the 9/11 plot before that terrible day.

However, the PATRIOT Act contains several controversial provisions that I and many of my colleagues believe went too far. The Bush administration placed Congress in a very difficult situation by insisting on including these provisions in the bill. We were able to amend or sunset some of the most troubling components of the bill. However, many remained in the final version. As a result, the PATRIOT Act makes it much easier for the FBI to monitor the innocent activities of American citizens with minimal or no judicial oversight. For example:

The FBI can now seize records on the books you check out of the library or the videos you rent, simply by certifying that the records are sought for a terrorism or intelligence investigation, a very low standard. A court no longer has authority to question the FBI's certification. The FBI no longer must show that the documents relate to a suspected terrorist or spy.

The FBI can conduct a ''sneak and peek'' search of your home, not notifying you of the search until after a ''reasonable period,'' a term which is not defined in the PATRIOT Act. A court is now authorized to issue a ''sneak and peek'' warrant where a court finds ''reasonable cause'' that providing immediate notice of the warrant would have an ''adverse result,'' a very broad standard. The use of ''sneak and peek'' warrants is not limited to terrorism cases.

The FBI can obtain a ''John Doe'' roving wiretap, which does not specify the target of the wiretap or the place to be wiretapped. This increases the likelihood that the conversations of innocent people wholly unrelated to an investigation will be intercepted.

Many in Congress did not want to deny law enforcement some of the reasonable reforms contained in the PATRIOT Act that they needed to combat terrorism. So, we reluctantly decided to support the administration's version of the bill, but not until we secured a commitment that they would be responsive to Congressional oversight and consult extensively with us before seeking any further changes in the law.

Unfortunately, the Justice Department has reneged on their commitment to Congress, frustrating oversight on the PATRIOT Act at every turn. Attorney General Ashcroft only rarely appears on Capitol Hill. In fact, he has only testified before the Senate Judiciary Committee, of which I am a member, once this year. He appeared, along with two other administration officials, for just half a day. The Justice Department regularly fails to answer congressional inquiries, either arguing that requested information is classified, or simply not responding at all.

At the same time, the administration's allies in Congress have argued that the PATRIOT Act's sunset clauses should be repealed before we have had an opportunity to review their effectiveness. Earlier this year, we learned that the administration had secretly drafted another sweeping counterterrorism bill, ''PATRIOT Act II,'' without consulting with Congress. This bill would grant the Justice Department even broader authority, such as the right to strip Americans of their citizenship.

That proposal generated widespread opposition, but, unchastened, the administration went on the offensive again recently. On the anniversary of the 9/11 attacks, President Bush proposed new legislation that would give the Justice Department the authority to issue so-called administrative subpoenas, without judicial review, create 15 new federal death penalty crimes, and mandate pretrial detention for defendants accused of a laundry list of crimes, many of them unrelated to terrorism. These proposals continue the Administration's pattern of seeking to limit judicial oversight and grant broad, unchecked authority to law enforcement.

While they are pushing radical changes in the law, the Bush administration has failed to take commonsense steps to prevent terrorism, like developing fully interoperable information systems and creating a consolidated terrorist watch list. Most of the information systems now within the Department of Homeland Security's jurisdiction were acquired and developed independently within the former agencies in a parochial ''stovepipe'' fashion, and may be incompatible with other DHS systems. The Bush administration indicated that an initial inventory of these systems would be completed by this spring. I understand that inventory is still not completed.

This April, the GAO concluded that nine different agencies still develop and maintain a dozen terrorist watch lists, including overlapping and different data, and inconsistent procedures and policies on information sharing. The law creating the Department of Homeland Security requires the Department to consolidate watch lists. The Bush Administration promised that these lists would be consolidated by the first day of Homeland Security's operations. Seven months later, the lists are still not consolidated.

The Bush administration has devoted too many resources to counterterrorism measures that threaten our civil liberties and do little to improve our security. For example, John Ashcroft's Justice Department has launched a number of high-profile initiatives that explicitly target immigrants, especially Arabs and Muslims, for heightened scrutiny. These efforts squander precious law enforcement resources and alienate communities whose cooperation we desperately need. They run counter to basic principles of community policing, which reject the use of racial and ethnic profiles and focus on building trust and respect by working cooperatively with community members.

The Justice Department's own Inspector General has found that the Justice Department has not adequately distinguished between terrorism suspects and other immigration detainees. The IG found that the Justice Department detained 762 aliens as a result of the September 11 investigation, exactly zero of whom were charged with terrorist-related offenses. No one is suggesting that the Department should never use immigration charges to detain a suspected terrorist, but the broad brush of terrorism should not be applied to large numbers of every out-of-status immigrants who happen to be Arab or Muslim.

Many of us in Congress have raised concerns with the Justice Department about implementation of the PATRIOT Act and other civil liberties issues, and, rather than respond to legitimate concerns, they have gone on the offensive. In testimony before the Judiciary Committee, Attorney General John Ashcroft warned his critics:

> To those who scare peace-loving people with phantoms of lost liberty; my message is this: Your tactics only aid terrorists—for they erode our national unity and diminish our resolve. They give ammunition to America's enemies, and pause to America's friends. They encourage people of good will to remain silent in the face of evil.

It is unacceptable to dismiss those who raise legitimate concerns about civil liberties as terrorist sympathizers.

For the American people, the PATRIOT Act has become a potent symbol of the Justice Department's poor record on civil liberties. In fact, three states, Alaska, Hawaii, and Vermont, and over 180 cities and counties across the country, including Chicago in my home State of Illinois, have passed resolutions opposing provisions of the PATRIOT Act.

Almost 2 years after its passage, I believe that it is time to revisit the debate about the PATRIOT Act. Let me be clear: I do not believe that we should repeal the PATRIOT Act. However, I do believe that we should amend several of its most troubling provisions. Law enforcement must have all the necessary tools to combat terrorism, but we must also be careful to protect the civil liberties of Americans. I believe we can be both safe and free.

Today, I, Senator CRAIG, and several of our Republican and Democratic colleagues in the Senate introduced the Security and Freedom Ensured Act of 2003. The SAFE Act is a narrowly-tailored bipartisan bill that would amend the most problematic provisions of the PATRIOT Act, those that grant broad powers to the FBI to monitor Americans with inadequate judicial oversight. The bill would impose reasonable limits on law enforcement's authority without impeding their ability to investigate and prevent terrorism. It would not amend pre-PATRIOT Act law in anyway. The SAFE Act is supported by a broad coalition from across the political spectrum, including the American Civil Liberties Union and the American Conservative Union.

The SAFE Act would:

Reinstate the pre-PATRIOT Act standard for seizing business records. In order to obtain a subpoena, the FBI would have to demonstrate that it has reason to believe that the person to whom the records relate is a suspected terrorist or spy. The SAFE Act retains the expansion of the business record provision to include all business records, including library records, rather than just the four types of records—hotel, car rental, storage facility and common carrier—covered before the PATRIOT Act.

Authorize a court to issue a delayed notification warrant where notice of the warrant would endanger the life or physical safety of an individual, result in flight from prosecution, or result in the destruction of or tampering with the evidence sought under the warrant. It would require notification of a covert search within seven days, rather than an undefined ''reasonable period.'' It would authorize unlimited additional 7-day delays if the court found that notice of the warrant would continue to endanger the life or physical safety of an individual, result in flight from prosecution, or result in the destruction of or tampering with the evidence sought under the warrant.

Limit ''John Doe'' roving wiretaps by requiring the warrant to identify either the target of the wiretap or the place to be wiretapped. To protect innocent people from Government surveillance, it would also require that surveillance be conducted only when the suspect is present at the place to be wiretapped.

Sunset several of the PATRIOT Act's most controversial surveillance provisions on December 31, 2005. Many of PATRIOT's surveillance provisions already sunset on December 31, 2005. The SAFE Act would simply give Congress an opportunity to assess the effectiveness of several additional controversial provisions before deciding whether to reauthorize them.

Under the SAFE Act, the FBI would still have broad authority to combat terrorism. For example, consider the following hypotheticals:

The FBI would like to search the travel records of a suspected terrorist to help determine if he attended a meeting with other extremists. The FBI has reason to believe the records are related to a suspected terrorist, so the SAFE Act would authorize the issuance of a subpoena.

The FBI suspects that an individual affiliated with an extremist organization is planning a terrorist attack. The FBI would like to search the suspect's computer drive to learn more about the plot without tipping off the suspect and his co-conspirators. The SAFE Act would permit the issuance of a ''sneak and peek'' warrant, and permit the FBI to delay notice of the warrant for as long as it would continue to endanger the life or physical safety of an individual, result in flight from prosecution, or result in the destruction of or tampering with the evidence sought under the warrant.

At the same time, the SAFE Act would protect innocent Americans from unchecked Government surveillance. For example:

The FBI is investigating suspected members of a terrorist cell and would like to subpoena the records of a library and a bookstore that they frequent. Currently, the FBI could subpoena all of the records of the library and bookstore, including the records of countless innocent Americans, by certifying they are sought for a terrorism investigation, the exceedingly low standard created by the PATRIOT Act. The SAFE Act would permit the FBI to obtain the records related to the suspected terrorists, but not records related to innocent Americans who are not suspected terrorists.

The FBI is tracking a suspected terrorist who is using public phones at local restaurants to do business. The PATRIOT Act would permit the issuance of a roving wiretap that would apply to any phone the suspect uses. Under the PATRIOT Act, the FBI could monitor the conversations not just of the suspect, but of innocent patrons of these restaurants. The SAFE Act would also permit the issuance of a roving wiretap that would apply to any phone the suspect uses, but would only permit the FBI to gather intelligence when they ascertain that the suspect is using a phone.

The Justice Department has argued that amending the PATRIOT Act would handcuff law enforcement and make it very difficult to combat terrorism. Nothing could be further from the truth. It is possible to combat terrorism and protect our liberties. The SAFE Act demonstrates that. I urge my colleagues to support it.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 238—AUTHORIZING REGULATIONS RELATING TO THE USE OF OFFICIAL EQUIPMENT

Mr. LOTT (for himself and Mr. DODD) submitted the following resolution; which was considered and agreed to:

S. RES. 238

Resolved, That (a) the Committee on Rules and Administration of the Senate may issue regulations to authorize a Senator or officer or employee of the Senate to use official equipment for purposes incidental to the conduct of their official duties.

(b) Any use under subsection (a) shall be subject to such terms and conditions as set forth in the regulations.

SENATE CONCURRENT RESOLUTION 71—PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE

Mr. FRIST submitted the following concurrent resolution; which was considered and agreed to:

Resolved by the Senate (the House of Representatives concurring), that when the Senate recesses or adjourns at the close of business on Friday, October 3, 2003, on a motion offered pursuant to this concurrent resolution by its Minority Leader or his designee, it stand recessed or adjourned until Tuesday, October 14, 2003, at a time to be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notifed to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate after consultation with the Minority Leader of the Senate, shall notify the Members of the Senate to reassemble whenever, in his opinion, the public interest shall warrant it.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1800. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table.

SA 1801. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1585, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table.

SA 1802. Mr. COLEMAN (for himself, Mr. DAYTON, Mr. STEVENS, Mr. DORGAN, Mr. KENNEDY, Mr. JOHNSON, Mr. CORZINE, Ms. COLLINS, Mr. GRAHAM of South Carolina, Mr. CONRAD, Mr. SUNUNU, Mr. ALLEN, Mr. BYRD, Mr. PRYOR, Mrs. BOXER, Mr. BUNNING, Mr. LEAHY, and Mr. NELSON of Florida) proposed an amendment to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes.

SA 1803. Mr. LEAHY (for himself and Mr. DASCHLE) proposed an amendment to the bill S. 1689, supra.

SA 1804. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1689, supra; which was ordered to lie on the table.

SA 1805. Mr. GRAHAM of South Carolina submitted an amendment intended to be proposed by him to the bill S. 1689, supra; which was ordered to lie on the table.

SA 1806. Mr. GRAHAM of South Carolina submitted an amendment intended to be proposed by him to the bill S. 1689, supra; which was ordered to lie on the table.

SA 1807. Mr. CHAFEE (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 1689, supra; which was ordered to lie on the table.

SA 1808. Mr. VOINOVICH (for himself and Mr. LOTT) submitted an amendment intended to be proposed by him to the bill S. 1689, supra.

SA 1809. Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill S. 1689, supra; which was ordered to lie on the table.

SA 1810. Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill S. 1689, supra; which was ordered to lie on the table.

SA 1811. Mr. CORZINE submitted an amendment intended to be proposed by him to the bill S. 1689, supra; which was ordered to lie on the table.

SA 1812. Mr. REED (for himself, Mr. BAYH, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 1689, supra.

SA 1813. Mr. KENNEDY (for himself, Mr. KERRY, and Mr. GREGG) submitted an amendment intended to be proposed by him to the bill S. 1689, supra; which was ordered to lie on the table.

SA 1814. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1689, supra; which was ordered to lie on the table.

SA 1815. Mr. BAYH (for himself and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed by him to the bill S. 1689, supra; which was ordered to lie on the table.

SA 1816. Mr. DASCHLE (for himself, Mr. GRAHAM of South Carolina, Mr. LEAHY, Mr. STEVENS, Mr. BOND, Mr. BURNS, Mr. WARNER, Mrs. CLINTON, Mr. DEWINE, Mr. CHAMBLISS, Mr. HAGEL, Mr. REID, and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill S. 1689, supra.

SA 1817. Mr. DODD (for himself and Mr. CORZINE) proposed an amendment to the bill S. 1689, supra.

SA 1818. Mr. BYRD (for himself, Mr. KENNEDY, and Mr. LEAHY) proposed an amendment to the bill S. 1689, supra.

SA 1819. Mr. BYRD (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 1689, supra.

SA 1820. Ms. COLLINS (for herself, Mr. WYDEN, Mr. ENZI, Mr. LIEBERMAN, Mr. LAUTENBERG, Mrs. FEINSTEIN, Mr. AKAKA, Mrs. CLINTON, Mr. BYRD, Mr. MCCAIN, and Mr. LEVIN) proposed an amendment to the bill S. 1689, supra.

SA 1821. Mr. STEVENS proposed an amendment to the bill S. 1689, supra.

SA 1822. Mr. REID (for Mrs. MURRAY (for herself and Mr. DURBIN)) proposed an amendment to the bill S. 1689, supra.

SA 1823. Mr. REID (for Ms. STABENOW (for herself, Mr. DURBIN, Mrs. BOXER, Mr. JOHNSON, and Mr. SCHUMER)) proposed an amendment to the bill S. 1689, supra.

SA 1824. Mr. FRIST (for Ms. SNOWE (for herself, Mr. FRIST, Mr. DASCHLE, Mr. GREGG, Mr. KENNEDY, Mr. JEFFORDS, Mr. ENZI, Mr. DODD, Mr. DEWINE, Mr. HARKIN, Ms. COLLINS, Mrs. MURRAY, Mr. HAGEL, Ms. CANTWELL, Mr. HATCH, Mr. LAUTENBERG, Mr. LUGAR, and Mr. KERRY)) proposed an amendment to the bill S. 1053, to prohibit discrimination on the basis of genetic information with respect to health insurance and employment.

TEXT OF AMENDMENTS

SA 1800. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending

September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 22, between lines 12 and 13, insert the following:

SEC. 316. (a) In addition to other purposes for which funds in the Iraq Freedom Fund are available, such funds shall also be available for reimbursing a member of the Armed Forces for the cost of air fare incurred by the member for any travel by the member within the United States that is commenced during fiscal year 2003 or fiscal year 2004 and is completed during either such fiscal year while the member is on rest and recuperation leave from deployment overseas in support of Operation Iraqi Freedom and Operation Enduring Freedom, but only for one round trip by air between two locations within the United States.

(b) It is the sense of Congress that the commercial airline industry should, to the maximum extent practicable, charge members of the Armed Forces on rest and recuperation leave as described in subsection (a) and their families specially discounted, lowest available fares for air travel in connection with such leave and that any restrictions and limitations imposed by the airlines in connection with the air fares charged for such travel should be minimal.

SA 1801. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1585, making appropriations for Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 38, between lines 20 and 21, insert the following new section:

SEC. 2313. (a) Congress makes the following findings:

(1) The United States armed forces entered Iraq on March 19, 2003 to liberate the Iraqi people from Saddam Hussein and remove a threat to global security and stability.

(2) Having liberated the country from its prior regime, the United States and its coalition partners now have the temporary responsibility of rebuilding Iraq's infrastructure and economy until a new Iraqi government can take over this work.

(3) During the long reign of Saddam Hussein many public and private entities extended billions of dollars in loans to his regime despite his record of aggression and barbarism. Such debts must not be permitted to burden the new Iraq that is now emerging or be a factor in shaping current efforts to rebuild Iraq.

(4) Pursuant to basic principles of bankruptcy law, such prior creditors are no longer entitled to repayment of their loans. These creditors extended money to a debtor regime that no longer exists and is the functional equivalent of a bankrupt estate.

(5) Pursuant to basic principles of equity, the people of Iraq must not be burdened with the obligation of repaying loans that funded the very regime that oppressed them.

(6) Entities which extended financial support to the regime of Saddam Hussein after his record of military aggression and war crimes became public did so contrary to international norms of decency and United States foreign policy. Those who thus aided and abetted Saddam Hussein were accessories before the fact to the atrocities committed by Saddam Hussein and should not be rewarded with repayment of their loans.

(7) United Nations Security Council Resolution 1483, which passed unanimously on May 22, 2003, specifically provides that all proceeds from the sale of Iraqi oil be deposited into a United States-controlled development fund for the reconstruction of Iraq.

(8) Pursuant to United Nations Security Council Resolution 1483, the United States has an obligation to use revenue generated by the sale of Iraqi oil to fund the reconstruction of Iraq.

(9) Pursuant to basic principles of bankruptcy law, the United States is entitled to priority repayment of any loans the United States now extends to Iraq. Such loans are the equivalent of debtor-in-possession financing because the loans are being extended to an already distressed entity in order to help that entity rebuild. Loans made under such circumstances are traditionally repaid before any previously extended loans.

(10) Pursuant to basic principles of secured transactions, the United States is entitled to priority repayment of any loans it now extends to Iraq. The United States is currently in control of Iraq and its assets and is therefore a secured creditor, a creditor in physical possession of collateral, entitled to priority repayment.

(11) Pursuant to the norms of international financial aid, the United States is entitled to priority repayment of any loans it extends to Iraq. The role of the United States in Iraq is analogous to the role of the International Monetary Fund and the World Bank in extending credit to a distressed country to help it achieve solvency. Such International Monetary Fund and World Bank loans are repaid prior to any pre-existing loans.

(12) Extending loans instead of outright grants to Iraq will not lend credibility to any assertion that the United States liberated Iraq merely to gain control of its oil assets. The United States seeks to use Iraqi oil revenues for one purpose only, namely, to rebuild Iraq for the good of the Iraqi people. The United States will not use these assets to pay for its own military expenses in Iraq (which far exceed the cost of reconstruction). Nor will the United States take any Iraqi assets with it when it leaves the country.

(13) Extending loans instead of outright grants to Iraq will not make it more difficult for the United States to secure participation from other potential donor nations in the rebuilding of Iraq. If the United States provides all reconstruction funds in advance in the form of grants, there will be little need or incentive for other donor nations to contribute funds. If the United States provides only loans, however, it leaves open the question of whether and how much all donor nations, including the United States, should provide to Iraq in the form of grants.

(14) The United States does not typically fund the development projects of other nations with outright grants. When Israel undertakes a major new infrastructure or development project, for example, the United States assists Israel by providing loan guarantees. Such loan guarantees have no cost to United States taxpayers if Israel repays its loans. Iraq should be treated no better than allies of the United States such as Israel.

(b) Of the amount appropriated in title II under the subheading ''IRAQ RELIEF AND RECONSTRUCTION FUND'' under the heading ''OTHER BILATERAL ECONOMIC ASSISTANCE FUNDS APPROPRIATED TO THE PRESIDENT'', $20,304,000,000 shall be used as loans to, or used to guarantee loans entered into by, the Development Fund for Iraq acting on behalf of the people of Iraq. The Development Fund for Iraq shall act in consultation with the Governing Council in Iraq, or any successor governing authority in Iraq, and shall, as provided in United Nations Security Council Resolution 1483, be subject to audits supervised by the International Advisory and Monitoring Board of the Development Fund for Iraq. The members of such Board shall include duly qualified representatives of the United Nations Secretary General, of the Managing Director of the International Monetary Fund, of the Director General of the Arab Fund for Social and Economic Development, and the President of the World Bank.

SA 1802. Mr. COLEMAN (for himself, Mr. DAYTON, Mr. STEVENS, Mr. DORGAN, Mr. KENNEDY, Mr. JOHNSON, Mr. CORZINE, Ms. COLLINS, Mr. GRAHAM of South Carolina, Mr. CONRAD, Mr. SUNUNU, Mr. ALLEN, Mr. BYRD, Mr. PRYOR, Mrs. BOXER, Mr. BUNNING, Mr. LEAHY, and Mr. NELSON of Florida) proposed an amendment to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 54, between lines 7 and 8, insert the following new section:

SEC. 215. Of the amount provided for the National Marine Fisheries Service in this title under the subheading ''OPERATIONS, RESEARCH, AND FACILITIES'' under the heading ''NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION'', $20,556,000 shall be available for Columbia River hatchery operations for Pacific Salmon as follows:

(1) $13,587,000 for hatcheries and facilities;

(2) $2,052,000 for monitoring, evaluation, and reform; and

(3) $4,917,000 for other facilities.

SA. 1803. Mr. LEAHY (for himself and Mr. DASCHLE) proposed an amendment to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 25, line 21, before the colon, insert the following:

: Provided further, That beginning not later than 60 days after enactment of this Act, the Administrator of the Coalition Provisional Authority shall report to and be under the direct authority and foreign policy guidance of the Secretary of State

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SA 1804. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I, insert the following:

SEC. 316. (a) EXPANSION OF REST AND RECUPERATION LEAVE PROGRAM.—The Secretary of Defense shall expand the Central Command Rest and Recuperation Leave program to provide travel and transportation allowances to each member of the Armed Forces participating in the program in order to permit such member to travel at the expense of the United States from an original airport of debarkation to the permanent station or home of such member and back to such airport.

(b) ALLOWANCES AUTHORIZED.—The travel and transportation allowances that may be provided under subsection (a) are the travel and transportation allowances specified in section 404(d) of title 37, United States Code.

(c) CONSTRUCTION WITH OTHER ALLOWANCES.—Travel and transportation allowances provided for travel under subsection

(a) are in addition to any other travel and transportation or other allowances that may be provided for such travel by law.

(d) DEFINITIONS.—In this section:

(1) The term ''Central Command Rest and Recuperation Leave program'' means the Rest and Recuperation Leave program for certain members of the Armed Forces serving in the Iraqi theater of operations in support of Operation Iraqi Freedom as established by the United States Central Command on September 25, 2003.

(2) The term ''original airport of debarkation'' means an airport designated as an airport of debarkation for members of the Armed Forces under the Central Command Rest and Recuperation Leave program as of the establishment of such program on September 25, 2003.

(e) FUNDING.—Amounts appropriated or otherwise made available by chapter 1 of this title under the heading ''IRAQ FREEDOM FUND'' shall be available to carry out this section: *Provided*, That the amount is designated by Congress as an emergency requirement pursuant to section 502 of House Concurrent Resolution 95 (108th Congress), the concurrent resolution on the budget for fiscal year 2004: *Provided further*, That the amount shall be made available only to the extent an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement, as defined in House Concurrent Resolution 95, is transmitted by the President to Congress.

SA 1805. Mr. GRAHAM of South Carolina submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 38, between lines 20 and 21, insert the following:

SEC. 2313. (a) Congress finds that—

(1) in a speech delivered to the United Nations on September 23, 2003, President George W. Bush appealed to the international community to take action to make the world a safer and better place;

(2) in that speech, President Bush emphasized the responsibility of the international community to help the people of Iraq rebuild their country into a free and democratic state;

(3) French President Jacques Chirac has proposed a plan for Iraqi self-rule within a period of months;

(4) for a plan for Iraq's future to be appropriate, the provisions of that plan must be consistent with the best interests of the Iraqi people;

(5) the plan proposed by President Chirac would impose premature self-government in Iraq that could threaten peace and stability in that country; and

(6) premature self-government could make the Iraqi state inherently weak and could serve as an invitation for terrorists to sabotage the accomplishments of the United States and United States allies in the region.

(b) It is the sense of Congress that—

(1) arbitrary deadlines should not be set for the dissolution of the Coalition Provisional Authority or the transfer of its authority to an Iraqi governing authority; and

(2) no such dissolution or transfer of authority should occur until the ratification of an Iraqi constitution and the establishment of an elected government in Iraq.

SA 1806. Mr. GRAHAM of South Carolina submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, between lines 2 and 3, insert the following:

SEC. 3002. (a) Congress finds that—

(1) Israel is a strategic ally of the United States in the Middle East;

(2) Israel recognizes the benefits of a democratic form of government;

(3) the policies and activities of the Government of Iraq under the Saddam Hussein regime contributed to security concerns in the Middle East, especially for Israel;

(4) the Arab Liberation Front was established by Iraqi Baathists, and supported by Saddam Hussein;

(5) the Government of Iraq under the Saddam Hussein regime assisted the Arab Liberation Front in distributing grants to the families of suicide bombers;

(6) the Government of Iraq under the Saddam Hussein regime aided Abu Abass, leader of the Palestinian Liberation Front, who was a mastermind of the hijacking of the Achille Lauro, an Italian cruise ship, and is responsible for the death of an American tourist aboard that ship; and

(7) Saddam Hussein attacked Israel during the 1990-1991 Persian Gulf War by launching 39 Scud missiles into that country and thereby causing multiple casualties.

(b) It is the sense of Congress that Operation Iraqi Freedom promotes the security of Israel and other United States allies.

SA 1807. Mr. CHAFEE (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 29, strike line 13 and all that follows through page 31, line 5, and insert the following:

INTERNATIONAL DISASTER ASSISTANCE AND MILITARY ASSISTANCE

For an additional amount for ''International Disaster Assistance'' for relief, rehabilitation, and reconstruction assistance for Liberia, and for an additional amount for military assistance programs for Liberia for which funds were appropriated by title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 176), $200,000,000, to remain available until expended, of which $100,000,000 shall be derived by transfer from funds appropriated in this title under the subheading ''IRAQ RELIEF AND RECONSTRUCTION FUND'' under the heading ''OTHER BILATERAL ECONOMIC ASSISTANCE FUNDS APPROPRIATED TO THE PRESIDENT'': *Provided*, That the entire amount made available under this heading is designated by the Congress as an emergency requirement pursuant to section 502 of House Concurrent Resolution 95, 108th Congress, 1st session.

SA 1808. Mr. VOINOVICH (for himself and Mr. LOTT) submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 38, between lines 20 and 21, insert the following new section:

SEC. 2313. Not later than 120 days after the date of the enactment of this Act, the President shall submit to Congress a report on the efforts of the Government of the United States to increase the resources contributed by foreign countries and international organizations to the reconstruction of Iraq and the feasibility of repayment of funds contributed for infrastructure projects in Iraq. The report shall include—

(1) a description of efforts by the Government of the United States to increase the resources contributed by foreign countries and international organizations to the reconstruction of Iraq;

(2) an accounting of the funds contributed to assist in the reconstruction of Iraq, disaggregated by donor;

(3) an assessment of the effect that—

(A) the bilateral debts incurred during the regime of Saddam Hussein have on Iraq's ability to finance essential programs to rebuild infrastructure and restore critical public services, including health care and education, in Iraq; and

(B) forgiveness of such debts would have on the reconstruction and long-term prosperity in Iraq;

(4) a description of any commitment by a foreign country or international organization to forgive any part of a debt owed by Iraq if such debt was incurred during the regime of Saddam Hussein; and

(5) an assessment of the feasibility of repayment by Iraq—

(A) of bilateral debts incurred during the regime of Saddam Hussein; and

(B) of the funds contributed by the United States to finance infrastructure projects in Iraq.

SA 1809. Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. The amount appropriated by title ____ of this Act under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY'' is hereby increased by $30,000,000, with the amount of the increase to be available for the Walter Reed Army Institute of Research (WRAIR) for malaria research and vaccine development.

SA 1810. Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. The amount appropriated by title ____ of this Act under the heading ''OPERATION AND MAINTENANCE, NAVY'' is hereby increased by $27,300,000, with the amount of the increase to be available for recovery, repair, and restoration with respect to storm damage at the United States Naval Academy, Maryland, relating to Hurricane Isabel.

SA 1811. Mr. CORZINE submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 22, between lines 12 and 13, insert the following:

SEC. 316. (a) Section 12731(a)(1) of title 10, United States Code, is amended by striking ''at least 60 years of age'' and inserting ''at least 55 years of age''.

(b) With respect to any provision of law, or of any policy, regulation, or directive of the executive branch, that refers to a member or former member of the uniformed services as being eligible for, or entitled to, retired pay under chapter 1223 of title 10, United States Code, but for the fact that the member or former member is under 60 years of age, such provision shall be carried out with respect to that member or former member by substituting for the reference to being 60 years of age a reference to the age in effect for qualification for such retired pay under section 12731(a) of title 10, United States Code, as amended by subsection (a).

(c) The amendment made by subsection (a) shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act and shall apply to retired pay payable for that month and subsequent months.

SA 1812. Mr. REED (for himself, Mr. BAYH, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 22, between lines 12 and 13, insert the following:

SEC. 316. (a) The amount appropriated under chapter 1 of this title for the Army for procurement under the heading ''OTHER PROCUREMENT, ARMY'', is hereby increased by $191,100,000. The additional amount shall be available for the procurement of 800 High Mobility Multipurpose Wheeled Vehicles in addition to the number of such vehicles for which funds are provided within the amount specified under such heading.

(b) The Secretary of the Army shall reevaluate the requirements of the Army for armored security vehicles and the options available to the Army for procuring armored security vehicles to meet the validated requirements.

(c) The amount appropriated for the Iraq Freedom Fund under chapter 1 of this title is hereby reduced by $191,100,000.

SA 1813. Mr. KENNEDY (for himself, Mr. KERRY, and Mr. GREGG) submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 22, between lines 12 and 13, insert the following:

SEC. 316. In addition to other purposes for which funds in the Iraq Freedom Fund are available, such funds shall also be available for reimbursing members of the Armed Forces who, as determined by the Secretary of Defense, at any time during fiscal year 2003 or 2004 purchased nonrefundable airline tickets for travel during rest and recuperation leave between the theater of operations for Operation Iraqi Freedom or Operation Enduring Freedom and the United States on the basis of guidance provided to them under command authority regarding travel during rest and recuperation leave, if the members have not commenced the travel by reason of modified guidance provided to them under command authority.

SA 1814. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 25, line 21, before the colon, insert the following:

: *Provided further*, That none of the funds appropriated under this heading may be allocated for any capital project, including construction of a prison, hospital, housing community, railroad, or government building, until the Coalition Provisional Authority submits a report to the Committees on Appropriations describing in detail the estimated costs (including the costs of consultants, design, materials, shipping, and labor) on which the request for funds for such project is based: *Provided further*, That in order to control costs, to the maximum extent practicable Iraqis with the necessary qualifications shall be consulted and utilized in the design and implementation of programs, projects, and activities funded under this heading

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SA 1815. Mr. BAYH (for himself and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 38, between lines 20 and 21, insert the following new section:

SEC. 2313. (a) The funds appropriated in title II under the subheading ''IRAQ RELIEF AND RECONSTRUCTION FUND'' under the heading ''OTHER BILATERAL ECONOMIC ASSISTANCE FUNDS APPROPRIATED TO THE PRESIDENT'', other than such funds allocated for security, may not be obligated or expended before each country that is owed bilateral debt incurred by the regime of Saddam Hussein forgives such debt.

(b) On the date that is 180 days after the date of the enactment of this Act, any funds referred to in subsection (a) that have not been obligated or expended by reason of the limitation in such subsection shall be transferred to an account to be available to the President for use as a loan to the Governing Council in Iraq, as described in subsection (c).

(c)(1) The President is authorized to use any amount transferred under subsection (b) to make loans to the Governing Council in Iraq. Any such loan shall be made under a loan agreement that—

(A) is fairly negotiated between the Government of the United States and the Governing Council in Iraq; and

(B) includes a provision that requires any debt incurred by the regime of Saddam Hussein to be subordinated to the debt incurred through the receiving of a loan under this subsection.

(2) The purposes for which the proceeds of loans made under paragraph (1) are used may include reconstruction in Iraq.

(d) In this section, the term ''Governing Council in Iraq'' means the Governing Council established in Iraq on July 13, 2003, or any successor governing authority in Iraq.

SA 1816. Mr. DASCHLE (for himself, Mr. GRAHAM of South Carolina, Mr. LEAHY, Mr. STEVENS, Mr. BOND, Mr. BURNS, Mr. WARNER, Mrs. CLINTON, Mr. DEWINE, Mr. CHAMBLISS, Mr. HAGEL, Mr. REID, and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place insert the following:

SEC. 316. (a) Section 1074a of title 10, United States Code, is amended by adding at the end the following new subsection:

''(f)(1) At any time after the Secretary concerned notifies members of the Ready Reserve that the members are to be called or ordered to active duty, the administering Secretaries may provide to each such member any medical and dental screening and care that is necessary to ensure that the member meets the applicable medical and dental standards for deployment.

''(2) The Secretary concerned shall promptly transmit to each member of the Ready Reserve eligible for screening and care under this subsection a notification of eligibility for such screening and care.

''(3) A member provided medical or dental screening or care under paragraph (1) may not be charged for the screening or care.

''(4) Screening and care may not be provided under this section after September 30, 2004.''.

(b) The benefits provided under the amendment made by subsection (a) shall be provided only within funds available under this Act.

SEC. 317. (a) Chapter 55 of title 10, United States Code, is amended by inserting after section 1076a the following new section:

''§ 1076b. TRICARE program: coverage for members of the Ready Reserve

''(a) ELIGIBILITY.—Each member of the Selected Reserve of the Ready Reserve and each member of the Individual Ready Reserve described in section 10144(b) of this title is eligible, subject to subsection (h), to enroll in TRICARE and receive benefits under such enrollment for any period that the member—

''(1) is an eligible unemployment compensation recipient; or

''(2) is not eligible for health care benefits under an employer-sponsored health benefits plan.

''(b) TYPES OF COVERAGE.—(1) A member eligible under subsection (a) may enroll for either of the following types of coverage:

''(A) Self alone coverage.

''(B) Self and family coverage.

''(2) An enrollment by a member for self and family covers the member and the dependents of the member who are described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

''(c) OPEN ENROLLMENT PERIODS.—The Secretary of Defense shall provide for at least one open enrollment period each year. During an open enrollment period, a member eligible under subsection (a) may enroll in the

TRICARE program or change or terminate an enrollment in the TRICARE program.

''(d) SCOPE OF CARE.—(1) A member and the dependents of a member enrolled in the TRICARE program under this section shall be entitled to the same benefits under this chapter as a member of the uniformed services on active duty or a dependent of such a member, respectively.

''(2) Section 1074(c) of this title shall apply with respect to a member enrolled in the TRICARE program under this section.

''(e) PREMIUMS.—(1) The Secretary of Defense shall charge premiums for coverage pursuant to enrollments under this section. The Secretary shall prescribe for each of the TRICARE program options a premium for self alone coverage and a premium for self and family coverage.

''(2) The monthly amount of the premium in effect for a month for a type of coverage under this section shall be the amount equal to 28 percent of the total amount determined by the Secretary on an appropriate actuarial basis as being reasonable for the coverage.

''(3) The premiums payable by a member under this subsection may be deducted and withheld from basic pay payable to the member under section 204 of title 37 or from compensation payable to the member under section 206 of such title. The Secretary shall prescribe the requirements and procedures applicable to the payment of premiums by members not entitled to such basic pay or compensation.

''(4) Amounts collected as premiums under this subsection shall be credited to the appropriation available for the Defense Health Program Account under section 1100 of this title, shall be merged with sums in such Account that are available for the fiscal year in which collected, and shall be available under subparagraph (B) of such section for such fiscal year.

''(f) OTHER CHARGES.—A person who receives health care pursuant to an enrollment in a TRICARE program option under this section, including a member who receives such health care, shall be subject to the same deductibles, copayments, and other nonpremium charges for health care as apply under this chapter for health care provided under the same TRICARE program option to dependents described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

''(g) TERMINATION OF ENROLLMENT.—(1) A member enrolled in the TRICARE program under this section may terminate the enrollment only during an open enrollment period provided under subsection (c), except as provided in subsection (h).

''(2) An enrollment of a member for self alone or for self and family under this section shall terminate on the first day of the first month beginning after the date on which the member ceases to be eligible under subsection (a).

''(3) The enrollment of a member under this section may be terminated on the basis of failure to pay the premium charged the member under this section.

''(h) RELATIONSHIP TO TRANSITION TRICARE COVERAGE UPON SEPARATION FROM ACTIVE DUTY.—(1) A member may not enroll in the TRICARE program under this section while entitled to transitional health care under subsection (a) of section 1145 of this title or while authorized to receive health care under subsection (c) of such section.

''(2) A member who enrolls in the TRICARE program under this section within 90 days after the date of the termination of the member's entitlement or eligibility to receive health care under subsection (a) or (c) of section 1145 of this title may terminate the enrollment at any time within one year after the date of the enrollment.

''(i) CERTIFICATION OF NONCOVERAGE BY OTHER HEALTH BENEFITS PLAN.—The Secretary of Defense may require a member to submit any certification that the Secretary considers appropriate to substantiate the member's assertion that the member is not covered for health care benefits under any other health benefits plan.

''(j) ELIGIBLE UNEMPLOYMENT COMPENSATION RECIPIENT DEFINED.—In this section, the term 'eligible unemployment compensation recipient' means, with respect to any month, any individual who is determined eligible for any day of such month for unemployment compensation under State law (as defined in section 205(9) of the Federal-State Extended Unemployment Compensation Act of 1970), including Federal unemployment compensation laws administered through the State.

''(k) REGULATIONS.—The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations for the administration of this section.

''(l) TERMINATION OF AUTHORITY.—An enrollment in TRICARE under this section may not continue after September 30, 2004.''.

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1076a the following new item:

''1076b. TRICARE program: coverage for members of the Ready Reserve.''.

(c) The benefits provided under section 1076b of title 10, United States Code (as added by subsection (a)), shall be provided only within funds available under this Act.

SEC. 318. (a)(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1078a the following new section:

''§ 1078b. Continuation of non-TRICARE health benefits plan coverage for certain Reserves called or ordered to active duty and their dependents

''(a) PAYMENT OF PREMIUMS.—The Secretary concerned shall pay the applicable premium to continue in force any qualified health benefits plan coverage for an eligible reserve component member for the benefits coverage continuation period if timely elected by the member in accordance with regulations prescribed under subsection (j).

''(b) ELIGIBLE MEMBER.—A member of a reserve component is eligible for payment of the applicable premium for continuation of qualified health benefits plan coverage under subsection (a) while serving on active duty pursuant to a call or order issued under a provision of law referred to in section 101(a)(13)(B) of this title during a war or national emergency declared by the President or Congress.

''(c) QUALIFIED HEALTH BENEFITS PLAN COVERAGE.—For the purposes of this section, health benefits plan coverage for a member called or ordered to active duty is qualified health benefits plan coverage if—

''(1) the coverage was in force on the date on which the Secretary notified the member that issuance of the call or order was pending or, if no such notification was provided, the date of the call or order;

''(2) on such date, the coverage applied to the member and dependents of the member described in subparagraph (A), (D), or (I) of section 1072(2) of this title; and

''(3) the coverage has not lapsed.

''(d) APPLICABLE PREMIUM.—The applicable premium payable under this section for continuation of health benefits plan coverage in the case of a member is the amount of the premium payable by the member for the coverage of the member and dependents.

''(e) MAXIMUM AMOUNT.—The total amount that the Department of Defense may pay for the applicable premium of a health benefits plan for a member under this section in a fiscal year may not exceed the amount determined by multiplying—

''(1) the sum of one plus the number of the member's dependents covered by the health benefits plan, by

''(2) the per capita cost of providing TRICARE coverage and benefits for dependents under this chapter for such fiscal year, as determined by the Secretary of Defense.

''(f) BENEFITS COVERAGE CONTINUATION PERIOD.—The benefits coverage continuation period under this section for qualified health benefits plan coverage in the case of a member called or ordered to active duty is the period that—

''(1) begins on the date of the call or order; and

''(2) ends on the earlier of—

''(A) the date on which the member's eligibility for transitional health care under section 1145(a) of this title terminates under paragraph (3) of such section;

''(B) the date on which the member elects to terminate the continued qualified health benefits plan coverage of the dependents of the member; or

''(C) September 30, 2004.

''(g) EXTENSION OF PERIOD OF COBRA COVERAGE.—Notwithstanding any other provision of law—

''(1) any period of coverage under a COBRA continuation provision (as defined in section 9832(d)(1) of the Internal Revenue Code of 1986) for a member under this section shall be deemed to be equal to the benefits coverage continuation period for such member under this section; and

''(2) with respect to the election of any period of coverage under a COBRA continuation provision (as so defined), rules similar to the rules under section 4980B(f)(5)(C) of such Code shall apply.

''(h) NONDUPLICATION OF BENEFITS.—A dependent of a member who is eligible for benefits under qualified health benefits plan coverage paid on behalf of a member by the Secretary concerned under this section is not eligible for benefits under the TRICARE program during a period of the coverage for which so paid.

''(i) REVOCABILITY OF ELECTION.—A member who makes an election under subsection (a) may revoke the election. Upon such a revocation, the member's dependents shall become eligible for benefits under the TRICARE program as provided for under this chapter.

''(j) REGULATIONS.—The Secretary of Defense shall prescribe regulations for carrying out this section. The regulations shall include such requirements for making an election of payment of applicable premiums as the Secretary considers appropriate.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1078a the following new item:

''1078b. Continuation of non-TRICARE health benefits plan coverage for certain Reserves called or ordered to active duty and their dependents.''.

(b) Section 1078b of title 10, United States Code (as added by subsection (a)), shall apply with respect to calls or orders of members of reserve components of the Armed Forces to active duty as described in subsection (b) of such section, that are issued by the Secretary of a military department before, on, or after the date of the enactment of this Act, but only with respect to qualified health benefits plan coverage (as described in subsection (c) of such section) that is in effect on or after the date of the enactment of this Act.

(c) The benefits provided under section 1078b of title 10, United States Code (as added by subsection (a)), shall be provided only within funds available under this Act.

SEC. 319. (a) Section 1074 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(d)(1) For the purposes of this chapter, a member of a reserve component of the armed forces who is issued a delayed-effective-date active-duty order, or is covered by such an order, shall be treated as being on active duty for a period of more than 30 days beginning on the later of the date that is—

''(A) the date of the issuance of such order; or

''(B) 90 days before date on which the period of active duty is to commence under such order for that member.

''(2) In this subsection, the term 'delayed-effective-date active-duty order' means an order to active duty for a period of more than 30 days in support of a contingency operation under a provision of law referred to in section 101(a)(13)(B) of this title that provides for active-duty service to begin under such order on a date after the date of the issuance of the order.

''(3) This section shall cease to be effective on September 30, 2004.''.

(b) The benefits provided under the amendment made by subsection (a) shall be provided only within funds available under this Act.

SEC. 320. (a) Subject to subsection (b), during the period beginning on the date of the enactment of this Act and ending on September 30, 2004, section 1145(a) of title 10, United States Code, shall be administered by substituting for paragraph (3) the following:

''(3) Transitional health care for a member under subsection (a) shall be available for 180 days beginning on the date on which the member is separated from active duty.''.

(b)(1) Subsection (a) shall apply with respect to separations from active duty that take effect on or after the date of the enactment of this Act.

(2) Beginning on October 1, 2004, the period for which a member is provided transitional health care benefits under section 1145(a) of title 10, United States Code, shall be adjusted as necessary to comply with the limits provided under paragraph (3) of such section.

(c) The benefits provided under this section shall be provided only within funds available under this Act.

SA 1817. Mr. DODD (for himself and Mr. CORZINE) proposed an amendment to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 2, line 20, strike ''$24,946,464,000:'' and insert ''$25,268,464,000, of which $322,000,000 shall be available to provide safety equipment through the Rapid Fielding Initiative and the Iraqi Battlefield Clearance program:''.

On page 25, line 10, strike ''$5,136,000,000'' and insert ''$4,884,000,000''.

On page 25, line 16, strike ''$353,000,000'' and insert ''$283,000,000''.

SA 1818. Mr. BYRD (for himself, Mr. KENNEDY, and Mr. LEAHY) proposed an amendment to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 38, between lines 20 and 21, insert the following:

SEC. 2313. (a)(1) Of the funds appropriated under chapter 2 of this title under the heading ''IRAQ RELIEF AND RECONSTRUCTION FUND''—

(A) not more than $5,000,000,000 may be obligated or expended before April 1, 2004; and

(B) the excess of the total amount so appropriated over $5,000,000,000 may not be obligated or expended after April 1, 2004, unless—

(i) the President submits to Congress in writing the certifications described in subsection (b); and

(ii) Congress enacts an appropriations law (other than this Act) that authorizes the obligation and expenditure of such funds.

(2) Paragraph (1) does not apply to the $5,136,000,000 provided under the heading ''IRAQ RELIEF AND RECONSTRUCTION FUND'' for security, including public safety requirements, national security, and justice (which includes funds for Iraqi border enforcement, enhanced security communications, and the establishment of Iraqi national security forces and the Iraq Defense Corps).

(b) The certifications referred to in subsection (a)(1)(A) are as follows:

(1) A certification that the United Nations Security Council has adopted a resolution (after the adoption of United Nations Security Council Resolution 1483 of May 22, 2003, and after the adoption of United Nations Security Council Resolution 1500 of August 14, 2003) that authorizes a multinational force under United States leadership for post-Saddam Hussein Iraq, provides for a central role for the United Nations in the political and economic development and reconstruction of Iraq, and will result in substantially increased contributions of military forces and amounts of money by other countries to assist in the restoration of security in Iraq and the reconstruction of Iraq.

(2) A certification that the United States reconstruction activities in Iraq are being successfully implemented in accordance with a detailed plan (which includes fixed timetables and costs), and with a significant commitment of financial assistance from other countries, for—

(A) the establishment of economic and political stability in Iraq, including prompt restoration of basic services, such as water and electricity services;

(B) the adoption of a democratic constitution in Iraq;

(C) the holding of local and national elections in Iraq;

(D) the establishment of a democratically elected government in Iraq that has broad public support; and

(E) the establishment of Iraqi security and armed forces that are fully trained and appropriately equipped and are able to defend Iraq and carry out other security duties without the involvement of the United States Armed Forces.

(c) Not later than March 1, 2004, the President shall submit to Congress a report on United States and foreign country involvement in Iraq that includes the following information:

(1) The number of military personnel from other countries that, as of such date, are supporting Operation Iraqi Freedom, together with an estimate of the number of such personnel to be in place in Iraq for that purpose on May 1, 2004.

(2) The total amounts of financial donations pledged and paid by other countries for the reconstruction of Iraq.

(3) A description of the economic, political, and military situation in Iraq, including the number, type, and location of attacks on Coalition, United Nations and Iraqi military, public safety, and civilian personnel in the 60 days preceding the date of the report.

(4) A description of the measures taken to protect United States military personnel serving in Iraq.

(5) A detailed plan, containing fixed timetables and costs, for establishing civil, economic, and political security in Iraq, including restoration of basic services, such as water and electricity services.

(6) An estimate of the total number of United States and foreign military personnel that are necessary in the short term and the long term to bring to Iraq stability and security for its reconstruction, including the prevention of sabotage that impedes the reconstruction efforts.

(7) An estimate of the duration of the United States military presence in Iraq and the levels of United States military personnel strength that will be necessary for that presence for each of the future 6-month periods, together with a rotation plan for combat divisions, combat support units. and combat service support units.

(8) An estimate of the total cost to the United States of the military presence in Iraq that includes—

(A) the estimated incremental costs of the United States active duty forces deployed in Iraq and neighboring countries;

(B) the estimated costs of United States reserve component forces mobilized for service in Iraq and in neighboring countries;

(C) the estimated costs of replacing United States military equipment being used in Iraq; and

(D) the estimated costs of support to be provided by the United States to foreign troops in Iraq.

(9) An estimate of the total financial cost of the reconstruction of Iraq, together with—

(A) an estimate of the percentage of such cost that would be paid by the United States and a detailed accounting specified for major categories of cost; and

(B) the amounts of contributions pledged and paid by other countries, specified in major categories.

(10) A strategy for securing significant additional international financial support for the reconstruction of Iraq, including a discussion of the progress made in implementing the strategy.

(11) A schedule, including fixed timetables and costs, for the establishment of Iraqi security and armed forces that are fully trained and appropriately equipped and are able to defend Iraq and carry out other security duties without the involvement of the United States Armed Forces.

(12) An estimated schedule for the withdrawal of United States and foreign armed forces from Iraq.

(13) An estimated schedule for—

(A) the adoption of a democratic constitution in Iraq;

(B) the holding of democratic local and national elections in Iraq;

(C) the establishment of a democratically elected government in Iraq that has broad public support; and

(D) the timely withdrawal of United States and foreign armed forces from Iraq.

(d) Every 90 days after the submission of the report under subsection (c), the President shall submit to Congress an update of that report. The requirement for updates under the preceding sentence shall terminate upon the withdrawal of the United States Armed Forces (other than diplomatic security detachment personnel) from Iraq.

(e) The report under subsection (c) and the updates under subsection (d) shall be submitted in unclassified form.

SA 1819. Mr. BYRD (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction

for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place in Title III, insert the following:

SEC. ___.

(a) None of the funds under the heading Iraq Relief and Reconstruction Fund may be used for: a Facilities Protection Service Professional Standards and Training Program; any amount in excess of $50,000,000 for completion of irrigation and drainage systems; construction of water supply dams; any amount in excess of $25,000,000 for the construction of regulators for the Hawizeh Marsh; any amount in excess of $50,000,000 for a witness protection program; Postal Information Technology Architecture and Systems, including establishment of ZIP codes; civil aviation infrastructure cosmetics, such as parking lots, escalators and glass; museums and memorials; wireless fidelity networks for the Iraqi Telephone Postal Company; any amount in excess of $50,000,000 for construction of housing units; any amount in excess of $100,000,000 for an American-Iraqi Enterprise Fund; any amount in excess of $75,000,000 for expanding a network of employment centers, for on-the-job training, for computer literacy training, English as a Second Language or for Vocational Training Institutes or catch-up business training; any amount in excess of $782,500,000 for the purchase of petroleum product imports.

(b) Notwithstanding any other provision of this Act, amounts made available under the heading Iraq Relief and Reconstruction Fund shall be reduced by $600,000,000.

(c) In addition to the amounts otherwise made available in this Act, $600,000,000 shall be made available for Operation and Maintenance, Army: *Provided,* That these funds are available only for the purpose of securing and destroying conventional munitions in Iraq, such as bombs, bomb materials, small arms, rocket propelled grenades, and shoulder-launched missiles.

SA 1820. Ms. COLLINS (for herself, Mr. WYDEN, Mr. ENZI, Mr. LIEBERMAN, Mr. LAUTENBERG, Mrs. FEINSTEIN, Mr. AKAKA, Mrs. CLINTON, Mr. BYRD, Mr. MCCAIN, and Mr. LEVIN) proposed an amendment to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 39, between lines 2 and 3, insert the following:

SEC. 3002. (a) None of the funds appropriated by this Act may be obligated or expended by the head of an executive agency for payments under any contract or other agreement described in subsection (b) that is not entered into with full and open competition unless, not later than 30 days after the date on which the contract or other agreement is entered into, such official—

(1) submits a report on the contract or other agreement to the Committees on Armed Services, on Governmental Affairs, and on Appropriations of the Senate, and the Committees on Armed Services, on Government Reform, and on Appropriations of the House of Representatives; and

(2) publishes such report in the Federal Register and the Commerce Business Daily.

(b) This section applies to any contract or other agreement in excess of $1,000,000 that is entered into with any public or private sector entity for any of the following purposes:

(1) To build or rebuild physical infrastructure of Iraq.

(2) To establish or reestablish a political or societal institution of Iraq.

(3) To provide products or services to the people of Iraq.

(4) To perform personnel support services in Iraq, including related construction and procurement of products, in support of members of the Armed Forces and United States civilian personnel.

(c) The report on a contract or other agreement of an executive agency under subsection (a) shall include the following information:

(1) The amount of the contract or other agreement.

(2) A brief discussion of the scope of the contract or other agreement.

(3) A discussion of how the executive agency identified, and solicited offers from, potential contractors to perform the contract, together with a list of the potential contractors that were issued solicitations for the offers.

(4) The justification and approval documents on which was based the determination to use procedures other than procedures that provide for full and open competition.

(d) The limitation on use of funds in subsection (a) shall not apply in the case of any contract or other agreement entered into by the head of an executive agency for which such official—

(1) either—

(A) withholds from publication and disclosure as described in such subsection any document or other collection of information that is classified for restricted access in accordance with an Executive order in the interest of national defense or foreign policy; or

(B) redacts any part so classified that is in a document or other collection of information not so classified before publication and disclosure of the document or other information as described in such subsection; and

(2) transmits an unredacted version of the document or other collection of information, respectively, to the chairman and ranking member of each of the Committees on Governmental Affairs and on Appropriations of the Senate, the Committees on Government Reform and on Appropriations of the House of Representatives, and the committees that the head of such executive agency determines has legislative jurisdiction for the operations of such executive agency to which the document or other collection of information relates.

(e)(1)(A) In the case of any contract or other agreement for which the Secretary of Defense determines that it is necessary to do so in the national security interests of the United States, the Secretary may waive the limitation in subsection (a), but only on a case-by-case basis.

(B) For each contract or other agreement for which the Secretary of Defense grants a waiver under this paragraph, the Secretary shall submit a notification of the contract or other agreement and the grant of the waiver, together with a discussion of the justification for the waiver, to the committees of Congress named in subsection (a)(1).

(2)(A) In the case of any contract or other agreement for which the Director of Central Intelligence determines that it is necessary to do so in the national security interests of the United States related to intelligence, the Director may waive the limitation in subsection (a), but only on a case-by-case basis.

(B) For each contract or other agreement for which the Director of Central Intelligence grants a waiver under this paragraph, the Director shall submit a notification of the contract or other agreement and of the grant of the waiver, together with a discussion of the justification for the waiver, to the Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Governmental Affairs of the Senate and to the Permanent Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Governmental Reform of the House of Representatives.

(f) Nothing in this section shall be construed as affecting obligations to disclose United States Government information under any other provision of law.

(g) In this section—

(1) the term ''full and open competition'' has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403);

(2) the term ''executive agency'' has the meaning given such term in section 105 of title 5, United States Code, and includes the Coalition Provisional Authority for Iraq; and

(3) the term ''Coalition Provisional Authority for Iraq'' means the entity charged by the President with directing reconstruction efforts in Iraq.

SA 1821. Mr. STEVENS proposed an amendment to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

Strike section 309.

SA 1822. Mr. REID (for Mrs. MURRAY (for herself and Mr. DURBIN)) proposed an amendment to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page ____, between lines ____ and ____, insert the following new section:

SEC. ____. REQUIREMENTS RELATING TO UNITED STATES ACTIVITIES IN AFGHANISTAN AND IRAQ.

(a) GOVERNANCE.—Activities carried out by the United States with respect to the civilian governance of Afghanistan and Iraq shall, to the maximum extent practicable

(1) include the perspectives and advice of women's organizations in Afghanistan and Iraq, respectively;

(2) promote the inclusion of a representative number of women in future legislative bodies to ensure that the full range of human rights for women are included and upheld in any constitution or legal institution of Afghanistan and Iraq, respectively; and

(3) encourage the appointment of women to high level positions within ministries in Afghanistan and Iraq, respectively.

(b) POST-CONFLICT RECONSTRUCTION AND DEVELOPMENT.—Activities carried out by the United States with respect to post-conflict stability in Afghanistan and Iraq shall to the maximum extent practicable—

(1) encourage the United States organizations that receive funds made available by this Act to (a) partner with or create counterpart organizations led by Afghans and Iraqis, respectively, and (b) to provide such counterpart organizations with significant financial resources, technical assistance, and capacity building;

(2) increase the access of women to, or ownership by women of, productive assets such as land, water, agricultural inputs, credit, and property in Afghanistan and Iraq, respectively;

(3) provide long-term financial assistance for education for girls and women in Afghanistan and Iraq, respectively; and

(4) integrate education and training programs for former combatants in Afghanistan and Iraq, respectively, with economic development programs to—

(A) encourage the reintegration of such former combatants into society; and

(B) promote post-conflict stability in Afghanistan and Iraq, respectively.

(c) MILITARY AND POLICE.—Activities carried out by the United States with respect to training for military and police forces in Afghanistan and Iraq shall—

(1) include training on the protection, rights, and particular needs of women and emphasize that violations of women's rights are intolerable and should be prosecuted; and

(2) encourage the personnel providing the training described in paragraph (1) to consult with women's organizations in Afghanistan and Iraq, respectively, to ensure that training content and materials are adequate, appropriate, and comprehensive.

SA 1823. Mr. REID (for Ms. STABENOW (for herself, Mr. DURBIN, Mrs. BOXER, Mr. JOHNSON, and Mr. SCHUMER)) proposed an amendment to the bill S. 1689, making emergency supplemental appropriations for Iraq and Afghanistan security and reconstruction for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____. A MONTH FOR AMERICA.

(a) VETERANS HEALTHCARE.—For an additional amount for veterans healthcare programs and activities carried out by the Secretary of Veterans Affairs, $1,800,000,000 to remain available until expended.

(b) SCHOOL CONSTRUCTION.—

(1) IN GENERAL.—For an additional amount for the Fund for the Improvement of Education under part D of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7241 et seq.), $1,000,000,000 for such fund that shall be used by the Secretary of Education to award formula grants to State educational agencies to enable such State educational agencies—

(A) to expand existing structures to alleviate overcrowding in public schools;

(B) to make renovations or modifications to existing structures necessary to support alignment of curriculum with State standards in mathematics, reading or language arts, or science in public schools served by such agencies;

(C) to make emergency repairs or renovations necessary to ensure the safety of students and staff and to bring public schools into compliance with fire and safety codes;

(D) to make modifications necessary to render public schools in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);

(E) to abate or remove asbestos, lead, mold, and other environmental factors in public schools that are associated with poor cognitive outcomes in children; and

(F) to renovate, repair, and acquire needs related to infrastructure of charter schools.

(2) AMOUNT OF GRANT.—The Secretary of Education shall allocate amounts available for grants under this subsection to States in proportion to the funds received by the States, respectively, for the previous fiscal year under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq).

(c) HEALTHCARE.—For an additional amount for healthcare programs and activities carried out through Federally qualified health centers (as defined in section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa))), $103,000,000 to remain available until expended.

(d) TRANSPORTATION AND JOB CREATION.—

(1) IN GENERAL.—For an additional amount for transportation and job creation activities—

(A) $1,500,000,000 for capital investments for Federal-aid highways to remain available until expended; and

(B) $600,000,000 for mass transit capital and operating grants to remain available until expended.

(2) PRIORITY.—In allocating amounts appropriated under paragraph (1), the Secretary of Transportation shall give priority to Federal-aid highway and mass transit projects that can be commenced within 90 days of the date on which such amounts are allocated.

(b) OFFSET.—Each amount appropriated under title II under the heading ''OTHER BILATERAL ECONOMIC ASSISTANCE—FUNDS APPROPRIATED TO THE PRESIDENT—IRAQ RELIEF AND RECONSTRUCTION FUND'' (other than the amount appropriated for Iraqi border enforcement and enhanced security communications and the amount appropriated for the establishment of an Iraqi national security force and Iraqi Defense Corps) shall be reduced on a pro rata basis by $5,030,000,000.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should consider an additional $5,030,000,000 funding for Iraq relief and reconstruction during the fiscal year 2005 budget and appropriations process.

SA 1824. Mr. FRIST (for Ms. SNOWE (for herself, Mr. FRIST, Mr. DASCHLE, Mr. GREGG, Mr. KENNEDY, Mr. JEFFORDS, Mr. ENZI, Mr. DODD, Mr. DEWINE, Mr. HARKIN, Ms. COLLINS, Mrs. MURRAY, Mr. HAGEL, Ms. CANTWELL, Mr. HATCH, Mr. LAUTENBERG, Mr. LUGAR, and Mr. KERRY)) proposed an amendment to the bill S. 1053, to prohibit discrimination on the basis of genetic information with respect to health insurance and employment; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Genetic Information Nondiscrimination Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—GENETIC NONDISCRIMINATION IN HEALTH INSURANCE

Sec. 101. Amendments to Employee Retirement Income Security Act of 1974.
Sec. 102. Amendments to the Public Health Service Act.
Sec. 103. Amendments to the Internal Revenue Code of 1986.
Sec. 104. Amendments to title XVIII of the Social Security Act relating to medigap.
Sec. 105. Privacy and confidentiality.
Sec. 106. Assuring coordination.
Sec. 107. Regulations; effective date.

TITLE II—PROHIBITING EMPLOYMENT DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION

Sec. 201. Definitions.
Sec. 202. Employer practices.
Sec. 203. Employment agency practices.
Sec. 204. Labor organization practices.
Sec. 205. Training programs.
Sec. 206. Confidentiality of genetic information.
Sec. 207. Remedies and enforcement.
Sec. 208. Disparate impact.
Sec. 209. Construction.
Sec. 210. Medical information that is not genetic information.
Sec. 211. Regulations.
Sec. 212. Authorization of appropriations.
Sec. 213. Effective date.

TITLE III—MISCELLANEOUS PROVISION

Sec. 301. Severability.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Deciphering the sequence of the human genome and other advances in genetics open major new opportunities for medical progress. New knowledge about the genetic basis of illness will allow for earlier detection of illnesses, often before symptoms have begun. Genetic testing can allow individuals to take steps to reduce the likelihood that they will contract a particular disorder. New knowledge about genetics may allow for the development of better therapies that are more effective against disease or have fewer side effects than current treatments. These advances give rise to the potential misuse of genetic information to discriminate in health insurance and employment.

(2) The early science of genetics became the basis of State laws that provided for the sterilization of persons having presumed genetic ''defects'' such as mental retardation, mental disease, epilepsy, blindness, and hearing loss, among other conditions. The first sterilization law was enacted in the State of Indiana in 1907. By 1981, a majority of States adopted sterilization laws to ''correct'' apparent genetic traits or tendencies. Many of these State laws have since been repealed, and many have been modified to include essential constitutional requirements of due process and equal protection. However, the current explosion in the science of genetics, and the history of sterilization laws by the States based on early genetic science, compels Congressional action in this area.

(3) Although genes are facially neutral markers, many genetic conditions and disorders are associated with particular racial and ethnic groups and gender. Because some genetic traits are most prevalent in particular groups, members of a particular group may be stigmatized or discriminated against as a result of that genetic information. This form of discrimination was evident in the 1970s, which saw the advent of programs to screen and identify carriers of sickle cell anemia, a disease which afflicts African-Americans. Once again, State legislatures began to enact discriminatory laws in the area, and in the early 1970s began mandating genetic screening of all African Americans for sickle cell anemia, leading to discrimination and unnecessary fear. To alleviate some of this stigma, Congress in 1972 passed the National Sickle Cell Anemia Control Act, which withholds Federal funding from States unless sickle cell testing is voluntary.

(4) Congress has been informed of examples of genetic discrimination in the workplace. These include the use of pre-employment genetic screening at Lawrence Berkeley Laboratory, which led to a court decision in favor of the employees in that case *Norman-Bloodsaw v. Lawrence Berkeley Laboratory* (135 F.3d 1260, 1269 (9th Cir. 1998)). Congress clearly has a compelling public interest in relieving the fear of discrimination and in prohibiting its actual practice in employment and health insurance.

(5) Federal law addressing genetic discrimination in health insurance and employment is incomplete in both the scope and depth of its protections. Moreover, while many States have enacted some type of genetic non-discrimination law, these laws vary widely with respect to their approach, application, and level of protection. Congress has collected substantial evidence that the American public and the medical community find the existing patchwork of State and Federal laws to be confusing and inadequate to protect them from discrimination. Therefore Federal legislation establishing a national and uniform basic standard is necessary to fully protect the public from discrimination and allay their concerns about the potential for discrimination, thereby allowing individuals to take advantage of genetic testing, technologies, research, and new therapies.

TITLE I—GENETIC NONDISCRIMINATION IN HEALTH INSURANCE

SEC. 101. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

(1) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 702(a)(1)(F) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(a)(1)(F)) is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services by an individual or family member of such individual)''.

(2) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Section 702(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(b)) is amended—

(A) in paragraph (2)(A), by inserting before the semicolon the following: ''except as provided in paragraph (3)''; and

(B) by adding at the end the following:

''(3) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—For purposes of this section, a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall not adjust premium or contribution amounts for a group on the basis of genetic information concerning an individual in the group or a family member of the individual (including information about a request for or receipt of genetic services by an individual or family member of such individual).''.

(b) LIMITATIONS ON GENETIC TESTING.—Section 702 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182) is amended by adding at the end the following:

''(c) GENETIC TESTING.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to—

''(A) limit the authority of a health care professional who is providing health care services with respect to an individual to request that such individual or a family member of such individual undergo a genetic test;

''(B) limit the authority of a health care professional who is employed by or affiliated with a group health plan or a health insurance issuer and who is providing health care services to an individual as part of a bona fide wellness program to notify such individual of the availability of a genetic test or to provide information to such individual regarding such genetic test; or

''(C) authorize or permit a health care professional to require that an individual undergo a genetic test.

''(d) APPLICATION TO ALL PLANS.—The provisions of subsections (a)(1)(F), (b)(3), and (c) shall apply to group health plans and health insurance issuers without regard to section 732(a).''.

(c) REMEDIES AND ENFORCEMENT.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following:

''(n) ENFORCEMENT OF GENETIC NONDISCRIMINATION REQUIREMENTS.—

''(1) INJUNCTIVE RELIEF FOR IRREPARABLE HARM.—With respect to any violation of subsection (a)(1)(F), (b)(3), or (c) of section 702, a participant or beneficiary may seek relief under subsection 502(a)(1)(B) prior to the exhaustion of available administrative remedies under section 503 if it is demonstrated to the court, by a preponderance of the evidence, that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Any determinations that already have been made under section 503 in such case, or that are made in such case while an action under this paragraph is pending, shall be given due consideration by the court in any action under this subsection in such case.

''(2) EQUITABLE RELIEF FOR GENETIC NONDISCRIMINATION.—

''(A) REINSTATEMENT OF BENEFITS WHERE EQUITABLE RELIEF HAS BEEN AWARDED.—The recovery of benefits by a participant or beneficiary under a civil action under this section may include an administrative penalty under subparagraph (B) and the retroactive reinstatement of coverage under the plan involved to the date on which the participant or beneficiary was denied eligibility for coverage if—

''(i) the civil action was commenced under subsection (a)(1)(B); and

''(ii) the denial of coverage on which such civil action was based constitutes a violation of subsection (a)(1)(F), (b)(3), or (c) of section 702.

''(B) ADMINISTRATIVE PENALTY.—

''(i) IN GENERAL.—An administrator who fails to comply with the requirements of subsection (a)(1)(F), (b)(3), or (c) of section 702 with respect to a participant or beneficiary may, in an action commenced under subsection (a)(1)(B), be personally liable in the discretion of the court, for a penalty in the amount not more than $100 for each day in the noncompliance period.

''(ii) NONCOMPLIANCE PERIOD.—For purposes of clause (i), the term 'noncompliance period' means the period—

''(I) beginning on the date that a failure described in clause (i) occurs; and

''(II) ending on the date that such failure is corrected.

''(iii) PAYMENT TO PARTICIPANT OR BENEFICIARY.—A penalty collected under this subparagraph shall be paid to the participant or beneficiary involved.

''(3) SECRETARIAL ENFORCEMENT AUTHORITY.—

''(A) GENERAL RULE.—The Secretary has the authority to impose a penalty on any failure of a group health plan to meet the requirements of subsection (a)(1)(F), (b)(3), or (c) of section 702.

''(B) AMOUNT.—

''(i) IN GENERAL.—The amount of the penalty imposed by subparagraph (A) shall be $100 for each day in the noncompliance period with respect to each individual to whom such failure relates.

''(ii) NONCOMPLIANCE PERIOD.—For purposes of this paragraph, the term 'noncompliance period' means, with respect to any failure, the period—

''(I) beginning on the date such failure first occurs; and

''(II) ending on the date such failure is corrected.

''(C) MINIMUM PENALTIES WHERE FAILURE DISCOVERED.—Notwithstanding clauses (i) and (ii) of subparagraph (D):

''(i) IN GENERAL.—In the case of 1 or more failures with respect to an individual—

''(I) which are not corrected before the date on which the plan receives a notice from the Secretary of such violation; and

''(II) which occurred or continued during the period involved;

the amount of penalty imposed by subparagraph (A) by reason of such failures with respect to such individual shall not be less than $2,500.

''(ii) HIGHER MINIMUM PENALTY WHERE VIOLATIONS ARE MORE THAN DE MINIMIS.—To the extent violations for which any person is liable under this paragraph for any year are more than de minimis, clause (i) shall be applied by substituting '$15,000' for '$2,500' with respect to such person.

''(D) LIMITATIONS.—

''(i) PENALTY NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No penalty shall be imposed by subparagraph (A) on any failure during any period for which it is established to the satisfaction of the Secretary that the person otherwise liable for such penalty did not know, and exercising reasonable diligence would not have known, that such failure existed.

''(ii) PENALTY NOT TO APPLY TO FAILURES CORRECTED WITHIN CERTAIN PERIODS.—No penalty shall be imposed by subparagraph (A) on any failure if—

''(I) such failure was due to reasonable cause and not to willful neglect; and

''(II) such failure is corrected during the 30-day period beginning on the first date the person otherwise liable for such penalty knew, or exercising reasonable diligence would have known, that such failure existed.

''(iii) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures which are due to reasonable cause and not to willful neglect, the penalty imposed by subparagraph (A) for failures shall not exceed the amount equal to the lesser of—

''(I) 10 percent of the aggregate amount paid or incurred by the employer (or predecessor employer) during the preceding taxable year for group health plans; or

''(II) $500,000.

''(E) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the penalty imposed by subparagraph (A) to the extent that the payment of such penalty would be excessive relative to the failure involved.''.

(d) DEFINITIONS.—Section 733(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b(d)) is amended by adding at the end the following:

''(5) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

''(6) GENETIC INFORMATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'genetic information' means information about—

''(i) an individual's genetic tests;

''(ii) the genetic tests of family members of the individual; or

''(iii) the occurrence of a disease or disorder in family members of the individual.

''(B) EXCLUSIONS.—The term 'genetic information' shall not include information about the sex or age of an individual.

''(7) GENETIC TEST.—

''(A) IN GENERAL.—The term 'genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

''(B) EXCEPTIONS.—The term 'genetic test' does not mean—

''(i) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

''(ii) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

''(8) GENETIC SERVICES.—The term 'genetic services' means—

''(A) a genetic test;

''(B) genetic counseling (such as obtaining, interpreting, or assessing genetic information); or

''(C) genetic education.''.

(e) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary of Labor shall issue final regulations in an accessible format to carry out the amendments made by this section.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning after the date that is 18 months after the date of enactment of this title.

SEC. 102. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) AMENDMENTS RELATING TO THE GROUP MARKET.—

(1) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

(A) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 2702(a)(1)(F) of the Public Health Service Act (42 U.S.C. 300gg–1(a)(1)(F)) is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services by an individual or family member of such individual)''.

(B) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Section 2702(b) of the Public Health Service Act (42 U.S.C. 300gg–1(b)) is amended—

(i) in paragraph (2)(A), by inserting before the semicolon the following: '', except as provided in paragraph (3)''; and

(ii) by adding at the end the following:

''(3) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—For purposes of this section, a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall not adjust premium or contribution amounts for a group on the basis of genetic information concerning an individual in the group or a family member of the individual (including information about a request for or receipt of genetic services by an individual or family member of such individual).''.

(2) LIMITATIONS ON GENETIC TESTING.—Section 2702 of the Public Health Service Act (42 U.S.C. 300gg–1) is amended by adding at the end the following:

''(c) GENETIC TESTING.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to—

''(A) limit the authority of a health care professional who is providing health care services with respect to an individual to request that such individual or a family member of such individual undergo a genetic test;

''(B) limit the authority of a health care professional who is employed by or affiliated with a group health plan or a health insurance issuer and who is providing health care services to an individual as part of a bona fide wellness program to notify such individual of the availability of a genetic test or to provide information to such individual regarding such genetic test; or

''(C) authorize or permit a health care professional to require that an individual undergo a genetic test.

''(d) APPLICATION TO ALL PLANS.—The provisions of subsections (a)(1)(F), (b)(3), and (c) shall apply to group health plans and health insurance issuers without regard to section 2721(a).''.

(3) REMEDIES AND ENFORCEMENT.—Section 2722(b) of the Public Health Service Act (42 U.S.C. 300gg-22)(b)) is amended by adding at the end the following:

''(3) ENFORCEMENT AUTHORITY RELATING TO GENETIC DISCRIMINATION.—

''(A) GENERAL RULE.—In the cases described in paragraph (1), notwithstanding the provisions of paragraph (2)(C), the following provisions shall apply with respect to an action under this subsection by the Secretary with respect to any failure of a health insurance issuer in connection with a group health plan, to meet the requirements of subsection (a)(1)(F), (b)(3), or (c) of section 2702.

''(B) AMOUNT.—

''(i) IN GENERAL.—The amount of the penalty imposed under this paragraph shall be $100 for each day in the noncompliance period with respect to each individual to whom such failure relates.

''(ii) NONCOMPLIANCE PERIOD.—For purposes of this paragraph, the term 'noncompliance period' means, with respect to any failure, the period—

''(I) beginning on the date such failure first occurs; and

''(II) ending on the date such failure is corrected.

''(C) MINIMUM PENALTIES WHERE FAILURE DISCOVERED.—Notwithstanding clauses (i) and (ii) of subparagraph (D):

''(i) IN GENERAL.—In the case of 1 or more failures with respect to an individual—

''(I) which are not corrected before the date on which the plan receives a notice from the Secretary of such violation; and

''(II) which occurred or continued during the period involved;

the amount of penalty imposed by subparagraph (A) by reason of such failures with respect to such individual shall not be less than $2,500.

''(ii) HIGHER MINIMUM PENALTY WHERE VIOLATIONS ARE MORE THAN DE MINIMIS.—To the extent violations for which any person is liable under this paragraph for any year are more than de minimis, clause (i) shall be applied by substituting '$15,000' for '$2,500' with respect to such person.

''(D) LIMITATIONS.—

''(i) PENALTY NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No penalty shall be imposed by subparagraph (A) on any failure during any period for which it is established to the satisfaction of the Secretary that the person otherwise liable for such penalty did not know, and exercising reasonable diligence would not have known, that such failure existed.

''(ii) PENALTY NOT TO APPLY TO FAILURES CORRECTED WITHIN CERTAIN PERIODS.—No penalty shall be imposed by subparagraph (A) on any failure if—

''(I) such failure was due to reasonable cause and not to willful neglect; and

''(II) such failure is corrected during the 30-day period beginning on the first date the person otherwise liable for such penalty knew, or exercising reasonable diligence would have known, that such failure existed.

''(iii) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures which are due to reasonable cause and not to willful neglect, the penalty imposed by subparagraph (A) for failures shall not exceed the amount equal to the lesser of—

''(I) 10 percent of the aggregate amount paid or incurred by the employer (or predecessor employer) during the preceding taxable year for group health plans; or

''(II) $500,000.

''(E) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the penalty imposed by subparagraph (A) to the extent that the payment of such penalty would be excessive relative to the failure involved.''.

(4) DEFINITIONS.—Section 2791(d) of the Public Health Service Act (42 U.S.C. 300gg–91(d)) is amended by adding at the end the following:

''(15) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

''(16) GENETIC INFORMATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'genetic information' means information about—

''(i) an individual's genetic tests;

''(ii) the genetic tests of family members of the individual; or

''(iii) the occurrence of a disease or disorder in family members of the individual.

''(B) EXCLUSIONS.—The term 'genetic information' shall not include information about the sex or age of an individual.

''(17) GENETIC TEST.—

''(A) IN GENERAL.—The term 'genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

''(B) EXCEPTIONS.—The term 'genetic test' does not mean—

''(i) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

''(ii) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

''(18) GENETIC SERVICES.—The term 'genetic services' means—

''(A) a genetic test;

''(B) genetic counseling (such as obtaining, interpreting, or assessing genetic information); or

''(C) genetic education.''.

(b) AMENDMENT RELATING TO THE INDIVIDUAL MARKET.—

(1) IN GENERAL.—The first subpart 3 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–51 et seq.) (relating to other requirements) is amended—

(A) by redesignating such subpart as subpart 2; and

(B) by adding at the end the following:

"SEC. 2753. PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION.

''(a) PROHIBITION ON GENETIC INFORMATION AS A CONDITION OF ELIGIBILITY.—A health insurance issuer offering health insurance coverage in the individual market may not establish rules for the eligibility (including continued eligibility) of any individual to enroll in individual health insurance coverage based on genetic information (including information about a request for or receipt of genetic services by an individual or family member of such individual).

''(b) PROHIBITION ON GENETIC INFORMATION IN SETTING PREMIUM RATES.—A health insurance issuer offering health insurance coverage in the individual market shall not adjust premium or contribution amounts for an individual on the basis of genetic information concerning the individual or a family member of the individual (including information about a request for or receipt of genetic services by an individual or family member of such individual).

''(c) GENETIC TESTING.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A health insurance issuer offering health insurance coverage in the individual market shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to—

''(A) limit the authority of a health care professional who is providing health care services with respect to an individual to request that such individual or a family member of such individual undergo a genetic test;

''(B) limit the authority of a health care professional who is employed by or affiliated with a health insurance issuer and who is providing health care services to an individual as part of a bona fide wellness program to notify such individual of the availability of a genetic test or to provide information to such individual regarding such genetic test; or

''(C) authorize or permit a health care professional to require that an individual undergo a genetic test.''.

(2) REMEDIES AND ENFORCEMENT.—Section 2761(b) of the Public Health Service Act (42 U.S.C. 300gg-61)(b)) is amended to read as follows:

''(b) SECRETARIAL ENFORCEMENT AUTHORITY.—The Secretary shall have the same authority in relation to enforcement of the provisions of this part with respect to issuers of health insurance coverage in the individual market in a State as the Secretary has under section 2722(b)(2), and section 2722(b)(3) with respect to violations of genetic nondiscrimination provisions, in relation to the enforcement of the provisions of part A with respect to issuers of health insurance coverage in the small group market in the State.''.

(c) ELIMINATION OF OPTION OF NON-FEDERAL GOVERNMENTAL PLANS TO BE EXCEPTED FROM REQUIREMENTS CONCERNING GENETIC INFORMATION.—Section 2721(b)(2) of the Public Health Service Act (42 U.S. C. 300gg–21(b)(2)) is amended—

(1) in subparagraph (A), by striking ''If the plan sponsor'' and inserting ''Except as provided in subparagraph (D), if the plan sponsor''; and

(2) by adding at the end the following:

''(D) ELECTION NOT APPLICABLE TO REQUIREMENTS CONCERNING GENETIC INFORMATION.—The election described in subparagraph (A) shall not be available with respect to the provisions of subsections (a)(1)(F) and (c) of section 2702 and the provisions of section 2702(b) to the extent that such provisions apply to genetic information (or information about a request for or the receipt of genetic services by an individual or a family member of such individual).''.

(d) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary of Labor and the Secretary of Health and Human Services (as the case may be) shall issue final regulations in an accessible format to carry out the amendments made by this section.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply—

(A) with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning after the date that is 18 months after the date of enactment of this title; and

(B) with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after the date that is 18 months after the date of enactment of this title.

SEC. 103. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

(a) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

(1) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 9802(a)(1)(F) of the Internal Revenue Code of 1986 is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services by an individual or family member of such individual)''.

(2) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Section 9802(b) of the Internal Revenue Code of 1986 is amended—

(A) in paragraph (2)(A), by inserting before the semicolon the following: '', except as provided in paragraph (3)''; and

(B) by adding at the end the following:

''(3) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—For purposes of this section, a group health plan shall not adjust premium or contribution amounts for a group on the basis of genetic information concerning an individual in the group or a family member of the individual (including information about a request for or receipt of genetic services by an individual or family member of such individual).''.

(b) LIMITATIONS ON GENETIC TESTING.—Section 9802 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(d) GENETIC TESTING AND GENETIC SERVICES.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to—

''(A) limit the authority of a health care professional who is providing health care services with respect to an individual to request that such individual or a family member of such individual undergo a genetic test;

''(B) limit the authority of a health care professional who is employed by or affiliated with a group health plan and who is providing health care services to an individual as part of a bona fide wellness program to notify such individual of the availability of a genetic test or to provide information to such individual regarding such genetic test; or

''(C) authorize or permit a health care professional to require that an individual undergo a genetic test.

''(e) APPLICATION TO ALL PLANS.—The provisions of subsections (a)(1)(F), (b)(3), and (d) shall apply to group health plans and health insurance issuers without regard to section 9831(a)(2).''.

(c) DEFINITIONS.—Section 9832(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(6) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

''(7) GENETIC SERVICES.—The term 'genetic services' means—

''(A) a genetic test;

''(B) genetic counseling (such as obtaining, interpreting, or assessing genetic information); or

''(C) genetic education.

''(8) GENETIC INFORMATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'genetic information' means information about—

''(i) an individual's genetic tests;

''(ii) the genetic tests of family members of the individual; or

''(iii) the occurrence of a disease or disorder in family members of the individual.

''(B) EXCLUSIONS.—The term 'genetic information' shall not include information about the sex or age of an individual.

''(9) GENETIC TEST.—

''(A) IN GENERAL.—The term 'genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

''(B) EXCEPTIONS.—The term 'genetic test' does not mean—

''(i) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

''(ii) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.''.

(d) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary of the Treasury shall issue final regulations in an accessible format to carry out the amendments made by this section.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning after the date that is 18 months after the date of enactment of this title.

SEC. 104. AMENDMENTS TO TITLE XVIII OF THE SOCIAL SECURITY ACT RELATING TO MEDIGAP.

(a) NONDISCRIMINATION.—

(1) IN GENERAL.—Section 1882(s)(2) of the Social Security Act (42 U.S.C. 1395ss(s)(2)) is amended by adding at the end the following:

''(E)(i) An issuer of a medicare supplemental policy shall not deny or condition the issuance or effectiveness of the policy, and shall not discriminate in the pricing of the policy (including the adjustment of premium rates) of an eligible individual on the basis of genetic information concerning the individual (or information about a request for, or the receipt of, genetic services by such individual or family member of such individual).

''(ii) For purposes of clause (i), the terms 'family member', 'genetic services', and 'genetic information' shall have the meanings given such terms in subsection (v).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to a policy for policy years beginning after the date that is 18 months after the date of enactment of this Act.

(b) LIMITATIONS ON GENETIC TESTING.—

(1) IN GENERAL.—Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended by adding at the end the following:

''(v) LIMITATIONS ON GENETIC TESTING.—

''(1) GENETIC TESTING.—

''(A) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—An issuer of a medicare supplemental policy shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(B) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to—

''(i) limit the authority of a health care professional who is providing health care services with respect to an individual to request that such individual or a family member of such individual undergo a genetic test;

''(ii) limit the authority of a health care professional who is employed by or affiliated with an issuer of a medicare supplemental policy and who is providing health care services to an individual as part of a bona fide wellness program to notify such individual of the availability of a genetic test or to provide information to such individual regarding such genetic test; or

''(iii) authorize or permit a health care professional to require that an individual undergo a genetic test.

''(2) DEFINITIONS.—In this subsection:

''(A) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

''(i) the spouse of the individual;

''(ii) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; or

''(iii) any other individuals related by blood to the individual or to the spouse or child described in clause (i) or (ii).

''(B) GENETIC INFORMATION.—

''(i) IN GENERAL.—Except as provided in clause (ii), the term 'genetic information' means information about—

''(I) an individual's genetic tests;

''(II) the genetic tests of family members of the individual; or

''(III) the occurrence of a disease or disorder in family members of the individual.

''(ii) EXCLUSIONS.—The term 'genetic information' shall not include information about the sex or age of an individual.

''(C) GENETIC TEST.—

''(i) IN GENERAL.—The term 'genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

''(ii) EXCEPTIONS.—The term 'genetic test' does not mean—

''(I) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

''(II) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

''(D) GENETIC SERVICES.—The term 'genetic services' means—

''(i) a genetic test;

''(ii) genetic counseling (such as obtaining, interpreting, or assessing genetic information); or

''(iii) genetic education.

''(E) ISSUER OF A MEDICARE SUPPLEMENTAL POLICY.—The term 'issuer of a medicare supplemental policy' includes a third-party administrator or other person acting for or on behalf of such issuer.''.

(2) CONFORMING AMENDMENT.—Section 1882(o) of the Social Security Act (42 U.S.C. 1395ss(o)) is amended by adding at the end the following:

''(4) The issuer of the medicare supplemental policy complies with subsection (s)(2)(E) and subsection (v).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to an issuer of a medicare supplemental policy for policy years beginning on or after the date that is 18 months after the date of enactment of this Act.

(c) TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, not later than June 30, 2004, the National Association of Insurance Commissioners (in this subsection referred to as the ''NAIC'') modifies its NAIC Model Regulation relating to section 1882 of the Social Security Act (referred to in such section as the 1991 NAIC Model Regulation, as subsequently modified) to conform to the amendments made by this section, such revised regulation incorporating the modifications shall be considered to be the applicable NAIC model regulation (including the revised NAIC model regulation and the 1991 NAIC Model Regulation) for the purposes of such section.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall, not later than October 1, 2004, make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the appropriate regulation for the purposes of such section.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) October 1, 2004.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 2004 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after July 1, 2004. 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. 105. PRIVACY AND CONFIDENTIALITY.

(a) APPLICABILITY.—Except as provided in subsection (d), the provisions of this section shall apply to group health plans, health insurance issuers (including issuers in connection with group health plans or individual health coverage), and issuers of medicare supplemental policies, without regard to—

(1) section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191a(a));

(2) section 2721(a) of the Public Health Service Act (42 U.S.C. 300gg-21(a)); and

(3) section 9831(a)(2) of the Internal Revenue Code of 1986.

(b) COMPLIANCE WITH CERTAIN CONFIDENTIALITY STANDARDS WITH RESPECT TO GENETIC INFORMATION.—

(1) IN GENERAL.—The regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note) shall apply to the use or disclosure of genetic information.

(2) PROHIBITION ON UNDERWRITING AND PREMIUM RATING.—Notwithstanding paragraph (1), a group health plan, a health insurance issuer, or issuer of a medicare supplemental policy shall not use or disclose genetic information (including information about a request for or a receipt of genetic services by an individual or family member of such individual) for purposes of underwriting, determinations of eligibility to enroll, premium rating, or the creation, renewal or replacement of a plan, contract or coverage for health insurance or health benefits.

(c) PROHIBITION ON COLLECTION OF GENETIC INFORMATION.—

(1) IN GENERAL.—A group health plan, health insurance issuer, or issuer of a medicare supplemental policy shall not request, require, or purchase genetic information (including information about a request for or a receipt of genetic services by an individual or family member of such individual) for purposes of underwriting, determinations of eligibility to enroll, premium rating, or the creation, renewal or replacement of a plan, contract or coverage for health insurance or health benefits.

(2) LIMITATION RELATING TO THE COLLECTION OF GENETIC INFORMATION PRIOR TO ENROLLMENT.—A group health plan, health insurance issuer, or issuer of a medicare supplemental policy shall not request, require, or purchase genetic information (including information about a request for or a receipt of genetic services by an individual or family member of such individual) concerning a participant, beneficiary, or enrollee prior to the enrollment, and in connection with such enrollment, of such individual under the plan, coverage, or policy.

(3) INCIDENTAL COLLECTION.—Where a group health plan, health insurance issuer, or issuer of a medicare supplemental policy obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning a participant, beneficiary, or enrollee, such request, requirement, or purchase shall not be considered a violation of this subsection if—

(A) such request, requirement, or purchase is not in violation of paragraph (1); and

(B) any genetic information (including information about a request for or receipt of genetic services) requested, required, or purchased is not used or disclosed in violation of subsection (b).

(d) APPLICATION OF CONFIDENTIALITY STANDARDS.—The provisions of subsections (b) and (c) shall not apply—

(1) to group health plans, health insurance issuers, or issuers of medicare supplemental policies that are not otherwise covered under the regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note); and

(2) to genetic information that is not considered to be individually-identifiable health information under the regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and

section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note).

(e) ENFORCEMENT.—A group health plan, health insurance issuer, or issuer of a medicare supplemental policy that violates a provision of this section shall be subject to the penalties described in sections 1176 and 1177 of the Social Security Act (42 U.S.C. 1320d-5 and 1320d-6) in the same manner and to the same extent that such penalties apply to violations of part C of title XI of such Act.

(f) PREEMPTION.—

(1) IN GENERAL.—A provision or requirement under this section or a regulation promulgated under this section shall supersede any contrary provision of State law unless such provision of State law imposes requirements, standards, or implementation specifications that are more stringent than the requirements, standards, or implementation specifications imposed under this section or such regulations. No penalty, remedy, or cause of action to enforce such a State law that is more stringent shall be preempted by this section.

(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to establish a penalty, remedy, or cause of action under State law if such penalty, remedy, or cause of action is not otherwise available under such State law.

(g) COORDINATION WITH PRIVACY REGULATIONS.—The Secretary shall implement and administer this section in a manner that is consistent with the implementation and administration by the Secretary of the regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note).

(h) DEFINITIONS.—In this section:

(1) GENETIC INFORMATION; GENETIC SERVICES.—The terms ''family member'', ''genetic information'', ''genetic services'', and ''genetic test'' have the meanings given such terms in section 2791 of the Public Health Service Act (42 U.S.C. 300gg-91), as amended by this Act.

(2) GROUP HEALTH PLAN; HEALTH INSURANCE ISSUER.—The terms ''group health plan'' and ''health insurance issuer'' include only those plans and issuers that are covered under the regulations described in subsection (d)(1).

(3) ISSUER OF A MEDICARE SUPPLEMENTAL POLICY.—The term ''issuer of a medicare supplemental policy'' means an issuer described in section 1882 of the Social Security Act (42 insert 1395ss).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

SEC. 106. ASSURING COORDINATION.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary of the Treasury, the Secretary of Health and Human Services, and the Secretary of Labor shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which two or more such Secretaries have responsibility under this title (and the amendments made by this title) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

(b) AUTHORITY OF THE SECRETARY.—The Secretary of Health and Human Services has the sole authority to promulgate regulations to implement section 105.

SEC. 107. REGULATIONS; EFFECTIVE DATE.

(a) REGULATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary of Labor, the Secretary of Health and Human Services, and the Secretary of the Treasury shall issue final regulations in an accessible format to carry out this title.

(b) EFFECTIVE DATE.—Except as provided in section 104, the amendments made by this title shall take effect on the date that is 18 months after the date of enactment of this Act.

TITLE II—PROHIBITING EMPLOYMENT DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION

SEC. 201. DEFINITIONS.

In this title:

(1) COMMISSION.—The term ''Commission'' means the Equal Employment Opportunity Commission as created by section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4).

(2) EMPLOYEE; EMPLOYER; EMPLOYMENT AGENCY; LABOR ORGANIZATION; MEMBER.—

(A) IN GENERAL.—The term ''employee'' means—

(i) an employee (including an applicant), as defined in section 701(f) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(f));

(ii) a State employee (including an applicant) described in section 304(a) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16c(a));

(iii) a covered employee (including an applicant), as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301);

(iv) a covered employee (including an applicant), as defined in section 411(c) of title 3, United States Code; or

(v) an employee or applicant to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(a)) applies.

(B) EMPLOYER.—The term ''employer'' means—

(i) an employer (as defined in section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b));

(ii) an entity employing a State employee described in section 304(a) of the Government Employee Rights Act of 1991;

(iii) an employing office, as defined in section 101 of the Congressional Accountability Act of 1995;

(iv) an employing office, as defined in section 411(c) of title 3, United States Code; or

(v) an entity to which section 717(a) of the Civil Rights Act of 1964 applies.

(C) EMPLOYMENT AGENCY; LABOR ORGANIZATION.—The terms ''employment agency'' and ''labor organization'' have the meanings given the terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).

(D) MEMBER.—The term ''member'', with respect to a labor organization, includes an applicant for membership in a labor organization.

(3) FAMILY MEMBER.—The term ''family member'' means with respect to an individual—

(A) the spouse of the individual;

(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

(4) GENETIC INFORMATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''genetic information'' means information about—

(i) an individual's genetic tests;

(ii) the genetic tests of family members of the individual; or

(iii) the occurrence of a disease or disorder in family members of the individual.

(B) EXCEPTIONS.—The term ''genetic information'' shall not include information about the sex or age of an individual.

(5) GENETIC MONITORING.—The term ''genetic monitoring'' means the periodic examination of employees to evaluate acquired modifications to their genetic material, such as chromosomal damage or evidence of increased occurrence of mutations, that may have developed in the course of employment due to exposure to toxic substances in the workplace, in order to identify, evaluate, and respond to the effects of or control adverse environmental exposures in the workplace.

(6) GENETIC SERVICES.—The term ''genetic services'' means—

(A) a genetic test;

(B) genetic counseling (such as obtaining, interpreting or assessing genetic information); or

(C) genetic education.

(7) GENETIC TEST.—

(A) IN GENERAL.—The term ''genetic test'' means the analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

(B) EXCEPTION.—The term ''genetic test'' does not mean an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes.

SEC. 202. EMPLOYER PRACTICES.

(a) USE OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any employee, or otherwise to discriminate against any employee with respect to the compensation, terms, conditions, or privileges of employment of the employee, because of genetic information with respect to the employee (or information about a request for or the receipt of genetic services by such employee or family member of such employee); or

(2) to limit, segregate, or classify the employees of the employer in any way that would deprive or tend to deprive any employee of employment opportunities or otherwise adversely affect the status of the employee as an employee, because of genetic information with respect to the employee (or information about a request for or the receipt of genetic services by such employee or family member of such employee).

(b) ACQUISITION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employer to request, require, or purchase genetic information with respect to an employee or a family member of the employee (or information about a request for the receipt of genetic services by such employee or a family member of such employee) except—

(1) where an employer inadvertently requests or requires family medical history of the employee or family member of the employee;

(2) where—

(A) health or genetic services are offered by the employer, including such services offered as part of a bona fide wellness program;

(B) the employee provides prior, knowing, voluntary, and written authorization;

(C) only the employee (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be

disclosed to the employer except in aggregate terms that do not disclose the identity of specific employees;

(3) where an employer requests or requires family medical history from the employee to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where an employer purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the employer provides written notice of the genetic monitoring to the employee;

(B)(i) the employee provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the employee is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the employer, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific employees;

(c) PRESERVATION OF PROTECTIONS.—In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 206.

SEC. 203. EMPLOYMENT AGENCY PRACTICES.

(a) USE OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employment agency—

(1) to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual);

(2) to limit, segregate, or classify individuals or fail or refuse to refer for employment any individual in any way that would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual); or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this title.

(b) ACQUISITION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employment agency to request, require, or purchase genetic information with respect to an individual or a family member of the individual (or information about a request for the receipt of genetic services by such individual or a family member of such individual) except—

(1) where an employment agency inadvertently requests or requires family medical history of the individual or family member of the individual;

(2) where—

(A) health or genetic services are offered by the employment agency, including such services offered as part of a bona fide wellness program;

(B) the individual provides prior, knowing, voluntary, and written authorization;

(C) only the individual (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employment agency except in aggregate terms that do not disclose the identity of specific individuals;

(3) where an employment agency requests or requires family medical history from the individual to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where an employment agency purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the employment agency provides written notice of the genetic monitoring to the individual;

(B)(i) the individual provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the individual is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the employment agency, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific individuals;

(c) PRESERVATION OF PROTECTIONS.—In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 206.

SEC. 204. LABOR ORGANIZATION PRACTICES.

(a) USE OF GENETIC INFORMATION.—It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from the membership of the organization, or otherwise to discriminate against, any member because of genetic information with respect to the member (or information about a request for or the receipt of genetic services by such member or family member of such member);

(2) to limit, segregate, or classify the members of the organization, or fail or refuse to refer for employment any member, in any way that would deprive or tend to deprive any member of employment opportunities, or otherwise adversely affect the status of the member as an employee, because of genetic information with respect to the member (or information about a request for or the receipt of genetic services by such member or family member of such member); or

(3) to cause or attempt to cause an employer to discriminate against a member in violation of this title.

(b) ACQUISITION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for a labor organization to request, require, or purchase genetic information with respect to a member or a family member of the member (or information about a request for the receipt of genetic services by such member or a family member of such member) except—

(1) where a labor organization inadvertently requests or requires family medical history of the member or family member of the member;

(2) where—

(A) health or genetic services are offered by the labor organization, including such services offered as part of a bona fide wellness program;

(B) the member provides prior, knowing, voluntary, and written authorization;

(C) only the member (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the labor organization except in aggregate terms that do not disclose the identity of specific members;

(3) where a labor organization requests or requires family medical history from the members to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where a labor organization purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the labor organization provides written notice of the genetic monitoring to the member;

(B)(i) the member provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the member is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.),

the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the labor organization, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific members;

(c) PRESERVATION OF PROTECTIONS.—In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 206.

SEC. 205. TRAINING PROGRAMS.

(a) USE OF GENETIC INFORMATION.—It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs—

(1) to discriminate against any individual because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or a family member of such individual) in admission to, or employment in, any program established to provide apprenticeship or other training or retraining;

(2) to limit, segregate, or classify the applicants for or participants in such apprenticeship or other training or retraining, or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual (or information about a request for or receipt of genetic services by such individual or family member of such individual); or

(3) to cause or attempt to cause an employer to discriminate against an applicant for or a participant in such apprenticeship or other training or retraining in violation of this title.

(b) ACQUISITION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employer, labor organization, or joint labor-management committee described in subsection (a) to request, require, or purchase genetic information with respect to an individual or a family member of the individual (or information about a request for the receipt of genetic services by such individual or a family member of such individual) except—

(1) where the employer, labor organization, or joint labor-management committee inadvertently requests or requires family medical history of the individual or family member of the individual;

(2) where—

(A) health or genetic services are offered by the employer, labor organization, or joint labor-management committee, including such services offered as part of a bona fide wellness program;

(B) the individual provides prior, knowing, voluntary, and written authorization;

(C) only the individual (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services;

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employer, labor organization, or joint labor-management committee except in aggregate terms that do not disclose the identity of specific individuals;

(3) where the employer, labor organization, or joint labor-management committee requests or requires family medical history from the individual to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where the employer, labor organization, or joint labor-management committee purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the employer, labor organization, or joint labor-management committee provides written notice of the genetic monitoring to the individual;

(B)(i) the individual provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the individual is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the employer, labor organization, or joint labor-management committee, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific individuals;

(c) PRESERVATION OF PROTECTIONS.—In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 206.

SEC. 206. CONFIDENTIALITY OF GENETIC INFORMATION.

(a) TREATMENT OF INFORMATION AS PART OF CONFIDENTIAL MEDICAL RECORD.—If an employer, employment agency, labor organization, or joint labor-management committee possesses genetic information about an employee or member (or information about a request for or receipt of genetic services by such employee or member or family member of such employee or member), such information shall be maintained on separate forms and in separate medical files and be treated as a confidential medical record of the employee or member.

(b) LIMITATION ON DISCLOSURE.—An employer, employment agency, labor organization, or joint labor-management committee shall not disclose genetic information concerning an employee or member (or information about a request for or receipt of genetic services by such employee or member or family member of such employee or member) except—

(1) to the employee (or family member if the family member is receiving the genetic services) or member of a labor organization at the request of the employee or member of such organization;

(2) to an occupational or other health researcher if the research is conducted in compliance with the regulations and protections provided for under part 46 of title 45, Code of Federal Regulations;

(3) in response to an order of a court, except that—

(A) the employer, employment agency, labor organization, or joint labor-management committee may disclose only the genetic information expressly authorized by such order; and

(B) if the court order was secured without the knowledge of the employee or member to whom the information refers, the employer, employment agency, labor organization, or joint labor-management committee shall provide the employee or member with adequate notice to challenge the court order;

(4) to government officials who are investigating compliance with this title if the information is relevant to the investigation; or

(5) to the extent that such disclosure is made in connection with the employee's compliance with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws.

SEC. 207. REMEDIES AND ENFORCEMENT.

(a) EMPLOYEES COVERED BY TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in sections 705, 706, 707, 709, 710, and 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4 et seq.) to the Commission, the Attorney General, or any person, alleging a violation of title VII of that Act (42 U.S.C. 2000e et seq.) shall be the powers, remedies, and procedures this title provides to the Commission, the Attorney General, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(i), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).

(b) EMPLOYEES COVERED BY GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in sections 302 and 304 of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e-16b, 2000e-16c) to the Commission, or any person, alleging a violation of section 302(a)(1) of that Act (42 U.S.C. 2000e-16b(a)(1)) shall be the powers, remedies, and procedures this title provides to the Commission, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(ii), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b)

and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the Commission, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the Commission, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).

(c) EMPLOYEES COVERED BY CONGRESSIONAL ACCOUNTABILITY ACT OF 1995.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as defined in section 101 of that Act (2 U.S.C. 1301)), or any person, alleging a violation of section 201(a)(1) of that Act (42 U.S.C. 1311(a)(1)) shall be the powers, remedies, and procedures this title provides to that Board, or any person, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(iii), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to that Board, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to that Board, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).

(4) OTHER APPLICABLE PROVISIONS.—With respect to a claim alleging a practice described in paragraph (1), title III of the Congressional Accountability Act of 1995 (2 U.S.C. 1381 et seq.) shall apply in the same manner as such title applies with respect to a claim alleging a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)).

(d) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE 3, UNITED STATES CODE.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in chapter 5 of title 3, United States Code, to the President, the Commission, the Merit Systems Protection Board, or any person, alleging a violation of section 411(a)(1) of that title, shall be the powers, remedies, and procedures this title provides to the President, the Commission, such Board, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(iv), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the the President, the Commission, such Board, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the President, the Commission, such Board, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).

(e) EMPLOYEES COVERED BY SECTION 717 OF THE CIVIL RIGHTS ACT OF 1964.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging a violation of that section shall be the powers, remedies, and procedures this title provides to the Commission, the Attorney General, the Librarian of Congress, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee or applicant described in section 201(2)(A)(v), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).

(f) DEFINITION.—In this section, the term ''Commission'' means the Equal Employment Opportunity Commission.

SEC. 208. DISPARATE IMPACT.

(a) GENERAL RULE.—Notwithstanding any other provision of this Act, ''disparate impact'', as that term is used in section 703(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-d(k)), on the basis of genetic information does not establish a cause of action under this Act.

(b) COMMISSION.—On the date that is 6 years after the date of enactment of this Act, there shall be established a commission, to be known as the Genetic Nondiscrimination Study Commission (referred to in this section as the ''Commission'') to review the developing science of genetics and to make recommendations to Congress regarding whether to provide a disparate impact cause of action under this Act.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 8 members, of which—

(A) 1 member shall be appointed by the Majority Leader of the Senate;

(B) 1 member shall be appointed by the Minority Leader of the Senate;

(C) 1 member shall be appointed by the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate;

(D) 1 member shall be appointed by the ranking minority member of the Committee on Health, Education, Labor, and Pensions of the Senate;

(E) 1 member shall be appointed by the Speaker of the House of Representatives;

(F) 1 member shall be appointed by the Minority Leader of the House of Representatives;

(G) 1 member shall be appointed by the Chairman of the Committee on Education and the Workforce of the House of Representatives; and

(H) 1 member shall be appointed by the ranking minority member of the Committee on Education and the Workforce of the House of Representatives.

(2) COMPENSATION AND EXPENSES.—The members of the Commission shall not receive compensation for the performance of services for the Commission, but 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.

(d) ADMINISTRATIVE PROVISIONS.—

(1) LOCATION.—The Commission shall be located in a facility maintained by the Equal Employment Opportunity Commission.

(2) 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.

(3) INFORMATION FROM FEDERAL AGENCIES.—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 section. Upon request of the Commission, the head of such department or agency shall furnish such information to the Commission.

(4) 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 objectives of this section, except that, to the extent possible, the Commission shall use existing data and research.

(5) 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.

(e) REPORT.—Not later than 1 year after all of the members are appointed to the Commission under subsection (c)(1), the Commission shall submit to Congress a report that summarizes the findings of the Commission and makes such recommendations for legislation as are consistent with this Act.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Equal Employment Opportunity Commission such sums as may be necessary to carry out this section.

SEC. 209. CONSTRUCTION.

Nothing in this title shall be construed to—

(1) limit the rights or protections of an individual under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), including coverage afforded to individuals under section 102 of such Act (42 U.S.C. 12112), or under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

(2)(A) limit the rights or protections of an individual to bring an action under this title against an employer, employment agency, labor organization, or joint labor-management committee for a violation of this title; or

(B) establish a violation under this title for an employer, employment agency, labor organization, or joint labor-management committee of a provision of the amendments made by title I;

(3) limit the rights or protections of an individual under any other Federal or State statute that provides equal or greater protection to an individual than the rights or protections provided for under this title;

(4) apply to the Armed Forces Repository of Specimen Samples for the Identification of Remains;

(5) limit or expand the protections, rights, or obligations of employees or employers under applicable workers' compensation laws;

(6) limit the authority of a Federal department or agency to conduct or sponsor occupational or other health research that is conducted in compliance with the regulations

contained in part 46 of title 45, Code of Federal Regulations (or any corresponding or similar regulation or rule); and

(7) limit the statutory or regulatory authority of the Occupational Safety and Health Administration or the Mine Safety and Health Administration to promulgate or enforce workplace safety and health laws and regulations.

SEC. 210. MEDICAL INFORMATION THAT IS NOT GENETIC INFORMATION.

An employer, employment agency, labor organization, or joint labor-management committee shall not be considered to be in violation of this title based on the use, acquisition, or disclosure of medical information that is not genetic information about a manifested disease, disorder, or pathological condition of an employee or member, including a manifested disease, disorder, or pathological condition that has or may have a genetic basis.

SEC. 211. REGULATIONS.

Not later than 1 year after the date of enactment of this title, the Commission shall issue final regulations in an accessible format to carry out this title.

SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title (except for section 208).

SEC. 213. EFFECTIVE DATE.

This title takes effect on the date that is 18 months after the date of enactment of this Act.

TITLE III—MISCELLANEOUS PROVISION

SEC. 301. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of such provisions to any person or circumstance shall not be affected thereby.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. STEVENS. 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 October 2, 2003, at 10 a.m. to conduct a hearing on ''The Implementation of the Sarbanes-Oxley Act and Restoring Investor Confidence.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, October 2, 2003, at 9:30 a.m. on media ownership.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, October 2, 2003, at 2:30 p.m. on Amtrak.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 2, 2003 at 1:30 a.m. to hold a Business Meeting.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 2, 2003 at 2:30 p.m. to hold a hearing on U.S. Policy Toward Cuba.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, October 2, 2003 at a time and location to be determined to hold a business meeting to consider the nomination of C. Suzanne Mencer to be Director, Office for Domestic Preparedness, Department of Homeland Security.

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

COMMITTEE ON HEALTH EDUCATION, LABOR AND PENSIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions and House Committee on Energy and Commerce be authorized to meet for a Joint hearing on Managing Biomedical Research to Prevent and Cure Disease in the 21st Century: Matching NIH Policy with Science during the session of the Senate on Thursday, October 2, 2003 at 10 a.m. in SD–106.

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

COMMITTEE ON THE JUDICIARY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, October 2, 2003, at 9:30 a.m. in Dirksen Room 226.

Agenda

I. Nominations: Henry W. Saad to be United States Circuit Judge for the Sixth Circuit; Charles W. Pickering, Sr. to be United States Circuit Judge for the Fifth Circuit; Margaret Catharine Rodgers to be United States District Judge for the Northern District of Florida; Roger W. Titus to be United States District Judge for the District of Maryland; George W. Miller to be Judge for the United States Court of Federal Claims; Karin J. Immergut to be United States Attorney for the District of Oregon; and Deborah Ann Spagnoli to be United States Parole Commissioner.

II. Bills: S. 1580. Religious Workers Act of 2003 [Hatch, Kennedy, DeWine] and S. 1545. Development, Relief, and Education for Alien Minors Act of 2003 (the DREAM Act) [Hatch, Durbin, Craig, DeWine, Feingold, Feinstein, Grassley, Kennedy, Leahy, Schumer].

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, October 2, 2003 at 2:30 p.m. to hold a closed hearing.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on National Parks of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, October 2, 2003 at 10:00 a.m.

The purpose of the hearing is to receive testimony on the following bills: S. 524, to expand the boundaries of the Fort Donelson National Battlefield to authorize the acquisition and interpretation of lands associated with the campaign that resulted in the capture of the fort in 1862, and for other purposes; S. 1313, to establish the Congaree Swamp National Park in the State of South Carolina, and other purposes; S. 1472, to authorize the Secretary of the Interior to provide for the construction of a statue of Harry S. Truman at Union Station in Kansas City, MO; and S. 1576, to revise the boundary of Harpers Ferry National Historic Park, and for other purposes.

PRIVILEGE OF THE FLOOR

Mr. MCCONNELL. Mr. President, I ask unanimous consent Denese Merritt, a congressional fellow with Senator SMITH, be granted the privilege of the floor for the duration of the debate on the Iraq supplemental.

Mr. PRESIDENT. Without objection, it is so ordered.

GENETIC INFORMATION NONDISCRIMINATION ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 247, S. 1053, the Genetic Information Nondiscrimination Act; that the committee-reported substitute amendment be agreed to and treated as original text for purposes of further amendment, and the Snowe substitute, which is at the desk, be agreed to; further, that there be 30 minutes of debate equally divided in the usual form under the control of the chairman and ranking members of the HELP Committee or their designees; that no other amendments be in order; further, that upon the use or yielding back of time the bill be read a third time; that at 2:15 p.m. on Tuesday, October 14, the Senate resume consideration of S. 1053 and there be 15 minutes of debate equally divided, followed by a vote on passage of the bill, all without intervening action or debate.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. No objection.

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

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1053) to prohibit discrimination on the basis of genetic information with respect to health insurance and employment.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

S. 1053

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 ''Genetic Information Nondiscrimination Act of 2003''.

[TITLE I—GENETIC NONDISCRIMINATION IN HEALTH INSURANCE

[SEC. 101. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

[(a) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

[(1) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 702(a)(1)(F) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(a)(1)(F)) is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services)''.

[(2) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Section 702(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(b)) is amended by adding at the end the following:

[''(3) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—For purposes of this section, a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall not adjust premium or contribution amounts for a group on the basis of genetic information concerning an individual in the group or a family member of the individual (including information about a request for or receipt of genetic services).

[(b) LIMITATIONS ON GENETIC TESTING AND THE COLLECTION OF GENETIC INFORMATION.—Section 702 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182) is amended by adding at the end the following:

[''(c) GENETIC TESTING.—

[''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require an individual or a family member of such individual to undergo a genetic test.

[''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to limit the authority of a health care professional, who is providing health care services with respect to an individual or who is acting on behalf of a group health plan or a health insurance issuer, to request that such individual or a family member of such individual undergo a genetic test. Such a health care professional shall not require that such individual or family member undergo a genetic test.

[''(d) COMPLIANCE WITH CERTAIN CONFIDENTIALITY STANDARDS WITH RESPECT TO GENETIC INFORMATION.—With respect to the use or disclosure of genetic information by a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, such information shall be deemed to be protected health information for purposes of, and shall be subject to, the standards promulgated by the Secretary of Health and Human Services under—

[''(1) part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.); or

[''(2) section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033).

[''(e) COLLECTION OF GENETIC INFORMATION.—

[''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC INFORMATION.—Except as provided in paragraph (2), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require genetic information concerning an individual or a family member of the individual (including information about a request for or receipt of genetic services).

[''(2) INFORMATION NEEDED FOR TREATMENT, PAYMENT, AND HEALTH CARE OPERATIONS.—Notwithstanding paragraph (1), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, that provides health care items and services to an individual may request genetic information concerning such individual or dependent for purposes of treatment, payment, or health care operations in accordance with the standards for protected health information described in subsection (d) to the extent that the use of such information is otherwise consistent with this section.

[''(3) FAILURE TO PROVIDE NECESSARY INFORMATION.—If an individual or dependent refuses to provide the information requested under paragraph (2), and such information is for treatment, payment, or health care operations relating to the individual, the group health plan or health insurance issuer requesting such information shall not be required to provide coverage for the items, services, or treatments with respect to which the requested information relates in any action under part 5.''.

[(c) DEFINITIONS.—Section 733(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b(d)) is amended by adding at the end the following:

[''(5) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

[''(A) the spouse of the individual;

[''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

[''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

[''(6) GENETIC INFORMATION.—

[''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'genetic information' means information—

[''(i) concerning—

[''(I) the genetic tests of an individual;

[''(II) the genetic tests of family members of the individual; or

[''(III) the occurrence of a disease or disorder in family members of the individual; and

[''(ii) that is used to predict risk of disease in asymptomatic or undiagnosed individuals.

[''(B) EXCEPTIONS.—The term 'genetic information' shall not include—

[''(i) information about the sex or age of the individual;

[''(ii) information derived from clinical and laboratory tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests, used to determine health status or detect illness or diagnose disease; and

[''(iii) information about physical exams of the individual.

[''(7) GENETIC SERVICES.—The term 'genetic services' means health services provided for genetic education and counseling.

[''(8) GENETIC TEST.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and metabolites, that detect genotypes, mutations, or chromosomal changes. Such term does not include information described in paragraph (6)(B).''.

[(d) REGULATIONS AND EFFECTIVE DATE.—

[(1) REGULATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary of Labor shall issue final regulations in an accessible format to carry out the amendments made by this section.

[(2) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning after the date that is 18 months after the date of enactment of this title.

[SEC. 102. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

[(a) AMENDMENTS RELATING TO THE GROUP MARKET.—

[(1) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

[(A) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 2702(a)(1)(F) of the Public Health Service Act (42 U.S.C. 300gg–1(a)(1)(F)) is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services)''.

[(B) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Section 2702(b) of the Public Health Service Act (42 U.S.C. 300gg–1(b)) is amended by adding at the end the following:

[''(3) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—For purposes of this section, a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall not adjust premium or contribution amounts for a group on the basis of genetic information concerning an individual in the group or a family member of the individual (including information about a request for or receipt of genetic services).''.

[(2) LIMITATIONS ON GENETIC TESTING AND THE COLLECTION OF GENETIC INFORMATION.—Section 2702 of the Public Health Service Act (42 U.S.C. 300gg–1) is amended by adding at the end the following:

[''(c) GENETIC TESTING.—

[''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require an individual or a family member of such individual to undergo a genetic test.

[''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to limit the authority of a health care professional, who is providing health care services with respect to an individual or who is acting on behalf of a group health plan or a health insurance issuer, to request that such individual or a family member of such individual undergo a genetic test. Such a health care professional shall not require that such individual or family member undergo a genetic test.

[''(d) COMPLIANCE WITH CERTAIN CONFIDENTIALITY STANDARDS WITH RESPECT TO GENETIC INFORMATION.—With respect to the use or disclosure of genetic information by a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, such

information shall be deemed to be protected health information for purposes of, and shall be subject to, the standards promulgated by the Secretary of Health and Human Services under—

[''(1) part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.); or

[''(2) section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033).

[''(e) COLLECTION OF GENETIC INFORMATION.—

[''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC INFORMATION.—Except as provided in paragraph (2), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require genetic information concerning an individual or a family member of the individual (including information about a request for or receipt of genetic services).

[''(2) INFORMATION NEEDED FOR TREATMENT, PAYMENT, AND HEALTH CARE OPERATIONS.—Notwithstanding paragraph (1), a group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, that provides health care items and services to an individual may request genetic information concerning such individual or dependent for purposes of treatment, payment, or health care operations in accordance with the standards for protected health information described in subsection (d) to the extent that the use of such information is otherwise consistent with this section.

[''(3) FAILURE TO PROVIDE NECESSARY INFORMATION.—If an individual or dependent refuses to provide the information requested under paragraph (2), and such information is for treatment, payment, or health care operations relating to the individual, the group health plan or health insurance issuer requesting such information shall not be required to provide coverage for the items, services, or treatments with respect to which the requested information relates.''.

[(3) DEFINITIONS.—Section 2791(d) of the Public Health Service Act (42 U.S.C. 300gg–91(d)) is amended by adding at the end the following:

[''(15) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

[''(A) the spouse of the individual;

[''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

[''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

[''(16) GENETIC INFORMATION.—

[''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'genetic information' means information—

[''(i) concerning—

[''(I) the genetic tests of an individual;

[''(II) the genetic tests of family members of the individual; or

[''(III) the occurrence of a disease or disorder in family members of the individual; and

[''(ii) that is used to predict risk of disease in asymptomatic or undiagnosed individuals.

[''(B) EXCEPTIONS.—The term 'genetic information' shall not include—

[''(i) information about the sex or age of the individual;

[''(ii) information derived from clinical and laboratory tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests, used to determine health status or detect illness or diagnose disease; and

[''(iii) information about physical exams of the individual.

[''(17) GENETIC SERVICES.—The term 'genetic services' means health services provided for genetic education and counseling.

[''(18) GENETIC TEST.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and metabolites, that detect genotypes, mutations, or chromosomal changes. Such term does not include information described in paragraph (16)(B).''.

[(b) AMENDMENT RELATING TO THE INDIVIDUAL MARKET.—The first subpart 3 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–51 et seq.) (relating to other requirements) is amended—

[(1) by redesignating such subpart as subpart 2; and

[(2) by adding at the end the following:

["SEC. 2753. PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION.

[''(a) PROHIBITION ON GENETIC INFORMATION AS A CONDITION OF ELIGIBILITY.—A health insurance issuer offering health insurance coverage in the individual market may not use genetic information as a condition of eligibility of an individual to enroll in individual health insurance coverage (including information about a request for or receipt of genetic services).

[''(b) PROHIBITION ON GENETIC INFORMATION IN SETTING PREMIUM RATES.—For purposes of this section, a health insurance issuer offering health insurance coverage in the individual market shall not adjust premium or contribution amounts for an individual on the basis of genetic information concerning the individual or a family member of the individual (including information about a request for or receipt of genetic services).

[''(c) GENETIC TESTING.—

[''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A health insurance issuer offering health insurance coverage in the individual market shall not request or require an individual or a family member of such individual to undergo a genetic test.

[''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to limit the authority of a health care professional, who is providing health care services with respect to an individual or who is acting on behalf of a health insurance issuer, to request that such individual or a family member of such individual undergo a genetic test. Such a health care professional shall not require that such individual or family member undergo a genetic test.

[''(d) COMPLIANCE WITH CERTAIN CONFIDENTIALITY STANDARDS WITH RESPECT TO GENETIC INFORMATION.—With respect to the use or disclosure of genetic information by a health insurance issuer offering health insurance coverage in the individual market, such information shall be deemed to be protected health information for purposes of, and shall be subject to, the standards promulgated by the Secretary of Health and Human Services under—

[''(1) part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.); or

[''(2) section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033).

[''(e) COLLECTION OF GENETIC INFORMATION.—

[''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC INFORMATION.—Except as provided in paragraph (2), a health insurance issuer offering health insurance coverage in the individual market shall not request or require genetic information concerning an individual or a family member of the individual (including information about a request for or receipt of genetic services).

[''(2) INFORMATION NEEDED FOR TREATMENT, PAYMENT, AND HEALTH CARE OPERATIONS.—Notwithstanding paragraph (1), a health insurance issuer offering health insurance coverage in the individual market that provides health care items and services to an individual may request genetic information concerning such individual or dependent for purposes of treatment, payment, or health care operations in accordance with the standards for protected health information described in subsection (d) to the extent that the use of such information is otherwise consistent with this section.

[''(3) FAILURE TO PROVIDE NECESSARY INFORMATION.—If an individual or dependent refuses to provide the information requested under paragraph (2), and such information is for treatment, payment, or health care operations relating to the individual, the health insurance issuer requesting such information shall not be required to provide coverage for the items, services, or treatments with respect to which the requested information relates.''.

[(c) REGULATIONS AND EFFECTIVE DATE.—

[(1) REGULATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary of Labor and the Secretary of Health and Human Services (as the case may be) shall issue final regulations in an accessible format to carry out the amendments made by this section.

[(2) EFFECTIVE DATE.—The amendments made by this section shall apply—

[(A) with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning after the date that is 18 months after the date of enactment of this title; and

[(B) with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after the date that is 18 months after the date of enactment of this title.

[SEC. 103. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

[(a) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

[(1) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 9802(a)(1)(F) of the Internal Revenue Code of 1986 is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services)''.

[(2) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Section 9802(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

[''(3) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—For purposes of this section, a group health plan shall not adjust premium or contribution amounts for a group on the basis of genetic information concerning an individual in the group or a family member of the individual (including information about a request for or receipt of genetic services).''.

[(b) LIMITATIONS ON GENETIC TESTING AND THE COLLECTION OF GENETIC INFORMATION.—Section 9802 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

[''(d) GENETIC TESTING AND GENETIC SERVICES.—

[''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan shall not request or require an individual or a family member of such individual to undergo a genetic test.

[''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to limit the authority of a health care professional, who is providing health care services with respect to an individual or who is acting on behalf of a group health plan, to request that such individual or a family member of such individual undergo a genetic test. Such a health

care professional shall not require that such individual or family member undergo a genetic test.

[''(e) COMPLIANCE WITH CERTAIN CONFIDENTIALITY STANDARDS WITH RESPECT TO GENETIC INFORMATION.—With respect to the use or disclosure of genetic information by a group health plan, such information shall be deemed to be protected health information for purposes of, and shall be subject to, the standards promulgated by the Secretary of Health and Human Services under—

[''(1) part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.); or

[''(2) section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033).

[''(f) COLLECTION OF GENETIC INFORMATION.—

[''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC INFORMATION.—Except as provided in paragraph (2), a group health plan shall not request or require genetic information concerning an individual or a family member of the individual (including information about a request for or receipt of genetic services).

[''(2) INFORMATION NEEDED FOR TREATMENT, PAYMENT, AND HEALTH CARE OPERATIONS.—Notwithstanding paragraph (1), a group health plan that provides health care items and services to an individual may request genetic information concerning such individual or dependent for purposes of treatment, payment, or health care operations in accordance with the standards for protected health information described in subsection (e) to the extent that the use of such information is otherwise consistent with this section.

[''(3) FAILURE TO PROVIDE NECESSARY INFORMATION.—If an individual or dependent refuses to provide the information requested under paragraph (2), and such information is for treatment, payment, or health care operations relating to the individual, the group health plan requesting such information shall not be required to provide coverage for the items, services, or treatments with respect to which the requested information relates.''.

[(c) DEFINITIONS.—Section 9832(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

[''(6) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

[''(A) the spouse of the individual;

[''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

[''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

[''(7) GENETIC INFORMATION.—

[''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'genetic information' means information—

[''(i) concerning—

[''(I) the genetic tests of an individual;

[''(II) the genetic tests of family members of the individual; or

[''(III) the occurrence of a disease or disorder in family members of the individual; and

[''(ii) that is used to predict risk of disease in asymptomatic or undiagnosed individuals.

[''(B) EXCEPTIONS.—The term 'genetic information' shall not include—

[''(i) information about the sex or age of the individual;

[''(ii) information derived from clinical and laboratory tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests, used to determine health status or detect illness or diagnose disease; and

[''(iii) information about physical exams of the individual.

[''(8) GENETIC SERVICES.—The term 'genetic services' means health services provided for genetic education and counseling.

[''(9) GENETIC TEST.—The term 'genetic test' means the analysis of human DNA, RNA, chromosomes, proteins, and metabolites, that detect genotypes, mutations, or chromosomal changes. Such term does not include information described in paragraph (7)(B).''.

[(d) REGULATIONS AND EFFECTIVE DATE.—

[(1) REGULATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary of the Treasury shall issue final regulations in an accessible format to carry out the amendments made by this section.

[(2) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning after the date that is 18 months after the date of enactment of this title.

[SEC. 104. ASSURING COORDINATION.

[The Secretary of the Treasury, the Secretary of Health and Human Services, and the Secretary of Labor shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

[(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which two or more such Secretaries have responsibility under this title (and the amendments made by this title) are administered so as to have the same effect at all times; and

[(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

[TITLE II—PROHIBITING EMPLOYMENT DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION

[SEC. 201. DEFINITIONS.

[In this title:

[(1) COMMISSION.—The term ''Commission'' means the Equal Employment Opportunity Commission as created by section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4).

[(2) EMPLOYEE; EMPLOYER; EMPLOYMENT AGENCY; LABOR ORGANIZATION; AND MEMBER.—The terms—

[(A) ''employee'', ''employer'', ''employment agency'', and ''labor organization'' have the meanings given such terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e); and

[(B) ''employee'' and ''member'', as used with respect to a labor organization, include an applicant for employment and an applicant for membership in a labor organization, respectively.

[(3) FAMILY MEMBER.—The term ''family member'' means with respect to an individual—

[(A) the spouse of the individual;

[(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

[(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

[(4) GENETIC INFORMATION.—

[(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''genetic information'' means information—

[(i) concerning—

[(I) the genetic tests of an individual;

[(II) the genetic tests of family members of the individual; or

[(III) the occurrence of a disease or disorder in family members of the individual; and

[(ii) that is used to predict risk of disease in asymptomatic or undiagnosed individuals.

[(B) EXCEPTIONS.—The term ''genetic information'' shall not include—

[(i) information about the sex or age of the individual;

[(ii) information derived from clinical and laboratory tests, such as the chemical, blood, or urine analyses of the individual including cholesterol tests, used to determine health status or detect illness or diagnose disease; and

[(iii) information about physical exams of the individual.

[(5) GENETIC MONITORING.—The term ''genetic monitoring'' means the periodic examination of employees to evaluate acquired modifications to their genetic material, such as chromosomal damage or evidence of increased occurrence of mutations, that may have developed in the course of employment due to exposure to toxic substances in the workplace, in order to identify, evaluate, and respond to the effects of or control adverse environmental exposures in the workplace.

[(6) GENETIC SERVICES.—The term ''genetic services'' means health services provided for genetic education and counseling.

[(7) GENETIC TEST.—The term ''genetic test'' means the analysis of human DNA, RNA, chromosomes, proteins, and metabolites, that detect genotypes, mutations, or chromosomal changes. Such term does not include information described in paragraph (4)(B).

[SEC. 202. EMPLOYER PRACTICES.

[(a) USE OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employer—

[(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to the compensation, terms, conditions, or privileges of employment of the individual, because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual); or

[(2) to limit, segregate, or classify the employees of the employer in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual).

[(b) LIMITATION ON COLLECTION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employer to intentionally request, require, or purchase genetic information with respect to an employee or a family member of the employee (or information about a request for the receipt of genetic services by such employee or a family of such employee) except—

[(1) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

[(A) the employer provides written notice of the genetic monitoring to the employee;

[(B)(i) the employee provides prior, knowing, voluntary, and written authorization; or

[(ii) the genetic monitoring is required by Federal, State, or local law;

[(C) the employee is informed of individual monitoring results;

[(D) the monitoring conforms to any Federal or State genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) or the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.); and

[(E) the employer, excluding any licensed or certified health care professional that is involved in the genetic monitoring program,

receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific employees;

[(2) where—

[(A) health or genetic services are offered by the employer;

[(B) the employee provides prior, knowing, voluntary, and written authorization; and

[(C) only the employee (or family member if the family member is receiving genetic services) and the licensed or certified health care professionals involved in providing such services receive individually identifiable information concerning the results of such services; or

[(3) where the request or requirement is necessary to comply with Federal, State, or local law.

[(c) LIMITATION.—In the case of genetic information to which paragraph (1), (2), or (3) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a).

[(d) EXCEPTION.—

[(1) IN GENERAL.—An employer shall not be considered to engage in an employment practice that is unlawful under this title because of its disparate impact, on the basis that the employer applies a qualification standard, test, or other selection criterion that screens out or tends to screen out, or otherwise denies a job benefit to, an individual, if the standard, test, or other selection criterion is shown to be job-related with respect to the employment position involved and consistent with business necessity.

[(2) QUALIFICATION STANDARD.—In this subsection, the term ''qualification standard'' may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace.

[(e) RULE OF CONSTRUCTION RELATING TO GROUP HEALTH PLANS.—Nothing in this section shall be construed to prohibit a group health plan (as such term is defined in section 733(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b(a))), or a health insurance issuer offering group health insurance coverage in connection with a group health plan, from making a request described in subsection (b) if such request is consistent with the provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181 et seq.), title XXVII of the Public Health Service (42 U.S.C. 300gg et seq.), and chapter 100 of the Internal Revenue Code of 1986.

[SEC. 203. EMPLOYMENT AGENCY PRACTICES.

[(a) USE OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employment agency—

[(1) to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual); or

[(2) to limit, segregate, or classify individuals or fail or refuse to refer for employment any individual in any way that would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual).

[(b) LIMITATION ON COLLECTION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employment agency—

[(1) to intentionally request, require, or purchase genetic information with respect to an employee or family member of the employee (or information about a request for or the receipt of genetic services by such employee or family member of such employee), except that the provisions of section 202(b) shall apply with respect to employment agencies and employees (and the family members of the employees) under this paragraph in the same manner and to the same extent as such provisions apply to employers and employees (and the family members of the employees) under section 202(b); or

[(2) to cause or attempt to cause an employer to discriminate against an individual in violation of this title.

[(c) LIMITATION AND EXCEPTION.—Subsections (c) and (d) of section 202 shall apply with respect to employment agencies and employees (and the family members of the employees) under this section in the same manner and to the same extent as such provisions apply to employers and employees (and the family members of the employees) under section 202.

[SEC. 204. LABOR ORGANIZATION PRACTICES.

[(a) USE OF GENETIC INFORMATION.—It shall be an unlawful employment practice for a labor organization—

[(1) to exclude or to expel from the membership of the organization, or otherwise to discriminate against, any individual because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual); or

[(2) to limit, segregate, or classify the members of the organization, or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual).

[(b) LIMITATION ON COLLECTION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for a labor organization—

[(1) to intentionally request, require, or purchase genetic information with respect to an individual who is a member of a labor organization or a family member of the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual) except that the provisions of section 202(b) shall apply with respect to labor organizations and such individuals (and their family members) under this paragraph in the same manner and to the same extent as such provisions apply to employers and employees (and the family members of the employees) under section 202(b); or

[(2) to cause or attempt to cause an employer to discriminate against an individual in violation of this title.

[(c) LIMITATION AND EXCEPTION.—Subsections (c) and (d) of section 202 shall apply with respect to labor organizations and individuals who are members of labor organizations (and the family members of the individuals) under this section in the same manner and to the same extent as such provisions apply to employers and employees (and the family members of the employees) under section 202.

[SEC. 205. TRAINING PROGRAMS.

[(a) USE OF GENETIC INFORMATION.—It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs—

[(1) to discriminate against any individual because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or a family member of such individual) in admission to, or employment in, any program established to provide apprenticeship or other training or retraining; or

[(2) to limit, segregate, or classify the applicants for or participants in such apprenticeship or other training or retraining, or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual (or information about a request for or receipt of genetic services by such individual or family member of such individual).

[(b) LIMITATION ON COLLECTION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employer, labor organization, or joint labor-management committee described in subsection (a)—

[(1) to intentionally request, require, or purchase genetic information with respect to an individual who is an applicant for or a participant in such apprenticeship or other training or retraining (or information about a request for or the receipt of genetic services by such individual or family member of such individual) except that the provisions of section 202(b) shall apply with respect to such employers, labor organizations, and joint labor-management committees and to such individuals (and their family members) under this paragraph in the same manner and to the same extent as such provisions apply to employers and employees (and their family members) under section 202(b); or

[(2) to cause or attempt to cause an employer to discriminate against an applicant for or a participant in such apprenticeship or other training or retraining in violation of this title.

[(c) LIMITATION AND EXCEPTION.—Subsections (c) and (d) of section 202 shall apply with respect to employers, labor organizations, and joint labor-management committees described in subsection (a) and to individuals who are applicants for or participants in apprenticeship or other training or retraining (and the family members of the individuals) under this section in the same manner and to the same extent as the provisions apply to employers and to employees (and the family members of the employees) under section 202.

[SEC. 206. CONFIDENTIALITY OF GENETIC INFORMATION.

[(a) TREATMENT OF INFORMATION AS PART OF CONFIDENTIAL MEDICAL RECORD.—

[(1) IN GENERAL.—If an employer, employment agency, labor organization, or joint labor-management committee possesses genetic information about an employee or member (or information about a request for or receipt of genetic services by such employee or member or family member of such employee or member), such information shall be treated and maintained as part of the employee's or member's confidential medical records.

[(2) LIMITATION ON DISCLOSURE.—An employer, employment agency, labor organization, or joint labor-management committee shall not disclose genetic information concerning an employee or member (or information about a request for or receipt of genetic services by such employee or member or family member of such employee or member) except—

[(A) to the employee (or family member if the family member is receiving the genetic services) or member at the request of the employee or member;

[(B) to an occupational or other health researcher if the research is conducted in compliance with the regulations and protections provided for under part 46 of title 45, Code of Federal Regulations (or any corresponding similar regulation or rule);

[(C) under legal compulsion of a Federal or State court order, except that if the court order was secured without the knowledge of the individual to whom the information refers, the employer shall provide the individual with adequate notice to challenge the court order;

[(D) to government officials who are investigating compliance with this title if the information is relevant to the investigation;

[(E) to the extent that such disclosure is necessary to comply with Federal, State, or local law; or

[(F) as otherwise provided for in this title.

[(b) RULE OF CONSTRUCTION RELATING TO GROUP HEALTH PLANS.—Nothing in this section shall be construed to prohibit a group health plan (as such term is defined in section 733(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b(a))), or a health insurance issuer offering group health insurance coverage in connection with a group health plan, from using or disclosing information described in subsection (a) if such use of disclosure is consistent with the provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181 et seq.), title XXVII of the Public Health Service (42 U.S.C. 300gg et seq.), and chapter 100 of the Internal Revenue Code of 1986.

[SEC. 207. ENFORCEMENT.

[The powers, remedies, and procedures set forth in sections 705, 706, 707, 709, and 710 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4, 2000e–5, 2000e–6, 2000e–8, and 2000e–9) shall be the powers, remedies, and procedures that this title provides to the Commission, to the Attorney General, or to any person alleging an unlawful employment practice in violation of section 202 (other than subsection (e) of such section), 203, 204, 205, or 206(a) or the regulations promulgated under section 210, concerning employment.

[SEC. 208. AMENDMENT TO THE REVISED STATUTES.

[(a) RIGHT OF RECOVERY.—Section 1977A(a) of the Revised Statutes (42 U.S.C. 1981a(a)) is amended by adding at the end the following:

[''(4) GENETIC INFORMATION.—In an action brought by a complaining party under the powers, remedies, and procedures set forth in section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5), as authorized under section 207 of the Genetic Information Nondiscrimination Act of 2003, against a respondent who is engaging (or has engaged) in an intentional unlawful employment practice prohibited by section 202 (other than subsection (e) of such section), 203, 204, 205 or 206(a) of such Genetic Information Nondiscrimination Act of 2003 against an individual (other than an action involving an employment practice that is allegedly unlawful because of its disparate impact), the complaining party may recover compensatory and punitive damages as permitted under subsection (b), in addition to any relief otherwise provided for under section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(g)), from the respondent.''.

[(b) CONFORMING AMENDMENTS.—Section 1977A(d) of the Revised Statutes (42 U.S.C. 1981a(d)) is amended—

[(1) in paragraph (1)—

[(A) in subparagraph (A), by striking ''or'' at the end;

[(B) in subparagraph (B), by striking the period and inserting ''; or''; and

[(C) by adding at the end the following:

[''(C) in the case of a person seeking to bring an action under subsection (a)(4) ,the Equal Employment Opportunity Commission, the Attorney General, or a person who may bring an action or proceeding under title II of the Genetic Information Nondiscrimination Act of 2003.''; and

[(2) in paragraph (2), by striking ''or the discrimination or the violation described in paragraph (2),'' and inserting ''the discrimination or the violation described in paragraph (2), or the intentional unlawful employment practice described in paragraph (4),''.

[SEC. 209. CONSTRUCTION.

[Nothing in this title shall be construed to—

[(1) limit the rights or protections of an individual under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), including coverage afforded to individuals under section 102 of such Act (42 U.S.C. 12112), or under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), except that an individual may not bring an action against an employer, employment agency, labor organization, or joint labor-management committee pursuant to this title and also pursuant to the Americans with Disabilities Act of 1990 or the Rehabilitation Act of 1973, if the actions are predicated on the same facts or a common occurrence;

[(2) limit the rights or protections of an individual to bring an action under this title against an employer, employment agency, labor organization, or joint labor-management committee for a violation of this title, except that an individual may not bring an action against such an employer, employment agency, labor organization, or joint labor-management committee, with respect to a group health plan or a health insurance issuer offering health insurance coverage in connection with a group health plan, under this title if the action is based on a violation of a provision of the amendments made by title I;

[(3) limit the rights or protections of an individual under any other Federal or State statute that provides equal or greater protection to an individual than the rights or protections provided for under this title;

[(4) apply to the Armed Forces Repository of Specimen Samples for the Identification of Remains;

[(5) limit the authority of a Federal department or agency to conduct or sponsor occupational or other health research that is conducted in compliance with the regulations contained in part 46 of title 45, Code of Federal Regulations (or any corresponding or similar regulation or rule); and

[(6) limit the statutory or regulatory authority of the Occupational Safety and Health Administration or the Mine Safety and Health Administration to promulgate or enforce workplace safety and health laws and regulations.

[SEC. 210. REGULATIONS.

[Not later than 1 year after the date of enactment of this title, the Commission shall issue final regulations in an accessible format to carry out this title.

[SEC. 211. SEVERABILITY.

[If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of such provisions to any person or circumstance shall not be affected thereby.

[SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated such sums as may be necessary to carry out this title.

[SEC. 213. EFFECTIVE DATE.

[(a) IN GENERAL.—This title takes effect on the date that is 18 months after the date of enactment of this Act.

[(b) ENFORCEMENT.—Notwithstanding subsection (a), no enforcement action shall be commenced under section 207 until the date on which the Commission issues final regulations under section 210.

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Genetic Information Nondiscrimination Act of 2003''.

TITLE I—GENETIC NONDISCRIMINATION IN HEALTH INSURANCE

SEC. 101. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

(1) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 702(a)(1)(F) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(a)(1)(F)) is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services by an individual or family member of such individual)''.

(2) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Section 702(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(b)) is amended—

(A) in paragraph (2)(A), by inserting before the semicolon the following: ''except as provided in paragraph (3)''; and

(B) by adding at the end the following:

''(3) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—For purposes of this section, a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall not adjust premium or contribution amounts for a group on the basis of genetic information concerning an individual in the group or a family member of the individual (including information about a request for or receipt of genetic services by an individual or family member of such individual).''.

(b) LIMITATIONS ON GENETIC TESTING.—Section 702 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182) is amended by adding at the end the following:

''(c) GENETIC TESTING.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to—

''(A) limit the authority of a health care professional who is providing health care services with respect to an individual to request that such individual or a family member of such individual undergo a genetic test;

''(B) limit the authority of a health care professional who is employed by or affiliated with a group health plan or a health insurance issuer and who is providing health care services to an individual as part of a bona fide wellness program to notify such individual of the availability of a genetic test or to provide information to such individual regarding such genetic test; or

''(C) authorize or permit a health care professional to require that an individual undergo a genetic test.

''(d) APPLICATION TO ALL PLANS.—The provisions of subsections (a)(1)(F), (b)(3), and (c) shall apply to group health plans and health insurance issuers without regard to section 732(a).''.

(c) REMEDIES AND ENFORCEMENT.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following:

''(n) ENFORCEMENT OF GENETIC NONDISCRIMINATION REQUIREMENTS.—

''(1) INJUNCTIVE RELIEF FOR IRREPARABLE HARM.—With respect to any violation of subsection (a)(1)(F), (b)(3), or (c) of section 702, a

participant or beneficiary may seek relief under subsection 502(a)(1)(B) prior to the exhaustion of available administrative remedies under section 503 if it is demonstrated to the court, by a preponderance of the evidence, that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Any determinations that already have been made under section 503 in such case, or that are made in such case while an action under this paragraph is pending, shall be given due consideration by the court in any action under this subsection in such case.

''(2) EQUITABLE RELIEF FOR GENETIC NONDISCRIMINATION.—

''(A) REINSTATEMENT OF BENEFITS WHERE EQUITABLE RELIEF HAS BEEN AWARDED.—The recovery of benefits by a participant or beneficiary under a civil action under this section may include an administrative penalty under subparagraph (B) and the retroactive reinstatement of coverage under the plan involved to the date on which the participant or beneficiary was denied eligibility for coverage if—

''(i) the civil action was commenced under subsection (a)(1)(B); and

''(ii) the denial of coverage on which such civil action was based constitutes a violation of subsection (a)(1)(F), (b)(3), or (c) of section 702.

''(B) ADMINISTRATIVE PENALTY.—

''(i) IN GENERAL.—An administrator who fails to comply with the requirements of subsection (a)(1)(F), (b)(3), or (c) of section 702 with respect to a participant or beneficiary may, in an action commenced under subsection (a)(1)(B), be personally liable in the discretion of the court, for a penalty in the amount not more than $100 for each day in the noncompliance period.

''(ii) NONCOMPLIANCE PERIOD.—For purposes of clause (i), the term 'noncompliance period' means the period—

''(I) beginning on the date that a failure described in clause (i) occurs; and

''(II) ending on the date that such failure is corrected.

''(iii) PAYMENT TO PARTICIPANT OR BENEFICIARY.—A penalty collected under this subparagraph shall be paid to the participant or beneficiary involved.

''(3) SECRETARIAL ENFORCEMENT AUTHORITY.—

''(A) GENERAL RULE.—The Secretary has the authority to impose a penalty on any failure of a group health plan to meet the requirements of subsection (a)(1)(F), (b)(3), or (c) of section 702.

''(B) AMOUNT.—

''(i) IN GENERAL.—The amount of the penalty imposed by subparagraph (A) shall be $100 for each day in the noncompliance period with respect to each individual to whom such failure relates.

''(ii) NONCOMPLIANCE PERIOD.—For purposes of this paragraph, the term 'noncompliance period' means, with respect to any failure, the period—

''(I) beginning on the date such failure first occurs; and

''(II) ending on the date such failure is corrected.

''(C) MINIMUM PENALTIES WHERE FAILURE DISCOVERED.—Notwithstanding clauses (i) and (ii) of subparagraph (D):

''(i) IN GENERAL.—In the case of 1 or more failures with respect to an individual—

''(I) which are not corrected before the date on which the plan receives a notice from the Secretary of such violation; and

''(II) which occurred or continued during the period involved;

the amount of penalty imposed by subparagraph (A) by reason of such failures with respect to such individual shall not be less than $2,500.

''(ii) HIGHER MINIMUM PENALTY WHERE VIOLATIONS ARE MORE THAN DE MINIMIS.—To the extent violations for which any person is liable under this paragraph for any year are more than de minimis, clause (i) shall be applied by substituting '$15,000' for '$2,500' with respect to such person.

''(D) LIMITATIONS.—

''(i) PENALTY NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No penalty shall be imposed by subparagraph (A) on any failure during any period for which it is established to the satisfaction of the Secretary that the person otherwise liable for such penalty did not know, and exercising reasonable diligence would not have known, that such failure existed.

''(ii) PENALTY NOT TO APPLY TO FAILURES CORRECTED WITHIN CERTAIN PERIODS.—No penalty shall be imposed by subparagraph (A) on any failure if—

''(I) such failure was due to reasonable cause and not to willful neglect; and

''(II) such failure is corrected during the 30-day period beginning on the first date the person otherwise liable for such penalty knew, or exercising reasonable diligence would have known, that such failure existed.

''(iii) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures which are due to reasonable cause and not to willful neglect, the penalty imposed by subparagraph (A) for failures shall not exceed the amount equal to the lesser of—

''(I) 10 percent of the aggregate amount paid or incurred by the employer (or predecessor employer) during the preceding taxable year for group health plans; or

''(II) $500,000.

''(E) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the penalty imposed by subparagraph (A) to the extent that the payment of such penalty would be excessive relative to the failure involved.''.

(d) DEFINITIONS.—Section 733(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b(d)) is amended by adding at the end the following:

''(5) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

''(6) GENETIC INFORMATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'genetic information' means information about—

''(i) an individual's genetic tests;

''(ii) the genetic tests of family members of the individual; or

''(iii) the occurrence of a disease or disorder in family members of the individual.

''(B) EXCLUSIONS.—The term 'genetic information' shall not include information about the sex or age of an individual.

''(7) GENETIC TEST.—

''(A) IN GENERAL.—The term 'genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

''(B) EXCEPTIONS.—The term 'genetic test' does not mean—

''(i) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

''(ii) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

''(8) GENETIC SERVICES.—The term 'genetic services' means—

''(A) a genetic test;

''(B) genetic counseling (such as obtaining, interpreting, or assessing genetic information); or

''(C) genetic education.''.

(e) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary of Labor shall issue final regulations in an accessible format to carry out the amendments made by this section.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning after the date that is 18 months after the date of enactment of this title.

SEC. 102. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) AMENDMENTS RELATING TO THE GROUP MARKET.—

(1) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

(A) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 2702(a)(1)(F) of the Public Health Service Act (42 U.S.C. 300gg–1(a)(1)(F)) is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services by an individual or family member of such individual)''.

(B) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Section 2702(b) of the Public Health Service Act (42 U.S.C. 300gg–1(b)) is amended—

(i) in paragraph (2)(A), by inserting before the semicolon the following: '', except as provided in paragraph (3)''; and

(ii) by adding at the end the following:

''(3) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—For purposes of this section, a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall not adjust premium or contribution amounts for a group on the basis of genetic information concerning an individual in the group or a family member of the individual (including information about a request for or receipt of genetic services by an individual or family member of such individual).''.

(2) LIMITATIONS ON GENETIC TESTING.—Section 2702 of the Public Health Service Act (42 U.S.C. 300gg–1) is amended by adding at the end the following:

''(c) GENETIC TESTING.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan, or a health insurance issuer offering health insurance coverage in connection with a group health plan, shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to—

''(A) limit the authority of a health care professional who is providing health care services with respect to an individual to request that such individual or a family member of such individual undergo a genetic test;

''(B) limit the authority of a health care professional who is employed by or affiliated with a group health plan or a health insurance issuer and who is providing health care services to an individual as part of a bona fide wellness program to notify such individual of the availability of a genetic test or to provide information to such individual regarding such genetic test; or

''(C) authorize or permit a health care professional to require that an individual undergo a genetic test.

''(d) APPLICATION TO ALL PLANS.—The provisions of subsections (a)(1)(F), (b)(3), and (c) shall apply to group health plans and health insurance issuers without regard to section 2721(a).''.

(3) REMEDIES AND ENFORCEMENT.—Section 2722(b) of the Public Health Service Act (42 U.S.C. 300gg–22)(b)) is amended by adding at the end the following:

''(3) ENFORCEMENT AUTHORITY RELATING TO GENETIC DISCRIMINATION.—

''(A) GENERAL RULE.—In the cases described in paragraph (1), notwithstanding the provisions of paragraph (2)(C), the following provisions shall apply with respect to an action under this subsection by the Secretary with respect to any failure of a health insurance issuer in connection with a group health plan, to meet the requirements of subsection (a)(1)(F), (b)(3), or (c) of section 2702.

''(B) AMOUNT.—

''(i) IN GENERAL.—The amount of the penalty imposed under this paragraph shall be $100 for each day in the noncompliance period with respect to each individual to whom such failure relates.

''(ii) NONCOMPLIANCE PERIOD.—For purposes of this paragraph, the term 'noncompliance period' means, with respect to any failure, the period—

''(I) beginning on the date such failure first occurs; and

''(II) ending on the date such failure is corrected.

''(C) MINIMUM PENALTIES WHERE FAILURE DISCOVERED.—Notwithstanding clauses (i) and (ii) of subparagraph (D):

''(i) IN GENERAL.—In the case of 1 or more failures with respect to an individual—

''(I) which are not corrected before the date on which the plan receives a notice from the Secretary of such violation; and

''(II) which occurred or continued during the period involved;

the amount of penalty imposed by subparagraph (A) by reason of such failures with respect to such individual shall not be less than $2,500.

''(ii) HIGHER MINIMUM PENALTY WHERE VIOLATIONS ARE MORE THAN DE MINIMIS.—To the extent violations for which any person is liable under this paragraph for any year are more than de minimis, clause (i) shall be applied by substituting '$15,000' for '$2,500' with respect to such person.

''(D) LIMITATIONS.—

''(i) PENALTY NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No penalty shall be imposed by subparagraph (A) on any failure during any period for which it is established to the satisfaction of the Secretary that the person otherwise liable for such penalty did not know, and exercising reasonable diligence would not have known, that such failure existed.

''(ii) PENALTY NOT TO APPLY TO FAILURES CORRECTED WITHIN CERTAIN PERIODS.—No penalty shall be imposed by subparagraph (A) on any failure if—

''(I) such failure was due to reasonable cause and not to willful neglect; and

''(II) such failure is corrected during the 30-day period beginning on the first date the person otherwise liable for such penalty knew, or exercising reasonable diligence would have known, that such failure existed.

''(iii) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures which are due to reasonable cause and not to willful neglect, the penalty imposed by subparagraph (A) for failures shall not exceed the amount equal to the lesser of—

''(I) 10 percent of the aggregate amount paid or incurred by the employer (or predecessor employer) during the preceding taxable year for group health plans; or

''(II) $500,000.

''(E) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the penalty imposed by subparagraph (A) to the extent that the payment of such penalty would be excessive relative to the failure involved.''.

(4) DEFINITIONS.—Section 2791(d) of the Public Health Service Act (42 U.S.C. 300gg–91(d)) is amended by adding at the end the following:

''(15) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

''(16) GENETIC INFORMATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'genetic information' means information about—

''(i) an individual's genetic tests;

''(ii) the genetic tests of family members of the individual; or

''(iii) the occurrence of a disease or disorder in family members of the individual.

''(B) EXCLUSIONS.—The term 'genetic information' shall not include information about the sex or age of an individual.

''(17) GENETIC TEST.—

''(A) IN GENERAL.—The term 'genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

''(B) EXCEPTIONS.—The term 'genetic test' does not mean—

''(i) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

''(ii) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

''(18) GENETIC SERVICES.—The term 'genetic services' means—

''(A) a genetic test;

''(B) genetic counseling (such as obtaining, interpreting, or assessing genetic information); or

''(C) genetic education.''.

(b) AMENDMENT RELATING TO THE INDIVIDUAL MARKET.—

(1) IN GENERAL.—The first subpart 3 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–51 et seq.) (relating to other requirements) is amended—

(A) by redesignating such subpart as subpart 2; and

(B) by adding at the end the following:

''SEC. 2753. PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION.

''(a) PROHIBITION ON GENETIC INFORMATION AS A CONDITION OF ELIGIBILITY.—A health insurance issuer offering health insurance coverage in the individual market may not establish rules for the eligibility (including continued eligibility) of any individual to enroll in individual health insurance coverage based on genetic information (including information about a request for or receipt of genetic services by an individual or family member of such individual).

''(b) PROHIBITION ON GENETIC INFORMATION IN SETTING PREMIUM RATES.—A health insurance issuer offering health insurance coverage in the individual market shall not adjust premium or contribution amounts for an individual on the basis of genetic information concerning the individual or a family member of the individual (including information about a request for or receipt of genetic services by an individual or family member of such individual).

''(c) GENETIC TESTING.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A health insurance issuer offering health insurance coverage in the individual market shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to—

''(A) limit the authority of a health care professional who is providing health care services with respect to an individual to request that such individual or a family member of such individual undergo a genetic test;

''(B) limit the authority of a health care professional who is employed by or affiliated with a health insurance issuer and who is providing health care services to an individual as part of a bona fide wellness program to notify such individual of the availability of a genetic test or to provide information to such individual regarding such genetic test; or

''(C) authorize or permit a health care professional to require that an individual undergo a genetic test.''.

(2) REMEDIES AND ENFORCEMENT.—Section 2761(b) of the Public Health Service Act (42 U.S.C. 300gg–61)(b)) is amended to read as follows:

''(b) SECRETARIAL ENFORCEMENT AUTHORITY.—The Secretary shall have the same authority in relation to enforcement of the provisions of this part with respect to issuers of health insurance coverage in the individual market in a State as the Secretary has under section 2722(b)(2), and section 2722(b)(3) with respect to violations of genetic nondiscrimination provisions, in relation to the enforcement of the provisions of part A with respect to issuers of health insurance coverage in the small group market in the State.''.

(c) ELIMINATION OF OPTION OF NON-FEDERAL GOVERNMENTAL PLANS TO BE EXCEPTED FROM REQUIREMENTS CONCERNING GENETIC INFORMATION.—Section 2721(b)(2) of the Public Health Service Act (42 U.S. C. 300gg–21(b)(2)) is amended—

(1) in subparagraph (A), by striking ''If the plan sponsor'' and inserting ''Except as provided in subparagraph (D), if the plan sponsor''; and

(2) by adding at the end the following:

''(D) ELECTION NOT APPLICABLE TO REQUIREMENTS CONCERNING GENETIC INFORMATION.—The election described in subparagraph (A) shall not be available with respect to the provisions of subsections (a)(1)(F) and (c) of section 2702 and the provisions of section 2702(b) to the extent that such provisions apply to genetic information (or information about a request for or the receipt of genetic services by an individual or a family member of such individual).''.

(d) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary of Labor and the Secretary of Health and Human Services (as the case may be) shall issue final regulations in an accessible format to carry out the amendments made by this section.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply—

(A) with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning after the date that is 18 months after the date of enactment of this title; and

(B) with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after the date that is 18 months after the date of enactment of this title.

SEC. 103. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

(a) PROHIBITION OF HEALTH DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION OR GENETIC SERVICES.—

(1) NO ENROLLMENT RESTRICTION FOR GENETIC SERVICES.—Section 9802(a)(1)(F) of the Internal Revenue Code of 1986 is amended by inserting before the period the following: ''(including information about a request for or receipt of genetic services by an individual or family member of such individual)''.

(2) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—Section 9802(b) of the Internal Revenue Code of 1986 is amended—

(A) in paragraph (2)(A), by inserting before the semicolon the following: '', except as provided in paragraph (3)''; and

(B) by adding at the end the following:

''(3) NO DISCRIMINATION IN GROUP PREMIUMS BASED ON GENETIC INFORMATION.—For purposes

of this section, a group health plan shall not adjust premium or contribution amounts for a group on the basis of genetic information concerning an individual in the group or a family member of the individual (including information about a request for or receipt of genetic services by an individual or family member of such individual).''.

(b) LIMITATIONS ON GENETIC TESTING.—Section 9802 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(d) GENETIC TESTING AND GENETIC SERVICES.—

''(1) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—A group health plan shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to—

''(A) limit the authority of a health care professional who is providing health care services with respect to an individual to request that such individual or a family member of such individual undergo a genetic test;

''(B) limit the authority of a health care professional who is employed by or affiliated with a group health plan and who is providing health care services to an individual as part of a bona fide wellness program to notify such individual of the availability of a genetic test or to provide information to such individual regarding such genetic test; or

''(C) authorize or permit a health care professional to require that an individual undergo a genetic test.

''(e) APPLICATION TO ALL PLANS.—The provisions of subsections (a)(1)(F), (b)(3), and (d) shall apply to group health plans and health insurance issuers without regard to section 9831(a)(2).''.

(c) DEFINITIONS.—Section 9832(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(6) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

''(A) the spouse of the individual;

''(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

''(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

''(7) GENETIC SERVICES.—The term 'genetic services' means—

''(A) a genetic test;

''(B) genetic counseling (such as obtaining, interpreting, or assessing genetic information); or

''(C) genetic education.

''(8) GENETIC INFORMATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'genetic information' means information about—

''(i) an individual's genetic tests;

''(ii) the genetic tests of family members of the individual; or

''(iii) the occurrence of a disease or disorder in family members of the individual.

''(B) EXCLUSIONS.—The term 'genetic information' shall not include information about the sex or age of an individual.

''(9) GENETIC TEST.—

''(A) IN GENERAL.—The term 'genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

''(B) EXCEPTIONS.—The term 'genetic test' does not mean—

''(i) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

''(ii) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.''.

(d) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary of the Treasury shall issue final regulations in an accessible format to carry out the amendments made by this section.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning after the date that is 18 months after the date of enactment of this title.

SEC. 104. AMENDMENTS TO TITLE XVIII OF THE SOCIAL SECURITY ACT RELATING TO MEDIGAP.

(a) NONDISCRIMINATION.—

(1) IN GENERAL.—Section 1882(s)(2) of the Social Security Act (42 U.S.C. 1395ss(s)(2)) is amended by adding at the end the following:

''(E)(i) An issuer of a medicare supplemental policy shall not deny or condition the issuance or effectiveness of the policy, and shall not discriminate in the pricing of the policy (including the adjustment of premium rates) of an eligible individual on the basis of genetic information concerning the individual (or information about a request for, or the receipt of, genetic services by such individual or family member of such individual).

''(ii) For purposes of clause (i), the terms 'family member', 'genetic services', and 'genetic information' shall have the meanings given such terms in subsection (v).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to a policy for policy years beginning after the date that is 18 months after the date of enactment of this Act.

(b) LIMITATIONS ON GENETIC TESTING.—

(1) IN GENERAL.—Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended by adding at the end the following:

''(v) LIMITATIONS ON GENETIC TESTING.—

''(1) GENETIC TESTING.—

''(A) LIMITATION ON REQUESTING OR REQUIRING GENETIC TESTING.—An issuer of a medicare supplemental policy shall not request or require an individual or a family member of such individual to undergo a genetic test.

''(B) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to—

''(i) limit the authority of a health care professional who is providing health care services with respect to an individual to request that such individual or a family member of such individual undergo a genetic test;

''(ii) limit the authority of a health care professional who is employed by or affiliated with an issuer of a medicare supplemental policy and who is providing health care services to an individual as part of a bona fide wellness program to notify such individual of the availability of a genetic test or to provide information to such individual regarding such genetic test; or

''(iii) authorize or permit a health care professional to require that an individual undergo a genetic test.

''(2) DEFINITIONS.—In this subsection:

''(A) FAMILY MEMBER.—The term 'family member' means with respect to an individual—

''(i) the spouse of the individual;

''(ii) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; or

''(iii) any other individuals related by blood to the individual or to the spouse or child described in clause (i) or (ii).

''(B) GENETIC INFORMATION.—

''(i) IN GENERAL.—Except as provided in clause (ii), the term 'genetic information' means information about—

''(I) an individual's genetic tests;

''(II) the genetic tests of family members of the individual; or

''(III) the occurrence of a disease or disorder in family members of the individual.

''(ii) EXCLUSIONS.—The term 'genetic information' shall not include information about the sex or age of an individual.

''(C) GENETIC TEST.—

''(i) IN GENERAL.—The term 'genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

''(ii) EXCEPTIONS.—The term 'genetic test' does not mean—

''(I) an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or

''(II) an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

''(D) GENETIC SERVICES.—The term 'genetic services' means—

''(i) a genetic test;

''(ii) genetic counseling (such as obtaining, interpreting, or assessing genetic information); or

''(iii) genetic education.

''(E) ISSUER OF A MEDICARE SUPPLEMENTAL POLICY.—The term 'issuer of a medicare supplemental policy' includes a third-party administrator or other person acting for or on behalf of such issuer.''.

(2) CONFORMING AMENDMENT.—Section 1882(o) of the Social Security Act (42 U.S.C. 1395ss(o)) is amended by adding at the end the following:

''(4) The issuer of the medicare supplemental policy complies with subsection (s)(2)(E) and subsection (v).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to an issuer of a medicare supplemental policy for policy years beginning on or after the date that is 18 months after the date of enactment of this Act.

(c) TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, not later than June 30, 2004, the National Association of Insurance Commissioners (in this subsection referred to as the ''NAIC'') modifies its NAIC Model Regulation relating to section 1882 of the Social Security Act (referred to in such section as the 1991 NAIC Model Regulation, as subsequently modified) to conform to the amendments made by this section, such revised regulation incorporating the modifications shall be considered to be the applicable NAIC model regulation (including the revised NAIC model regulation and the 1991 NAIC Model Regulation) for the purposes of such section.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall, not later than October 1, 2004, make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the appropriate regulation for the purposes of such section.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) October 1, 2004.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 2004 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after July 1, 2004. 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. 105. PRIVACY AND CONFIDENTIALITY.

(a) APPLICABILITY.—Except as provided in subsection (d), the provisions of this section shall apply to group health plans, health insurance issuers (including issuers in connection with group health plans or individual health coverage), and issuers of medicare supplemental policies, without regard to—

(1) section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191a(a));

(2) section 2721(a) of the Public Health Service Act (42 U.S.C. 300gg–21(a)); and

(3) section 9831(a)(2) of the Internal Revenue Code of 1986.

(b) COMPLIANCE WITH CERTAIN CONFIDENTIALITY STANDARDS WITH RESPECT TO GENETIC INFORMATION.—

(1) IN GENERAL.—The regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note) shall apply to the use or disclosure of genetic information.

(2) PROHIBITION ON UNDERWRITING AND PREMIUM RATING.—Notwithstanding paragraph (1), a group health plan, a health insurance issuer, or issuer of a medicare supplemental policy shall not use or disclose genetic information (including information about a request for or a receipt of genetic services by an individual or family member of such individual) for purposes of underwriting, determinations of eligibility to enroll, premium rating, or the creation, renewal or replacement of a plan, contract or coverage for health insurance or health benefits.

(c) PROHIBITION ON COLLECTION OF GENETIC INFORMATION.—

(1) IN GENERAL.—A group health plan, health insurance issuer, or issuer of a medicare supplemental policy shall not request, require, or purchase genetic information (including information about a request for or a receipt of genetic services by an individual or family member of such individual) for purposes of underwriting, determinations of eligibility to enroll, premium rating, or the creation, renewal or replacement of a plan, contract or coverage for health insurance or health benefits.

(2) LIMITATION RELATING TO THE COLLECTION OF GENETIC INFORMATION PRIOR TO ENROLLMENT.—A group health plan, health insurance issuer, or issuer of a medicare supplemental policy shall not request, require, or purchase genetic information (including information about a request for or a receipt of genetic services by an individual or family member of such individual) concerning a participant, beneficiary, or enrollee prior to the enrollment, and in connection with such enrollment, of such individual under the plan, coverage, or policy.

(3) INCIDENTAL COLLECTION.—Where a group health plan, health insurance issuer, or issuer of a medicare supplemental policy obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning a participant, beneficiary, or enrollee, such request, requirement, or purchase shall not be considered a violation of this subsection if—

(A) such request, requirement, or purchase is not in violation of paragraph (1); and

(B) any genetic information (including information about a request for or receipt of genetic services) requested, required, or purchased is not used or disclosed in violation of subsection (b).

(d) APPLICATION OF CONFIDENTIALITY STANDARDS.—The provisions of subsections (b) and (c) shall not apply—

(1) to group health plans, health insurance issuers, or issuers of medicare supplemental policies that are not otherwise covered under the regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note); and

(2) to genetic information that is not considered to be individually-identifiable health information under the regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note).

(e) ENFORCEMENT.—A group health plan, health insurance issuer, or issuer of a medicare supplemental policy that violates a provision of this section shall be subject to the penalties described in sections 1176 and 1177 of the Social Security Act (42 U.S.C. 1320d–5 and 1320d–6) in the same manner and to the same extent that such penalties apply to violations of part C of title XI of such Act.

(f) PREEMPTION.—

(1) IN GENERAL.—A provision or requirement under this section or a regulation promulgated under this section shall supersede any contrary provision of State law unless such provision of State law imposes requirements, standards, or implementation specifications that are more stringent than the requirements, standards, or implementation specifications imposed under this section or such regulations. No penalty, remedy, or cause of action to enforce such a State law that is more stringent shall be preempted by this section.

(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to establish a penalty, remedy, or cause of action under State law if such penalty, remedy, or cause of action is not otherwise available under such State law.

(g) COORDINATION WITH PRIVACY REGULATIONS.—The Secretary shall implement and administer this section in a manner that is consistent with the implementation and administration by the Secretary of the regulations promulgated by the Secretary of Health and Human Services under part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and section 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note).

(h) DEFINITIONS.—In this section:

(1) GENETIC INFORMATION; GENETIC SERVICES.—The terms ''family member'', ''genetic information'', ''genetic services'', and ''genetic test'' have the meanings given such terms in section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91), as amended by this Act.

(2) GROUP HEALTH PLAN; HEALTH INSURANCE ISSUER.—The terms ''group health plan'' and ''health insurance issuer'' include only those plans and issuers that are covered under the regulations described in subsection (d)(1).

(3) ISSUER OF A MEDICARE SUPPLEMENTAL POLICY.—The term ''issuer of a medicare supplemental policy'' means an issuer described in section 1882 of the Social Security Act (42 insert 1395ss).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

SEC. 106. ASSURING COORDINATION.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary of the Treasury, the Secretary of Health and Human Services, and the Secretary of Labor shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which two or more such Secretaries have responsibility under this title (and the amendments made by this title) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

(b) AUTHORITY OF THE SECRETARY.—The Secretary of Health and Human Services has the sole authority to promulgate regulations to implement section 105.

SEC. 107. REGULATIONS; EFFECTIVE DATE.

(a) REGULATIONS.—Not later than 1 year after the date of enactment of this title, the Secretary of Labor, the Secretary of Health and Human Services, and the Secretary of the Treasury shall issue final regulations in an accessible format to carry out this title.

(b) EFFECTIVE DATE.—Except as provided in section 104, the amendments made by this title shall take effect on the date that is 18 months after the date of enactment of this Act.

TITLE II—PROHIBITING EMPLOYMENT DISCRIMINATION ON THE BASIS OF GENETIC INFORMATION

SEC. 201. DEFINITIONS.

In this title:

(1) COMMISSION.—The term ''Commission'' means the Equal Employment Opportunity Commission as created by section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4).

(2) EMPLOYEE; EMPLOYER; EMPLOYMENT AGENCY; LABOR ORGANIZATION; MEMBER.—

(A) IN GENERAL.—The term ''employee'' means—

(i) an employee (including an applicant), as defined in section 701(f) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(f));

(ii) a State employee (including an applicant) described in section 304(a) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16c(a));

(iii) a covered employee (including an applicant), as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301);

(iv) a covered employee (including an applicant), as defined in section 411(c) of title 3, United States Code; or

(v) an employee or applicant to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(a)) applies.

(B) EMPLOYER.—The term ''employer'' means—

(i) an employer (as defined in section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b));

(ii) an entity employing a State employee described in section 304(a) of the Government Employee Rights Act of 1991;

(iii) an employing office, as defined in section 101 of the Congressional Accountability Act of 1995;

(iv) an employing office, as defined in section 411(c) of title 3, United States Code; or

(v) an entity to which section 717(a) of the Civil Rights Act of 1964 applies.

(C) EMPLOYMENT AGENCY; LABOR ORGANIZATION.—The terms ''employment agency'' and ''labor organization'' have the meanings given the terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).

(D) MEMBER.—The term ''member'', with respect to a labor organization, includes an applicant for membership in a labor organization.

(3) FAMILY MEMBER.—The term ''family member'' means with respect to an individual—

(A) the spouse of the individual;

(B) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; and

(C) all other individuals related by blood to the individual or the spouse or child described in subparagraph (A) or (B).

(4) GENETIC INFORMATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''genetic information'' means information about—

(i) an individual's genetic tests;

(ii) the genetic tests of family members of the individual; or

(iii) the occurrence of a disease or disorder in family members of the individual.

(B) EXCEPTIONS.—The term ''genetic information'' shall not include information about the sex or age of an individual.

(5) GENETIC MONITORING.—The term ''genetic monitoring'' means the periodic examination of employees to evaluate acquired modifications to their genetic material, such as chromosomal damage or evidence of increased occurrence of mutations, that may have developed in the course of employment due to exposure to toxic substances in the workplace, in order to identify, evaluate, and respond to the effects of or control adverse environmental exposures in the workplace.

(6) GENETIC SERVICES.—The term ''genetic services'' means—

(A) a genetic test;

(B) genetic counseling (such as obtaining, interpreting or assessing genetic information); or

(C) genetic education.

(7) GENETIC TEST.—

(A) IN GENERAL.—The term ''genetic test'' means the analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.

(B) EXCEPTION.—The term ''genetic test'' does not mean an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes.

SEC. 202. EMPLOYER PRACTICES.

(a) USE OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any employee, or otherwise to discriminate against any employee with respect to the compensation, terms, conditions, or privileges of employment of the employee, because of genetic information with respect to the employee (or information about a request for or the receipt of genetic services by such employee or family member of such employee); or

(2) to limit, segregate, or classify the employees of the employer in any way that would deprive or tend to deprive any employee of employment opportunities or otherwise adversely affect the status of the employee as an employee, because of genetic information with respect to the employee (or information about a request for or the receipt of genetic services by such employee or family member of such employee).

(b) ACQUISITION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employer to request, require, or purchase genetic information with respect to an employee or a family member of the employee (or information about a request for the receipt of genetic services by such employee or a family member of such employee) except—

(1) where an employer inadvertently requests or requires family medical history of the employee or family member of the employee;

(2) where—

(A) health or genetic services are offered by the employer, including such services offered as part of a bona fide wellness program;

(B) the employee provides prior, knowing, voluntary, and written authorization;

(C) only the employee (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employer except in aggregate terms that do not disclose the identity of specific employees;

(3) where an employer requests or requires family medical history from the employee to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where an employer purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the employer provides written notice of the genetic monitoring to the employee;

(B)(i) the employee provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the employee is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the employer, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific employees;

(c) PRESERVATION OF PROTECTIONS.—In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 206.

SEC. 203. EMPLOYMENT AGENCY PRACTICES.

(a) USE OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employment agency—

(1) to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual);

(2) to limit, segregate, or classify individuals or fail or refuse to refer for employment any individual in any way that would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or family member of such individual); or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this title.

(b) ACQUISITION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employment agency to request, require, or purchase genetic information with respect to an individual or a family member of the individual (or information about a request for the receipt of genetic services by such individual or a family member of such individual) except—

(1) where an employment agency inadvertently requests or requires family medical history of the individual or family member of the individual;

(2) where—

(A) health or genetic services are offered by the employment agency, including such services offered as part of a bona fide wellness program;

(B) the individual provides prior, knowing, voluntary, and written authorization;

(C) only the individual (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employment agency except in aggregate terms that do not disclose the identity of specific individuals;

(3) where an employment agency requests or requires family medical history from the individual to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where an employment agency purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the employment agency provides written notice of the genetic monitoring to the individual;

(B)(i) the individual provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the individual is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the employment agency, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific individuals;

(c) PRESERVATION OF PROTECTIONS.—In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 206.

SEC. 204. LABOR ORGANIZATION PRACTICES.

(a) USE OF GENETIC INFORMATION.—It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from the membership of the organization, or otherwise to discriminate against, any member because of genetic information with respect to the member (or information about a request for or the receipt of genetic services by such member or family member of such member);

(2) to limit, segregate, or classify the members of the organization, or fail or refuse to refer for

employment any member, in any way that would deprive or tend to deprive any member of employment opportunities, or otherwise adversely affect the status of the member as an employee, because of genetic information with respect to the member (or information about a request for or the receipt of genetic services by such member or family member of such member); or

(3) to cause or attempt to cause an employer to discriminate against a member in violation of this title.

(b) ACQUISITION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for a labor organization to request, require, or purchase genetic information with respect to a member or a family member of the member (or information about a request for the receipt of genetic services by such member or a family member of such member) except—

(1) where a labor organization inadvertently requests or requires family medical history of the member or family member of the member;

(2) where—

(A) health or genetic services are offered by the labor organization, including such services offered as part of a bona fide wellness program;

(B) the member provides prior, knowing, voluntary, and written authorization;

(C) only the member (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services; and

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the labor organization except in aggregate terms that do not disclose the identity of specific members;

(3) where a labor organization requests or requires family medical history from the members to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where a labor organization purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the labor organization provides written notice of the genetic monitoring to the member;

(B)(i) the member provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the member is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the labor organization, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific members;

(c) PRESERVATION OF PROTECTIONS.—In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 206.

SEC. 205. TRAINING PROGRAMS.

(a) USE OF GENETIC INFORMATION.—It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs—

(1) to discriminate against any individual because of genetic information with respect to the individual (or information about a request for or the receipt of genetic services by such individual or a family member of such individual) in admission to, or employment in, any program established to provide apprenticeship or other training or retraining;

(2) to limit, segregate, or classify the applicants for or participants in such apprenticeship or other training or retraining, or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect the status of the individual as an employee, because of genetic information with respect to the individual (or information about a request for or receipt of genetic services by such individual or family member of such individual); or

(3) to cause or attempt to cause an employer to discriminate against an applicant for or a participant in such apprenticeship or other training or retraining in violation of this title.

(b) ACQUISITION OF GENETIC INFORMATION.—It shall be an unlawful employment practice for an employer, labor organization, or joint labor-management committee described in subsection (a) to request, require, or purchase genetic information with respect to an individual or a family member of the individual (or information about a request for the receipt of genetic services by such individual or a family member of such individual) except—

(1) where the employer, labor organization, or joint labor-management committee inadvertently requests or requires family medical history of the individual or family member of the individual;

(2) where—

(A) health or genetic services are offered by the employer, labor organization, or joint labor-management committee, including such services offered as part of a bona fide wellness program;

(B) the individual provides prior, knowing, voluntary, and written authorization;

(C) only the individual (or family member if the family member is receiving genetic services) and the licensed health care professional or board certified genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services;

(D) any individually identifiable genetic information provided under subparagraph (C) in connection with the services provided under subparagraph (A) is only available for purposes of such services and shall not be disclosed to the employer, labor organization, or joint labor-management committee except in aggregate terms that do not disclose the identity of specific individuals;

(3) where the employer, labor organization, or joint labor-management committee requests or requires family medical history from the individual to comply with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws;

(4) where the employer, labor organization, or joint labor-management committee purchases documents that are commercially and publicly available (including newspapers, magazines, periodicals, and books, but not including medical databases or court records) that include family medical history; or

(5) where the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace, but only if—

(A) the employer, labor organization, or joint labor-management committee provides written notice of the genetic monitoring to the individual;

(B)(i) the individual provides prior, knowing, voluntary, and written authorization; or

(ii) the genetic monitoring is required by Federal or State law;

(C) the individual is informed of individual monitoring results;

(D) the monitoring is in compliance with—

(i) any Federal genetic monitoring regulations, including any such regulations that may be promulgated by the Secretary of Labor pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.); or

(ii) State genetic monitoring regulations, in the case of a State that is implementing genetic monitoring regulations under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.); and

(E) the employer, labor organization, or joint labor-management committee, excluding any licensed health care professional or board certified genetic counselor that is involved in the genetic monitoring program, receives the results of the monitoring only in aggregate terms that do not disclose the identity of specific individuals;

(c) PRESERVATION OF PROTECTIONS.—In the case of information to which any of paragraphs (1) through (5) of subsection (b) applies, such information may not be used in violation of paragraph (1) or (2) of subsection (a) or treated or disclosed in a manner that violates section 206.

SEC. 206. CONFIDENTIALITY OF GENETIC INFORMATION.

(a) TREATMENT OF INFORMATION AS PART OF CONFIDENTIAL MEDICAL RECORD.—If an employer, employment agency, labor organization, or joint labor-management committee possesses genetic information about an employee or member (or information about a request for or receipt of genetic services by such employee or member or family member of such employee or member), such information shall be maintained on separate forms and in separate medical files and be treated as a confidential medical record of the employee or member.

(b) LIMITATION ON DISCLOSURE.—An employer, employment agency, labor organization, or joint labor-management committee shall not disclose genetic information concerning an employee or member (or information about a request for or receipt of genetic services by such employee or member or family member of such employee or member) except—

(1) to the employee (or family member if the family member is receiving the genetic services) or member of a labor organization at the request of the employee or member of such organization;

(2) to an occupational or other health researcher if the research is conducted in compliance with the regulations and protections provided for under part 46 of title 45, Code of Federal Regulations;

(3) in response to an order of a court, except that—

(A) the employer, employment agency, labor organization, or joint labor-management committee may disclose only the genetic information expressly authorized by such order; and

(B) if the court order was secured without the knowledge of the employee or member to whom the information refers, the employer, employment agency, labor organization, or joint labor-

management committee shall provide the employee or member with adequate notice to challenge the court order;

(4) to government officials who are investigating compliance with this title if the information is relevant to the investigation; or

(5) to the extent that such disclosure is made in connection with the employee's compliance with the certification provisions of section 103 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2613) or such requirements under State family and medical leave laws.

SEC. 207. REMEDIES AND ENFORCEMENT.

(a) EMPLOYEES COVERED BY TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in sections 705, 706, 707, 709, 710, and 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4 et seq.) to the Commission, the Attorney General, or any person, alleging a violation of title VII of that Act (42 U.S.C. 2000e et seq.) shall be the powers, remedies, and procedures this title provides to the Commission, the Attorney General, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(i), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).

(b) EMPLOYEES COVERED BY GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in sections 302 and 304 of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16b, 2000e–16c) to the Commission, or any person, alleging a violation of section 302(a)(1) of that Act (42 U.S.C. 2000e–16b(a)(1)) shall be the powers, remedies, and procedures this title provides to the Commission, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(ii), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the Commission, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the Commission, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).

(c) EMPLOYEES COVERED BY CONGRESSIONAL ACCOUNTABILITY ACT OF 1995.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as defined in section 101 of that Act (2 U.S.C. 1301)), or any person, alleging a violation of section 201(a)(1) of that Act (42 U.S.C. 1311(a)(1)) shall be the powers, remedies, and procedures this title provides to that Board, or any person, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(iii), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to that Board, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to that Board, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).

(4) OTHER APPLICABLE PROVISIONS.—With respect to a claim alleging a practice described in paragraph (1), title III of the Congressional Accountability Act of 1995 (2 U.S.C. 1381 et seq.) shall apply in the same manner as such title applies with respect to a claim alleging a violation of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)).

(d) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE 3, UNITED STATES CODE.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in chapter 5 of title 3, United States Code, to the President, the Commission, the Merit Systems Protection Board, or any person, alleging a violation of section 411(a)(1) of that title, shall be the powers, remedies, and procedures this title provides to the President, the Commission, such Board, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 201(2)(A)(iv), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the the President, the Commission, such Board, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the President, the Commission, such Board, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).

(e) EMPLOYEES COVERED BY SECTION 717 OF THE CIVIL RIGHTS ACT OF 1964.—

(1) IN GENERAL.—The powers, remedies, and procedures provided in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging a violation of that section shall be the powers, remedies, and procedures this title provides to the Commission, the Attorney General, the Librarian of Congress, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee or applicant described in section 201(2)(A)(v), except as provided in paragraphs (2) and (3).

(2) COSTS AND FEES.—The powers, remedies, and procedures provided in subsections (b) and (c) of section 722 of the Revised Statutes (42 U.S.C. 1988), shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging such a practice.

(3) DAMAGES.—The powers, remedies, and procedures provided in section 1977A of the Revised Statutes (42 U.S.C. 1981a), including the limitations contained in subsection (b)(3) of such section 1977A, shall be powers, remedies, and procedures this title provides to the Commission, the Attorney General, the Librarian of Congress, or any person, alleging such a practice (not an employment practice specifically excluded from coverage under section 1977A(a)(1) of the Revised Statutes).

(f) DEFINITION.—In this section, the term ''Commission'' means the Equal Employment Opportunity Commission.

SEC. 208. DISPARATE IMPACT.

(a) GENERAL RULE.—Notwithstanding any other provision of this Act, ''disparate impact'', as that term is used in section 703(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–d(k))), on the basis of genetic information does not establish a cause of action under this Act.

(b) COMMISSION.—On the date that is 6 years after the date of enactment of this Act, there shall be established a commission, to be known as the Genetic Nondiscrimination Study Commission (referred to in this section as the ''Commission'') to review the developing science of genetics and to make recommendations to Congress regarding whether to provide a disparate impact cause of action under this Act.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 8 members, of which—

(A) 1 member shall be appointed by the Majority Leader of the Senate;

(B) 1 member shall be appointed by the Minority Leader of the Senate;

(C) 1 member shall be appointed by the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate;

(D) 1 member shall be appointed by the ranking minority member of the Committee on Health, Education, Labor, and Pensions of the Senate;

(E) 1 member shall be appointed by the Speaker of the House of Representative;

(F) 1 member shall be appointed by the Minority Leader of the House of Representative;

(G) 1 member shall be appointed by the Chairman of the Committee on Education and the Workforce of the House of Representatives; and

(H) 1 member shall be appointed by the ranking minority member of the Committee on Education and the Workforce of the House of Representatives.

(2) COMPENSATION AND EXPENSES.—The members of the Commission shall not receive compensation for the performance of services for the Commission, but 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.

(d) ADMINISTRATIVE PROVISIONS.—

(1) LOCATION.—The Commission shall be located in a facility maintained by the Equal Employment Opportunity Commission.

(2) 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.

(3) INFORMATION FROM FEDERAL AGENCIES.—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 section. Upon request of the Commission, the head of such department or agency shall furnish such information to the Commission.

(4) 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 objectives of this section, except that, to the extent possible, the Commission shall use existing data and research.

(5) 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.

(e) REPORT.—Not later than 1 year after all of the members are appointed to the Commission

under subsection (c)(1), the Commission shall submit to Congress a report that summarizes the findings of the Commission and makes such recommendations for legislation as are consistent with this Act.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Equal Employment Opportunity Commission such sums as may be necessary to carry out this section.

SEC. 209. CONSTRUCTION.

Nothing in this title shall be construed to—

(1) limit the rights or protections of an individual under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), including coverage afforded to individuals under section 102 of such Act (42 U.S.C. 12112), or under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

(2)(A) limit the rights or protections of an individual to bring an action under this title against an employer, employment agency, labor organization, or joint labor-management committee for a violation of this title; or

(B) establish a violation under this title for an employer, employment agency, labor organization, or joint labor-management committee of a provision of the amendments made by title I;

(3) limit the rights or protections of an individual under any other Federal or State statute that provides equal or greater protection to an individual than the rights or protections provided for under this title;

(4) apply to the Armed Forces Repository of Specimen Samples for the Identification of Remains;

(5) limit or expand the protections, rights, or obligations of employees or employers under applicable workers' compensation laws;

(6) limit the authority of a Federal department or agency to conduct or sponsor occupational or other health research that is conducted in compliance with the regulations contained in part 46 of title 45, Code of Federal Regulations (or any corresponding or similar regulation or rule); and

(7) limit the statutory or regulatory authority of the Occupational Safety and Health Administration or the Mine Safety and Health Administration to promulgate or enforce workplace safety and health laws and regulations.

SEC. 210. MEDICAL INFORMATION THAT IS NOT GENETIC INFORMATION.

An employer, employment agency, labor organization, or joint labor-management committee shall not be considered to be in violation of this title based on the use, acquisition, or disclosure of medical information that is not genetic information about a manifested disease, disorder, or pathological condition of an employee or member, including a manifested disease, disorder, or pathological condition that has or may have a genetic basis.

SEC. 211. REGULATIONS.

Not later than 1 year after the date of enactment of this title, the Commission shall issue final regulations in an accessible format to carry out this title.

SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title (except for section 208).

SEC. 213. EFFECTIVE DATE.

This title takes effect on the date that is 18 months after the date of enactment of this Act.

TITLE III—MISCELLANEOUS PROVISION

SEC. 301. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of such provisions to any person or circumstance shall not be affected thereby.

The committee amendment in the nature of a substitute was agreed to.

The amendment (No. 1824) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. FRIST. Mr. President, this legislation and the unanimous consent that was just obtained signifies an important accomplishment of this body but an accomplishment that resulted after about 6 years of work. As with so much important legislation, I think we sometimes take for granted how much work it takes to get to a certain point. Then when we present the bill, debate the bill, and then pass the bill, we move very quickly on to other issues.

What the unanimous consent just said was that we will be voting on this Tuesday when we get back from recess; that all time for debate and discussion on this particular issue, which I should add over the last 6 years has been debated a lot on this floor, will have been exhausted.

For more than 6 years, Members of this body have worked on this issue. I have worked with Senator OLYMPIA SNOWE for about 5¾ years, along with Senators JEFFORDS, ENZI, GREGG, HAGEL, COLLINS, and DEWINE on this issue of genetic nondiscrimination. Today, with the invaluable contributions of Senators DASCHLE and KENNEDY, we bring to the Senate floor this solid, important, significant legislation that, if I had to summarize, I would say provides individuals, citizens, patients, with strong protections against the potential of genetic discrimination in health insurance.

I especially want to take this opportunity to commend the chairman of the Health, Education, Labor and Pensions Committee, Chairman JUDD GREGG, for his leadership on this issue. In large part, it is due to his passion and commitment to this issue, to the principle of fairness and of equity, which has driven this process forward.

I also commend President Bush for his dedication in ensuring strong protections against genetic discrimination and for bringing attention to this critical matter.

When we began work on this issue many years ago, we were looking ahead at what we anticipated, which was the anticipation of the decoding of the human genome. At that time, we looked to the future. We wanted to preempt potential problems. Yes, it has taken 6 years, but finally with passage a week from next Tuesday we can be satisfied that we accomplished that goal set out 6 years ago.

This decoding of the human genome, which is about 3 billion bits of information that we did not have 15 years ago that we have now, has been accomplished. In fact, it was this year that scientists, working in collaboration with the National Human Genome Research Institute at the National Institutes of Health, published a final draft documenting the sequence of the entire human genetic code.

The publication of this final draft occurred more than 2 years ahead of schedule and almost 50 years to the day from the historic publication by Dr. James Watson and Dr. Francis Crick of DNAs double helix.

This dazzling accomplishment has begun to usher in a whole new era of medical understanding. It has already begun to expand our understanding of human development and health, as well as disease. For example, the discovery of disease genes holds great promise. Based on this discovery, scientists may be able to design drugs to treat specific genes and genetic defects. Organs and tissues may be specifically engineered for use in transplantation. Preventive care will be based in part on genetic testing.

This explosion of knowledge, these tremendous advances in science and technology, are also fraught with risk, which this legislation will minimize.

When I first joined Senator SNOWE in this effort several years ago, at that point in time almost a third, one out of three, of the women offered a test for breast cancer risk at the National Institutes of Health declined the test. The reason they gave at that time for declining the test was that the result might in some way be made available to an insurance company which would then use that data, that information, to discriminate against them in whether health insurance would be issued to them.

I think it is a tremendous example of the danger of having a threat of discrimination, preventing one from getting a test that might be useful to them. Thus, that example led me to strongly believe then, and I do now, that we must protect people from the threat of genetic information in any way being used against them. That is a practical responsibility. It is a moral responsibility and it is one with this legislation that this body speaks to directly.

Simply stated, if unchecked, the fear of genetic discrimination would have the potential of keeping people from participating in very useful research studies. It had the potential for keeping people from taking advantage of new genetic technologies, and it had the potential of keeping an individual from having the opportunity to obtain information that demonstrated that they are not at risk for a potential genetically determined disease.

The fear of genetic discrimination has the potential to prevent citizens from making informed health decisions for themselves or their loved ones.

Congress, of course, has a rich history in battling against discrimination, most notably through the landmark 1964 Civil Rights Act. We think also of the 1990 Americans With Disabilities Act and the Health Insurance Portability and Accountability Act. The legislation before us now extends those very same protections to citizens who have genetic markers, a move that, ultimately, I believe, through this legislation, will allow us to save lives.

Genetic research, this unraveling of the genetic code, genetic testing will undoubtedly unleash tremendous advances to the benefit of mankind—thrilling advances, possible cures to illnesses today that seem vexing, that we do not fully understand. The potential medical advances from our knowledge of the human genome will be more dramatic than any of the advances that I had the opportunity to directly participate in over 20 years in the practice of medicine—just from this single unraveling of the genetic code.

As we greet the future, as we look at new technology, this is just one example of this body acting proactively, acting preemptively, so that such potential use in a discriminatory fashion of medical advances is kept from hurting the American people. We must take care to protect our body politic, and this legislation does just that. I am pleased by the progress we have made thus far, and I do congratulate each of my colleagues on their dedication to this issue over the last several years.

This legislation stands squarely on our time-tested civil rights laws establishing comprehensive, equitable, fair, consistent, and reasonable protections. I strongly support this bill, and I look forward to its swift passage when we vote on Tuesday, following our recess.

Mr. GREGG. Mr. President, this year we celebrated the 50 year anniversary of the now fabled discovery by Watson and Crick of the double helix. And this year the scientists at the NIH Human Genome Project completed the sequencing of human DNA.

These are major historical developments that will permanently change the course of biological science. The color of our eyes and the treatment of disease are now understood through the lens of genetics. As the science has progressed, so too have reservations with what we will do with this new information we are uncovering. Unlocking our genetic code unleashes new power. And power produces new responsibilities in protecting the privacy of our genetic information and protecting it from misuse.

Scientific advances in field of genetics hold great promise for medical prevention of new treatments and therapies. However, because our public policies lag behind the science, the promise of the Human Genome Project is going unfulfilled. Individuals are afraid to get genetic tests or seek genetic counseling out of fear that they will lose their health insurance or face discrimination in their employment.

After 6 years, numerous hearings, and hours of deliberation, I am pleased the Senate is finally taking up this important legislation, which was unanimously reported out of the Health, Education, Labor, and Pensions Committee on May 21, 2003. I am also pleased that the first civil rights legislation adopted under my chairmanship deals with an issue of truly 21st century concerns. This is the first civil rights act of the 21st century.

Genetic discrimination is an issue that affect all Americans. Everyone has genes. Everyone has hereditary medical traits. It's a non-partisan issue. This is reflected in the fact that this legislation is truly a bipartisan product. For more than a year, the HELP Committee has worked hard to marry together two major pieces of legislation—one sponsored by Senators SNOWE/FRIST/JEFFORDS and the other sponsored Senators DASCHLE and KENNEDY.

This legislation established in Federal law basic legal protections that prohibit discrimination in health insurance or employment based on genetic information.

A key component of the legislation is its privacy provisions. Although current law already contains medical privacy rules covering genetic information, this legislation addresses some additional concerns and closes loopholes that are unique to genetics. For instance, it protects the privacy of genetic information at work and prohibits the use of genetic information in health insurance underwriting.

This bill prohibits an employer from making employment decisions—hiring, firing, etc.—based on genetic information, or even that fact than an individual or family member requested or received genetic services.

This bill prohibits health insurance plans from denying eligibility or enrollment in the health plan based on genetic information. And it prohibits health insurance plans from charging higher premiums based on an individual's—or his or her family member's—genetic information.

Most importantly, the legislation recognizes that all individuals, whether they are healthy or sick, and all medical information, whether genetic or otherwise, should be afforded the same protections under law.

While genetic discrimination may not be widespread at this point in time, this legislation ensures that discriminatory practices will never become common practice. From the past we have learned that employees, employers, insurers and others all work best together when the rules are clear and opportunities for personal achievement and health are available. This legislation tells everyone what is expected of them and avoids the trip wires and uncertainty of some of our existing laws.

Any concerns about new regulations on employers or health plans are far outweighed by the benefits of scientific advances that will further revolutionize the medical field. With no silver bullet solution in sight to cure what ails our expensive and troubled health care system, I believe all stakeholders will welcome reasonable legislation that fosters medical advances that can lead to prevention and cure disease.

It is my hope that the bipartisan spirit that brought the parties together to craft this historic legislation will continue as we seek to realize the full potential of the human genome project.

The PRESIDING OFFICER. Without objection, S. 1053 is considered read a third time.

Mr. FRIST. Mr. President, I yield back all time on both sides, and I ask the bill be set aside.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar, Calendar Nos. 388 and 389. I further ask unanimous consent the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed are as follows:

ARMY

The following named officer for appointment as Vice Chief of Staff, United States Army, and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 601 and 3034:

To be general

Lt. Gen. George W. Casey, Jr., 1204.

NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. David C. Nichols, Jr., 5011.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

AUTHORIZING REGULATIONS RELATING TO THE USE OF OFFICIAL EQUIPMENT

Mr. FRIST. I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 238, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 238) authorizing regulations relating to the use of official equipment.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent the resolution be agreed to, the motion to reconsider be laid on the table, and any statements relating to this matter be printed in the RECORD.

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

The resolution (S. Res. 238) was agreed to, as follows:

S. RES. 238

Resolved, That (a) the Committee on Rules and Administration of the Senate may issue regulations to authorize a Senator or officer or employee of the Senate to use official equipment for purposes incidental to the conduct of their official duties.

(b) Any use under subsection (a) shall be subject to such terms and conditions as set forth in the regulations.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, and in consultation with the chairman and the ranking minority member of the Finance Committee, pursuant to Public Law 103–296, appoints Sylvester J. Schieber, of Maryland, as a member of the Social Security Advisory Board for a 6-year term.

The Chair, on behalf of the President pro tempore, pursuant to Public Law 99–498, appoints Rene Drouin of New Hampshire, vice Charles Terrell of Massachusetts, to the Advisory Committee on Student Financial Assistance for a 3-year term.

ORDERS FOR FRIDAY, OCTOBER 3, 2003

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. Friday, October 3. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business for up to 30 minutes with the first 15 minutes under the control of the minority leader or his designee and the second 15 minutes under the control of the majority leader or his designee; provided that following morning business the Senate resume consideration of S. 1689, the Iraq/Afghanistan Supplemental Appropriations bill.

The PRESIDING OFFICER. Is there objection?

The assistant minority leader.

Mr. REID. Everyone within the sound of our voice, staff, Members, should understand that tomorrow is a free day. They can come and offer amendments. They might have to wait for a minute until someone else offers an amendment. They can speak as long as they want. Tomorrow is the day that people have the opportunity to offer amendments.

We are going to come back Tuesday after the recess. We have a lot of work to do. If we get amendments laid down, the two leaders can set up a time we can vote on them and finish debating them. So I hope people understand tomorrow is an excellent day for the offering of amendments.

No objection.

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

PROGRAM

Mr. FRIST. For the information of all Senators, tomorrow morning, as was just pointed out, following morning business, the Senate will resume consideration of the Iraq/Afghanistan Supplemental Appropriations bill. There will be no rollcall votes during tomorrow's session. Senators will have the opportunity throughout tomorrow to come to the floor and offer amendments on the bill. However, no action will occur on any of the amendments tomorrow.

Under a previous order, the next rollcall vote will occur Tuesday, October 14, at 2:30 p.m.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:36 p.m., adjourned until Friday, October 3, 2003, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 2, 2003:

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

JOSE ANTONIO APONTE, OF COLORADO, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2007, VICE MARTHA B. GOULD, TERM EXPIRED.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SANDRA FRANCES ASHWORTH, OF IDAHO, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2004, VICE PAULETTE H. HOLAHAN.

EDWARD LOUIS BERTORELLI, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2005, VICE C. E. ABRAMSON, TERM EXPIRED.

CAROL L. DIEHL, OF WISCONSIN, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2005, VICE WALTER ANDERSON, TERM EXPIRED.

ALLISON DRUIN, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2006, VICE REBECCA T. BINGHAM, TERM EXPIRED.

BETH FITZSIMMONS, OF MICHIGAN, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2006, VICE JOSE-MARIE GRIFFITHS, TERM EXPIRED.

PATRICIA M. HINES, OF SOUTH CAROLINA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2005, VICE LAVAR BURTON, TERM EXPIRED.

COLLEEN ELLEN HUEBNER, OF WASHINGTON, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2007, VICE JEANNE HURLEY SIMON.

STEPHEN M. KENNEDY, OF NEW HAMPSHIRE, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2007, VICE DONALD L. ROBINSON.

BRIDGET L. LAMONT, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2008, VICE MARILYN GELL MASON, TERM EXPIRED.

MARY H. PERDUE, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2008, VICE FRANK J. LUCCHINO, RESIGNED.

HERMAN LAVON TOTTEN, OF TEXAS, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2008, VICE BOBBY L. ROBERTS, TERM EXPIRED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. WILLIAM WELSER III, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. GARRY R. TREXLER

PUBLIC HEALTH SERVICE

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR COMPONENT OF THE PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS:

1. FOR APPOINTMENT:

To be medical director

VINCENT A. BERKLEY
ROBERT D. BREWER III
DAVID J. LIPMAN
GRIFFIN P. RODGERS
JOSE H. RODRIGUEZ
ANDREW A. VERNON

To be senior surgeon

ROBERT F. BRANCHE
ROBERT F. BREIMAN
SCOTT D. DEITCHMAN
JEFFREY L. JONES
DAVID C. RUTSTEIN
HILLARD S. WEINSTOCK

To be surgeon

THOMAS W. HENNESSY
NEWTON E. KENDIG
MARK N. LOBATO
ERIC A. MANN
AUBREY K. MILLER
MARK A. MILLER
ELENA H. PAGE
JAY P. SIEGEL
MARK J. TEDESCO

To be senior assistant surgeon

ELISE A. BELTRAMI
ANTHONY B. CAMPBELL
COY B. FULLEN
JULIE M. MAGRI
JOEL D. SELANIKIO
MITCHELL I. WOLFE

To be dental surgeon

MICHAEL R. KWASINSKI
DEBORAH R. NOYES
SUSAN B. TIEDE
RICK D. VACCARELLO
GREGORY WHELAN

To be senior assistant dental surgeon

ROBERT T. DVORAK
DAVID C. FEIST
TANYA T. HOLLINSHED-MILES
JAMES J. PALERINO
ALAN C. PETERSON
STEVEN K. RAYES
KRISTIN E. SHAHAN
LYNN C. VAN PELT
CLAUDIA G. VONHENDRICKS

To be senior nurse officer

ELIZABETH A. AUSTIN
JACQUELYN A. POLDER

To be nurse officer

SUSAN K. FRITZ
LONNA J. GUTIERREZ
DAVID W. KELLY
CAROL L. KONCHAN
STEPHANIE V. MIDDLETON
MAURICE M. SHEEHAN
TONI JOY SPADARO

To be senior assistant nurse officer

KEVIN J. BARTLETT
SALLY E. BROWN
BRIAN R. CRONENWETT
BERNADETTE DAYZIE
IRENE H. DUSTIN
JAMES L. GIBSON
JUDY L. GLENN
DE ALVA HONAHNIE
MARK A. JIMENEZ
EUNICE F. JONES-WILLS
RONALD D. KEATS
JANIE M. KIRVIN
DEBORAH L. LAKE
LESLIE R. LIGHTWINE
LORI M. LUU
STEPHANIE C. MANGIGIAN
MOIRA G. MCGUIRE
DEBRA J. MCKELLIPS
ANTHONY E. MILLKAMP
CATHERINE B. MOSHIER
MICHELE E. NEHREBECKY
MADELYN RENTERIA
JAMES L. VICKROY
BRYAN E. WEAVER
DOMINIC T. WESKAMP

To be assistant nurse officer

FELICIA A. ANDREWS
MICHELLE E. BROWN-STEPHENSON
MICHAEL W. FORBES

BARBARA A. FULLER
SHERRY L. MCREYNOLDS
DARYL W. PERRY
JANET E. SEEGERS

To be senior assistant engineer officer

KEITH E. FOY
RICHARD J. GELTING
RAMSEY D. HAWASLY
ROBERT J. LORENZ
ERIC L. MATSON
MARY C. MINER
PETER T. NACHOD
DELREY K. PEARSON
MARJORIE E. WALLACE

To be assistant engineer officer

MATHEW J. MARTINSON
BRENT D. ROHLFS

To be scientist director

CHRISTINE J. LEWIS

To be senior scientist

LYNDA S. DOLL
SHARON O. WILLIAMS-FLEETWOOD

To be scientist

DAVID A. CRAGO
LAUREN C. IACONO-CONNORS

To be senior assistant scientist

LISA J. COLPE
KIERAN J. FOGARTY
FRANK R. HERSHBERGER
DOUGLAS A. THOROUGHMAN

To be senior assistant sanitarian

KIMBERLY K. CHAPMAN
LISA J. FLYNN
CHRISTOPHER T. KATES
DUANE M. KILGUS
ROBERT B. KNOWLES
JENNIFER M. LINCOLN
KATHY S. SLAWSON
JOHN D. SMART
ELIZABETH B. WRIGHT

To be senior veterinary officer

DOUGLAS A. POWELL

To be senior assistant veterinary officer

KAMELA D. EVANS-DAVIS
KATHERINE A. HOLLINGER

To be senior pharmacist

JENEVA S. ARNOLD
JOAN C. GINETIS
JOHN C. NIDIFFER

To be pharmacist

KENT L. REDLAND

To be senior assistant pharmacist

JAMES L. BRESETTE
CAROLE C. BROADNAX
TAMARA A. CLOSE
DEBRA A. DOTSON
MELINA N. FANARI
WALTER L. FAVA
LOUIS E. FELDMAN
RICHARD K. GLABACH
JANETTE L. HARRELL
PAUL E. HUNTZINGER
EUN S. JEON
TENA L. JESSING
DAVID J. KATSULES
KOUNG U. LEE
HOUDA MAHAYNI
ERIC M. MUELLER
SANDRA M. SHIPP
GREGORY W. SMITH
LISA P. SMITH
KIMBERLY A. STRUBLE
DEREK E. TESCHLER
DEBORAH J. THOMPSON
ROBERT J. TOSATTO
JACQUELINE H. WARE
NINA L. WATSON
EDWARD N. YALE

To be assistant pharmacist

CHRISTOPHER RON CRAZYTHUNDER
GREGORY S. DAVIS
ROSS P. GREEN
NASSER MAHMUD
VLADA MATUSOVSKY

To be senior dietitian

EDITH M. CLARK

To be senior assistant dietitian

JEAN M. KELAHAN
ELAINE B. LITTLE
APRIL P. SMITH

To be senior assistant therapist

SCOTT P. GUSTAD
RICHARD SHUMWAY
RONALD R. WEST

To be senior health services officer

ROBERT A. LATINA

To be health services officer

THEODORE P. CHIAPPELLI
MARGARET A. MCDOWELL
DIANE L. RULE
WILLIAM BOYD WYETH

To be senior assistant health services officer

JOHN J. CARDARELLI II
THOMAS A. COSTELLO
MONICA R. KUENY
KIMBERLY M. LEWANDOWSKI-WALK
MONICA PASQUALE RUEBEN
DELORES E. STARR
SYLVIA J. TETZLAFF
BRUCE W. TOPEY

To be assistant health services officer

NADINE R. BROWN
ELIZABETH A.HASTINGS
BETH ANNE HENSON
KAREN J. SICARD
JAMES A. SYMS

CONFIRMATIONS

Executive nominations confirmed by the Senate October 2, 2003:

THE JUDICIARY

WILLIAM Q. HAYES, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

JOHN A. HOUSTON, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

ROBERT CLIVE JONES, OF NEVADA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEVADA.

PHILIP S. FIGA, OF COLORADO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLORADO.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS VICE CHIEF OF STAFF, UNITED STATES ARMY, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 3034:

To be general

LT. GEN. GEORGE W. CASEY, JR.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. DAVID C. NICHOLS, JR.